

Evaluation of the Budgetary and Expenditure Controls
Enumerated in the Charter for the Town of Easton

Prepared by the Talbot County Taxpayers Association
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The Talbot County Taxpayers Association finds that the Town of Easton's fiscal controls are generally good, but there are some notable weaknesses. Also, municipal officials, probably because of misunderstanding, do not provide two fiscal reports needed for effective Council and public oversight of the Town's financial activities.

Missing Reports

There are two reports that are not prepared according to the requirements of the Charter. These omissions deny the Town Council and the public important contextual information they need to evaluate the financial performance within the Town's executive departments.

Annual report. Among the duties of the Mayor stated in the charter (Article III, Section 4 (b)) is a requirement to produce and publish an annual report. It may be that the Mayor believes the audited financial statements satisfy this requirement. But a careful review of the information required by the charter shows it goes beyond what is included in the financial statements.

The charter requires the annual report to include a discussion of the accomplishments [and implicitly, the shortcomings] of the town and its various departments and agencies. This is important from a financial standpoint because the citizens can then evaluate how well the Town performed against the plans and objectives the Mayor set out in the budget message for that year, and how well the money was spent in their pursuit. Unfortunately, the budget message is the other report that does not meet the charter's requirements -- see comments below.

Another requirement is that the Mayor is to use this report to make "recommendations as he deems proper for the public good and welfare of the Town." These recommendations would then set the foundation for the Town's departments and agencies and the Council to begin working towards their accomplishment. Plans and funding sources take time to develop, particularly when the public should be kept informed along the way.

Budget message. Article IV of the charter requires in Section 4 that the Mayor submit an "explanatory budget message" when he submits his budget to the Council. Section 5 then explains what is to be in the budget message.

This message is important for the taxpayers to understand the context in which the Mayor prepared the budget. It is to deal with the Town's financial policies and any proposed changes, and describe important features of the budget plan. It must provide reasons for "salient changes from the previous year in cost and revenue items." It is to describe any capital projects looking out four years. The message is to provide "supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements."

A look four years out at pending capital projects is important information for the public. It tells them the kinds of significant funding commitments they may be facing in the future. How can they reasonably evaluate the proposed revenue and expenditure budgets without having this important information?

This message, if done properly, will give the public a context in which to evaluate the budget. The Mayor must give the policy basis and the reasons for the spending he proposes. This is information the Council and the public needs in order to determine whether they agree with the policies and priorities proposed and whether the proposed spending is reasonable and appropriate in light of those. This cannot be done by simply comparing one year to the next. This information would also be useful to the public in evaluating the performance of the government when it later receives the required annual report.

At a recent public meeting, the Mayor gave an oral presentation of the budget. He supported his presentation with some tables of summarized comparative revenues and expenses, and other data. If this was intended to be the required budget message, the TCTA believes it failed to meet the charter requirement in several respects.

- It was not timely. The charter requires the budget message to be included with the budget when it is initially submitted to the Council at least 60 days before the beginning of the fiscal year. The Mayor's oral presentation took place several weeks later.
- It was not in writing. While the charter does not specifically state this, it is clearly implied by the requirement to submit it with the budget, which is written, and the requirement to *attach* to the message other supporting materials. Also, since it is important to understanding the budget, a copy should be included with each copy of the budget distributed to the Council and the public. So, it must be in writing.
- It did not include the four-year capital spending outlook. This would have been an opportunity for the Mayor to tell the Council and the public the plans the departments have for spending the remaining proceeds of the recent \$10 million bond issue.
- It did not use actual past revenues and expenditures for comparison. In showing the year-to-year comparisons, the Mayor used prior-year budget amounts rather than prior-year actual amounts. All prior-year comparisons, for purposes of the budget message requirements, must be grounded with actual amounts. The charter language seems to require that actual cost and revenue items be used for comparison. They should be the audited numbers, if available, or the latest estimates based on the actual amounts to date. In the case of the 2008 amounts, the audited financial statements, which were available, show different amounts from those the Mayor presented using the 2008 budget. For some revenue and expenditure categories, the differences were material. For 2009, the capital spending amounts presented do not appear to include the purchase of the new public works building for \$2,750,000, since this was not included in the 2009 budget. Because of this failure to compare the proposed budgeted amounts to prior year actual amounts (or to latest estimates), the trends and variations the comparisons are meant to show could be misleading.

