

SPECIAL MEETING OF THE HIGHLAND PARK CITY COUNCIL

AUGUST 28, 2014

Council convened at 4:45 p.m. with Council President Woodard presiding.

Present: Council Pro Tem Lewis, Councilmember Moore, Councilmember Patrick, Councilmember McClary and Council President Woodard (5)

Absent: None (0)

A quorum being present, Council was declared in session.

The Clerk read the following notice.

I, Council Pro Tem Lewis and I, Councilmember McClary do hereby call a Special Meeting of the Highland Park City Council on Thursday, August 28, 2014 at 4:30 p.m. pursuant to Section 5-3 (b) of the Highland Park City Charter.

The purpose of the meeting:

To approve the Five (5) Year Deficit Elimination Plan and application for an Emergency Loan from the State of Michigan to the City of Highland Park.

**Moved by Councilmember McClary
Supported by Council Pro Tem Lewis**

Councilmember McClary called for the question. However there was discussion amongst Councilmembers and the City Attorney.

Moved by Councilmember Patrick

To table the resolution.

Council President Woodard relinquished his chair to support.

Council Pro Tem called for the question to table the resolution. Yeas (2)

Councilmember Patrick and Council President Woodard, Nays (3) Council Pro Tem Lewis, Councilmembers Moore and McClary, Absent (0).

Council President resume his position as Chair.

**Moved by Council Pro Tem Lewis
Supported by Councilmember McClary**

To approve the following resolution for the Five (5) Year Deficit Elimination Plan and the application for an Emergency Loan from the State of Michigan for the City of Highland Park. Yeas (3) Council Pro Tem Lewis, Councilmembers Moore and McClary, Nays (2) Councilmember Patrick and Council President Woodard, Absent (0).

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND PARK,
MICHIGAN APPROVING SUBMISSION OF AN APPLICATION TO THE LOCAL
EMERGENCY FINANCIAL ASSISTANCE LOAN BOARD CREATED PURSUANT TO
THE EMERGENCY MUNICIPAL LOAN ACT REQUESTING AN EMERGENCY
LOAN FOR THE PURPOSE OF ENABLING THE CITY TO MEET ITS FINANCIAL
OBLIGATIONS, APPROVING THE CITY'S PLAN OF ADJUSTMENT AND/OR
READJUSTMENT, APPROVING CERTAIN SETTLEMENT TERMS WITH
FIFTH THIRD BANK, AND DETERMINING RELATED MATTERS**

WHEREAS, the City of Highland Park (the "City"), a municipal corporation of the State of Michigan (the "State") has been duly created under the provisions of The Home Rule City Act of the State, Act 279, Michigan Public Acts of 1909, as amended ("Act 279"), pursuant to which the City has the comprehensive home rule power conferred upon it by Act 279 and the Constitution of the State of 1963 (the "Constitution"), subject only to the limitations on the exercise of that power contained in the Constitution, by statute of the State or by City Charter (the "City Charter"); and

WHEREAS, pursuant to the City Charter, the City possesses and is vested with all the powers and privileges, expressed or implied, which cities are permitted by law to exercise and may, among other things, manage and control the finances, enter into contracts, borrow money and issue notes or other evidences of indebtedness and do any act to advance the interests of the City and its inhabitants; and

WHEREAS, pursuant to the provisions of the Local Financial Stability and Choice Act, Act 436, Michigan Public Acts of 2012 ("Act 436"), a financial emergency has been determined to exist within the City; and

WHEREAS, pursuant to Act 436, once a financial emergency has been determined to exist within the City, a municipality has four options from which to select regarding its preferred approach to resolving the financial emergency – to wit: (i) an emergency manager, (ii) a consent agreement, (iii) engage in a neutral evaluation process with its creditors, or (iv) request permission from the Governor of the State to commence a bankruptcy cases under chapter 9 of the Bankruptcy Code; and

WHEREAS, the City selected to engage in a neutral evaluation process with its creditors, pursuant to Section 25 of Act 436; and

WHEREAS, the City began the neutral evaluation process on May 29, 2014 and is scheduled to conclude the process on August 29, 2014; and

WHEREAS, the State has enacted the Revised Municipal Finance Act, Act 34, Michigan Public Acts of 2001, as amended ("Act 34"), relative, inter alia, to the borrowing of money and

the issuance of certain debt and securities, providing for tax levies, authorizing the issuance of certain debt and securities and to generally govern municipal finance practices in the State, and

WHEREAS, the City has determined that, in order to address its financial emergency, it is necessary and in the best interest of the City to make application to the Michigan Local Emergency Financial Assistance Loan Board (the "Board") established pursuant to the Emergency Municipal Loan Act, Act 243, Michigan Public Acts of 1980, as amended ("Act 243") to borrow an amount not to exceed three million two hundred fifty thousand dollars (\$3,250,000.00); and

WHEREAS, the City is defined to be a "municipality" under Act 34, which may issue a security such as bonds, notes, contracts, obligations or other similar instruments, and under Act 243, which may apply for and receive a loan under Act 243; and

