

DISCUSSION DRAFT LANGUAGE FOR PENDING CRC PROPOSALS RE: CASINO GAMING REVENUE (N. DRIGGS / J. CARON / R. COULTER DRAFT 05 DEC 2017)

Section 203 Balloting on Major Appropriations and on Proposals for Borrowing or the Issuance of Bonds

~~Any major or special appropriation, other than those which are part of the annual budget, for an amount in excess of \$500,000, and any~~Any proposal for the borrowing of money by the Town either by note or by the issuance of bonds in an amount in excess of ~~[\$500,000]~~¹, whether such appropriation or such borrowing be for school purposes or for any other Town purpose, including the issuance of special obligation bonds under Chapter 33.2 of Title 45 of the General Laws, must be approved by the electors at a referendum. All referenda for such purposes shall take place at a ~~[Financial Town Referendum]~~ or at a general election or at a special election as the Council shall determine. Special elections for such referenda shall be scheduled by the Board of Canvassers, which shall also determine the hours, number and locations of the polling places to be used. Voting at such special elections shall be by ballots prepared by the Town Clerk. The Council shall cause language to be prepared with the approval of the Board of Canvassers for all such referendum questions describing clearly the amount, and purpose of the appropriation or borrowing for which approval is sought. There shall be a public hearing at least ten (10) days before the referendum vote. Notice of the time and place(s) for such referendum voting, and of the questions to be voted on thereat, shall be given by the Town Clerk by advertising the same at least once in a newspaper of general circulation in the Town no less than one (1) week prior to the referendum vote. The date of such Special Meeting shall not exceed forty five (45) days following certification of the petition. The provisions of this Section shall not apply to borrowing in anticipation of taxes, or of federal or state grants, as provided for under Chapter 12 of Title 45 of the General Laws.

Section 301 Budget, Tax Levy, and Resolution Adoption Process

(a) Schedule

- 1.) Initial Budget Workshop: The Budget Committee, Town Council, and School Committee shall participate in an initial budget workshop no later than January 15.
- 2.) Town Administrator: Prepare and submit preliminary Municipal budget request (excluding the Town Treasurer's and Town Clerk's budgets) and proposed expenditures from the Capital Improvement Fund to the Budget Committee and Town Council no later than January 15.
- 3.) Town Clerk: Prepare and submit preliminary Town Clerk budget request to the Budget Committee no later than January 15.

¹ A citizen proposal has been submitted which would reduce this \$500,000 threshold to \$250,000. The proposal remains under consideration.

- 4.) Town Treasurer: Prepare and submit preliminary Town Treasurer budget request to the Budget Committee no later than January 15.
- 5.) School Committee: Prepare and submit preliminary School Department budget request to the Budget Committee no later than January 15.
- 6.) Town Council: Approve and submit the final Municipal budget request (excluding the Town Treasurer's and Town Clerk's budgets) and proposed expenditures from the Capital Improvement Fund to the Town Administrator no later than 73 days prior to the Financial Town Referendum.
- 7.) Town Council: Approve and submit the final revenue estimates to the Town Administrator no later than 73 days prior to the Financial Town Referendum.
- 8.) Town Administrator: Submit the final Municipal budget request (excluding the Town Treasurer's and Town Clerk's budgets), proposed expenditures from the Capital Improvement Fund, and final revenue estimates to the Budget Committee no later than 63 days prior to the Financial Town Referendum.
- 9.) Town Clerk: Submit the final Town Clerk budget request to the Budget Committee no later than 63 days prior to the Financial Town Referendum.
- 10.) Town Treasurer: Submit the final Town Treasurer budget request to the Budget Committee no later than 63 days prior to the Financial Town Referendum.
- 11.) School Committee: Approve and submit the final School Department budget request to the Budget Committee no later than 63 days prior to the Financial Town Referendum.
- 12.) Budget Committee: Approve and submit the Budget Committee Docket, which includes Budget Proposal and Resolutions, to the Town Clerk no later than 44 days prior to the Financial Town Referendum.
- 13.) School Committee: Submit Optional Budget Proposal and Resolutions to Town Clerk no later than 37 days prior to the Financial Town Referendum.
- 14.) Town Council: Submit Optional Budget Proposal and Resolutions to Town Clerk no later than 37 days prior to the Financial Town Referendum.
- 15.) Town Clerk: Budget Proposal elector petitions made available no later than 35 days prior to the Financial Town Referendum.
- 16.) Electors: Budget and Resolution elector petitions due to the Town Clerk no later than 28 days prior to the Financial Town Referendum.
- 17.) Board of Canvassers: Certification of all elector petitions complete no later than 21 days prior to the Financial Town Referendum.

