Byrne, Randall (Treasury)

From: Cline, Richard (Treasury)
Sent: Monday, June 01, 2015 10:21 AM
To: Byrne, Randall (Treasury)
Subject: Loc Gov Update June 2015 (4).docx
Attachments: Loc Gov Update June 2015 (4).docx

Importance: High

Randy,

I am ok with the textual comments in my communities of ROT, AP and Flint.

Under ROT, I did change some text color that was showing as read. The particular paragraph is:

Recent Developments

- Treasury has been informed that the Township Supervisor is regularly approving overtime for employees. Overtime is not included in the 2015 budget, and the Consent Agreement requires State Treasurer approval prior to any overtime expenditures. An Order was issued on May 20, 2015 that requires the Consultant to approve all requests for overtime prior to authorization. This is another example of the Township's inability to comply with the terms of the Consent Agreement.

Also, under Flint we need to confirm if any changes to the Water Quality Reporting has occurred. The specific paragraph is:

- The City of Flint continues to inform residents that it is in violation of the Clean Water Standards Act, after unsafe levels of trihalomethanes (TTHM, a disinfectant by-product) were found in the water. Recent testing by the Michigan Department of Environmental Quality (MDEQ) Testing Lab showed that the total TTHM levels for the month of March are well within the Environmental Protection Agency (EPA) guidelines for safe water. However, because EPA regulations require that the four month average for all testing sites be within certain guidelines, the City is still considered to be non-compliant by the MDEQ. Monthly testing remains ongoing and is being conducted by several parties.

I don't know if you want to call Natasha on this or I can do so if you would like.

Eric Cline | Department Manager
State of Michigan | Michigan Department of Treasury | Office of Fiscal Responsibility
430 W. Allegan Street, 3rd Floor | Lansing, MI 48922
Lansing Office (517) 335-2078 | Cell Phone (517) 243-8450 | Traverse City Office (231) 922-5228
E-mail cliner1@michigan.gov

City of Flint
Water Quality Update
Wednesday June 10th 2015

Leak Detection

What: $900,000 Treasury Distressed City Grant for Leak Detection / Pipe Wall Assessment

Status: Expected start date - late June / early July

The resolution was approved by the RTAB and the contract is being sent to the vendor.

The company 'Echologics" is still prepared to sign the contract and mobilize within several weeks following the contract signing.

The company maintains a window of 10 – 14 weeks to complete the full scope of work.

Next steps: Get contract signed and determine mobilization timeframe and length of project.

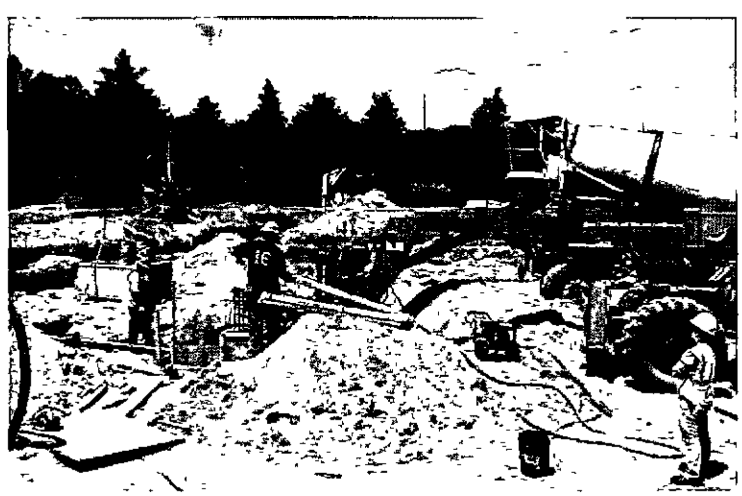
WPC Incinerator Shutdown

What: $1,100,000 Treasury Distressed City Grant for WPC Incinerator Shutdown

Status: In construction phase

With good weather, construction continues to move forward. No change in the schedule.

The 10 inch ductile iron cake pipes have now been placed and partially buried. This week, they are testing them (see pictures) to verify that they will hold 600 psi. This is double the working pressure of the cake discharge from those pumps.



Next steps: Continued construction of underground infrastructure

GAC Installation

What: $1,601,740 contract with LAN to design and install new filter media at the Water Plant

Status: Ahead of schedule

Vendor Calgon is still conducting performance testing on water samples that were sent to them. The sampling will verify the specific media that will be used. Testing is expected to be completed within the next week.

Once the exact medial is determined, delivery of supplies and installation will be scheduled.

Next steps: Vendor tests on Flint water and sand samples continue until results are determined.

Water Meter Installation

What: $5,000,000 contract with Metron to purchase and install 18,000 water meters

Status: On schedule

Funding was budgeted ($2,500,000) in FY 15 to replace all 9,000 of the meters that are

The City will purchase and replace 3000 over each of the next three years to complete the city wide installation plan.

Vendor Metron-Farnier was awarded the contract following an RFP for purchase and installation services.

Metron has just recently signed the contract and has targeted July 15, 2015 to begin the installation of 9,000 meters.

Next steps: A written installation plan is being developed by the city's water service center which will have one person designated as the internal manager of the project.

Howard Croft

Public Works Director

Byrne, Randall (Treasury)

From: Porubsky, Carmen (TREASURY)
Sent: Wednesday, June 10, 2015 10:44 AM
To: Byrne, Randall (Treasury)
Subject: Flint Call Notes
Attachments: Flint telephone call June 10.docx

Please see attached and respond with any feedback you have.

Thank you,

Carmen Porubsky | Bureau of Local Government Services
State of Michigan | Michigan Department of Treasury
430 W. Allegan Street, 3rd Floor | Lansing, MI 48922
517.335.2439 | porubskyc@michigan.gov

Flint telephone call June 10, 2015 9:00 a.m.

Josh, Randy, Eric, Patrick, Natasha, Dayne

- Priorities for the week

  Preparing for RTAB, Natasha sent OFRA information and reason for denial – denied by Council

  GAC? On schedule – filter installation at water plant to purify water – carbon filter

  Held news conference regarding upcoming violation notice – well received, not getting as many complaints

  Former City Attorney filed lawsuit regarding connecting with DWSD – Council took action during Jerry's time as EM to do all possible to connect to DWSD – cost not being taken into consideration – Amy Hovey, Congressman's Chief of Staff, called Dayne, have been contacting the Governor regarding money for residents who cannot pay their water bills – Jerry said that out of 30,000 residential customers $1.4M over 60 days past due

  Leak Detection Study – has not started yet, up for RTAB approval tomorrow

- Update on election issue including internal investigation

  Governor signed bill to put candidates' names back on the ballot – Internal investigation is complete, Natasha will move forward with a corrective action plan, has met with Clerk – report will not be released publically according to City Attorney

- 4th Quarter Budget Amendments

  Working on, will present to RTAB upon completion

- RTAB meeting tomorrow June 11th.

  Treasury will be there around 1:00, Natasha expects a large attendance

- Update tax abatement for downtown building renovation

  Have not heard back from State Tax Commission, meeting was held on the 9th

- GM expansion

- Re-assessment

- Update on vacant positions

  Treasurer – Natasha has talked to Jodi – Jodi has changed the job description and will be recruiting for the position – last day for old treasurer was Thursday, previous Treasurer is assisting until Jodi has a better understanding – Jerry will assist with finance

  HR Director – Position will be reposted

- Miscellaneous items

Increased attention on Police and Fire millage passed in 2012, community forum tomorrow that Tolbert will speak at – up for renewal in 2017 – covers 25% of Public Safety force – will explain reduction in force

MSP has bicycles out, presence continues to be positive

Sale of Racer Trust, Buick City Corridor former GM property, Martin Trucking Co -- Johnson Enterprises, 200 jobs into City, 120 new hires – Racer has a few prospects for additional sales – alternative energy, solar power

Announcing expansion of community education model tomorrow – one to three schools – AmeriCore members, 30 members, $1M investment, community school directors will return – open to entire community

Robert, Carla M. (Treasury)

Subject:	RDS/EC/JW/NKhouri/TSaxton/WWorkman - Local Government Update
Location:	Governor's Office, Romney
Start:	Thu 6/11/2015 9:15 AM
End:	Thu 6/11/2015 10:00 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	GovCalendar
Required Attendees:	Clement, Elizabeth (GOV); Wisniewski, Wendy (GOV); Workman, Wayne (TREASURY); Saxton, Thomas (Treasury); Pleyte, Beth (Treasury); Doyle, Maureen (Treasury); Walsh, John (GOV); Khouri, Nick (TREASURY); Dempkowski, Angela (Treasury)

Attachment: Briefing

Local Government Up...

Local Government Briefing
June 11, 2015
Agenda

EMERGENCY MANAGER (EM)

- **Lincoln Park**
  - Police and Fire pension millage voted down in May 2015.
  - EM modified CBAs via 12(1)(k) to reduce retiree healthcare expense from $4.1M to 600K annually.
  - Three City Manager candidates have been selected to interview with the Mayor and City Council on June 17, 2015.
  - An actuarial analysis published on May 20, 2015 shows a further decline in pension funding, down to 23%.

FINANCIAL REVIEW COMMISSION (FRC)

- **Detroit**
  - Ron Rose, Executive Director.
  - Four-Year Financial and Operating Plan approved by FRC on April 20, 2015.
  - Reappraising all properties in Detroit due to problems with property valuations.

RECEIVERSHIP TRANSITION ADVISORY BOARD (RTAB)

- **Allen Park**
  - City Administrator search underway to replace former Administrator. Treasury will be participating in the selection process.
  - Bond Tender in process to restructure movie studio debt. It is expected to be completed in July 2015.
  - Relocation to a new temporary City Hall is underway and will be completed in June 2015.
  - The city approved an amended FY 16 budget. The RTAB approved the budget on June 3, 2015. A five-year budget projection has been prepared and is being evaluated by Treasury.