These two reports go hand-in-hand. The budget message sets out goals and objectives, and the annual report evaluates performance in achieving them. The annual report might

also identify areas where new goals and objectives might be needed for the next year's budget. If handled right, these reports can create openness in the Town's government that will build public trust.

Suggested Charter Improvements

The charter's Article VI, Finance, Revenue and Taxation, provides a generally good framework for control and oversight of the Town's financial affairs. Nevertheless, there are some areas where controls should be added or strengthened. The TCTA encourages the Mayor and Council to amend the charter for the following weaknesses.

A. Section 4 requires that the Mayor, when he is preparing the budget, "shall review the estimates [and] hold hearings thereon with the head or other representative of the office, department, or agency concerned...." It can be assumed that these are meant to be hearings in which the public can attend. Regardless of what is meant by the charter, they should be public. To clarify this, this section should be expanded to note that these hearings are public and to require appropriate advance advertisement. (See suggested amendment to Sec. 4 attached.)

It seems that this step is misunderstood. In his recent oral budget presentation, the Mayor showed a budget process flowchart that did not include this step taking place before the Mayor released the preliminary budget, and the TCTA does not believe these required hearings took place this year. Instead, the flowchart shows a workshop with departmental heads after the release. It seems that the Mayor considers this workshop satisfies the charter requirement for hearings with the department heads.

The TCTA believes it is important that these hearings take place while the Mayor is preparing the budget, as the charter requires, and not after it is released. This gives the public the opportunity to hear the raw, original requests from the department heads, and to hear the discussion about these requests with the Mayor. This way the public will know which operating or capital expenditure requests the Mayor changed or rejected and did not include in his budget. This also gives the public the opportunity to provide comments to the Mayor about the department requests before he decides on what and how much he will include or not include in his budget.

B. Section 5's budget message does not require any look forward about revenue and expenditure assumptions beyond the year for which the budget is being prepared. The public needs a continuing temporal context to evaluate a proposed budget adequately. As it is now written, the charter only requires that the public be given a historical comparison to the proposed revenue and expenditure amounts -- a backward look. The public also needs to know whether historic trends can be expected to continue into the future -- a forward look. A change in a trend (as the Town is probably going to see in the growth of its assessed property values) can have important ramifications on the current budget. For instance, a budget that looks reasonable in the context of historical spending patterns may look imprudent in the context of a projection of a dramatic decline in future revenues. Therefore, the explanatory budget message should include the Mayor's projections of future annual revenues and expenditures looking out for at least the four years required for capital expenditures. The message should explain the assumptions upon which the Mayor based his projections. (See suggested amendment to Sec. 5 attached.)

C. Section 6's budget contents should be expanded to include a capital budget. Proposed and planned capital expenditures should be reported more formally than simply including them in the budget message. This capital budget has a long-term perspective. It should look out over, at least, the next five years to show major capital additions and replacements. At least for the first two years of the plan, the funding sources, whether actually secured or planned, for the proposed capital expenditures should be described. These major expenditures should be planned well ahead. This will give the public an ability to predict their effect on future tax rates. (See suggested amendment to Sec. 6 attached.)

D. Article VI is silent about control of appropriations that the Mayor may request outside of the budget process. This is a serious weakness in the charter's fiscal control framework.

1. There should be no off-budget request for operating expenditures, except in the case of an emergency. The charter should define emergency and describe the procedures the Mayor and Council must follow to make a supplemental emergency appropriation. (See suggested new Sec. 22 attached.)

2. Another weakness is that there seems to be no limit on the Mayor's ability to move budgeted money from one expense category to another, even though the moves may not increase the total expenditure amounts of the budget. This makes it very difficult for the Council and the public to hold down overall spending in particular categories. Even if he had set out his priorities in a budget message, the Mayor still has the ability to re-allocate funds and, thereby, change priorities after the budget is approved. The charter should specify the movements of funds among budget categories go through a formal appropriation process, even though the total budget is not changed. While formal public hearings may be an unnecessary formality for what are likely to be relatively minor sums, they should at least be brought before the Council during an open meeting. At least this way, the public is informed about these changes. (See suggested new Sec. 23 attached.)

