
**EMERGENCY MANAGER
CITY OF LINCOLN PARK
WAYNE COUNTY, MICHIGAN**

ORDER NO. 60

**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 (“EMERGENCY MANAGER”) FOR THE
CITY OF LINCOLN PARK, MICHIGAN (“CITY”) PURSUANT TO
MICHIGAN’S PUBLIC ACT 436 OF 2012, LOCAL FINANCIAL
STABILITY AND CHOICE ACT, (“PA 436”); BRADFORD L.
COULTER, THE EMERGENCY MANAGER, ISSUES THE
FOLLOWING ORDER:**

Pursuant to Public Act 436, the Emergency Manager has broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the City of Lincoln Park and its capacity to provide or cause to be provided necessary services essential to the public health, safety and welfare; and

Pursuant to Public Act 436, the Emergency Manager acts in place of local officials, specifically the Mayor and City Council, unless the Emergency Manager delegates specific authority; and

Pursuant to Public Act 436, the Emergency Manager has broad power to manage the local government, and may issue orders to elected and appointed officials necessary to accomplish the purpose of the act; and

Pursuant to Public Act 436, the Emergency Manager is issuing this order to rectify the Financial Emergency and allocate responsibilities in the event of the appointment of a Receivership Transition Advisory Board; and

The following is so ordered:

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 December 21, 2015, I recommended that Governor Snyder appoint a Receivership Transition Advisory Board for the City.
4. In the event that the Governor appoints a Receivership 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 City Council shall implement all of the following financial best practices within the City and do all of the following:

- 1) When the position is vacant, appoint a City Manager for a set term and fix his or her compensation. A City Manager is already in place at the time of this order so no immediate appointment is necessary. The City Manager shall be seated to the immediate right of the Mayor at all City Council meetings. The City Manager shall be appointed solely on the basis of executive and administrative qualifications.

(a) The City Manager shall be the chief administrative officer of the City, shall be responsible to the Council for the administration of the affairs of the City and over the public property belonging thereto, and

shall be responsible for ensuring that the laws relating to the City and the ordinances and regulations of the Council are enforced.

(b) The City Manager will appoint and, when he or she deems it necessary for the good of the City, suspend or remove all City employees, except as otherwise provided by law or any agreements to which the City is a party. The City Manager shall provide recommendations to the City Council from which the City Council shall select when making appointments under Section 1 of Article IV of the City Charter. The City Manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise those powers with respect to subordinates in that officer's department, office or agency. All employees of the City shall be the ultimate responsibility of the City Manager, who shall have all disciplinary and termination rights, including those granted by any employee's employment agreement.

(c) The City Manager will direct and supervise the administration and executive functions of City government, including supervising and directing the department heads, of all departments, offices and agencies of the City. The City Manager will be the sole negotiator on all employee and union contracts and will be the sole point of contact between the City and its unions.

- 2) Safeguard the financial stability of the City by seeking out, approving, and implementing cost-saving measures recommended by the City Manager and the Board, or both.
- 3) Work with the City Manager and other City or State officials to successfully transition the City from receivership and eliminate financial stress within the City.
- 4) Ensure that the City makes the budgeted monthly payments to the Municipal Employee pension system managed by MERS and quarterly payments to the Police and Firefighters pension system.

- 5) Develop and implement a multi-year financial plan that will fund both the Municipal Employee pension system and the Police and Firefighters pension system to at least 60% by 2035. For purposes 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.
- 6) The City Council and the Mayor shall not interfere with the employees of the City. The City Manager shall be the authorized management contact for all employees and unions.
- 7) Fill within 150 days, and with the approval of the Board, any vacancy in the Office of City Manager with an individual that meets qualifications established by Emergency Manager Order. The City will hire an independent, nationally qualified search firm to conduct a City Manager recruitment process. Without the approval of the Board, neither the City Council nor the Mayor may terminate the City Manager.
- 8) 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 at least 30 days before the budget is effective. The City Council and Mayor shall monitor expenditures via monthly reporting, including submission of detailed accounts payable, under an effective budget on a regular basis, including, but not limited to upon a request by the City Manager or the Board. The City Manager shall control spending, and budgeted items need not be spent. A detailed Accounts Payable need not be submitted to the City Council or Mayor for prior approval before making

payments that are within the budget authority. If it appears that expenditures will exceed revenues under an effective budget, the City Council and the Mayor, in a timely manner, 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 either the budget or 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.

- 9) 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.
- 10) Review and recommend approval to the Board proposed collective bargaining agreements, as submitted by the City Manager, subject to limitations on collective bargaining under MCL 141.1567(3).
- 11) Only 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 prior approval of the Board.
- 12) 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.