- **Benton Harbor**
  - Whistleblower and Elliot Larson Civil Rights case against the city will be heard in July 2015.
  - FY 16 proposed budget is balanced.
  - The Finance Director has accepted a position as Finance Director in the City of Flint. Her last date of employment is June 5, 2015. The position has been advertised and interviews will be scheduled.

- **Ecorse**
  - 26% decline in residential property values city-wide for FY 2016.

- Unable to submit balanced five-year budget since EM exit (April 30, 2015).
- Annual MERS expense is increasing during a period of revenue reduction.
- The RTAB rejected a proposed employment agreement for a Finance Director due to concerns regarding the hiring process and candidate selection.

- **Flint**
  - RTAB appointed on April 29, 2015. The first meeting will be held on June 11, 2015.
  - Legislation has been passed to allow the candidates, who submitted petitions by April 28, 2015, to have their names placed on the August Primary ballot.
  - Jodi Lundquist has accepted the employment offer as CFO. Her start date is tentatively scheduled to be June 15, 2015.
  - Members of the Charter Commission were sworn into office and their first meeting was held on May 19, 2015.
  - The city will be issuing RFPs to implement a full re-appraisal within a time frame to be agreed upon with the State Tax Commission.
  - The city continues to inform residents that it is in violation of the Clean Water Standards Act. Monthly testing is ongoing.
  - The city is installing a $1.5M granulated active-charcoal filter to improve water quality. This filter installation will be completed in mid-July 2015.
  - On May 27, 2015, the city hired Echologics at a cost of $895,850 to perform a leak detection study of the water system.

- **Hamtramck**
  - City FY 15-16 proposed budget is balanced.
  - City commencing a $7M sewer improvement project; state revolving fund bonds to be issued.

- **Pontiac**
  - City Charter revision on May 2015 ballot was defeated.
  - City lost Police and Fire pension lawsuit in Michigan Court of Appeals; remanded to lower court and could cost $3.5M. The City is filing an appeal with the Michigan Supreme Court.
  - Recruiting Deputy Mayor as part of transition back to Home Rule.
  - Mediation taking place between the City and Retirees regarding the lawsuit filed against the City concerning the elimination of retiree healthcare benefits.
  - SEC – Grayson matter

CONSENT AGREEMENT

- **Royal Oak Township**
  - The City of Detroit has declined to provide police services. This is being reviewed with the City of Detroit. Proposals from the cities of Ferndale and Hazel Park have been determined to be too expensive. The Michigan State Police (MSP) continues to provide police services to the township in the interim.
  - A Consent Agreement Order was issued on May 20, 2015, granting the Consultant the authority to approve all requests for overtime. Issuance of this Order is another example of the Township's inability to comply with the terms of the Consent Agreement.

- Mr. Burgess has requested the issuance of another Consent Agreement order giving him additional authority to approve expenditures and to update their financial records. Staff is preparing an approval for the Treasurer.
- The township's ballot language for a renewal of 4½ mills for general operations was approved by Oakland County. The issue will be placed before the voters in August 2015.
- The Township has approved a $164,275 budget amendment to its 2015 General Fund after an analysis was conducted by the Rehmann Group.

- **Inkster**
  - City Council agreed to settle the Dent lawsuit regarding police misconduct for $1.37M. The cost of the settlement will be placed on the tax roll by a judgement levy.
  - City owes $4.9M to Wayne County for sewer service. Discussions are underway to reach a settlement on this matter.
  - Three police chief candidates will be interviewed on June 11, 2015.
  - The City Treasurer/State Consultant, Mark Stuhldreher, issued an order that requires his approval for all contracts, expenditures, hiring, discipline, and termination.

- **River Rouge**
  - The city adopted the FY 17 budget on May 19, 2015. The budget is balanced at $9,839,808 which compares with the FY 16 budget of $9,878,991. The city has prepared a proposed five-year budget that shows a deficit in FY 18 to FY 20 unless additional revenues can be found.
  - Healthcare benefits reduction for active employees and retirees - $400k annual savings.

NEUTRAL EVALUATION

- **Highland Park**
  - The City of Detroit and the Detroit Water and Sewerage Department was awarded a judgment against the City of Highland Park in the amount of $20M. The City of Highland Park was granted a stay in the matter on June 3, 2015 according to the City Attorney.
  - Pending $12M Emergency Loan by June/July is on hold.
  - Pierce Monroe retained to help fix water billing system. Amnesty program has been approved by City Council.
  - RFP issued to hire private operator for Water and Sewer System. Contract award expected in late June or early July.

OTHER COMMUNITIES

- **Wayne County**
  - Deficit elimination being discussed with county leaders.

- Michigan Supreme Court ruled in favor of retirees regarding payment for a 13th check. Judgement was for $32M plus interest which is a total of $49.3M.
- Plaintiff has filed for a judgement levy.

Koryzno, Edward (Treasury)

From:	Workman, Wayne (TREASURY)
Sent:	Friday, June 12, 2015 2:12 PM
To:	Snyder, Rick (GOV)
Cc:	Scott, Allison (GOV); Muchmore, Dennis (GOV); Roberts, John (DTMB); Allard, Claire (GOV); Khouri, Nick (TREASURY); Saxton, Thomas (Treasury); Storberg, Ann Marie (TREASURY); Gelisse, Ashley (TREASURY); Wisniewski, Wendy (GOV); Dempkowski, Angela (Treasury); Koryzno, Edward (Treasury)
Subject:	Local Government Update to State Treasurer/June 2015
Attachments:	Gov LG Update 6-12-15.docx

Attached is the periodic update on distressed local governments. If you have any questions, please call.

Wayne L. Workman
Deputy State Treasurer
Michigan Department of Treasury

STATE OF MICHIGAN
DEPARTMENT OF TREASURY

RICK SNYDER
GOVERNOR

NICK A. KHOURI
STATE TREASURER

DATE: June 12, 2015

TO: Rick Snyder, Governor

FROM: Wayne Workman, Deputy State Treasurer

SUBJECT: Status of Financially Stressed Local Governments

EMERGENCY MANAGER

Lincoln Park
Emergency Manager: Brad Coulter
Appointed: July 3, 2014
Anticipated Exit: January 2016

Recent Developments
- The Police and Fire Pension Board elected to switch investment advisors to PNC. EM Coulter now expects better returns on pension assets.
- An actuarial analysis published on May 20, 2015 shows a further decline in pension funding, down to 23%. More conservative actuarial assumptions were used in this report.
- EM Coulter has modified retiree collective bargaining agreements to reduce healthcare benefits. These changes are to be implemented on July 1, 2015 and will reduce retiree healthcare costs from $4.1M to $600K annually.

Significant Actions/Issues
- FY 14 ended with a general fund accumulated deficit of $736K, out of a total budget of $21M. This is a significant increase from the FY 13 accumulated deficit of $89K. Salient increases were in Public Safety - $1.1M, Public Works - $700K, and Culture and Recreation - $600K.
- Voters rejected the Firefighters and Police Officers Retirement Act proposal last month by a 53% to 47% margin. Had it been approved, an additional $3M annually would have helped fund fire/police pension and healthcare costs. EM Coulter is working to determine next steps.

Issues to Resolve before EM Exit
- Police CBAs must be finalized.
- Increase and stabilize pension funding levels.

FINANCIAL REVIEW COMMISSION (FRC)

Detroit
FRC Created: November 12, 2014
FRC Members: Nick Khouri, Bill Martin, Brenda Jones, Darrell Burks, John Roberts, Lorron James, Mike Duggan, Stacy Fox, Tony Saunders

Recent Developments

- The first statutorily required biannual report on Detroit was filed by the Financial Review Commission (FRC). The report detailed the FRC's activities and formal requirements since its appointment in November 2014.
- At the May 18, 2015 FRC meeting, members approved various contracts and leases related to the Detroit Water and Sewerage Department transaction.
- The most intense work the FRC will perform going forward is measuring the effectiveness of restructuring initiatives in light of the large annual pension obligations the city will incur beginning in 2024.
- The City of Detroit Assessor's Office is currently conducting a multi-year project to reappraise all properties in Detroit, after the State Tax Commission found significant problems with property valuations. The reappraisal is scheduled to be completed in 2017.
- The next FRC meeting is scheduled for June 22, 2015.

Significant Action/Issues

- The city submitted its Four-Year Financial and Operating Plan (Plan) to the FRC in March. After reviewing the Plan and determining it was based on sound assumptions and met all statutory requirements, the FRC granted approval on April 20, 2015. The city's Plan encompassed the second year (FY 16) of Emergency Manager Orr's two-year budget and used this as its base year with no changes, plus three years (FY 17, FY 18, and FY 19).

RECEIVERSHIP TRANSITION ADVISORY BOARD (RTAB)

Allen Park
RTAB Appointed: September 26, 2014
RTAB Members: Suzanne Schafer, Joyce Parker, Fredrick Frank, Karen Barann

Recent Developments

- The city met with the police bargaining unit and is considering a one-year extension to the CBA. Treasury is investigating whether existing EM Orders would prohibit changes until after the CBA expires June 30, 2015.
- On May 15, 2015, an updated five-year budget projection from the city was received. Treasury is evaluating these projections.
- The city's FY 16 budget was approved by City Council on May 26, 2015 and approved by the RTAB on June 3, 2015. Treasury is evaluating the budget.
- The RTAB approved the hiring of a professional search firm to assist with finding qualified City Administrator candidates. Treasury will participate in the selection process.
- Completion of the bond tender process, delayed due to uncertainty involving the City Administrator position, is projected for July 2015.

Significant Actions/Issues

- RTAB membership will need to be increased due to potential loss of one member and concern about possible deadlocked votes with the current four-member board.
- In April, the RTAB approved creation of an Interim Deputy City Administrator position to oversee city operations until the bond tender and City Hall projects are complete. Mark Kibby, former City Manager of the City of Woodhaven, was appointed to this position.
- Litigation was filed by retirees challenging the EM's authority to reduce other post-employment benefit (OPEB) liabilities. A motion for summary disposition is pending. No date has been set to hear this motion.