- 18.) Town Clerk: The Financial Town Hearing shall occur no later than 14 days prior to the Financial Town Referendum.
- 19.) Financial Town Referendum: The Financial Town Referendum shall occur on the third Saturday in May.
- 20.) [If Necessary] Financial Town Referendum Runoff: The Financial Town Referendum Runoff shall occur fourteen days after the Financial Town Referendum.

(b) Ballot

The Financial Town Referendum ballot shall be approved by the Board of Canvassers.

- 1.) Budget Proposals: Pursuant to Section 301 (c), Budget Proposals shall appear on said ballot and shall include:
 - A. the dollar amount to appropriate for the School Department budget,
 - B. the dollar amount to appropriate for the Municipal budget (including the Town Clerk and Town Treasurer),
 - C. the dollar amount to appropriate for the Capital Improvement Fund²,
 - ~~D.~~ the dollar amount to raise by taxation including maximum dollar amounts for the Motor Vehicle, Real & Tangible Property, and resulting Total Property tax levies,
 - ~~E.~~ the percentage increase or decrease to the prior year's certified Net Tax Levy, and
 - ~~F.~~ if necessary, the dollar amount of the Total Property Tax Levy that is in excess of the maximum levy as calculated in accordance with R.I.G.L. 44-5-2 (b).

Electors shall be instructed to "Vote For Only One of the following Budget Proposals".

- 2.) **Resolutions:** Pursuant to Section 301 (c), a resolution or ballot question may be included on said ballot, provided that if adopted it shall not alter the ballot entries of Section 301 (b) 1.) A. through ~~E~~F. Electors shall be instructed to "Approve or Reject" resolution(s).

(d) Petitions

- 1.) Elector Budget Proposals: Electors of the town may petition that an alternate budget proposal be included in the Financial Town Referendum. No later than 35 days before the Financial Town Referendum the Town Clerk shall make petition forms available which include fields for the name of the elector who is the petition originator and the ballot entry amounts of Section 301(b)1.A through ~~E~~F. The Town Clerk shall record the dollar amounts

² The Capital Improvement Fund would need to be referenced throughout the charter as part of the ordinary budget/FTR process. Note that at least two pending proposals would have 25% of Casino Gaming Revenue automatically fund the Capital Improvement Fund.

sought by the petition originator on the petition form, shall prepare a typed version of this petition form to be verified by the petition originator, and record a petition originator's statement, if any, as to the purpose of the petition. The petition originator shall provide and the Town Clerk shall record either (1) the specific docket line item(s) to be increased, decreased, or created, or (2) a statement to remand the docket to the Budget Committee for final determination of docket line item(s) in accordance with said petition originator's budget proposal. Any person obtaining signatures must be a legal resident of voting age. Petitions must be returned to the Town Clerk no later than 28 days prior to the Financial Town Referendum. Any language added to a petition, or any alteration of the language thereof subsequent to the verification by the petition originator of the Town Clerk's typed version, shall be of no force or effect. There shall be no limit to the number of separate petitions which an elector may sign. Nothing in this charter shall prevent an elected official or any appointed member of a Board, Committee or Commission from being a petition originator or signatory. Nothing in this Charter shall prevent an elector, a majority of an elected body or Board, Committee or Commission from circulating a petition. An elector may originate no more than one Budget Proposal petition.

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Section 407 Powers and Duties [Town Council]

All powers of the Town shall be vested in the Town Council except as otherwise provided by the Charter or by the Constitution and laws of the State. The Town Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law, provided however, that the administration and management of the government of the Town shall be the responsibility of the Town Administrator. Among its powers and duties the Council shall:

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- 3.) Develop and publish such policies, plans and objectives consistent with the long-range plan to provide a basis for planning the Municipal (non-school) budget by the Town Administrator and its review by the Budget Committee and to provide whatever interpretive consultation is appropriate for generating a budget within these general guidelines. Review and approve the Municipal budget, expenditures from the Capital Improvement Fund, and revenue estimates submitted by the Town Administrator in accordance with Section 301(a) of this Charter.