- 13) 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 Council approved budget.
- 14) Provide all deficit elimination plans to the Board for review and approval prior to submission to the State of Michigan. Additionally, review any City deficit elimination plans for compliance with the law and other applicable requirements on a quarterly basis.
- 15) Document all of the City's outstanding liabilities, including payables, debt obligations, and contingent liabilities and provide a report on the liabilities to the Board on a monthly basis.
- 16) Adopt or alter policies and procedures for conducting the operations of the City Council, as needed, subject to approval by the Board.
- 17) Confirm in a timely manner, the qualifications, and then appointment or reappointment of qualified individuals to boards and commissions, including the City Council, as terms expire or vacancies arise. All appointments to boards and commissions shall be subject to approval of the Board.
- 18) Review not less than annually an inventory of City assets.
- 19) Review not less than annually a report on business licenses issued by the City.
- 20) Review licensing fees and other City fees on an annual basis and make recommendations for adjustments in fees, subject to approval by the Board.
- 21) Annually review the status of tax collections and outstanding property taxes owed to the City and report findings to the Board.
- 22) Review and recommend approval of all asset sales to the Board. Asset sales shall not be constrained by City Charter Chapter VI, Sections 19 and 20 which require a 3/5's majority of voters to approve assets sales having a value in excess of one dollar per capita, or roughly \$38,000.

- 23) Review election precinct sites and approve expenses associated with elections, consistent with the budget then in effect for the City.
- 24) Review and approve proposed economic and redevelopment projects, recommended for approval by the City Manager, subject to the approval of the Board.
- 25) Approve intergovernmental agreements and service consolidation plans recommended by the City Manager, subject to the approval of the Board.
- 26) The City shall not offer any employee an early retirement incentive or allow the acceleration of employee service credit.
- 27) The City shall place the 3.4591 mill Police and Fire millage and charter amendment on the ballot sometime between August 2016 and February 2017 for a three year renewal as this millage expires in June 2017. If the millage fails to renew, the City will place an alternate millage back on the ballot, with or without a term limit, as soon as legally possible, preferably by May 2017. If after two attempts the millage does not pass, the City must approach the Board with an alternative financing or budget arrangement.
- 28) The City shall place a Headlee Override millage on the ballot by May 2018. At the time of this order, the cap is 18.98 mills, so the override amount allowed is 1.02 mills, raising the total levy to 20 mills. A change in this order may only be made with the approval of the Board.
- 29) The City shall renew the special street lighting assessment in an amount sufficient to cover all costs and future equipment upgrades necessary for the provision of street lighting.
- 30) The City will continue with and renew the millage necessary to generate \$50,000 per year in Promotional Tax revenue.
- 31) The role of the Public Safety Commission is excluded from all Police and Fire union contracts. The Public Safety Commission shall have no

role in hiring, firing, discipline, or promotions. The Public Safety Commission shall continue to meet but in the limited role of providing award recognition and for public dissemination of information related to Police and Fire activity.

- 32) Consistent with State law, the City will continue to use a third party such as SAFEbuilt for providing Building Department services. The City will not bring its Building Department services back in house, nor will it assign any full or part time employee to work in the Building Department, without permission of the Board.
- 33) Within 90 days of this Order, the City will review existing investment policies and make any necessary changes, subject to Board approval.
- 34) The City will continue memberships with SEMCOG, the Michigan Municipal League and the Government Finance Officers Association and will budget annually for these memberships.
- 35) The City will continue developing its ten year revitalization plan including goals for promoting the City as a place to live or locate a business. Development of this plan was approved by City Council at its meeting on September 8, 2015 via Resolution 2015-149: Set Special Meeting/Review Committee. The City Council shall be responsible for setting the goals chosen from this plan. The City Manager and the Director of the Downtown Development Authority and the Economic Development Corp. shall be responsible for developing specific action steps and timelines for implementing the goals chosen from this plan. The City Manager will be responsible for managing City staff, outside volunteers and others involved with implementing the action steps. The City Council will especially focus higher level activities such as promoting the City as a place to live or locate business. The City Council will as a collective group or in their individual capacity work toward promoting volunteerism, promoting community events, organizing community events, and being an

ambassador for the City both locally and in the metro Detroit region. The City Council should play an active, high level role in rebuilding the image of Lincoln Park. The City staff will be responsible for the actual day to day implementation of these efforts. Should this condition become cost prohibitive or consume too much staff time, at the request of the City Manager this condition may be modified with approval of the Board.