WHEREAS, a deficit for the City's general fund is projected for the City's current fiscal year; and

WHEREAS, contemporaneous with the application for the Loan (as defined below), the City shall make, or will have made, a request with the Department of Treasury of the State for the issuance of tax anticipation notes or revenue sharing notes under Act 34. The City anticipates that the application for the tax anticipation note will be denied; and

WHEREAS, the City has two or more emergency loans outstanding at this time and its income tax revenue growth rate is 1.3 or less; and

WHEREAS, the City will submit a 5-Year plan approved by the Highland Park City Council that outlines actions to be taken to balance future expenditures with anticipated revenues to the Board contemporaneous with the submission of this Resolution; and

WHEREAS, the City and its professionals have prepared a Plan of Adjustment and/or Readjustment dated August 28, 2014 (the "Plan of Adjustment and/or Readjustment"), a copy of which is attached hereto as **Exhibit A**, which contains more specifics with respect to the 5-Year plan referenced in the preceding paragraph, and which details certain treatment, actions, compromises and settlements with various Interested Parties, as that term is defined in Act 436; and

WHEREAS, Fifth Third Bank (the "Bank") has asserted claims against the City for the approximate amount of \$18 million under an Amended and Restated Reimbursement Agreement dated as of July 15, 2011 related to the Bank's payment under a letter of credit securing the City's Variable Rate Demand Financial Recovery Bond, Series 2008 in the original principal amount of \$27,000,000 (the "Financial Recovery Bond"); and

WHEREAS, the Bank's claims have resulted in the withholding from the City of amounts it would otherwise have received in Distributable State Aid, placing a critical financial burden on the City; and

WHEREAS, the Bank has offered to settle its claims in full as follows: (i) payment by the City to the Bank of the amount of \$750,000 on or before September 2, 2014, (ii) payment by the City to the Bank of an additional \$3,750,000 on or before September 30, 2014, and (iii) mutual general releases between the City and the Bank and the release of all collateral (including Distributable State Aid) effective upon the total payment of \$4,500,000 on or before September 30, 2014 (collectively, the "Settlement Terms"); and

WHEREAS, the Highland Park City Council has been advised that it should have sufficient funds on hand to fund the payments contemplated in the Settlement Terms from: (a) dedicated taxes collected for the payment of the Financial Recovery Bond, and (b) the proceeds of the Loan (as defined below); and

WHEREAS, the City desires to accept the settlement memorialized by the Settlement Terms, thereby resolving any and all disputes with the Bank, as a material part of the Plan of Adjustment and/or Readjustment; and

WHEREAS, the City certifies the foregoing and further desires to make certain determinations for, on behalf of and in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the Highland Park City Council, that:

- I. The Mayor, the City Clerk, the Finance Director, the City Attorney, the City Treasurer and other officials or employees of the City are authorized and directed to submit an application to the Board requesting a loan in an amount not to exceed three million two hundred fifty thousand dollars (\$3,250,000.00) (the "Loan") for which a note (the "Note") of the City shall be issued as evidence thereof.
- II. The Loan shall be a general obligation of the City, and the full faith and credit of the City shall be pledged to the payment of the principal of and interest on the Note as and when due. The Note shall be payable out of the general funds of the City, including collections of ad valorem taxes the City may levy on all taxable property within the City within applicable Constitutional, statutory and City Charter limitations. As additional security for the payments due and owing under the Note, the City shall acknowledge, assign, and pledge, to the repayment of principal of or interest on the Note, the State's statutory right to withhold the amount of all delinquent payments due on the Note from (a) State payments owed to the City under the Glenn Steil State Revenue Sharing Act of 1971, Act 140, Michigan Public Acts of 1971, as amended ("Act 140") and (b) the City's portion of the revenue generated by the local community stabilization share tax levied under the Use Tax Act, Act 94,

Michigan Public Acts of 1937, as amended, and payable by the Michigan Department of Treasury to the Local Community Stabilization Authority created under the Local Community Stabilization Authority Act, Act 86, Michigan Public Acts of 2014, for distribution to the City and other governmental entities. The City also shall cause its outstanding Financial Recovery Bond, which original issuance was approved by the Board pursuant to Act 279, Michigan Public Acts of 1909, as amended, and Act 243, to be assigned to the Board, as agent for the State, as security for the repayment of the Note.