3. It is somewhat common for a municipality to face an unexpected capital appropriation. A recent example in Easton was the purchase this fiscal year of a new public works facility. With a good capital budget, these unexpected events can be kept to a minimum. Government officials will know about these pending expenditures for quite some time while they plan and negotiate contracts, but they may not present them for public discussion until this process is over. They come as a surprise to the public. Usually they come to light so late in the appropriation/contracting process that the public is unable to evaluate them and organize a coherent response before the spending is appropriated and committed. Proposed supplemental capital spending that is not in the budget message or the budget, if it includes a capital budget element, for the coming year should require rigorous control and public oversight procedures before it can be approved. These unbudgeted items should require more than a simple majority of the Council in order to be approved. This would give the Mayor a strong incentive to present these items during the regular budget process. (See suggested new Sec. 24 attached.)

E. Sec. 2 limits expenditures to only those that have been appropriated by the Council. In light of the above discussion, this section should be amended to limit expenditures to those appropriated in the budget for the fiscal year or in any emergency

or supplemental appropriation described in the charter. (See suggested amendment to Sec. 2 attached.)

F. Sec. 9 requires all Town checks to be signed by the Town Clerk and the Mayor. No alternates are mentioned. While the TCTA is not suggesting a change, it does note that this limit of check signers to these two persons could cause problems in the event of an extended absence or incapacitation of either of them.

**SUGGESTED AMENDMENTS TO ARTICLE VI
OF THE CHARTER FOR THE TOWN OF EASTON**

**Submitted by the Talbot County Taxpayers Association
June 2009**

(Deletions are struck through and additions are in italics)

Article VI. Finance, Revenue and Taxation.

Sec. 1. Financial supervision.

The mayor shall have complete supervision over the financial administration of the town government. The mayor may delegate, under his supervision, any of the financial powers and duties granted him by this Charter. He shall receive any assistance he requests with regard to financial matters from any town officer or employee.

Sec. 2. Expenditures to be authorized by council.

No public money may be expended *and no commitments for expenditures may be made* without having been appropriated by the council *in the fiscal year's budget for that general expenditure category, or in a supplemental appropriation.*

Sec. 3. Fiscal year.

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall also constitute the tax year, the budget year, and the accounting year

Sec. 4. Budget - Estimates used for preparation.

The mayor, on such date as the council may require, but at least sixty days before the beginning of any fiscal year, shall submit to the council a budget and explanatory budget message for that purpose; at such date as he shall determine, the mayor, with the assistance of such town officers and employees as he requests, shall obtain from the head of each office, department, and agency (a) estimates of revenue and expenditures for the next fiscal year, detailed by organization units and character and object of expenditures; (b) such other supporting data as he may request; and (c) an estimate of all capital projects pending or which such office, department, or agency head believes should be undertaken (i) within the budget year and (ii) within the four next succeeding years. In preparing the budget, the mayor shall review the estimates, shall hold *advertised, open hearings meetings* thereon with the head or other representative of the office, department, or agency concerned, *during which the public is allotted time to comment*, and may revise the estimates as he deems advisable.

Sec. 5. Same - Message.

The budget message submitted by the mayor to the council shall explain the budget, shall contain an outline of the proposed financial policies of the town for the budget year, and shall describe the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy. *It shall present projected amounts of all major revenue and expenditure categories for each of the four years following the budget year and explain the significant assumptions used in making the projections.* It shall include a statement of pending capital projects of a capital program for the next four fiscal years. Attached to the budget message shall be such supporting schedules, exhibits, and other explanatory material, in respect to both current operations and capital improvements, as the mayor shall believe useful to the council.

Sec. 6. Same - Contents generally.

The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

- (a) Comparative figures for prior fiscal year, *using the actual amounts or the latest estimates of the actual amounts for prior year.*
- (b) Detailed estimates of all anticipated revenues applicable to proposed expenditures.
- (c) All proposed expenditures.
- (d) A capital budget showing estimated capital expenditures for each of the next five years, and the proposed funding sources for those planned during the next two years.*

Sec. 7. Same - Public record.

