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GOVERNOR

STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

BRIAN CALLEY
LT. GOVERNOR

September 7, 2012

William Matakas, Mayor
City of Allen Park
16850 Southfield Road
Allen Park, Michigan 48101

Allen Park City Council
16850 Southfield Road
Allen Park, Michigan 48101

Dear Mayor Matakas and Allen Park City Councilmembers:

The Financial Review Team I appointed for the City of Allen Park submitted its report to me prior to the Board of Canvasser's meeting on August 8, 2012. The report was submitted pursuant to the provisions of Public Act 4 of 2011, the Local Government and School District Fiscal Accountability Act.

Subsequent to the submission of the report, the referendum provisions of Section 9 of Article II of the Michigan Constitution were invoked as to Act 4. As a result, Act 4 is suspended pending the outcome of the November 2012 general election. However, the Attorney General concluded in Opinion Number 7267 that Public Act 72 of 1990, the Local Government Fiscal Responsibility Act, is revived during the period that Act 4 is suspended. Therefore, my determination will be made pursuant to Act 72.

Section 15 of Act 72 requires that I, as Governor, make one of the following three determinations within 30 days of receiving a financial review team report:

(a) A serious financial problem does not exist in the local government.

(b) A serious financial problem exists in the local government, but a consent agreement containing a plan to resolve the problem has been adopted pursuant to section 14(1)(c).

(c) A local government financial emergency exists because no satisfactory plan to resolve a serious financial problem exists.

I have reviewed in detail the report submitted to me on August 8, 2012, by the Review Team. I agree with the conclusions of the report. Therefore, I wish to inform you that, pursuant to Section 15(1)(c) of Act 72, I have determined that a local government financial emergency exists within the City of Allen Park because no satisfactory plan to resolve a serious financial problem exists.

Findings of Fact

Section 15(2) of the Act requires that, upon my determination of a financial emergency, I provide you with findings of fact utilized as the basis upon which this determination was made, and a concise and explicit statement of the underlying facts supporting the factual findings.

Preliminary Review

From May 29, 2012 through June 21, 2012, the Department of Treasury conducted a preliminary review of the finances of the City of Allen Park to determine whether or not probable financial stress existed. At that time, Section 12(1) of the Act provided that a preliminary review may be conducted if one, or more, of the conditions enumerated therein occurred. The preliminary review of the City of Allen Park resulted from the conditions enumerated in subdivisions (a), (q) and (r) of Section 12(1) of Act 4 having occurred within the City.[1]

The preliminary review found the following:

- The City's long-term bond rating fell further below the BBB category and is considered "junk," "speculative," or "highly speculative." The credit rating agency Standard and Poors downgraded the City's bond rating from BB+ to B and gave the City a negative outlook, which indicated the likelihood that the rating would be downgraded further.

- City officials had violated requirements of Section 17 of Public Act 2 of 1968, the Uniform Budgeting and Accounting Act. For example, for the 2011 fiscal year of the City, the police operations activity in the general fund exceeded its budget by $196,120 and the administration activity exceeded its budget by $90,504. However, the most significant deviation from the final amended budget was in transfers out, which exceeded its budget by $1,726,349. In the aggregate, the general fund had expenditure line items that exceeded budgeted amounts by $1,819,966.

  The City's original budget ended with a positive fund balance of $2,514,481 for the 2011 fiscal year, while the final amended budget ended with a positive fund balance of $2,324,989 compared to an actual fund balance of only $505,023, reflecting an overestimation of $1,819,966. For example, the City overestimated property tax revenues by $446,761 by not taking into

[1] The preliminary review was conducted pursuant to the provisions of Act 4. Subsection (a) provided that "[t]he governing body or the chief administrative officer of a local government requests a preliminary review under this act." Subsection (q) provided that "[a] local government has been assigned a long-term debt rating within or below the BBB category or its equivalent by 1 or more nationally recognized credit rating agencies." Subsection (r) provided that "[t]he existence of other facts or circumstances that in the state treasurer's sole discretion for a municipal government are indicative of municipal financial stress." Section 12(1)(a) of Act 72 is nearly identical to Section 12(1)(a) of Act 4. That condition having been met, the State Treasurer was authorized to conduct a preliminary review under either Act 72 or Act 4.

account the chargeback of prior-year uncollectible delinquent taxes. District Court revenues were overestimated by $650,089. Due to the underestimation of other line items, the total general fund revenues were underestimated by $646,618.