Benton Harbor

RTAB Appointed: March 10, 2014

RTAB Members: Larry Steckelberg, Bret Witkowski, Marvin Raglon, Sharon Hunt

Recent Developments

- Former Benton Harbor Public Safety Director Roger Lange has brought a Whistleblower and Elliot Larson Civil Rights case against the City of Benton Harbor and former Emergency Manager Tony Saunders. The case was originally scheduled to be heard July 20, 2015, but is expected to be postponed due to a procedural appeal filed by the city.
- The city's Finance Director has accepted a position as CFO in the City of Flint. Her last day in Benton Harbor was June 5, 2015.
- The city's Deputy Finance Director, multiple Public Safety Officers, and two Public Works Department employees have resigned due to other employment opportunities.

Significant Actions/Issues

- On April 6, 2015, the City Commission passed resolutions adopting a procurement policy, investment policy, and a credit card policy.
- FY 14 audited general fund revenues exceed expenditures by $1M, out of a total budget of $6.1M.

Ecorse

RTAB Appointed: May 1, 2013

RTAB Members: Edward Koryzno, Robert Bovitz, Joyce Parker

Recent Developments

- On May 12, 2015, the RTAB approved a narrowly balanced FY 16 budget, though significant deficits are projected in future fiscal years. To balance the budget, the city increased an existing P.A. 33 levy by approximately 15 mills to fund employee pensions.
- The City Administrator has requested a new City Controller (third in six months), however; the RTAB rejected this appointment at the May meeting. The Mayor has submitted a letter of protest, disagreeing with this RTAB decision.
- The State Treasurer approved an RTAB recommendation to amend the final EM Order to provide RTAB oversight for all hiring and terminations.

Significant Actions/Issues

- The RTAB's Annual Evaluation for the Governor was not favorable, citing a lack of local financial literacy, political infighting, and an inability to develop a balanced multi-year budget. For these reasons, the removal of RTAB oversight cannot be recommended at this time.

- The city continues to have difficulty attracting qualified candidates and filling higher level administrative positions.
- Municipal Employee's Retiree System pension contributions are anticipated to increase from \$1.8M in FY 15 to \$2.4M in FY 16 due to accelerated funding for closed plans.
- The city has been unable to balance its five-year budget. Previous budgets project deficit spending in FY 16, and exhaustion of all resources in FY 17. To avoid this eventuality, significant expense reductions will be necessary in upcoming fiscal years.

Flint

RTAB Appointed: April 29, 2015

RTAB Members: Frederick Headen, Brian Larkin, David McGhee, Beverly Walker-Griffea, Robert McMahan

Recent Developments

- Legislation has been passed that will allow candidates who submitted petitions by April 28, 2015 to have their names placed on the August Primary ballot.
- Jodi Lundquist has accepted the employment offer as CFO.
- As a result of a recent review, the Executive Director of the State Tax Commission notified the city that it must maintain adequate assessment records in compliance with statute and State Tax Commission Rules, and must implement any corrective actions necessary. In addition, the city shall implement a full reassessment within a time frame agreed upon with the State Tax Commission. The city will be issuing an RFP for a reappraisal.
- The city continues to inform residents that it is in violation of the Clean Water Standards Act. Monthly testing is ongoing.
- The city is implementing Veolia recommended improvements to its water system, including water plant improvements, distribution system improvements, new policies and procedures, and better communication with customers. The city is installing a \$1.5M granulated active-charcoal filter to improve water quality. This filter installation will be completed in mid-July.
- On May 27, 2015, the city hired Echologics at a cost of \$895,850 to perform a leak detection study.

Significant Actions/Issues

- If the city loses a lawsuit over retiree healthcare, the EM's two-year budget does not assume an additional \$5M to \$6M annual expense which would result and which would grow at a rate equal to the general rise in healthcare costs.

Hamtramck

RTAB Appointed: December 18, 2014

RTAB Members: Deborah Roberts, Mark Stema, Cathy Square, Karen Young

Recent Developments

- Based on the city's FY 14 audit, the general fund's accumulated fund balance is \$2.8M out of a total budget of \$16.2M.
- The city is undertaking a \$7 million sewer infrastructure improvement project which is eligible for State Revolving Fund monies. The project will reduce storm water inflow into the sanitary sewers.

Significant Actions/Issues

- A suit was filed in federal court by Hamtramck retirees over changes to healthcare benefits made in October 2014. The potential exposure to the city is currently unknown.
- The annual pension liability is anticipated to increase from $3.5M in FY 15 to $4.3M by FY 19. This increase is a result of closing certain pension plans and the Michigan Employee's Retirement System (MERS) policy of accelerating the required contribution for closed plans. The increases were included in the Emergency Manager's two-year budget.

Pontiac

RTAB Appointed: August 19, 2013

RTAB Members: Edward Koryzno, Louis Schimmel, Keith Sawdon, Robert Burgess

Recent Developments

- On May 20, 2015, the RTAB postponed consideration of an amendment to the city's retirement ordinance that would have granted early retirement status to 69 former employees. The amendment was adopted by City Council in April with no prior analysis or actuarial study being conducted. The best available estimates indicate an impact to the pension system of approximately $9-$13M per year. The ordinance amendment was sent back to committee for further review.
- The city lost a decision at the Michigan Court of Appeals which may make it liable for a $3.5M payment to the Police and Fire VEBA. The city requested reconsideration but was denied. On May 20, 2015, the RTAB approved the city's request to file to the Michigan Supreme Court.
- On May 21, 2015, the Securities and Exchange Commission (SEC) issued an Order to initiate proceedings against Gray & Company, the city's pension investment advisor. The proceedings involve Gray & Company's dealings with investments made by several Georgia pension plans in the GrayCo Alternative Fund II LP, a proprietary private equity fund. The Pension Board met with Mr. Gray to discuss the SEC proceedings, its effects on the Pontiac GERS portfolio, and how much is invested with Gray's firm. The Pension Board is reviewing options for withdrawal of pension assets from Grayson controlled funds.

Significant Actions/Issues

- On May 5, 2015, the city's Charter proposal was rejected by voters by a 55% to 45% margin.
- Per the city's FY 14 audit, the general fund's accumulated fund balance is approximately $5M out of a total budget of $27M.
- An Oakland Co. Circuit Judge dismissed the city's condemnation lawsuit involving the Phoenix Center because the city failed to include compensation for the lien placed on the property. The city is preparing an appeal to the U.S. Sixth Circuit Court of Appeals.
- The City of Pontiac Retired Employees Association v. City of Pontiac lawsuit (in U.S. District Court) was reassigned from Judge Lawrence P. Zatkoff to Judge Avern Cohn. The lawsuit challenges former EM Schimmel's elimination of retiree healthcare and replacement with an annual stipend. The General Employees Retirement System Pension Fund is significantly overfunded and the parties are exploring options to use the overfunded portion to fund retiree healthcare. Mediation is taking place under the supervision of Eugene Driker.

CONSENT AGREEMENT

Inkster
Date Executed: February 20, 2012
Consent Agreement Consultant: Mark Stuhldreher

Recent Developments

- On May 14, 2015, the City Council agreed to settle the Dent lawsuit regarding police misconduct for $1.37M. The cost of the settlement will be placed on the tax roll by a judgement levy.
- Three Police Chief candidates were interviewed on June 11, 2015.

Significant Actions/Issues

- On April 20, 2015, the city adopted a working capital reserve policy for the Water and Sewer Fund which will provide funds for emergency situations.
- Per the city's FY 14 audit, the general fund accumulated deficit is $767K out of a total budget of $11M.
- The city owes $4.9M to Wayne County for sewer service.

River Rouge
Date Executed: December 15, 2009
Consent Agreement Consultant: N/A (P.A. 72)

Recent Developments

- The city adopted its FY 17 budget on May 19, 2015. The budget is balanced at $9,839,808 which compares with the FY 16 budget of $9,878,991. The city has prepared a proposed five-year budget that shows a deficit in FY 18 to FY 20 unless additional revenues can be found.

Significant Actions/Issues

- A fire union CBA was approved in March, resulting in a reduction in health care costs.
- General fund revenues exceeded expenditures by $885K in FY 14 and the accumulated fund balance was $1.9M.

Royal Oak Township
Effective Date: April 21, 2014
Consent Agreement Consultant: Robert Burgess

Recent Developments

- Treasury has learned that the Township Supervisor is regularly authorizing overtime for employees, though overtime is not included in the FY 15 budget and the Consent Agreement requires State Treasurer approval prior to overtime expenditures. An Order was issued May 20, 2015 requiring the Consultant to approve all requests for overtime prior to authorization. This is another example of the township's inability to comply with the terms of the Consent Agreement.
- On April 7, 2015, Oakland County notified the township that they rejected the proposed ballot language for 4½ mills for general operations because the township's proposed language did not conform to guidelines. The township adopted newly proposed ballot

language on April 23, 2015 and the language was approved by Oakland County on May 11, 2015.

- A report issued by the Rehmann Group, the township's financial consultant, noted that the township must make budget adjustments of $164,275 to its FY 15 general fund budget to account for expenditures exceeding revenues in FY 14. The township has adopted budget amendments with implementation pending.

Significant Actions/Issues

- The City of Detroit has declined to provide police services to the township. This is being reviewed with the City of Detroit. Proposals from the cities of Ferndale and Hazel Park have been determined to be too expensive. The Michigan State Police continues to provide police services to the township in the interim.

