

12-18-14 10:09 IN

CITY OF HAMTRAMCK
OFFICE OF THE EMERGENCY MANAGER
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EMERGENCY MANAGER
CITY OF HAMTRAMCK
WAYNE COUNTY MICHIGAN

ORDER NO. 2014 - 20

**MEASURES TO RECTIFY FINANCIAL EMERGENCY AND
ALLOCATION OF RESPONSIBILITIES IN THE EVENT OF THE
APPOINTMENT OF A RECEIVERSHIP TRANSITION ADVISORY
BOARD**

BY THE POWER AND AUTHORITY VESTED IN THE EMERGENCY MANAGER FOR THE CITY OF HAMTRAMCK (CITY) UNDER THE LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541 TO 141.1575 (ACT), CATHY SQUARE, EMERGENCY MANAGER, ISSUES THE FOLLOWING ORDER:

1. The purpose of the Act, which became effective on March 28, 2013, is to, among things, safeguard and ensure the financial accountability of local units of government; to preserve the capacity of local units of government to provide or cause to be provided necessary services essential to the public health, safety, and welfare; to provide for review, management, planning, and control of the financial operation of local units of government and the provision of services by local units of government; to authorize a declaration of the existence of a financial

emergency within local units of government; to prescribe remedial measures to address a financial emergency within local units of government; to provide for the appointment and to prescribe the powers and duties of emergency managers for local units of government; and to provide for the termination of a financial emergency within a local unit of government.

2. Section 23 of the Act authorizes the Governor, before removing a local government from receivership, to appoint a Receivership Transition Advisory Board (Board) to monitor the affairs of the local government until the receivership is terminated.

3. By letter dated 12-18, 2014, I recommended that Governor Snyder appoint a Receivership Transition Advisory Board for the City.

4. In the event that Governor appoints a Transition Advisory Board ("Board"), this Order is issued to facilitate the effective and efficient operation of the City for the duration of the period that the Board is monitoring the affairs of the City and the City remains in receivership. City officials shall be governed by and perform the duties and functions set forth in this Order, as follows:

(a) The Mayor and Council shall implement all of the following financial best practices within the City and do all of the following:

- 1) Safeguard the financial stability of the City by seeking out, approving, and implementing cost-saving measures recommended by the City Manager or the Board.
- 2) Ensure that the City makes annually required contribution to the Municipal Employees' Retirement System (MERS). The City's annual contribution to MERS may be less than the amount recommended by MERS only with the approval of the Board and the State Treasurer.

- 3) Ensure that City pension funds are actuarially funded at a level of at least 80% according to the applicable standards of the Governmental Accounting Standards Board. For the purpose of determining pension fund levels under this paragraph, the valuation shall exclude the net value of any pension bonds or evidence of indebtedness. The annual actuarial valuation for the City's pension funds shall use the actuarial accrued liabilities and the actuarial value of assets. If a pension fund uses the aggregate actuarial cost method or a method involving a frozen accrued liability, the entry age normal actuarial cost method shall be used.
- 4) The City Council and Mayor shall not interfere with the employees of the City. The City Manager is the proper management contact for all department heads.
- 5) Fill in a timely manner and with the approval of the Board, any vacancy in the Office of City Manager with an individual that meets qualifications established by the Board. Without the approval of the Board, neither the City Council nor the Mayor may terminate the City Manager, or another city officer or employee.
- 6) Except as otherwise provided in this paragraph, adopt an annual budget for the City, as recommended by the City Manager, and submit the proposed budget to the Board for approval before the budget is effective. The City Council and Mayor shall monitor budgetary expenditures on a regular basis. If it appears that expenditures will exceed revenues under an adopted budget, the City Council and the Mayor shall amend the budget as necessary to ensure that actual expenditures do not exceed actual revenue, including, but not limited to

an amendment recommended by the City Manager or the Board. A budget amendment may not be adopted without the approval of the Board. An annual budget or budget amendment inconsistent with a two-year budget adopted and implemented for the City by the Emergency Manager may not be adopted or implemented without the approval of the State Treasurer. Proposed amendments to the two-year budget adopted by the Emergency Manager must be submitted to the Board at the next Board meeting that follows the event or discovery that necessitates the amendment.

