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OCT 27 1980

ROGER V. TRACY, JR.
FRANKLIN COUNTY AUDITOR

ORDINANCE NO. 44-80

By: *W. Holm*

AUTHORIZING THE ISSUANCE OF NOTES IN THE AMOUNT OF \$2,200,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF CONSTRUCTING A STREET LIGHTING SYSTEM IN THE CITY OF BEXLEY, OHIO AND DECLARING AN EMERGENCY

WHEREAS, at the primary election held June 6, 1978, on the proposition of issuing bonds of the City of Bexley for the purpose hereinafter stated, in the sum of \$2,200,000, and for levying taxes outside the ten-mill limitation to pay the principal and interest of such bonds, the requisite majority of those voting on the proposition voted in favor thereof; and

WHEREAS, pursuant to Ordinance No. 40-79 passed October 23, 1979, notes in the principal amount of \$2,200,000, dated November 2, 1979, were issued for the purpose hereinafter stated, to mature October 31, 1980, and it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of such bonds; and

WHEREAS, the fiscal officer has certified to this council that the estimated life of the improvement to be constructed from the proceeds of bonds and notes hereinafter referred to exceeds five (5) years, the maximum maturity of bonds being twenty (20) years and notes being eight (8) years.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEXLEY, COUNTY OF FRANKLIN, STATE OF OHIO THAT:

Section 1. It is hereby declared necessary to issue bonds of the City of Bexley, Ohio, in the principal sum of \$2,200,000 for the purpose of constructing a street lighting system in the City of Bexley and paying the cost of advertising, printing, and legal expenses incidental thereto.

Section 2. Said bonds shall be of the denomination of \$5,000 each and shall be dated approximately October 15, 1981; shall bear interest at the rate of not more than eight per centum (8%) per annum, payable semiannually until the principal sum is paid and shall mature in fifteen (15) annual installments after their issuance.

Section 3. It is necessary and this Council hereby determines that notes shall be issued in anticipation of the issuance of said bonds and to retire said existing notes dated November 2, 1979.

Section 4. Such anticipatory notes in the amount of \$2,200,000 which sum does not exceed the amount of the bond issue, shall bear interest at the rate of 7.12 per centum (%) per annum, payable at maturity and ten and one-half per centum (10.5%) per annum after maturity. Such notes shall be dated October 31, 1980, shall mature on October 30, 1981, and shall be executed and delivered in such number and such denominations as shall be requested by the purchaser thereof. Coupons shall not be attached to the notes.

Section 5. Such notes shall be executed by the mayor and city auditor and shall bear the seal of the city, shall be designated "Street Light System Construction Notes" and shall be payable as to both principal and interest at the MAIN OFFICE office of BANCOHIO and shall express upon their face the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 6. Subject to the rejection of said notes by the officers in charge of the Bond Retirement Fund, said notes shall be, and hereby are, awarded and sold to SWENBY (AERWEIGHT) Co. at the par value thereof and bearing the aforesaid rate of interest and the Clerk is hereby authorized and directed to deliver said notes, when executed, to said purchaser upon payment of such purchase price and accrued interest to the date of delivery. The proceeds of such sale, except any accrued interest thereon, shall be deposited in the City Treasury and used for the purpose aforesaid and for no other purpose. Any accrued interest shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on said notes in the manner provided by law.

Section 7. Such notes shall be the full general obligation of the said City of Bexley, Ohio, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the bonds anticipated by said notes and any excess funds resulting from the issuance of said notes shall, to the extent necessary, be used only for the retirement of said notes at maturity, together with interest thereon, and is hereby pledged for such purpose.

Section 8. During the years while such notes run there shall be levied on all taxable property in the City of Bexley, Ohio, in addition to all other taxes and outside of the limitations of Article XII, Section 2, of the Constitution of Ohio, a direct tax annually not less than that which would have been levied if bonds had been issued without the prior issue of said notes.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and shall be collected by the same officer in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. Funds derived from said levies hereby required shall be placed in a separate and distinct fund, which, together with interest

collected on the same shall be irrevocably pledged for the payment of the principal and interest on said notes or the bonds in anticipation of which they are issued when and as the same fall due.

Section 9. The City hereby covenants that it will restrict the use of the proceeds of such notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 103(c) of the Internal Revenue Code and the regulations prescribed under the section. The fiscal officer or any other officer, including the City Auditor, having responsibility with respect to the issuance of these notes is authorized and directed to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 103(c) and regulations thereunder.

Section 10. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance 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 11. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of these notes in order to make them legal, valid and binding obligations of said City of Bexley have happened, been done and performed in regular and due form as required by law; that the full faith, credit and revenue of said City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing these notes.

Section 12. That the Clerk is hereby directed to forward a certified copy of this ordinance to the Auditor of Franklin County, Ohio.

Section 13. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City of Bexley and its inhabitants for the reason that notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the City; wherefore this ordinance shall take effect and be in force from and immediately after its passage.

Supervised and adopted
Passed Oct 23, 19 80.

Attest: John W. Hornberger
Clerk

John H. Penberg
Presiding Officer

David H. Malson Oct 23, 80
Mayor

CERTIFICATE

I, John W. Hornberger, Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 45-80 duly adopted by the Council of the City of Bexley, Ohio, on the 23rd day of October, 1980, and that a certified copy thereof was filed in the office of the Franklin County Auditor on the 24th day of October, 19 80.