NEUTRAL EVALUATION

Highland Park

Financial Review Team Appointed: December 2, 2013
Financial Emergency Declared: January 30, 2014
P.A. 436 Option Selected: Neutral Evaluation

Recent Developments

- Treasury staff is continuing to monitor the city's lack of progress in complying with terms of a Loan Agreement dated September 23, 2014. There are concerns about the city's ability to successfully restructure finances and implement health insurance benefit cost reductions as planned in FY 15. In addition, failure to reach an agreement with DWSD resulted in a $20M judgement levy against the city.
- On May 18, 2015, City Council approved a financial consultant's recommendation for an amnesty plan for residential water customers to pay arrearage amounts owed to the city. The consultant has determined that if all customers take advantage of the amnesty plan, the city could collect $2.08M.
- The DWSD Director has threatened to terminate water and sewer services if the city doesn't pay its arrearage and current charges. A Wayne Co. Circuit Judge issued a temporary restraining order on April 29, 2015 blocking DWSD's efforts to cut off water service to the city. The city was granted a stay on the $20M judgement levy on June 3, 2015.
- On May 18, 2015, the City Council adopted a resolution requesting MDOT to pay for storm water drainage from the highways and freeways under MDOT's jurisdiction in the city.

Significant Actions/Issues

- Huron Consulting was retained to prepare a request for proposal to solicit firms to operate and maintain the city's water and sewer systems, as required by the city's Plan of Adjustment. The city received one proposal from Wade Trim by the submission deadline of May 4, 2015. This proposal is under review by the city and Treasury.
- The city's liabilities total $117.6M. Some of the major components are: $55.3M debt, including $20.7M owed to the DWSD, $17.7M pension bonds, and $26.1M unfunded other post-employment benefits (OPEB) liabilities.

- Summary of the Plan of Adjustment for the City of Highland Park was adopted on August 28, 2014:
  - The city must make major reductions to retiree healthcare benefit costs.
  - In August 2015, an emergency loan of $12M plus restructuring of $4.8M existing loans will be requested by the city to refund $2.7M in Fiscal Stabilization Bonds, $5.2M in Financial Recovery Bonds, and $3.7M in State Revolving Fund Bonds. The status of this request will be reviewed in the context of benchmarks the city committed to in their last emergency loan in September 2014.

OTHER COMMUNITIES

Wayne County

Recent Developments

- The Recovery Plan has been released to the public and Treasury has begun an analysis.
- On June 10, 2015, the county announced a settlement with retirees over health care benefits that is expected to save $20K annually.

Significant Actions/Issues

- Cash reserves reached its lowest point in February 2014 with pooled cash falling to approximately $22M. The August 2014 cash balance was approximately $150M. This includes proceeds from a short-term borrowing of $75M.
- The county's annual structural general fund deficit is approximately $50M prior to any of the proposed remedial actions.
- The county's proposed restructuring is approximately $50M.
- The preliminary results of the county's actuarial report indicate a drop in other post-employment benefits (OPEB) liability of approximately $409M. This reduction is a result of the county choosing less expensive plans and implementing cost sharing measures (participants are paying a larger share). This does not include any saving opportunities resulting from a proposed change to retiree healthcare.
- The county is working to resolve a disagreement with the Mental Health Authority over services provided to jail inmates. The county currently pays for this service but believes it falls under the purview of the Authority.
- The county has not yet proposed a long-term solution to its jail problems.

Byrne, Randall (Treasury)

From:	Vandegrift, Drew (TREASURY)
Sent:	Monday, June 15, 2015 3:26 PM
To:	Headen, Frederick (Treasury)
Cc:	Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Subject:	RE: COA Kincaid v. Flint

Thanks for your review, Fred.

-Drew

From: Headen, Frederick (Treasury)
Sent: Monday, June 15, 2015 3:09 PM
To: Vandegrift, Drew (TREASURY)
Cc: Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Subject: RE: COA Kincaid v. Flint

You have to read the language you quote in its proper context. The entire sentence reads that "[c]onsequently, the Legislature did not grant the EM the power of ratification, nor did the actions of the EM taken under 2011 PA 4 survive the electors' referendum of that Act."

First, note the reference to *the* "EM." It is in the singular; in other words, the Court was referring specifically to Mike Brown, not to Emergency Managers in general. Second, the Court was addressing the issue of whether anything in Act 4 authorized Mike Brown to ratify the actions of the then Finance Director in recommending that water and sewer rates be increased. The Court concluded that the answer was no.

Finally, I think that read literally, and in isolation, the phrase "nor did the actions of the EM taken under 2011 PA 4 survive the electors' referendum of that Act" would be mere dicta because the phrase was not necessary to resolve the question before the Court: namely whether the Act authorized Mike Brown to ratify the actions in question. In addition, it would lead to the absurd result of requiring each Emergency Manager serving when Act 436 took effect to reenact any actions taken by him or her, or a predecessor, under Act 4 in order for those actions to remain valid under Act 436. This would fly in the face of § 31 of Act 436.

I think the statement by the Court was overbroad and unnecessary. But, I see no reason for concern.

From: Vandegrift, Drew (TREASURY)
Sent: Monday, June 15, 2015 11:45 AM
To: Headen, Frederick (Treasury)
Cc: Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Subject: COA Kincaid v. Flint

Hello Fred,

I am reviewing the latest COA opinion for Kincaid v. Flint. I am troubled by the court's holding that no EM actions taken under PA 4 "survive[d] the electors' referendum of that Act" (p8). What about the 19(1)(k) actions taken under PA 4?

Both Flint and Pontiac have enormous OPEB liabilities to honor if the 19(1)(k) actions are no longer effective.

STATE OF MICHIGAN

COURT OF APPEALS

WILLIAM SCOTT KINCAID, ERAINA POOLE, GEORGE POOLE, and MARY BELL,

Plaintiffs-Appellants,

v

CITY OF FLINT, a municipal corporation.

Defendant-Appellee.

FOR PUBLICATION
June 11, 2015
9:10 a.m.

No. 318906
Genesee Circuit Court
LC No. 12-098490-CZ

Before: DONOFRIO, P.J., and BORRELLO and STEPHENS, JJ.

STEPHENS, J.

Plaintiffs, all residents of the defendant, appeal as of right the order of the circuit court granting defendant's motion for summary disposition and denying plaintiffs' motion to amend their complaint. We reverse and remand.

I. BACKGROUND

On August 15, 2011, the defendant's finance director, Michael Townsend sent a notice of a proposed 3.5% water and sewerage rate increase to be effective September 16, 2011, to the city council and mayor. The increase was proposed to meet a projected fiscal year deficit in the water fund of $14,789,666 as well as a sewer fund deficit of $8,078,917. Council adopted the proposal and the mayor signed it.

Shortly thereafter defendant was declared to be in a state of financial emergency.[1] On November 28, 2011, Governor Rick Snyder appointed Michael Brown as the Emergency Manager (EM) of defendant under the Emergency Manager Law, Public Act 4 of 2011.[2] On

---

[1] MCL 141.1545, former MCL 141.1214 lists the four instances in which a financial emergency exists.

[2] Former MCL 141.1501 *et seq.*; At the time, former MCL 141.1515(4) provided the Governor with the authority to appoint an emergency manager:

May 5, 2012, after being informed by newly appointed finance director Gerald Ambrose of the financial disarray of the water and sewer funds for defendant, EM Brown created Emergency Order No. 31. Order No. 31 ratified and confirmed the water and sewer rates implemented under Townsend on September 16, 2011, and additionally raised water and sewer rates, 12.5% and 45%, respectively.

After the Emergency Order by Brown, plaintiffs in this suit filed a complaint seeking this Court's original jurisdiction pursuant to Const 1963, art 9, §§ 31-32. The claim of error in that case was that defendant violated the Headlee Amendment[3]. This Court dismissed plaintiffs' claims without a hearing, finding that the rate increases from September of 2011 and those set to take place in July of 2012 were "revisions of existing user fees that do not implicate the Headlee Amendment." Plaintiffs' claims not relating to the Headlee Amendment were dismissed for lack of original jurisdiction. *Kincaid v Flint*, unpublished order of the Court of Appeals, entered June 29, 2012 (Docket No. 310221), lv den 493 Mich 871 (2012).

After the case before this Court was dismissed, plaintiff filed the instant action. The essence of the case was a claim that the rate increases in September of 2011 were made contrary to city ordinances: § 46-52.1,and § 46-57 and that the defendant had illegally pooled the funds collected for the water and sewer fund and used them to pay general obligations not related to sewer or water expenses. Plaintiffs requested that the trial court certify a class action suit against defendant for all sewer and water customers of defendant, declare that the rate increases were an illegal tax under the Headlee Amendment, and cease the co-mingling funds. Additionally, plaintiffs requested monetary relief in the form of a refund of the illegally collected rates and for damages caused to defendant's residents that were left without water and sewer service.

In lieu of filing an answer, defendant moved the trial court to grant it summary disposition pursuant to MCR 2.116(C) (6), (7), and (8). However, before defendant's motion for summary disposition was heard, plaintiffs moved the trial court for leave to amend their complaint asking for leave to allege a violation of MCL 123.131(2), (3).[4]

> Upon the confirmation of a finding of a financial emergency, the governor shall declare the local government in receivership and shall appoint an emergency manager to act for and in the place and stead of the governing body and the office of chief administrative officer of the local government.

[3] Specifically, the Headlee Amendment to the state constitution provides standing to "[a]ny taxpayer of the state" to bring suit in this Court to enforce the tax provisions of §§ 25 to 31.

[4] MCL 123.141(2), (3), states:

> (2) The price charged by the city to its customers shall be at a rate which is based on the actual cost of service as determined under the utility basis of rate-making. This subsection shall not remove any minimum or maximum limits imposed contractually between the city and its wholesale customers during the remaining life of the contract. This subsection shall not apply to a water system

Defendant responded to plaintiffs' motion to amend their complaint by arguing that it should be denied as futile. On February 15, 2013, the trial court heard the two outstanding motions. On June 21, 2013, the trial court entered an opinion and order granting summary disposition in favor of defendant. On July 12, 2013, plaintiffs moved the trial court to reconsider its decision to which the court entered an order permitting defendant to respond to plaintiffs' motion for reconsideration. The court denied the motion on October 14, 2013. Plaintiffs now appeal the order granting defendant summary disposition.