- 7) Adopt ordinances and resolutions not inconsistent with this Order and Michigan law. Ordinances and resolutions are subject to approval of the Board before taking effect, except as otherwise directed by the Board, including, but not limited to, ordinances or resolutions providing for the appointment or reappointment of individuals to city offices.
- 8) Review and recommend approval to the Board of proposed collective bargaining agreements, as submitted by the City Manager, subject to limitations on collective bargaining under MCL 141.1567(3).
- 9) Approve any changes to the job description of the City Manager, any contract with the City Manager, and any policies or procedures applicable to the City Manager with the approval of the Board.
- 10) Issue or otherwise incur debt with the approval of the Board. As used in this paragraph, "debt" means that term as defined under the Revised Municipal Finance Act, 2001 PA 34, MCL 141.2101 to 141.2821.

- 11) Review monthly the City's budget compared to actual revenue and expenditures and cash flow forecast in as much detail as is practicable but not less in detail than the City's approved budget.
- 12) Post City Council meeting agenda packets on the City's website no less than 24 hours prior to each meeting.
- 13) Review any City deficit elimination plans for compliance with the law and other applicable requirements on a quarterly basis and forward the plans to the Board for review and approval.
- 14) Document all of the City's outstanding liabilities and report on the liabilities to the Board.
- 15) Timely generate and submit all reports and other information requested by the Board.
- 16) Adopt and alter policies and procedures for conducting the operations of the City Council, subject to approval by the Board.
- 17) Confer with the City Manager on the City Manager's selection of and performance evaluation of department heads and other positions designated as key positions of the City by the Board.
- 18) Confirm in a timely manner, the appointment or reappointment of qualified individuals to boards and commissions, including the City Council, as terms expire or vacancies arise.
- 19) Review not less than annually an inventory of City assets.
- 20) Review not less than annually a report on business licenses issued by the City.

- 21) Review licensing fees and other City fees on an annual basis and make recommendations for adjustments in fees, subject to approval by the Board.
- 22) Annually review the status of tax collections and outstanding property taxes owed to the City and report findings to the Board.
- 23) Review and recommend approval of all asset sales to the Board. Absent Board approval to do otherwise, the net proceeds from all asset sales shall be deposited in the City's pension funds, if at the time of the asset sale the City's pension funds are not actuarially funded at a level of at least 80% according to the applicable standards of the Governmental Accounting Standards Board. Additionally, city owned parcels shall only be sold by public auction absent approval by the Board to sell by another method.
- 24) Review election precinct sites and approve expenses associated with elections, consistent with the budget then in effect for the City.
- 25) Review proposed economic and redevelopment projects subject to the approval of the Board.
- 26) Review recommendations of the City Manager for salary and compensation adjustments of appointed officers subject to the approval of the Board and amendment to the budget by the process detailed in this Order.
- 27) Approve intergovernmental agreements and service consolidation plans recommended by the City Manager, subject to the approval of the Board.

(b) The City Manager shall implement all of the following financial best practices within the City and do all of the following:

- 1) Be responsible for effectively overseeing the day-to-day operations of the City, consistent with this Order.
- 2) Submit regular reports to the Mayor, City Council, and Board regarding the overall operation and direction of the City.
- 3) Serve, as the official City representative to the Board on behalf of the Mayor and the City Council.
- 4) Work with the City Council and other City or State officials to successfully transition the City from receivership and eliminate financial stress within the City.
- 5) Ensure that the City is in full compliance with the Act and other applicable state and federal laws.
- 6) Supervise and direct city departments, department heads, and functions. The City Manager shall transact all necessary business with City officers and may require information in writing from all City officers, elective and appointive, upon any subject relating to the duties of their respective offices. The City Manager shall be responsible for appointments, hiring, and terminations of department heads and other city employees, subject to approval by the Board.
- 7) The City Manager may be removed by either A. resolution of the City Council and approval by the Board, or B. recommendation by the Board and approval by the State Treasurer. Any resulting vacancy shall be filled by operation of Subsection 4(a)(5).