- City officials had not filed an adequate or approved deficit elimination plan with the Department of Treasury for the 2011 fiscal year. On December 29, 2011, City officials had filed an audit report that reflected a $589,992 unrestricted cumulative deficit in the general fund and a $234,231 unrestricted deficit in the Southfield Lease Properties fund. These were the deficit amounts which needed to be eliminated. City officials had filed a deficit elimination plan to reduce these deficits and the Department granted "conditional" approval contingent upon passage of a May 8, 2012 millage proposal, the submittal of monthly updates, and public safety concessions, or outsourcing, or both. Subsequently, City voters rejected the millage proposal. Consequently, City officials were required to file a new deficit elimination plan. As of the date that the preliminary review was completed, City officials had not filed either a revised deficit elimination plan or monthly updates.

- The City's debt was significantly high, due primarily to business-type activities, unfunded pension liabilities, and post-employment health care. For the 2011 fiscal year, the annual debt service requirements on $59 million of business-type debt was $5,565,900, and was projected to increase to $6,059,892 for the 2012 fiscal year. The unfunded pension liability was $24,000,000. The unfunded post-employment healthcare exceeded $120 million. The City had not made its annual required contribution to post-employment healthcare of $8.2 million because it used a pay-as-you-go method, only paying current retirees' benefits while not paying the rest of the obligation. During the 2011 fiscal year, this liability increased by over $5.0 million and was projected to increase by a like amount for the 2012 fiscal year. Also of concern was that City officials had not obtained a required biennial actuarial report for post-employment healthcare costs. The last report completed was for the 2008 calendar year.

- While the number of active members in the City's pension system had decreased from 176 in 1991 to 103 in 2011, annual pension outlays increased from $1,042,595 to $6,908,395 during that same period. The most recent actuarial evaluation indicated that the pension system was 70.2 percent funded.

- During the 2010 fiscal year, City officials issued limited tax general obligation debt to finance the acquisition of property adjacent to city hall (the Southfield Lease Properties) for the purposes of establishing a movie studio. Because the studio was never realized, the City was left with annual debt service which had been remitted from the City's general fund.

- The City's general fund balance had decreased substantially since 2009, primarily because of the appropriation required to pay the debt service in the Southfield Lease Properties fund.

- In November of 2011, City officials requested two extra voted millages. The first was for police and fire services, while the second was for the Southfield Lease Properties debt. Voters approved the former, but rejected the latter, proposal. In May of 2012, City officials

requested a two-year rate increase which voters again rejected. On May 22, 2012, the City Council then voted to eliminate its police and fire service functions and to outsource them to save approximately $3.5 million. In its proposed 2013 budget, the Council intended to use the new police and fire millage of $2.62 million to pay for the lower costs of outsourcing thereby freeing up funds to pay the Southfield Lease Properties debt service which is also just over $2.6 million.

However, the preliminary review concluded that the outsourcing of police and fire personnel would not likely occur sooner than October of 2012 since no other unit of local government had yet agreed to perform those functions for the City. Consequently, the 2013 general fund budget which had decreased revenues by $4 million, but also had decreased expenditures by over $4 million (not including the new police and fire millage), was seemingly balanced. However, the budget did not appear realistic because, among other things, it did not take into account expenses which would be incurred if outsourcing were to occur.

- The City was experiencing significant cash flow shortages. The City received $2,050,000 in tax-anticipation note proceeds in May 2012, without which the City would have depleted its general fund cash. This note will mature in October 2012 and necessitate the use of future property tax revenues for repayment. At the end of May, the City had a cash balance in its general fund of $1.6 million because of the tax-anticipation note proceeds.

  The City was withholding payments to vendors and others. The preliminary review noted that at the end of May, there were five small boxes of invoices not yet entered into the City's accounting system that had been set aside for payment. The invoices totaled over $1 million, with some dating back to January of 2012.

- City officials had delayed making payments to the City's pension system. Historically, City officials made monthly payments into the system. However, because of cash flow issues, City officials terminated these payments in October of 2011. These payments were substantial and exceeded $2 million annually. Years of exceptional pension benefits had increased the costs to the City. The preliminary review found that current police and fire employees could retire at age 52 based on 2.9 multipliers, with overtime used in the calculation if hired prior to 2009 and 2.5 multipliers if hired after that date with overtime not included.

  Other cost pressures included the current salary and benefit structure. Current collective bargaining agreements with police and fire unions were found to contain minimum manning requirements which reduced managerial flexibility in respect to those budgets. The police and fire service budgets represented over 43 percent of the total general fund budget in 2011 (including transfers out to other funds) and accounted for 73 percent of personnel positions in the City, excluding the City Council.

- The City's 2011 fiscal year financial audit indicated there were factors that raised substantial doubt that the City could continue as a "going concern." Among the factors cited in that audit included the following:

  1. An impairment loss of approximately $4 million attributable to the Southfield Lease Properties fund.

  2. Significant negative cash flow from the Southfield Lease Properties fund and substantial debt obligations of approximately $2 million each year.