During the pendency of this case in the trial court, Public Act 4 of 2011 was rejected by a majority of the electorate causing its repeal.[5] One month later on December 26, 2012, the Legislature approved the Local Financial Stability and Choice Act, Public Act 436 of 2012,[6] effective March 28, 2013.[7] Many of the provisions of Public Act 436 of 2012 mirror those of Public Act 4 of 2011.

II. STANDARD OF REVIEW

The trial court ordered summary disposition under (C)(8) and the parties base their arguments on that subsection before this Court, but our review of the record shows that the trial court went beyond the pleadings in making its decision as did both parties in making their arguments. Plaintiffs' response to defendant's motion for summary disposition relied on 16 exhibits. Plaintiffs also moved for summary disposition themselves and cited exhibits outside the pleadings. The analysis of this case therefore will be done under MCR 2.116(C)(10). See *Cuddington v United Health Servs, Inc*, 298 Mich App 264, 270; 826 NW2d 519 (2012)

> that is not a contractual customer of another water department and that serves less than 1% of the population of the state. This subsection shall take effect with the first change in wholesale or retail rate by the city or its contractual customers following the effective date of this subsection. Any city that has not adjusted rates in conformity with this subsection by April 1, 1982 shall include in the next ensuing rate period an adjustment to increase or decrease rates to wholesale or retail customers, so that each class of customer pays rates which will yield the same estimated amount of revenue as if the rate adjustment had been retroactive to April 1, 1982. A city that is subject to section 5e of Act No. 279 of the Public Acts of 1909, being section 117.5e of the Michigan Compiled Laws, shall begin proceedings to determine rate changes pursuant to section 5e(b) of Act No. 279 of the Public Acts of 1909, being section 117.5e of the Michigan Compiled Laws.
>
> (3) The retail rate charged to the inhabitants of a city, village, township, or authority which is a contractual customer as provided by subsection (2) shall not exceed the actual cost of providing the service.

[5] The state board of canvassers certified the vote on November 26, 2012. Public Act 72 of 1990 came back into effect while the referendum on Public Act 4 of 2011 was pending.

[6] MCL 141.1541 *et seq.*

[7] Public Act 436 of 2012 repealed Public Act 72 of 1990, effective March 28. 2013.

("[B]ecause the trial court considered documentary evidence beyond the pleadings, we construe the motion as having been granted pursuant to MCR 2.116(C)(10).").

"This Court reviews decisions on motions for summary disposition de novo to determine if the moving party was entitled to judgment as a matter of law." *Alcona Co v Wolverine Environmental Prod, Inc*, 233 Mich App 238, 245; 590 NW2d 586 (1998), lv den 461 Mich 854 (1999). A motion for summary disposition pursuant to MCR 2.116(C)(10) "tests the factual sufficiency of the complaint." *Joseph v Auto Club Ins Assoc*, 491 Mich 200, 206; 815 NW2d 412 (2012), reh den 815 NW2d 491 (2012). "In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion." *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). Summary disposition is proper where there is no "genuine issue regarding any material fact." *Id.* A party opposing a motion made pursuant to MCR 2.116(C)(10) has "the burden of showing that a genuine issue of disputed fact exists." *Major v Auto Club Ins Assoc*, 185 Mich App 437, 440; 462 NW2d 771 (1990), lv den 437 Mich 923 (1991) (citations omitted). The opposing party may not rest upon mere allegations or denial in the pleadings, but must, by affidavit or other documentary evidence, set forth specific facts showing that there is a genuine issue for trial. *Id.* (citations omitted).

This Court also reviews issues of statutory interpretation de novo. *Allen v Bloomfield Hills Sch Dist*, 281 Mich App 49, 52; 760 NW2d 811 (2008).

> When interpreting a statute, we follow the established rules of statutory construction, the foremost of which is to discern and give effect to the intent of the Legislature. The first step when interpreting a statute is to examine its plain language, which provides the most reliable evidence of [legislative] intent. If the language of a statute is clear and unambiguous, the statute must be enforced as written and no further judicial construction is permitted. When an ambiguity does indeed exist, we may go beyond the statutory text to ascertain legislative intent. Effect should be given to every phrase, clause, and word in the statute and, whenever possible, no word should be treated as surplusage or rendered nugatory. [*People v. Carrier*, ___ Mich App ___; ___ NW2d ___ (2015); slip op at 6-7 (citations and quotation marks omitted).].

III. CLAIMS OF ERROR

Plaintiffs' claims of error are two: that water and sewer rate increases that occurred under Townsend in September 2011were not authorized by Flint Ordinances and that EM Brown did not have the authority to ratify Townsend's unauthorized increases and then further increase water and sewer rates in violation of the same ordinances.

A. ORDINANCE VIOLATIONS

The City of Flint Ordinances that plaintiffs claim were violated are:

Ordinance 46-52.1

> (a) Every year the Director of Finance shall calculate and transmit on or before April 15, to the Mayor and City Council the new water rate schedules with a complete itemization of water system costs for all classes of customers as given in § 46-52, for the purpose of calculating all bills for the forthcoming 12 months beginning July 1 of that year. The new water rate schedules shall be published at least 30 days prior to the date of implementation.
>
> (b) Water rates shall be reviewed annually and the water percentage index (WRI) as applied to the water rate schedules shall be limited to an adjustment of 8% in any year unless:
>
> (1) Such an adjustment is necessary to provide for all costs of operation, maintenance, replacement and debt service of the water supply system; or
>
> (2) Such an adjustment is necessary to comply with applicable provisions of the city's water supply revenue bond resolutions or ordinances.

and,

Ordinance 46-57.1

> Every year the Director of Finance shall calculate and transmit on or before April 15, to the Mayor and City Council the new sewage rate schedules with a complete itemization of sewage system costs for all classes of customers as given in § 46-57, for the purpose of calculating all bills for the forthcoming 12 months beginning July 1 of that year. The new water rate schedules shall be published at least 30 days prior to the date of implementation.

> Plaintiffs argue that the rate increases of September 2011 and those imposed by the EM failed to meet the notice and effective date requirements of the ordinances and exceeded the percentage of increase allowed under the ordinances. We agree in part.

The September 2011 35% water rate increase was in violation of Flint Ordinance 46-52.1 because it was not published and noticed at least 30 days prior to its implementation and went into effect almost immediately in September 2011 instead of being implemented over twelve months beginning on July 1 of the next fiscal year. The sewer rate increases were invalid for the same reasons under Ordinance 46-57.1. The sewer rates were not published and noticed 30 days prior to their implementation and were implemented soon after the finance director's recommendation instead of on July 1 of the next fiscal year.

Plaintiffs' argument that the increases also violated Ordinance 46-52.1 by increasing the water rates above 8% is not supported by the ordinance language. Ordinance 46-52.1 envisions that water rate increases be limited to an adjustment of 8%, but allows for uncapped increases in the event "the adjustment is necessary to provide for all costs of operation, maintenance, replacement and debt service of the water supply system' or . . . to comply with applicable provisions of the city's water supply revenue bond resolutions and ordinances." The defendant's then finance director, Townsend, sent an August 2011 letter to Mayor Walling and City Council, providing justification for the amount of the increase. In that letter, Townsend stated that the water fund was operating at a \$3.21 million loss and that the city was not meeting its state bond requirements to operate with revenues greater than 125% of the amount of debt service of the bonds. Townsend explained that the rate increases would help cover the rate increases the city paid to Detroit and the Drinking Water Revolving Fund Bonds. This Court has no basis to find those statements invalid. While the notice, publication and implementation of the water and sewer rate increases were not authorized, the percentage of increase for the rates was not a violation of the ordinances.

Plaintiffs challenge the EM's rate increases under Order No. 31 on the same basis as they challenged the September 2011 increases. However, EM Brown's water and sewer rate increases of 12.5% and 45% respectively, did not violate Flint Ordinances 46-52.1 and 46-57.1. On May 5, 2012, EM Brown published notice of the increases and that they were to be effective July 1, 2012. The Order complied with the notice, publication and implementation provisions of 46-52.1 and 46-57.1. Plaintiffs again argue that any increase in water rates over 8% is not authorized under 46-52.1, but as discussed above, the language of the ordinance does not support that argument. The language of Order No. 31 established both of the excepted instances in 46-52.1 that allow for an increase in water rates greater than 8%. The Order explained that defendant was required under MCL 141.121[8] to set sewer rates that were sufficient to cover the costs of operating the water and sewer systems and that Townsend's increase was insufficient to

---

[8] MCL 141.121, the Revenue Bond Act of 1933, provides in pertinent part:

(1) Rates for services furnished by a public improvement shall be fixed before the issuance of the bonds. The rates shall be sufficient to provide for all the following:

(a) The payment of the expenses of administration and operation and the expenses for the maintenance of the public improvement as may be necessary to preserve the public improvement in good repair and working order.

(b) The payment of the interest on and the principal of bonds payable from the public improvements when the bonds become due and payable.

(c) The creation of any reserve for the bonds as required in the ordinance.

(d) Other expenditures and funds for the public improvement as the ordinance may require.

(2) The rates shall be fixed and revised by the governing body of the borrower so as to produce the amount described in subsection (1). The borrower shall covenant and agree in the ordinance authorizing the issuance of the bonds and on the face of each bond to maintain at all times the rates for services furnished by the public improvement sufficient to provide for the amount described in subsection (1). Rates pledged for the payment of bonds that are fixed and established pursuant to a contract or lease shall not be subject to revision or change, except in the manner provided in the lease or contract.

meet defendant's obligation under state law. The Order stated that additional increases were necessary "to cover the costs of operating the water and sewer systems and pay outstanding bonded indebtedness on the water system."