The budget and all supporting schedules shall be a public record in the office of the town clerk and such items shall be available for public inspection.

Sec. 8. Same - Public hearing.

At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of a meeting, regular or special, at which the budget will be considered and at which any interested person may be heard concerning the budget. The council shall give at least ten days notice of said meeting by an advertisement in one or more newspapers of general circulation in the town.

Sec. 9. Issuance and signing of checks.

All checks issued in payment of all municipal obligations shall be signed by the town clerk and shall be countersigned by the mayor. (1906, ch. 458, sec. 84. 1916, ch. 301.)

Sec. 10. Audit.

The financial books and accounts of the town shall be audited as of June 30 in each year by a competent person or persons appointed by the council. The audit shall be presented to the

council and to the mayor by the first day of October. The council or the mayor may order an audit of the financial books and accounts of the town by a competent person or persons appointed by it or him at anytime it or he may deem it proper so to do. (1906, ch. 458, sec. 97B. 1910, ch. 365, sec. 97B (p. 1173). 194, ch. 103. 1951, ch. 44, sec. 1.)

Sec. 11. Taxation - Taxable property; limitations.

All real property and all tangible personal property within the corporate limits of the town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and county taxes; provided that said tax assessment shall not exceed in any one year fifty five (\$.55) cents to every one hundred dollars of assessable real property; provided further, that said limitation shall have no application to any tax laid for the payment of principal and/or interest on any promissory notes or bonds issued by the town either before or after the adoption of this Charter. No authority is given by this Section to impose taxes on any property which is exempt from taxation by any act of the General Assembly. (1906, ch. 458, sec. 72. 1912, ch. 208. 1920, ch. 17. 1931, ch. 13, sec. 169. Res. No. 4, December 27, 1955; 1906, ch. 458, sec. 73; 1906, ch. 458, sec. 74.)

Sec. 12. Same - Industrial property.

To encourage industrial expansion and development in the Town of Easton, the council by ordinance is authorized to exempt from taxation for municipal purposes, the buildings and equipment owned and operated by any manufacturing company or association within the corporate limits of the town. Any exemption from taxation under the provisions of this Section may be extended to all manufacturing companies and associations within the town engaged in the branch of manufacturing which will benefit by any such exemption; provided, that any such abatement and exemption shall be limited to a period of five years from the passage of the ordinance granting the same; the council shall keep a public record of all abatements and exemptions made by it, as aforesaid. No abatement may be made for a fiscal year after July 1 of that year. (1906, ch. 458, sec. 72. 1912, ch. 208. 1920, ch. 17. 1931, ch. 13, sec. 169. Res. No. 4, December 27, 1955.)

Sec. 13. Same - Agricultural property.

The Town of Easton by action of the council may exempt from taxation all agricultural property within the town or may levy a lower tax rate thereon than is levied on other property within the town. For the purposes of this Section, the term "agricultural property" shall include all unimproved land used exclusively for agricultural purposes, including any residences, barns, stables, and similar improvements located thereon, and all farming implements and stock used in connection therewith.

Sec. 14. Same - Notice of new or increased assessments.

All persons or body corporate who shall be newly assessed or whose assessment shall be increased shall be notified by letter of the amount of said assessment. (1906, ch. 458, sec. 74.)

Sec. 15. Same - tax year and due date; discounts, interest on overdue taxes.

The council shall make their annual levy on or before the regular meeting in June of each year, and the same shall be due and payable on the first day of July of the year of the levy; and on all taxes paid on or before the first day of September a discount of three percent may be allowed; on the first day of October next succeeding the levy thereof taxes shall be deemed to be in arrears and interest shall be charged and collected on all taxes not then paid, and the town clerk shall take the discount from or add the interest to the tax bills regularly, in the manner aforesaid, and shall note the same upon his books and upon receipt given for taxes so paid; but the discount allowed by this Section shall not be made to any person, persons, or corporate institutions, unless the whole amount of taxes due by such person, persons or corporate institutions for the current year are paid at the time of making such discount. (1906, ch. 458, sec. 80; 1906, ch. 458, sec. 97G. 1918, ch. 134. Res. No. 5, December 27, 1955; Res. No. 39, ' 1, 10/15/73.)