- 36) The City will work toward being certified as Redevelopment Ready by December 2017 unless proven to be cost prohibitive. If this goal is deemed cost prohibitive or time constrained by the City Manager, this condition may be modified with approval of the Board.
- 37) Neither the City Manager nor the City will reduce existing base rates of pay in the union contracts without permission of the Board.
- 38) The City Manager shall not reduce budgeted full time employee headcount without permission of the Board.
- 39) The City will maintain health care coverage for its active employees comparable to the current Blue Cross plans offered and will not change plans without permission of the Board.
- 40) The City and the City Manager will not institute any minimum manning requirement into the union contract with the International Association of Fire Fighters. The City and the City Manager shall also continue the existing restrictions on the number of fire fighters that can be off on vacation or personal leave each day plus maintain the restrictions on sick time usage. Modifications to these contract conditions can only be made with prior approval of the Board.
- 41) Each budget year the City and the City Manager will determine the amount of funding that can be allocated to retiree health care while still maintaining staffing levels, compensation levels, and building sufficient General Fund balance, as established by existing policy. In

no case shall spending on retiree health care exceed \$650,000 per year without approval of the Board. The City will attempt to maintain the existing level of spending for retiree health care but, depending on the financial situation of the City, spending for retiree health care can be reduced or even eliminated in order to maintain vital City services and staffing levels. The City will also annually conduct an evaluation of its costs and level of benefits for retiree health care, with every even numbered year a benefit audit being performed by an independent auditor hired by the City.

- 42) The City will continue to strictly enforce all of its ordinances and rules. All properties and property owners will be treated equally.
- 43) By December 2016, the City will budget and contract for diversity training in each of its departments to help prepare for having a more diverse workforce and for effectively dealing with a more diverse residential population.
- 44) The City will implement procedures for accepting and opening bids electronically, using the Michigan Inter-governmental Trade Network (MITN).
- 45) The former Emergency Manager Brad Coulter shall be afforded full access to any files, materials, or records required to defend him in any legal proceeding and may retain copies of any electronic or paper files he deems necessary after the end of the appointment. The City acknowledges that it shall bear the cost of Brad Coulter's defense including any legal fees, judgements, settlements and other costs related to legal proceedings against Emergency Manager Brad Coulter pending as of the date of this Order. The City shall continue to maintain professional liability coverage for the former Emergency Manager Brad Coulter and maintain his name and office as an insured party on its master general liability policy. The provisions of this order

are consistent with the current master general liability policy covering the City of Lincoln Park.

(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 and any other applicable Emergency Manager Order.
- 2) By April 15, 2016, the City Manager will develop a monthly reporting package, including accounts payable, summarizing results for each relevant department and/or City function. These reports will be submitted to the Mayor, City Council, and Board regarding the overall operation and direction of the City and regularly report on his or her activities to the Mayor, the City Council and the Board.
- 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, the Mayor 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 Public Act 436, this Order, 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 **solely** responsible for appointments, hiring, and terminations of department heads, including but not limited to the City Assessor, the City Attorney, the City Labor Attorney, and the auditing firm, as well as other city employees, subject to approval by the Board. The City Manager is also the sole negotiator, point of contact, and supervisor for all employees, related unions and service contracts.

- 7) The City Manager may be removed only with approval of the Board and by the provisions set forth by Emergency Manager Order and by the City Manager's Employment Agreement. Any resulting vacancy shall be filled in the manner described in the Order relating to the City Manager and Section 4(a)(7) of this Order. Complaints or grievances against the City Manager shall be provided to the City Manager in writing and a reasonable and adequate period will be provided for the City Manager to address any complaints or grievances. The City Manager may not be suspended or placed on administrative leave without the approval of the Board.
- 8) Be designated as the person who will negotiate all 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 per transaction value exceeding \$25,000.00, subject to approval by the Board. The City Manager shall exercise discretion in his or her authority to solely purchase goods and services up to \$25,000.00

per transaction. Monthly reports shall be submitted to the Board that details all of the City Manager's unilateral actions under this subsection.

- 10) In the event of a municipal emergency which necessitates the immediate expenditure of more than \$25,000.00, the City Manager and the Mayor may jointly authorize such action, as is prudent to resolve the emergency. The City Council and the Board shall be promptly notified of any emergency expenditure. This section does not apply to employment contracts or union agreements which are the sole discretion of the City Manager, with the approval of the Board, in accordance with this Order.
- 11) Provide to the Mayor, City Council, and the Board by the 25th calendar day following the end of each month a monthly budget comparison schedule, a balance sheet by fund and by bank account, and a monthly cash flow projection for the next 12 months and each month a comparison of each month's cash inflows and outflows compared to the prior month's projection of cash inflows and outflows, as prepared by the Finance Director. Additionally, monthly reports shall be submitted to the Board which details all of the overtime expenses that the City has incurred during the previous 30 days.
- 12) Provide quarterly to the Mayor, City Council, and the Board by the 25th 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 Fiscal Responsibility Section.