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Section 503 Duties and Powers of the Town Administrator

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The Town Administrator shall:

1.) Submit to the Budget Committee and Town Council a proposed Municipal (non-school) budget of receipts and expenditures, proposed expenditures from the Capital Improvement Fund, and an explanatory budget message in accordance with Section 301(a) of this Charter. Submit to the Budget Committee the proposed budget, proposed expenditures from the Capital Improvement Fund, and revenue estimates as reviewed and approved by the Town Council in accordance with Section 301(a) of this Charter. For such purpose the head of each office, department and agency shall submit to the Town Administrator estimates of their anticipated revenues and expenditures with such supporting data as he/she may request. In preparing the proposed budget, the Town Administrator shall review the estimates, and with the exception of the School Department, Town Clerk's and Treasurer's budgets, may revise them as he/she deem appropriate. The Municipal budget, as proposed by the Town Administrator shall include all anticipated revenues and expenditures, except those for the school purposes, and the total of such expenditures shall not be greater than the total of the anticipated revenue. He/She shall incorporate the total of these expenditures and revenues with the total he/she has arrived at for general town purposes.

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16) Evaluate requests and make recommendations for expenditures from the Capital ~~Improvements Program~~Improvement Fund.

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Section 602 Town Treasurer

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(a) Duties and Responsibilities

The Town Treasurer shall have all the powers, rights, and duties prescribed under the General Laws of the State of Rhode Island for Town Treasurers including but not limited to:

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3.) Establishing and monitoring the Capital Improvement Fund.

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Section 703 Duties and Responsibilities [Budget Committee]

The Budget Committee has the following responsibilities:

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- 4.) To develop a docket including both (a) resolutions of its own, and (b) the preceding year's approved budget, the budget requests of the Town Administrator, Town Clerk, Town Treasurer and the School Department for the coming year, the Budget Committee's recommendations for such budgets, including for the Capital Improvement Fund, and a Budget Proposal.

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Section 1214 FeesRevenues Collected by the Town

~~All~~(a) General Fund. Except as set forth in [Section 1310], Section 1214(b), Section 1214(c), Section 1214(d), or during a state of emergency declared pursuant to Section 310, all revenues, including but not limited to fees, fines, penalties, payments, charges, gifts, donations, grants, Casino Gaming Revenue, and any other miscellaneous sources of revenue including but not limited to vending machines, copy machines, and recreational activities collected by Town Officials or agencies in their official capacities shall be transmitted to the town treasury to be deposited in the general funds of the Town- and shall there remain unless and until appropriated through a Financial Town Referendum [or other referendum pursuant to Section 203]. The compensation paid to each official shall be in lieu of all fees, penalties and payments payable to such official in the performance of his/her duties. Fees, penalties, and payments shall be reviewed and revised as necessary on an annual basis. Fees, penalties, and payments shall be set to at least cover the cost incurred by the Town.

Section 1310 Capital Improvement Program

~~The Capital Improvement Program shall be in accordance with Chapter 7A of the Town Code except that the Town Administrator shall be responsible for receiving requests and making recommendations for capital improvement projects.~~(b) Casino Gaming Revenue. All revenues received from the Town as gaming commissions or other revenue from the State arising from Tiverton Casino shall be considered "Casino Gaming Revenue". [Twenty-five percent (25%)]³ of Casino Gaming Revenue shall automatically be removed from the general funds of the Town and transferred to the Capital Improvement Fund pursuant to and subject to the [\$2,250,000] maximum balance set forth in [Section 1310], and the remaining Casino Gaming Revenue shall remain in the general funds of the Town until [disposition at a Financial Town Referendum] [rebated pursuant to [Section 1214(c)]]. For the avoidance of doubt, Casino Gaming Revenue does not include property taxes assessed

³ This draft language would be reworked, or perhaps combined with draft Section 1214(c), for a proposal where all (100%) of Casino Gaming Revenue went to a taxpayer casino rebate. Also, having all Casino Gaming Revenue remain subject to the normal FTR process or be rebated to taxpayers would moot having a cap.

on Tiverton Casino property or revenues the Town receives from [hotel,] meal, or beverage taxes.