  3. The general fund balance deficit.

  4. The failure of a 3.5 millage request for the Southfield Lease Properties which called into question the ability of the City to meet its obligations.

- Taxable valuation within the City had declined during the past several years thereby reducing the amount of property tax revenues received. As shown below, the taxable valuation of real and tangible personal property within the City had fallen 24 percent.

Year	Taxable Valuation	Percentage Change
2007	$1,084,114,503	--
2008	1,037,125,624	-4.3
2009	1,034,970,465	-0.2
2010	908,807,719	-12.2
2011	837,839,119	-7.8

Based upon the preliminary review, the State Treasurer concluded, and reported to me on June 21, 2012, that probable financial stress existed in the City of Allen Park and recommended the appointment of a financial review team.

Review Team Findings

On July 10, 2012, I appointed a six-member Financial Review Team. The Review Team convened on June 18, June 23, June 24, and August 2, 2012, to consider information relevant to the financial condition of the City of Allen Park.

The Review Team found, or confirmed, the existence of the following conditions based upon information provided by City officials, or the City's audit firm, or other relevant sources:

- According to the City's 2011 fiscal year financial audit, the ending balance in the general fund decreased from $3,714,481 as of June 30, 2010 to $505,023 as of June 30, 2011. This one-year negative net change in fund balance of $3,209,458 resulted from an operating transfer out of the

general fund of $4,681,549, which more than offset an operating surplus of $1,471,786. It is noteworthy that the 2011 fiscal year ending balance in the general fund was 91 percent less than the $5,543,557 balance that existed as of June 30, 2009.

- Financial audit reports for the City for its last three fiscal years reflect the following variances between general fund revenues and expenditures, as initially budgeted and as amended, versus general fund revenues and expenditures actually realized:

	2008-09	%	2009-10	%	2010-11	%
Revenues						
Budgeted	$22,785,200		$23,882,000		$20,730,840	
Amended	$22,163,825		$22,082,330		$20,730,840	
Actual	$22,729,638		$22,383,529		$20,084,222	
Variance	$565,813	2.55	$301,199	1.36	($646,618)	(3.12)
Expenditures						
Budgeted	$22,741,965		$21,380,815		$18,970,640	
Amended	$23,227,021		$24,081,875		$19,160,132	
Actual	$22,648,415		$21,787,665		$18,612,436	
Variance	$ 578,606	2.49	$2,231,210	9.27	$547,696	2.86

- In November of 2009, City officials purchased the Southfield Lease Properties for the purpose of establishing a movie studio. There appeared to be some dispute concerning the amount which City officials paid for the property. According to a note contained in the City's 2010 fiscal year financial audit report, the property was purchased for $25.3 million. However, the warranty deed filed with the Wayne County Register of Deeds on December 1, 2009, stated the purchase price as $24.8 million.

  What was not in dispute is that at the time of the purchase, there was pending with the Michigan Tax Tribunal an appeal by the then owner regarding the valuation of the property. However, the appeal was not heard because the then Mayor and then City Administrator stipulated that the value of the property was $14.0 million. Presumably, refunds for three years of adjusted taxes were paid to the seller based upon the stipulated valuation. Subsequently, in the same year, the property valuation was adjusted to approximately $24 million. It was not readily apparent why the then Mayor and then City Administrator agreed to purchase the property for $10.8 million more than the amount they had simultaneously stipulated to be its value in order to settle the valuation appeal.

Conclusion

Based upon the foregoing information, the Review Team confirmed the findings of the preliminary review, concluded that a local government financial emergency existed within the City of Allen Park and that no satisfactory plan existed to resolve the local government financial emergency, and recommended the appointment of an emergency manager. Pursuant to Section 15(1)(c) of Act 72, I have determined the same to exist.

Notice of Hearing

Pursuant to Section 15(2) of Act 72, the chief administrative officer or governing body may within 10 days request a hearing upon the determination of a financial emergency. The deadline for requesting a hearing is 5:00 P.M., Monday, September 17, 2012. In the event that a hearing is requested, it will be convened on Wednesday, September 19, 2012, at 2:00 P.M., at the Richard H. Austin (Treasury) Building before the State Treasurer, or his designee, Roger Fraser, Deputy State Treasurer for Local Government Services.

It should be noted that the hearing would not be an original fact finding proceeding. Its purpose would be to afford City officials an opportunity to indicate whether the findings of the Review Team report were supported by competent, material, and substantial evidence on the whole record. Therefore, any information which City officials may wish to present that was not available to the Review Team, or that concerns actions taken by City officials since the Review Team filed its report, or that concerns actions City officials anticipate taking in the future to address the financial emergency in the City, will be considered beyond the scope of the hearing.

Sincerely,

Rick Snyder
Governor