March 29, 2019

MUNICIPAL BUDGET PROCESS

1. The preparation, presentation, and adoption process of the annual Township budget is governed by State law.

2. The applicable law as to preparation and presentation to Council is known as the **"Optional Municipal Charter Law",** commonly referred to as the **"Faulkner Act"**, and may be found in the New Jersey Statutes at N.J.S.A. 40:69A-1 et seq.

3. N.J.S.A. 40:69A-40 (e) provides that the mayor shall "[p]repare and submit to the council for its consideration and adoption an annual operating budget and a capital budget, establishing the schedules and procedures to be followed by all municipal departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process".

4. N.J.S.A. 40:69A-44 (a) provides that the business administrator shall, under the direction and supervision of the mayor, "[a]ssist in the preparation of the budget".

5. The applicable law as to the date by which the mayor is required to present the annual budget to the Township Council and the process by which the Council must adopt the budget is known as the **"Local Budget Law"**, and may be found in the New Jersey Statutes at N.J.S.A. 40A:4-1 et seq.

6. N.J.S.A. 40A:4-4 provides, in its entirety, that "[a]ll budgets shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the governing body. The procedure shall be as follows"

   a. Introduction and approval.
   b. Public advertising.
   c. Public hearing.
   d. Amendments and public hearings, if required.
   e. Adoption."

7. N.J.S.A. 40A:4-5 states that the Council shall introduce the annual budget "not later than February 10" but N.J.S.A. 40A:4-5-1 provides that the Director of the Division of Local Government Services with the approval of the Local Finance Board, may extend the dates for introduction and approval, and for adoption.

8. As to the CY2019 budget, the Director of Local Government Services has extended the dates, as follows:

   a. Presentation of Summary to Council.
   b. Introduction and approval by Council (April 3, 2019).
   c. Adoption by Council (May 1, 2019) if approved prior thereto by the Division of Local Government Services.

9. N.J.S.A. 40A:4-6 provides, in part, that "[e]very budget shall be advertised after approval …at least 10 days prior to the date fixed [for the public hearing]".

10. N.J.S.A. 40A:4-7 provides that "[n]o budget shall be adopted until a public hearing has been held thereon and taxpayers and all persons having an interest therein shall have been given an opportunity to present objections … [and that s]uch hearing shall be held not less than … 28 days in the case of a municipality, after the approval of the budget."

11. N.J.S.A. 40A:4-10 provides that "[n]o budget or amendment thereof shall be adopted unless the director [of the Division of Local Government Services] shall have previously certified his approval thereof."

12. N.J.S.A. 40A:4-9 (a) provides that "[a]mendments to budgets required by the director may be made prior to the time of holding the public hearing on the budget, without public advertisement."

13. N.J.S.A. 40A:4-9 (b) provides, in part, that "[t]he governing body may amend [the introduced] budget during or after the public hearing."

14. N.J.S.A. 40A:4-9 © provides, in part, that "no amendment by the governing body shall be effective until taxpayers and all persons having an interest therein shall have been granted a public hearing thereon, if such amendment shall:

   1. Add a new item of appropriation in an amount in excess of 1% of the total amount of appropriations as stated in the approved budget, or
   2. Increase or decrease any item of appropriation by more than 10%, or
   3. Increase the amount to be raised by taxes by more than 5%, unless the same is made to include an emergency temporary appropriation only."

15. N.J.S.A. 40A:4-9 © requires that any amendments that require a public hearing shall be advertised at least three days prior to the hearing.