- 8) Be designated as the person who will negotiate any collective bargaining agreements between the City and City employees or their authorized representatives.
- 9) Review and recommend to the City Council approval of contracts or purchase of goods or services with a value exceeding \$10,000.00, subject to approval by the Board. The City Manager shall exercise discretion in his authority to solely purchase goods and services up to \$10,000.00 per transaction. Monthly reports shall be submitted to the Board which details all of the City Manager's unilateral expenditures under this subsection.
- 10) Recommend for adoption by the City Council a policy for the competitive procurement of goods and services by the City, subject to approval by the Board.
- 11) Provide monthly to the Mayor, City Council, and the Board by the 20th calendar day following the end of each quarter detailed revenue and expenditure budget-to-actual reports of each budgeted fund, in a format approved by the Michigan Department of Treasury's Office of Fiscal Responsibility. Additionally, monthly reports shall be submitted to the Board which detail all of the overtime expense that the City has incurred during the previous 30 days.
- 12) Annually review with the City Council general property, liability, and motor vehicle insurance levels and coverage, and recommend action to the Board for approval.

13) Serve as the primary contact between the Mayor and City Council and the employees of the City.

14) Faithfully execute the duties of the City Manager.

15) Regularly report on his or her activities to the Mayor and the City Council.

(c) The Mayor, City Manager, and City Council shall implement all of the following financial best practices within the City and do all of the following:

- 1) Engage in prudent financial management with the goal of achieving the creation of an unassigned fund balance in the General Fund that represents at least 15% of projected and budgeted expenditures for the subject fiscal year before the City engages in additional discretionary spending. A written policy designating the amount and proper use of Fund Balance shall be adopted within 90 days of the Board's appointment.
- 2) Work with the Board to successfully transition the termination of receivership for the City by supporting, implementing, and maintaining the financial and operating plans and the reforms instituted by the City's emergency managers, including but not limited to, the financial and operating plan for the city and by providing appropriate training and explanation of City operations.
- 3) Within 90 days of the Board's appointment, develop and maintain a rolling 5-year financial operations plan, in coordination with the City Manager and City Controller, and ensure that the financial operations plan is prepared in accordance with applicable law. The 5-year financial operations plan is subject to Board approval.

- 4) Within 180 days of the Board's appointment, develop and maintain a rolling six-year Capital Improvements Plan (CIP), in coordination with the City Planning Commission and ensure that the CIP is prepared annually in accordance with applicable law. The CIP is subject to approval by the Board.
- 5) Adopt, subject to Board approval, all policies and procedures necessary to implement best financial practices by the City. MIDEAL shall be utilized whenever practicable to identify future vendors.
- 6) Carefully consider legal advice provided by the City Attorney and recommendations provided by the City Manager concerning any lawsuit, or the resolution or settlement of any labor grievances, arbitrations, or complaints. A settlement of any lawsuit, labor grievance, arbitration, or complaint is subject to the approval of the Board. If recommended by the City Manager and the Board, the City Council shall approve the settlement of a lawsuit, or the resolution or settlement of a labor grievance, arbitration, or complaint.
- 7) Annually budget for and receive training on the Open Meetings Act, effective meeting management and parliamentary procedures, Council-Manager Relations, and analyzing financial statements and reports from professionally recognized organizations. Also, complete Level One of the Michigan Municipal League (MML) core courses for municipal government within one year of the appointment of the Board. The Board may determine which persons must complete this training. The City will pay for training costs.

8) Budget for and ensure that all planning commissioners, zoning board of appeals members, and members of the board of review annually receive proper training to assist them in the fulfillment of their roles and responsibilities and remove members who fail to receive adequate training.

9) Annually review, upon preparation and adoption of the budget, all fees and make recommendations subject to approval of the Board. To ensure that the City meets its ongoing financial obligations, should the City Council fail to approve a budget, budget amendment, or fee schedule as recommended by the City Manager, the City Manager shall present such budget, budget amendment, or fee schedule to the Board, and the Board may approve the budget, budget amendment, or fee schedule on behalf of the City.

5. Except as otherwise provided in this paragraph, the power to rescind or amend any order issued by the Emergency Manager shall rest solely with the Board, with approval by the State Treasurer, to the extent permitted under the Act. This Order may be amended, modified, repealed, or terminated by a subsequent Order issued by an Emergency Manager.

6. This Order shall have immediate effect.

Date:

12-18-14

By:



Cathy Square
Emergency Manager
City of Hamtramck