B. RATIFICATION AUTHORITY OF THE EMERGENCY MANAGER

EM Brown not only increased water and sewer rates with the enactment of Order No. 31, but also purported to expressly ratify and confirm the September 16, 2011 rate increases. The issue of first impression for this Court is whether EM Brown was granted the authority to ratify the unauthorized acts of another public official. We conclude that the Legislature did not delegate the power to ratify to an emergency manager.

The EM is a creature of the Legislature with only the power and authority to do what is granted by statute. EM Brown derived his authority from the former Emergency Manager Law, PA 4 of 2011.[9] That authority was not as broad as defendant argues. We do not agree with defendant that Public Act 436 of 2012, the successor statute to PA 4 of 2011, ratified all the actions of the EM taken under PA 4. MCL 141.1570(1)(a)-(e), states that "[a]ll of the following actions that occurred under the former 2011 PA 4" became effective under 2012 PA 436:

> (a) A determination by the state treasurer or superintendent of public instruction pursuant to a preliminary review of the existence of probable financial stress or a serious financial problem in a local government.
>
> (b) The appointment of a review team.
>
> (c) The findings and conclusion contained in a review team report submitted to the governor.
>
> (d) A determination by the governor of a financial emergency in a local government.
>
> (e) A confirmation by the governor of a financial emergency in a local government.

The actions taken by the state treasurer, the appointed review team and the governor remain effective and were not required to be re-approved with 2012 PA 436. Notably, actions taken by the EM are not included.

We also reject defendant's argument that an act of the EM is an act of the governor and that the EM derives power to ratify from the governor. Former MCL 141.1519(1)(dd) and (ee) state that an EM's authority is limited to the local level. An EM "[e]xercise[s] solely, for and on behalf of the local government," and "exercise[s] any power or authority of any officer, employee, department, board, commission, or other similar entity of the local government,

[9] Former MCL 141.1501 *et seq.*

whether elected or appointed, relating to the operation of the local government." MCL 141.1519(1)(dd), (ee). Thus, the EM acts in place of numerous persons, but they are all local government officials. Former 2011 PA 4[10] and 2012 PA 436[11] each provides that the governor may delegate his duties to the treasurer. Notably, there is no similar provision regarding the delegation of any authority to the EM. Rather, the EM serves at the pleasure of the governor.[12]

The EM's responsibilities and authority under former 2011 PA 4 are listed in former sections MCL 141.1515 through MCL 141.1530. Those provisions are similarly stated in sections MCL 141.1549 through MCL 141.1564 under 2012 PA 436. Of all the powers granted to the EM, ratification is not one of them. Ratification, in both the former 2011 PA 4 and 2012 PA 436, is explicitly granted to the actions of certain persons and entities. Under the former 2011 PA 4, "[a]ll proceedings and actions taken by the governor, the state treasurer, or a review team . . . are ratified and are enforceable as if the proceedings and actions were taken under this act, and a consent agreement entered into . . . is ratified and is binding and enforceable." Former MCL 141.1512(6). 2012 PA 436 contains nearly identical language:

> All proceedings and actions taken by the governor, the state treasurer, the superintendent of public instruction, the local emergency financial assistance loan board, or a review team under former 2011 PA 4, . . . are ratified and are enforceable as if the proceedings and actions were taken under this act, and a consent agreement entered into under former 2011 PA 4, . . . that was in effect immediately prior to the effective date of this act is ratified and is binding and enforceable under this act. [MCL 141.1544(6).]

The clear difference between 2011 PA 4 and 2012 PA 436 is that PA 436 adds "the superintendent of public instruction" and "the local emergency financial assistance loan board." Neither PA 4 nor PA 436 ratifies actions taken by the EM. Further, the EM's power to supersede local government authority does not extend to the state officers and entities listed above.[13] Consequently, the Legislature did not grant the EM the power of ratification, nor did the actions of the EM taken under 2011 PA 4 survive the electors' referendum of that Act.

Absent the power of ratification, defendant urges this Court to look elsewhere for the EM's authority to approve the unauthorized 2011 water and sewer rate increases. Defendant

[10] Former MCL 141.1515(10).

[11] MCL 141.1549(8).

[12] Former MCL 141.1515(5)(d); MCL 141.1549(3)(d).

[13] The EM's power is superior to and supersedes that of local government officials and entities. Former MCL 141.1519(1)(ee); MCL 141.1552(1)(ee). The EM does not usurp the authority of the superintendent of public instruction. See e.g. MCL 141.1554(c). The EM is not an appointed member of the financial assistance loan board or review team. Former MCL 141.1212; MCL 141.1544.

argues that the additional powers granted to an emergency manager in former MCL 141.1519[14] authorized the EM to raise water and sewer rates notwithstanding the ordinances. Under that section,

> An emergency manager may take 1 or more of the following additional actions with respect to a local government which is in receivership, notwithstanding any charter provision to the contrary:
>
> (a) Analyze factors and circumstances contributing to the financial emergency of the local government and initiate steps to correct the condition.

We are not persuaded by this argument. MCL 141.1519 applies in the instance where the EM, after having analyzed the factors and circumstances contributing to the financial emergency, *initiates* some action to alleviate the emergency. In other words, some affirmative act is required of the EM. "The word 'initiate' is a synonym of the word 'commence.' " *Fast Air, Inc. v. Knight*, 235 Mich App 541, 544; 599 NW2d 489 (1999) citing *Black's Law Dictionary* (5th ed). In turn, the plain and ordinary meaning of the word commence is "to begin; start," *The American Heritage Dictionary* (4th Ed 2006) and "begin" is defined as "to take the first step in performing an action." *Id.*[15] MCL 141.1519, then in effect, supported the 12.5% water and 45% sewer rates initiated by the EM after his appointment. Those increases were initiated after the EM was provided with information from his appointed finance director Gerald Ambrose of the operating losses of both the water and sewer systems and were implemented to correct those conditions. Although the EM had the authority to institute the change in rates notwithstanding any charter provision to the contrary under the former MCL 141.1519(1)(a), as discussed above, the increases complied with the notice, publication and implementation guidelines of city ordinances 46-52.1 and 46-57.1. MCL 141.1519(1)(a) however, does not support the action taken by the EM to expressly ratify and confirm the increases recommended by Townsend. In that instance, the EM did not "initiate" the steps to correct the condition by an affirmative act, but rather approved the steps already taken by someone else. Because the EM did not initiate those increases, MCL 141.1519(1)(a) does not apply.

In light of our analysis, we conclude that defendant violated its own ordinances, 46-52.1 and 46-57.1, by increasing water and sewer rates without first providing notice and publication to its residents thirty days prior and by not waiting to implement those rates until July 1 of the next fiscal year. We also conclude that Order No. 31 did not rectify the violations.

The trial court's grant of summary disposition to defendant was premised on its understanding of the EM's authority as broad, substantial and complete. Our decision today only highlights that authority for a closer look at the statutory boundaries of the EM's power.

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[14] Now, MCL 141.1552.

[15] See *SBC v J.T. Crawford, Inc*, unpublished opinion per curiam of the Court of Appeals, issued November 27, 2007 (Docket No. 275334), p. 5.

Because we disagree with the trial court's conclusion that the EM had the authority to ratify, we reverse its order granting defendant summary disposition.

C. COMINGLING OF FUNDS

Next, this Court must consider whether the trial court properly summarily disposed of plaintiffs' claims regarding comingling of funds. Plaintiffs assert that defendant placed water and sewer rate fees from customers into a pooled cash account with other funds, used the water and sewer funds to pay general obligations of defendant in violation of the Revenue Bond Act of 1933, and that this practice led to a deficit in the water and sewer funds which precipitated the increases by Townsend and EM Brown. Plaintiffs' arguments rely entirely on the motion being granted pursuant to MCR 2.116(C)(8). Indeed, plaintiffs maintain that the trial court should not have considered the affidavit of Pamela Hill, a certified public accountant and auditor of defendant's financial statements, nor held it against plaintiffs for not providing any evidence to the contrary, because subrule (C)(8) requires the trial court to disregard evidence outside the pleadings. However, as has been discussed, this motion was granted pursuant to MCR 2.116(C)(10).

Plaintiffs argue that defendant illegally comingled funds. We find no merit to this claim. A party opposing a motion made pursuant to MCR 2.116(C)(10) has "the burden of showing that a genuine issue of disputed fact exists." *Major*, 185 Mich App at 440. The opposing party may not rest upon mere allegations or denials in the pleadings, but must, by affidavit or other documentary evidence, set forth specific facts showing that there is a genuine issue for trial. *Id.* (citations omitted). The record reveals that defendant provided evidence, in the form of an affidavit from Hill who was hired to audit municipalities, that defendant's accounting system was entirely legal and was used by several other municipalities. Plaintiffs assert that Hill's affidavit only evidences the practice of comingling without establishing the legality of the practice. While the trial court only mentioned the Hill affidavit in its order granting summary dismissal, it also had before it plaintiffs' exhibits in support of their response to defendant's motion for summary disposition which included an affidavit from city treasurer Douglas Bingaman. Bingaman's affidavit stated that the water and sewer funds were in a single pooled cash account, but that funds which state law required to be maintained separately were excluded. Further, that the "account is intended to have each City fund, including the water and sewer funds, end up paying only its own operating and other expenses." Bingaman's affidavit is evidence that defendant was following state law in regards to pooled cash accounts. It was also evidence that the water and sewer funds were not being used to pay the general obligations of defendant. Hill's affidavit averred knowledge of legal accounting practices that only certain accounts were excluded from being maintained in single pooled cash accounts and that water and sewer funds were not excluded. Hill further averred that, "each participating fund's share of the pooled cash account is accounted for," meaning that the water and sewer funds were also accounted for. In response, plaintiffs provided no evidence of defendant's accounting system being illegal. This Court's decision in *Major*, 185 Mich App 437, quite plainly requires plaintiffs to provide *some* evidence that there is a disputed issue of fact. This, plaintiffs did not do. As such, the trial court was required to determine that there was no genuine issue of material fact for trial. and properly granted summary disposition on this issue. *Id.*

III. MOTION TO AMEND

Plaintiffs last argue that it was error for the trial court to deny their request to amend their complaint. We agree.