Sec. 16. Same - Notice, payment and collection of overdue taxes.

Within ten days after the first day of January succeeding each levy the town clerk shall deliver and mail to the last known post office address of each delinquent taxpayer an account of his assessment and the taxes and interest due thereon, with a notice to said delinquent thereto attached, that unless payment be made in full on or before the fifteenth day of August next after the delivery of said notice that the same will be collected by process of law; and it shall be the duty of the town clerk to enforce the payment of all taxes remaining unpaid on the fifteenth day of August next after the delivery of said notice by a sale of either real or personal property. (1906, ch. 458, sec. 81.)

Sec. 17. Same - Liens for unpaid taxes and moneys.

(a) All taxes due and owing by any taxpayer upon real or personal property within the town shall be and constitute a lien on both said real and personal property; provided, however, that such real property may be sold to pay the delinquent taxes without regard to the existence of personal property. (b) All sums of money due and owing to the Easton Utilities Commission for sanitary sewer, water, electric or gas rentals or services, shall be and constitute a lien upon the real property to or in which such sewer, water, electric or gas service is supplied, and said real property may be sold to satisfy such lien or liens. (1906, ch. 458, sec. 85; 1920, ch. 51.)

Sec. 18. Same - Tax bills.

Immediately after the levy is made by the council in each year, the town clerk shall give notice of the making of the levy in one or more newspapers of general circulation in the town. He shall make out and mail or deliver in person to each taxpayer or his agent a bill or account of the taxes due from him. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date from which they will bear interest. In case the owner or his agent cannot be found, the town clerk shall attach the bill or account to a piece of the real property, or deliver it to the servant or bailee in custody of the personal property

so assessed. He shall keep a copy of the bill or account with a memorandum thereon of the date of mailing, delivering, or posting on the property, as the case may be, of such bill, and such memorandum shall be prima facie evidence of such mailing, delivering, or posting. (1906, ch. 458, sec. 79.)

Sec. 19. Authority to borrow money and issue and sell bonds or notes.

(a) The Town of Easton shall have the power to borrow upon the faith and credit of the town such sum or sums of money as it shall deem proper for municipal purposes in the manner prescribed by state law applicable to the borrowing of money and the issuance of bonds or tax anticipation notes by municipal corporations. (b) In addition, and without limitation by sections 31 to 34, inclusive, of Article 23A of the Annotated Code of Maryland or any other provision of general law, the town may, by resolution, from time to time borrow money for any public purpose and may issue and deliver its notes or other evidences of the town's obligation (including renewal or refunding notes or bond anticipation notes) to mature not more than five (5) years from the date of issue and for the payment of which the town may designate such source or sources of funds, including tax or other revenues, as it deems appropriate to the purpose for which the borrowing is to be made. The notes or other evidences of obligation may be sold upon such terms, at public or private sale, and shall be executed and delivered in such manner and upon such conditions as the authorizing resolution shall provide. (1906, ch. 458, sec. 976; 1918, ch. 134. Res No. 5, December 27, 1955; Res. No.43, 2/17/75.)

Sec. 20. Power to borrow for construction or purchase of industrial buildings.

The Town of Easton may borrow upon the full faith and credit of the town such sum or sums of money as it deems proper and shall deliver therefore promissory notes, bonds or other certificates of indebtedness which shall be based upon the full faith and credit of the town, said sum or sums of money to be used for the purpose of defraying the cost of acquiring any industrial building or buildings, either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the municipality specifying the proposed undertaking, the amount of money to be borrowed, the manner by which it is to be borrowed, and the maximum rate of interest to be paid. The ordinance or resolution shall further provide that the industrial building is to be acquired pursuant to the provisions of this Section or pursuant to the provisions of Art. 41, Anno. Code Md., (1957 Ed.) Sec. 266 A through 266I, inclusive, and shall also provide that the industrial building is to be acquired for a bona fide tenant, as evidenced by a letter of intent or similar agreement between the prospective tenant and the municipality. Where differences exist between the methods financing specified by Art. 41, Anno. Code Md. (1957 Ed.) Sec. 266A through 266I, inclusive, or Art. 23A, Anno. Code Md. (1957 Ed.), Sec. 31 through 39, inclusive, or this Section, each shall be considered as alternative methods which the town may select at its discretion. In any type of financing the council may enter into negotiations with regard to the sale of bonds or other indicia of indebtedness and sell the same at private sale without advertisement or publication of notice of sale or solicitation of competitive bids; any public local or public general law to the contrary notwithstanding. (Ch. amend. No. 28, December 28, 1964.)

