

RESOLUTION NO. 776 CMS

A RESOLUTION SETTING FORTH A GENERAL PLAN FOR FINANCING CERTAIN PROPOSED IMPROVEMENTS TO THE CITY'S WATERWORKS SYSTEM THROUGH THE ISSUANCE OF GENERAL OBLIGATION BOND ANTICIPATION NOTES, WHICH NOTES WILL BE RETIRED AND FURTHER IMPROVEMENTS FINANCED BY THE ISSUANCE OF MORTGAGE REVENUE BONDS OF THE CITY, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to reports to the City by its Consulting Engineers, the Public Utilities Commission and this Council have considered the construction of various proposed improvements to the City's waterworks system; and

WHEREAS, this Council hereby finds and determines that it is necessary and expedient for the public health, safety and welfare of this City to construct certain improvements and to finance them in the most economical method possible; and

WHEREAS, this Council hereby finds and determines that the most economical method of financing said improvements is through the use of mortgage revenue bonds issued pursuant to Article XVIII, Section 12 of the Ohio Constitution; and

WHEREAS, pursuant to Chapter 133, Ohio Revised Code, and particularly Section 133.23 thereof, this Council hereby finds and determines that prior to the issuance of a portion of such mortgage revenue bonds the construction of certain of the aforesaid improvements shall be financed by the issuance of general obligation bond anticipation notes, which notes will be retired using the proceeds of such mortgage revenue bonds;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Oberlin, County of Lorain, State of Ohio:

Section 1. That this Council hereby declares that it is necessary to improve the waterworks system of the City by the construction of a new elevated water storage tank, renovation and repair of an existing elevated water storage tank and possible construction of some new distribution lines, together with all necessary appurtenances and incidentals thereto and that it is currently expected to be necessary to issue and sell mortgage revenue bonds pursuant to Section 12 of Article XVIII, Ohio Constitution, to provide funds for such purpose.

Section 2. That this Council hereby finds and determines that the waterworks system improvements hereinbefore referred to shall be constructed in stages, and that some of such improvements shall be initially and temporarily financed through the issuance of general obligation bond anticipation notes; which bond anticipation notes shall be retired, pursuant to Ohio Revised Code Section 133.23, from the proceeds of said mortgage revenue bonds issued pursuant to Article XVIII, Section 12, Ohio Constitution. Such mortgage

revenue bonds may also finance additional stages of such improvements as well as retire, pursuant to Section 133.23, Ohio Revised Code, the general obligation bond anticipation notes issued to construct earlier stage improvements.

Section 3. That such mortgage revenue bonds, issued to construct the additional stages of such improvements as well as to retire any general obligation bond anticipation notes issued for earlier stages of said improvements, will be payable solely from the revenues and properties of the City's water system and will be secured only, but equally and ratably without priority of one over the other by reason of number or date of bonds, sale, execution or delivery, by a mortgage constituting a lien upon said revenues or property after provision for the reasonable operation and maintenance expenses of said water system and the provision of a franchise under which, in the case of the foreclosure of any mortgage given, the purchaser may operate the water system. Neither the general resources of the City will be required to be used nor the general credit of the City pledged for the performance of any duty under any mortgage given or the ordinance providing for the issuance of any mortgage revenue bonds. However, the general resources and the general credit of the City shall be pledged and required to secure any general obligation bond anticipation notes issued for water system improvements prior to their retirement by the issuance of mortgage revenue bonds. If otherwise lawful, nothing herein or in any other enactment of this Council shall be deemed to prohibit the City from using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of any ordinance authorizing any mortgage revenue bonds or any mortgage revenue bonds themselves.

Section 4. That the City will, upon the issuance of any mortgage revenue bonds, covenant with the holders of such bonds and with any trustee designated in the ordinance authorizing such bonds and to which such mortgage will be granted for the benefit of the holders of any mortgage revenue bonds that: (a) it will at all times prescribe and charge such rates for the service of the water system and will so restrict the operation and maintenance expenses of the water system, as shall result in revenues at least adequate, after meeting such operation and maintenance expenses to provide for (1) the payments required by any mortgage revenue bond ordinance to be made into the debt service fund, a debt service reserve fund, or other special funds, (2) proper improvement and replacement reserves, and (3) sufficient earnings coverage to permit the issuance of any additional mortgage revenue bonds to be issued on a parity with any such originally issued mortgage revenue bonds required for the construction of necessary or advisable extensions or improvements, and (b) the City will observe and perform all of its agreements and obligations provided for by any such mortgage revenue bonds, the ordinance authorizing such bonds and any mortgage given to secure such bonds.

Section 5. That any general obligation bond anticipation notes to be issued for the interim financing of the construction of the first stages of such improvements, and, pursuant to Section 133.23, Ohio Revised Code, which may be retired by the issuance of mortgage revenue bonds, shall bear such designation as may be necessary to distinguish them from any mortgage

revenue bonds issued to retire such notes, and will be subject to all other provisions as provided in the ordinance authorizing their issuance, including provisions that the full faith, credit and revenue of the City will be irrevocably pledged for the prompt payment of the principal and interest thereof at maturity and that for the purpose of providing necessary funds to pay the interest on said general obligation bond anticipation notes, promptly when and as the same falls due, and also to provide a fund sufficient to discharge any bonds in anticipation of which such notes are issued at maturity, there will be levied on all the taxable property in the City, in addition to all other taxes, an additional direct tax annually during the period such notes or the bonds in anticipation of which they are issued are outstanding sufficient to provide funds to pay such notes or the bonds in anticipation of which they are issued and any interest thereon. It is presently contemplated that such general obligation bond anticipation notes will be retired through the issuance of mortgage revenue bonds, pursuant to Article XVIII, Section 12, Ohio Constitution.

Section 6. That it is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of this City, and for the further reason that the immediate effectiveness of the foregoing resolution is necessary so that the contemplated general plan for financing the aforesaid improvements will be a matter of public record prior to the passage of the note ordinance for the first stage of said projects; wherefore, this resolution shall be in full force and effect from and immediately after its adoption.

Passed: August 6, 1979 (Emergency)

John F. Bauman  
Chairman of Council

Attest:

Eugene J. Simon  
Clerk of Council

Posted: August 7, 1979