- 13) Provide quarterly to the Mayor, City Council, and the Board a detailed listing of all pending lawsuits or other legal action to which the City is a party. For each pending lawsuit or other legal action, the listing shall specify the name of the plaintiff or plaintiffs, the name of the defendant or defendants, the name of the court and judge currently having jurisdiction of the matter, the cause of action, the length of time during which the lawsuit or other legal action has been pending, an estimate as to any budgetary impact upon the City should the City not prevail in the lawsuit or other legal action, and the applicability of any liability insurance maintained by the City.
- 14) Annually review general property, liability, and motor vehicle insurance levels and coverages, and recommend action to the Board for approval.
- 15) Serve as the primary contact between the Mayor and City Council and the employees of the City.
- 16) Make recommendations for salary and adjustments for appointed and elected officers, subject to the prior approval of the Board and amend the budget as necessary by the process detailed in this Order. The Compensation Commission shall receive and implement recommendations from the City Manager on salary for elected officials. Modifications or approval of elected official compensation is subject to prior approval by the Board.
- 17) Faithfully execute the duties of the City Manager.

(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 by the fifth year after the date of this order an unassigned fund balance in the General Fund that represents at least 10% of projected and budgeted expenditures for the subject fiscal year. Additionally, continue to adhere to the requirements of the City's Fund Balance Policy.
- 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) Provide to the Board, in a timely manner, any documents, records, or other information requested by the Board or its staff. Appear before the Board to provide testimony, documents, records or other information when requested by the Board or its staff.
- 4) Develop and maintain by July 1 of each year a rolling 5-year financial operations plan (a rolling two-year budget with three years of financial projections), in coordination with the City Manager and City Finance Director, and ensure that the financial operations plan is prepared in accordance with applicable law. The 5-year financial operations plan, and any subsequent amendments, is subject to Board approval.
- 5) Develop and maintain by April 1 of each year 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, and any subsequent amendments, is subject to approval by the Board.

- 6) Continue to adhere to all financial policies and ordinances. Additionally, continue to adopt, subject to Board approval, any policies and procedures necessary to implement best financial practices by the City.
- 7) Review and revise City zoning ordinances and the Master Plan, in accordance with state law, in order to stimulate investment and economic growth. The zoning ordinance requirements and development standards for the Central Business District shall be an immediate priority for review and revision.
- 8) Carefully consider legal advice provided by the City Attorney, Labor Counsel, Bond Counsel, or other special Counsel as engaged by the City, as well as recommendations provided by the City Manager concerning any lawsuit, 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, the City Council shall approve the settlement of a lawsuit, or the resolution or settlement of a labor grievance, arbitration, or complaint.
- 9) The City Council in its collective or individual capacity will not interfere or intervene with any ongoing lawsuit against the City or any of its current or former employees, officers, or former Emergency Manager. This restriction includes any lawsuits filed by retirees of Lincoln Park regarding retiree health care or pension benefits, or any possible lawsuits filed regarding the Police & Firefighters pension system.

- 10) Carefully consider acting upon the legal opinions provided by the City Attorney, Labor Counsel, Bond Counsel, or other special Counsel as engaged by the City, as well as recommendations provided by the City Manager concerning conflicts or disputes concerning the internal procedures and operations of the City Council.
- 11) Annually budget for and receive training from professionally recognized organizations on the Open Meetings Act, effective meeting management and parliamentary procedures, Council-Manager Relations, and analyzing financial statements and reports. 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 City will pay for all training costs.
- 12) 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.
- 13) 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 prior to the start of a fiscal year, a proposed budget amendment in a timely manner, 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.

- 14) Take action at the same meeting on all items duly submitted by the City Manager to a City Council agenda unless the City Manager agrees that the items should be postponed to the next subsequent meeting.
- 15) All City elected officials, officers, and employees, shall abide by all State regulations and statutes.

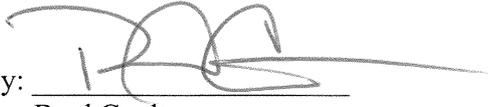
(d) Limitations upon the City Council, Mayor and the City Manager:

- 1) Unless otherwise provided for in this order, the City Council, Mayor, or City Manager shall not revise any Order that was implemented by the Emergency Manager during his or her term prior to one year after the termination of receivership. Amendments to Emergency Manager Orders may be made pursuant to the procedures identified in Section 5.

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 and amends all previous orders to the degree any previous orders may be inconsistent.

Date: December 22, 2015

By: 

Brad Coulter
Emergency Manager
City of Lincoln Park