Sec. 21. Special assessment districts.

(a) The Town of Easton have the power to establish special assessment districts in limited and determinable areas and to levy special assessments upon the real and personal property within such areas, which special assessment shall be used solely for the purpose of paying the cost of acquiring and developing off-street parking facilities. (b) The boundaries of any special assessment district established hereunder to provide off-street parking facilities may be established by Ordinance or Resolution of the Council of the Town of Easton shall determine. No special assessment district shall be established unless prior to the final passage of such Ordinance or Resolution, public notice is given by notice inserted in two successive issues of a newspaper published in the Town of Easton, the last issue of which shall be published within ten days of the day on which a hearing is held by the Town of Easton. This notice shall further include a description of the boundaries of the special assessment district proposed, the time and place of the hearing to be held thereon, a statement of the special assessment proposed to be levied as well as a statement of the class of properties exempt from said levy, if exemption is proposed. (c) The Council of the Town of Easton may exempt from the levy hereby authorized properties as follows: 1. Properties used for residential purposes only which provide on "off-street" parking space for each family. 2. Properties furnishing off-street parking facilities equal to the requirements of any zoning ordinance or any Off-Street Parking Ordinance or Resolution passed in pursuance of the authority hereby granted. (d) The special assessment hereby provided shall constitute a lien against the respective properties upon which levied until paid, and bear interest in the same manner as all other town, real estate ad valorem taxes; any levy made hereunder shall be considered as being made for the purpose of servicing municipal bonds and shall not be used for general revenue purposes, and shall not be included in any computation of any limitation upon the taxing power of the Town of Easton which may be established by any other section of this Charter. (e) Borrowing. The Town of Easton is hereby authorized to borrow whatever funds the Council determines, by Resolution duly passed, to be necessary to finance any off-street parking facilities including the acquisition of access to and egress from off-street parking facilities, and to evidence such borrowing by the issuance of notes, tax anticipation notes or such other indicia of indebtedness as the lender or lenders may request. (f) The council of the Town of Easton is hereby authorized to enact appropriate legislation to amend any existing ordinance and/or resolution relating to special assessment districts for off-street parking facilities in order to eliminate therefrom any requirement that the special assessment levied thereby on property be limited to a rate not to exceed One Dollar (\$1) per \$100.00 of assessed valuation per annum. (Res. No. 37, July 17, 1972; Am. Res. No. 48, Oct. 18, 1982)

Sec. 22. Supplemental Emergency Appropriations.

To meet a public emergency affecting life, health or property, the council, upon the written request of the mayor, following a meeting during which the public is allotted time to comment, may make the emergency appropriation without increasing the requested amount. The request shall describe how the appropriation will be funded. The total of emergency appropriations in any fiscal year shall not exceed five percent of all appropriations made in the budget for that year.

Sec. 23. Supplemental Appropriations and Budget Expenditure Category Transfers.

During any fiscal year, the council, upon the written request of the mayor, following a meeting during which the public is allotted time to comment, may make additional or supplementary appropriations from unexpended or unencumbered funds set aside for contingencies in the budget or from transfers from other budget expenditure categories. No supplemental appropriation shall result in an increase of the budget's total expenditures. If transfers are taken from another expenditure category, the budget for that category shall be reduced by the amount taken.

Sec. 24. Supplemental Capital Appropriations.

No obligations of the Town may be authorized in any fiscal year for or on account of any capital project not included in the budget for that year; but upon receipt of a written request from the mayor. The council, after public hearing and with the affirmative vote of four-fifths of the full council may amend the budget in accordance with the request without increasing the requested amount.