"This Court reviews grants and denials of motions for leave to amend pleadings for an abuse of discretion." *Hakari v Ski Brule Inc*, 230 Mich App 352, 355; 584 NW2d 345 (1998). "There are circumstances where a trial court must decide a matter and there will be no single correct outcome; rather, there may be more than one reasonable and principled outcome. The trial court abuses its discretion when its decision falls outside this range of principled outcomes." *Pontiac Fire Fighters Union Local 376 v Pontiac*, 482 Mich 1, 8; 753 NW2d 595 (2008).

"A party may amend a pleading once as a matter of course within 14 days after being served with a responsive pleading by an adverse party." MCR 2.118(A)(1). "Except as provided in subrule (A)(1), a party may amend a pleading only by leave of the court or by written consent of the adverse party. Leave shall be freely given when justice so requires." MCR 2.118(A)(2). "Because a court should freely grant leave to amend a complaint when justice so requires, a motion to amend should ordinarily be denied only for particularized reasons." *Wormsbacher v Phillip R Seaver Title Co*, 284 Mich App 1, 8; 772 NW2d 827 (2009), lv den 485 Mich 927 (2009). Those reasons include undue delay, bad faith or dilatory motive, repeated failure to cure deficiencies by amendment previously allowed, undue prejudice, or where amendment would be futile. *Miller v Chapman Contracting*, 477 Mich 102, 105; 730 NW2d 462 (2007). Further, MCR 2.116(I)(5) states that when the trial court summarily disposes of a case under subrules (C)(8), (C)(9), or (C)(10), the trial court "shall give the parties an opportunity to amend their pleadings as provided by MCR 2.118, unless the evidence then before the court shows that amendment would not be justified."

The trial court's reason for denying plaintiffs' motion to amend their complaint was that the "proposed amended complaint is in conflict with this decision." The fact that an amended complaint would present issues at odds with the trial court's decision does not appear to be an accepted particularized reason. A court must specify its reasons for denying the motion; a failure to do so requires reversal, unless amendment would be futile. *Noyd v Claxton, Morgan, Flockhart & Vanliere*, 186 Mich.App 333, 340; 463 NW2d 268 (1990). Because we cannot discern on what basis the trial court denied plaintiffs' motion to amend their complaint, we remand this issue to the trial court. On remand, the trial court is to consider the additional claims in plaintiffs' proposed amended complaint and articulate its reasons for granting or denying the motion.

Reversed and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Cynthia Diane Stephens
/s/ Pat M. Donofrio
/s/ Stephen L. Borrello

Dempkowski, Angela (Treasury)

From: Workman, Wayne (TREASURY)
Sent: Tuesday, June 16, 2015 1:25 PM
To: Stanton, Terry A. (Treasury)
Subject: FW: Michigan Report, Friday, June 12, 2015
Attachments: RE: COA Kincaid v. Flint

Flint water case

Wayne L. Workman
Deputy State Treasurer
Michigan Department of Treasury

From: Headen, Frederick (Treasury)
Sent: Monday, June 15, 2015 3:12 PM
To: Workman, Wayne (TREASURY); Khouri, Nick (TREASURY)
Cc: Saxton, Thomas (Treasury)
Subject: RE: Michigan Report, Friday, June 12, 2015

FYI; see related attachment.

From: Workman, Wayne (TREASURY)
Sent: Monday, June 15, 2015 11:22 AM
To: Headen, Frederick (Treasury); Khouri, Nick (TREASURY)
Cc: Saxton, Thomas (Treasury)
Subject: RE: Michigan Report, Friday, June 12, 2015

Thank you

Wayne L. Workman
Deputy State Treasurer
Michigan Department of Treasury

From: Headen, Frederick (Treasury)
Sent: Monday, June 15, 2015 10:50 AM
To: Workman, Wayne (TREASURY); Khouri, Nick (TREASURY)
Cc: Saxton, Thomas (Treasury)
Subject: RE: Michigan Report, Friday, June 12, 2015

Wayne:

The Court of Appeals drew a distinction between two actions taken by Mike Brown: first, the ratification by him of water and sewer rate increases proposed by the then City Finance Director ("Townsend") and second, the initiation and implementation by Mike himself of separate, additional water and sewer rate increases. The Court struck down only the former action; it left the latter action in place.

The Court concluded that the water and sewer rate increases proposed by Townsend violated charter provisions requiring "notice and publication to its residents thirty days prior and by not waiting to implement those rates until July 1 of the next fiscal year." The Court also concluded that nothing in Act 4, under which Mike acted, nor in subsequently enacted Act 436, authorized an Emergency Manager to simply *ratify* the actions of someone else (i.e., Townsend).

Had Mike initiated and implemented the initial set of water and sewer rate increases on his own, the outcome would have been different. "[H]owever, [the statute] d[id] not support the action taken by the EM to expressly ratify and confirm the increases recommended by Townsend."

As a bottom line, this decisions appears to have limited impact upon the authority of Emergency Managers.

Fred

From: Workman, Wayne (TREASURY)
Sent: Saturday, June 13, 2015 3:54 PM
To: Khouri, Nick (TREASURY)
Cc: Saxton, Thomas (Treasury); Headen, Frederick (Treasury)
Subject: Re: Michigan Report, Friday, June 12, 2015

My first impression is that the EM could raise rates, but he not follow the correct process. Fred, please weigh in with your thoughts.

Sent from my iPhone

On Jun 13, 2015, at 12:59 PM, Khouri, Nick (TREASURY) <KhouriN@michigan.gov> wrote:

> Wayne
>
> What's the practical impact of the courts decision on the EM and flint water?
>
> If it stands, does it significantly reduce a EM's powers?
>
> Sent from my iPad
>
> Begin forwarded message:
>
>> **From:** Gongwer News Service <gongwerreports@gongwer.com>
>> **Date:** June 12, 2015 at 6:56:47 PM EDT
>> **To:** <khourin@michigan.gov>
>> **Subject: Michigan Report, Friday, June 12, 2015**
>>
>> GONGWER Michigan
>> The Capitol Record Since 1906

Michigan Report for Friday, June 12, 2015

Newsmaker Friday: Fitton Reminds Policymakers 'Health Care Is Different'

Smith Preliminary Hearing Postponed For Medical Evaluation

Appeals Court Outlines Limits On Emergency Managers In Flint Water Case

Whiston: Focus Has To Be On Classroom

Report: Most Counties Short On Physicians

Courser Gets Some Push Back On Vaccine Post

Former Rep. Roy Schmidt Released On Bond, Faces Pot Charges

Budget Bills Presented

State Reports First West Nile Activity Of 2015

Snyder Announces Restructuring Of Great Lakes Governors

Snyder Appoints Middle-Eastern American Affairs Commission

Calley's Brother Charged In Hit And Run

Reports Of Auditor General Doug Ringler

Supplemental Agency Calendar

Supplemental Notice Of Legislative Committees

Calendars

Day Planner

Please send all correspondence to gongwer@gongwer.com This mailbox is not regularly monitored.

<Jun12.htm>

<150612dayplan.htm>

Byrne, Randall (Treasury)

From: Natasha Henderson <nhenderson@cityofflint.com>
Sent: Wednesday, June 17, 2015 8:30 AM
To: Cline, Richard (Treasury); Byrne, Randall (Treasury)
Subject: Water Update
Attachments: Utilities Update 6_17_2015 (2).pdf

Hello Randall and Eric,

I have an engagement this morning and will not be able to participate in the conference call this morning. Mayor Walling is aware and will update me on the call details. Accordingly, I have attached a water update.

Thanks,

Natasha

Natasha L. Henderson, City Administrator
City of Flint, Michigan
1101 S. Saginaw St.
Flint, MI 48502
Email: nhenderson@cityofflint.com
Phone: (810) 237-2057
www.cityofflint.com

City of Flint
Water Quality Update
Wednesday June 10th 2015

Leak Detection

What: $900,000 Treasury Distressed City Grant for Leak Detection / Pipe Wall Assessment

Status: Expected start date - late June / early July

The resolution was approved by the RTAB and the contract is being sent to the vendor.

The company 'Echologics" is still prepared to sign the contract and mobilize within several weeks following the contract signing.

The company maintains a window of 10 – 14 weeks to complete the full scope of work.

Next steps: Get contract signed and determine mobilization timeframe and length of project.

WPC Incinerator Shutdown

What: $1,100,000 Treasury Distressed City Grant for WPC Incinerator Shutdown

Status: In construction phase

With good weather, construction continues to move forward. No change in the schedule.

The 10 inch ductile iron cake pipes have now been placed and partially buried. This week, they are testing them (see pictures) to verify that they will hold 600 psi. This is double the working pressure of the cake discharge from those pumps.

Next steps: Continued construction of underground infrastructure

GAC Installation

What: $1,601,740 contract with LAN to design and install new filter media at the Water Plant

Status: Ahead of schedule

Vendor Calgon is still conducting performance testing on water samples that were sent to them. The sampling will verify the specific media that will be used. Testing is expected to be completed within the next week.

Once the exact medial is determined, delivery of supplies and installation will be scheduled.

Next steps: Vendor tests on Flint water and sand samples continue until results are determined.

Water Meter Installation

What: $5,000,000 contract with Metron to purchase and install 18,000 water meters

Status: On schedule

Funding was budgeted ($2,500,000) in FY 15 to replace all 9,000 of the meters that are

The City will purchase and replace 3000 over each of the next three years to complete the city wide installation plan.

Vendor Metron-Farnier was awarded the contract following an RFP for purchase and installation services.

Metron has just recently signed the contract and has targeted July 15, 2015 to begin the installation of 9,000 meters.

