

*Oberlin Herald
10/3/00*

ORDINANCE NO. 740

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$152,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, SERIES 2000, OF THE CITY OF OBERLIN, KANSAS, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING TEMPORARY NOTES; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City is a city of the third class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to K.S.A. 12-110c, as amended, and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the governing body of the City has acquired a fire truck (the "Improvements") for use in the City;

WHEREAS, all legal requirements pertaining to the Improvements have been complied with, and the governing body of the City now finds and determines that the total cost of the Improvements (including interest on temporary notes of the City and issuance costs of the Bonds) and related expenses are at least \$195,000, said cost to be paid by the City at large; and

WHEREAS, said governing body hereby finds and determines that the City has and will incur additional accrued interest on the temporary notes of the City heretofore issued in connection with the Improvements, which is a proper expense of the Improvements, and that said additional expenses shall be chargeable to the City at large and that general obligation bonds of the City will be issued therefor; and

WHEREAS, the governing body of the City is authorized by law to issue general obligation bonds of the City to pay a portion of the costs of the Improvements; and

WHEREAS, the City heretofore issued and has outstanding the Refunded Notes and is authorized by K.S.A. 10-427 *et seq.* to issue general obligation refunding bonds of the City for the purpose of refunding a portion of the Refunded Notes; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Refunded Notes, to reduce debt service requirements of the Issuer for certain years, payments on the Refunded Notes and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund a portion of the Refunded Notes; and

WHEREAS, the governing body of the City has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date, awarded the sale of such Bonds to the best bidder.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OBERLIN, KANSAS, AS FOLLOWS:

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

"Act" means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.* and K.S.A. 12-110c, all as amended and supplemented from time to time.

"Bond Fund" means the Bond Fund of the City for its general obligation bonds.

"Bond Resolution" means the resolution to be adopted by the governing body of the City prescribing the terms and details of the Bonds and making covenants with respect thereto.

"Bonds" means the Issuer's General Obligation Bonds, Series 2000, in the aggregate principal amount of \$152,000, dated January 15, 2000, authorized by this Ordinance.

"City" means the City of Oberlin, Kansas.

"Clerk" means the duly appointed and acting Clerk of the Issuer or, in the Clerk's absence, the duly appointed Deputy Clerk or Acting Clerk.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations proposed or promulgated thereunder of the United States Department of the Treasury.

"Improvements" means the improvements referred to in the preamble to this Ordinance.

"Mayor" means the duly elected and acting Mayor or, in the Mayor's absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

"Ordinance" means this Ordinance authorizing the issuance of the Bonds.

"Refunded Note Resolution" means the Resolution No. 564, which authorized the Refunded Notes.

"Refunded Notes" means a portion of the Series 1999 Notes maturing on August 1, 2001, in the aggregate principal amount of \$155,000.

"Series 1999 Notes" means the Issuer's Temporary, Series 1999, dated August 1, 1999.

"State" means the State of Kansas.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Bonds, Series 2000, of the City in the principal amount of \$152,000, for the purpose of providing funds to refund the Refunded Notes.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution hereinafter adopted by the governing body of the City.

Section 5. Levy and Collection of Annual Tax. The governing body of the City shall annually make provision for the payment of principal of, and premium, if any, on the Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

Section 6. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

PASSED by the governing body of the City on December 30, 1999 and signed by the Mayor.



Charles Z. Finley

Mayor

Christa Smith

Clerk

APPROVED AS TO FORM ONLY.

JA -114

City Attorney

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

ARTICLE 6. INSURANCE PROCEEDS FUND

7-601. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 *et seq.*, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Code 1997)

7-602. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Code 1997)

7-603. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 7-602, the insurer or insurers shall contact the county treasurer, Decatur County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Decatur County, Kansas. (Code 1989)

7-604. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Code 1989)

7-605. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the

7-609.

SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 7-605(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 7-605(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 1997)

7-610.

EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Code 1989)

7-611.

INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Code 1989)