- III. In connection with the City's request for the Loan, the City certifies that (a) a deficit is projected for the City's general fund in the City's fiscal year ending June 30, 2015, (b) the Michigan Department of Treasury has acted upon or is expected to act upon a request by the city to issue tax anticipation notes or revenue sharing notes under Act 34, (c) the City has two or more emergency loans outstanding at this time and its income tax revenue growth rate is 1.3 or less, and (d) the City has submitted or will submit in connection with its application for the Loan a Five-Year Plan approved by the city council and acceptable to Treasury that will balance future expenditures with anticipated revenues.
- IV. The Note shall be in substantially the same form as the note attached hereto as **Exhibit B**.
- V. The City hereby acknowledges that the Loan will be made pursuant to an order of the Board (the "Order"), which Order may contain terms and conditions of the Loan. Notwithstanding the foregoing, any terms and conditions of the Note contained in the Order, along with any further revisions of the Plan, are subject to final review and approval by Highland Park City Council.
- VI. The City and the Board intend to modify the terms of the Financial Recovery Bond so that it may better serve as security for the repayment of the Note and the Mayor, the City Clerk, the Finance Director, the City Attorney, the City Treasurer and other officials or employees of the City are authorized to submit an application to the Board requesting modification of the terms of the Financial Recovery Bond.
- VII. Notwithstanding anything herein to the contrary, the Mayor, the City Clerk, the Finance Director, the City Attorney, the City Treasurer and other officials or employees of the City are each authorized and directed to take such action or execute such documents as may be necessary and appropriate in connection with the delivery of the Note, the City's receipt of the proceeds of the Loan and the modification of the Financial Recovery Bond.
- VIII. The treatment, actions, compromises and settlements contemplated in the Plan of Adjustment and/or Readjustment are hereby approved, and the Mayor, the City Clerk,

the Finance Director, the City Attorney, the City Treasurer and other officials or employees of the City are each authorized and directed to take such action or execute such documents as may be necessary and appropriate in connection with the treatment, actions, compromises and settlements set forth in the Plan of Adjustment and/or Readjustment.

- IX. The Settlement Terms with the Bank are hereby approved, and the Mayor, the City Clerk, the Finance Director, the City Attorney, the City Treasurer and other officials or employees of the City are each authorized and directed to take such action or execute such documents as may be necessary and appropriate in connection with the settlement with the Bank as set forth in the Settlement Terms.
- X. The appointment of the law firm of Jaffe, Raitt, Heuer & Weiss, P.C. of Southfield, Michigan as Note Counsel for the Note securing the Loan is hereby ratified and confirmed. The fees and expenses of Jaffe, Raitt, Heuer & Weiss, P.C. shall be payable as part of the issuance costs from the proceeds of the Notes. Such fees and expenses shall be subject to final review and approval by the Highland Park City Council.
- XI. The appointment of Robert W. Baird & Co. Incorporated of Lansing, Michigan, as registered Municipal Advisor for the Notes is hereby ratified and confirmed. The fees and expenses of Robert W. Baird & Co. Incorporated shall be payable as part of the issuance costs from the proceeds of the Notes. Such fees and expenses shall be subject to final review and approval by the Highland Park City Council.
- XII. This Resolution shall be effective immediately.

VOTE OF CITY COUNCIL:

Christopher Woodard, Council President:	YES: _____	NO: <u> X </u>
Norma Lewis, Council President Pro Tem:	YES: <u> X </u>	NO: _____
Titus McClary, Council Member:	YES: <u> X </u>	NO: _____
Mamie Posey Moore, Council Member:	YES: <u> X </u>	NO: _____
Rodney Patrick, Council Member:	YES: _____	NO: <u> X </u>

Certified by City Clerk


Brenda Green, City Clerk

Dated: August 28, 2014.



Return to Excellence

CITY COUNCIL

ROBERT B. BLACKWELL MUNICIPAL BUILDING
12050 Woodward Avenue - Highland Park, Michigan 48203-2618
Telephone: 313 252-0050

Christopher Woodard, Council President, Ext. 396

Norma Lewis., Council President Pro Tem, Ext. 397

Mamie Posey Moore, Council Member, Ext. 395

Rodney Patrick, Council Member, Ext. 399

Titus McClary, Council Member, Ext. 398

CITY OF HIGHLAND PARK
2014 AUG 27 AM 11 39
RECEIVED

NOTICE OF SPECIAL MEETING OF THE HIGHLAND PARK CITY COUNCIL

DATE: Thursday, August 28, 2014

TIME: 4:30 p.m.

**LOCATION: Robert B. Blackwell Municipal Bldg.
12050 Woodward Ave
Council Chambers 2nd floor**

I, Council Pro Tem Lewis and I Councilmember McClary do hereby call a Special Meeting of the Highland Park City Council on Thursday, August 28, 2014 at 4:30 p.m.

The purpose of the Meeting:

1. To approve the 5 Year Deficit Elimination Plan and Application for an Emergency Loan from the State of Michigan for the City of Highland Park.

**Council Pro Tem
Norma J. Lewis**

**Councilmember
Titus McClary**

CERTIFICATE

I, hereby certify that the attached is a true copy of the proposed minutes of the Special Meeting held on the 28th day of August 2014 and that said proposed minutes are available for public inspections at the address designated on the posted public notice.

A handwritten signature in cursive script, reading "Brenda J. Green". The signature is written in black ink and is positioned above a horizontal line.

Brenda J. Green
City Clerk