- (c) Taxpayer Casino Rebate.⁴ Within thirty (30) days of the end of each calendar quarter, the Treasurer shall certify the total amount of Casino Gaming Revenue received in such quarter and cause [residential real property taxpayers who have timely paid their taxes for such quarter] to receive rebates of [seventy-five (75%) of] [all (100%) of] such Casino Gaming Revenue [remaining after funding the Capital Improvement Fund consistent with Section 1214(b)], calculated pro rata based on residential real property accounts timely paid for such quarter. The Treasurer may charge a reasonable servicing fee for the preparation and delivery of rebate checks.
- (d) Restricted Funds. Nothing in Section 1214(a) shall prohibit an elected body or elected official from obtaining and spending restricted grants, donations, and gifts for the benefit of the Town outside of the annual budget or other approval at a Financial Town Referendum so long as such grants or funds require no associated funds, [contributed labor], or other expense from the Town.

Section 1310 Capital Improvement Fund

- A. Establishment. There shall be a reserve account known as the “Capital Improvement Fund”.
- B. Funding. The Capital Improvement Fund shall be funded by, and only by: [(1) funds, if any, which are approved as part of Budget Proposals or by proper resolutions approved by Financial Town Referenda,]⁵ (2) as contemplated by Section [1214(b)], [twenty-five percent (25%)] of Casino Gaming Revenue, and (3) donations, gifts, or contributions if so intended by the donor and which require no associated contribution from the town; provided, however, that the balance of the Capital Improvement Fund may not exceed [\$2,250,000].
- C. Appropriations. Funds may not be appropriated from or otherwise transferred from the Capital Improvement Fund unless approved as part of a Budget Proposal at a Financial Town Referendum for the purpose of Capital Items.
- D. Qualifying Items. The following items⁶ qualify as “Capital Items” for purposes of the Capital Improvement Fund:
- (1) [Land for functional, recreational, or conservation purposes];

⁴ This draft subsection would only be necessary if a taxpayer casino rebate were adopted.

⁵ This draft contemplates that funds in addition to a portion of Casino Gaming Revenue could be utilized to fund the Capital Improvement Fund.

⁶ Note that none of the CRC proposals, nor does this draft, contemplate funding pensions or other labor costs. (Pensions and other labor benefits are not physical plant, property, or equipment or infrastructure.)

- (2) Buildings and structures with an expected life of at least fifty years [after purchase, construction, or planned rehabilitation], and associated land, parking lots, driveways, landscaping elements, and associated fixtures, and physical plant with an expected life of at least five years.
 - (3) With respect to an existing building or structure, replacement or rehabilitation of any major structural or utility system (including roofing) and associated parking lots, driveways, landscaping elements, and associated fixtures and physical plant with an expected life of at least five years.
 - (4) Physical/tangible professional equipment, office equipment, and furnishings with an expected life of at least seven years.
 - (5) New construction, or rehabilitation or repair, of town roads (including paving), pathways, sidewalks, and drainage structures or systems.
 - (6) Vehicles and watercraft with an expected life of at least three years.
 - (7) Payments relating to the permanent closure and retirement of the town landfill.
 - (8) Payments (whether as scheduled, minimum, or prepayments⁷, principal or interest) toward any bond, capital lease, or other debt service so long as the proceeds of such bond/leases/debt were entirely used to finance the purchase of Capital Items.⁸
- E. Miscellaneous. [Nothing in this section prohibits the appropriation of Capital Items from sources other than the Capital Improvement Fund, provided such appropriations are otherwise approved at a Financial Town Referendum.]
- F. Transition. Funds which were previously restricted for the purpose of a Capital Item by action properly taken before the effectiveness of this section may, but need not, be transferred into the Capital Improvement Fund if both the Town Council and the Town Treasurer jointly certify the appropriateness of each such transfer, and each transfer is approved as part of a Budget Proposal or proper resolution at the Financial Town Referendum next occurring after the effectiveness of this section.

⁷ Prepayment on bonds may actually have adverse financial consequences in many cases. Presumably this would be vetted out in the FTR process so that unwise prepayments are not likely to be proposed to or approved by FTR voters.

⁸ One way to draft language for Proposal ID #55 (W. Lopes; Designated categories for annual casino gaming income) might be to carve this item (7) out as a separate account.