Next steps: A written installation plan is being developed by the city's water service center which will have one person designated as the internal manager of the project.

Howard Croft
Public Works Director

Vandegrift, Drew (TREASURY)

From:	Brad Coulter <BCoulter@citylp.com>
Sent:	Wednesday, June 17, 2015 10:58 AM
To:	Byrne, Randall (Treasury); Vandegrift, Drew (TREASURY)
Subject:	FW: FYI: Michigan Court Ruling Clips Emergency Managers' Power

From: Sylvia Arakelian
Sent: Wednesday, June 17, 2015 10:40 AM
To: Insolvency and Reorganization
Subject: FYI: Michigan Court Ruling Clips Emergency Managers' Power

6/17/15 Bond Buyer (Pg. Unavail. Online)
2015 WLNR 17749035
Bond Buyer (USA)

June 17, 2015
Volume 1; Issue 34327
Section: Regional News

Michigan Court Ruling Clips Emergency Managers' Power

Caitlin Devitt

CHICAGO - A Michigan appeals court ruling has clipped the authority of the state's emergency managers in the first case examining the extent of their power under the state's law for distressed local governments.

The Michigan Court of Appeals on June 12 that emergency managers cannot simply ratify actions imposed by local officials and must closely follow local ordinances when imposing their own orders.

The case is Kincaid et al v. the City of Flint, stemming from a challenge to a former Flint emergency manager's order imposing steep water and sewer rate increases.

The appeals court decision reverses a lower court's ruling dismissing the case.

"The EM is a creature of the Legislature with only the power and authority to do what is granted by statute," the opinion says. "That authority was not as broad as defendant argues."

The ruling means emergency managers need to formally initiate actions on their own and pay close attention to adhering to local procedure.

For local governments currently under emergency management, managers may want to review their orders to protect against a legal challenge in light of the Flint decision, said attorneys at Michigan-based law firm Miller Canfield, which has been following the case and published a comment on the ruling.

"The court of appeals took a very strict, constructivist view of the statutes," said attorney Christopher Trebilcock, referring to Act 436, the state's current emergency management law, and its predecessor, Act 4.

"For any entity that is under Act 436 or Act 4, the filing of proper procedure is very important and strict adherence to local ordinances is required," he said. "If you're a local unit that's still in receivership it's worth reviewing the orders and actions in light of the court of appeal's decision."

Miller Canfield says it's the first case to analyze the extent of an EM's authority. The ruling places a "previously undefined limit on an EM's powers and by implication narrowed the EM's authority to 'act for and in the place and stead' of local officials," the law firm said in its commentary.

For Flint, the ruling means the loss of revenue generated by the water and sewer rate increases a former emergency manager imposed. The city has not yet announced whether it will appeal the ruling. If it does, it would appeal to the Michigan Supreme Court.

In 2011, before Flint was under state-ordered emergency management, the finance director recommended raising water and sewer rates, a move that was later approved by the city council and the mayor. The state then appointed Michael Brown to take over the city as emergency manager. He ratified the finance director's rate increase. Brown imposed water and sewer rate increases of 12.5% and 45%, respectively.

City council member Scott Kincaid and other residents sued, saying the city did not follow local ordinances in imposing the increases, including adhering to a 30-day waiting period, among other things, and that an EM cannot ratify an action imposed prior to his appointment.

In a press conference June 15, Kincaid and other plaintiffs said they hope to reach a settlement with the city to end the lawsuit.

"We are willing to sit down, we're willing to negotiate," Kincaid said, according to local reports. "Let's work out a process to get water and sewer rates to a level that people can afford them and businesses can continue to grow."

Jaffe
JAFFE RAITT HEUER & WEISS

Sylvia A. Arakelian
Librarian
Jaffe Raitt Heuer & Weiss, P.C.
27777 Franklin Road • Suite 2500
Southfield • Michigan 48034
P: 248.727.1470 I F: 248.351.3082
sarakelian@jaffelaw.com I www.jaffelaw.com

Named to *The National Law Journal's* "Midsize Hot List" - 2015

9156

Flint telephone call June 24, 2015 9:00 a.m.

Josh Freeman, Mayor Dayne Walling, Randy Byrne

* Priorities for the week
* Internal investigation in the Clerk's office internal personnel matter
* Councilman Kincaid's lawsuit on water/sewer rate increases - nothing city was looking to appeal maybe asking for reconsideration
* OPRA tax abatement - response to the question
* GM tax abatement
* Re-assessment-any response from the State Tax Commission - Nothing
* The Return to the Detroit Water Lawsuit was dismissed
* Update on vacant positions

* Eric on deadline for response

Treasurer - with Treasury

Finance Director started Monday, press conference was held and went well

HR Director next step..

* Miscellaneous items

** Ice Arena Tax Appeal

** Fourth Quarter Budget Amendments on Monday night

** Finalizing Department level Strategic Plans Update

** How much does the RTAB require, do we want the City Adm to provide a more intense explanation? Do they need more background?

Eric & Fred

** General Budget question

Jerry Ambrose - still available

** City Council & City Atty - sample ordinance, city adm. said no - conflict or a difference of opinion - rental units / specific clause.

90 day timeline for new ordinances

Koryzno, Edward (Treasury)

From: Byrne, Randall (Treasury)
Sent: Wednesday, June 24, 2015 12:06 PM
To: Koryzno, Edward (Treasury)
Subject: Meeting topics for today
Attachments: Meeting with Ed June 24.docx

Ed:

I will stop by at 2:00 p.m.

Randy,

Randall Byrne | **State Administrative Manager**
Local Government Services - Office of Fiscal Responsibility
State of Michigan | 430 W. Allegan Street, 3rd Floor | Lansing, MI 48922
(517) 335-2521 | (517) 373-0633 (fax) | ByrneR1@michigan.gov

Think Green! Don't print this e-mail unless you need to.

Weekly Meeting with Ed—June 24, 2015

- **Staff**—_Auditor Specialist 13-to Restructuring Specialist 13 draft PD is ready.
- **Allen Park**—issues include information for the Fire Contract discussion, Tender Offer now looks like August, retiree lawsuit, and City Adm. Search review of candidates during week of July 20th. Televising the RTAB_meetings and one additional RTAB member. Fred inquired about Order 45. The EM Order on City Hall property sale needs to be amended. I asked Cady to send us a request in writing.
- **Benton Harbor**-issues include lawsuit with former Public Safety Director and two former employees. Filling the Finance Director position Suzanne reviewed the resumes'. Budget was adopted. City Council is alleging City Administrator is insubordinate.
- **Ecorse** -issues include FY16 budget- Wayne indicated about $31,000 GF balance at end of FY 15-16, the city has $3.7M accumulated GF balance now, the Five- year budget will have a draft in July, merger of fire services with another unit and Finance Director's position.
- **Flint** – issues include the re-advertising of the HR_Director position, two year budget amendment, lawsuit on water rates, lawsuit to mandate return to DWSD was denied, water issues are getting resolved, and tax assessment problems. GM tax abatement was approved.
- **Hamtramck**— issues include the status of pension consulting work, police study, meeting with City Council regarding the RTAB. Katrina is planning to fire Rehman.
- **Highland Park**— water and sewer rate increase was adopted, a public hearing has to be held, the RFP will likely be approved next week. We have received another high school cost estimate for preparation of plans and specs, demolition, and project management. It is much cheaper than original estimate. Storm sewer lawsuit filed against MDOT. City wants to know what to do about the DEP. OPEB savings update. The City plans to hire Lou Schimmel to assist them in negotiating a settlement on past due sewer bills. City will have to pay 65% to DWSD of all proceeds collected from customers.
- **Lincoln Park**—CM interviews with the City Council last night, Matt Coppler and Brent Merrriman. Brent Merriman was offered the position but his Council enhanced his compensation. He will make a decision on Thursday. Draft FY15-16 budget review ($500K GF balance). He is considering placing the Act 345 request on the November ballot, Charter amendments may have to wait. Cell tower sale is proceeding. Brad is discussing an E-Loan with Suzanne. I want Brad to develop a plan for the last six months.
- **Inkster**- issues include Police Chief Selection, no word as of Tuesday. Wayne County sewer charges, and Order 5 implementation.
- **Pontiac**— issues include Search for Deputy Mayor is underway. Review of candidates the week of July 20th. Budget issue with the Mayor. One on One's with City Council went well. Exit plan preparation.
- **River Rouge**—issues include five year budget and discussion on exit from Consent Agreement, tax base loss and assessment problems. Contracts have been approved now we need to see the savings.

Cline, Richard (Treasury)

From: nhenderson <nhenderson@cityofflint.com>
Sent: Tuesday, June 30, 2015 8:37 AM
To: Cline, Richard (Treasury)
Subject: RE: FW: PRESS RELEASE: FY15 4th Quarter Budget Amendment

Categories: Blue Category

Wrong number, $495,153.00.

Sent via Natasha L Henderson's Samsung Galaxy Note®

-------- Original message --------
From: "Cline, Richard (Treasury)" <cliner1@michigan.gov>
Date: 06/30/2015 8:33 AM (GMT-05:00)
To: nhenderson <nhenderson@cityofflint.com>
Subject: RE: FW: PRESS RELEASE: FY15 4th Quarter Budget Amendment

Great news, indeed!

Thanks.

Eric Cline | Department Manager

State of Michigan | Michigan Department of Treasury | Office of Fiscal Responsibility

430 W. Allegan Street, 3rd Floor | Lansing, MI 48922

Lansing Office (517) 335-2078 | Cell Phone (517) 243-8450 | Traverse City Office (231) 922-5228

E-mail cliner1@michigan.gov

From: nhenderson [mailto:nhenderson@cityofflint.com]
Sent: Monday, June 29, 2015 5:51 PM

To: Cline, Richard (Treasury)
Subject: RE: FW: PRESS RELEASE: FY15 4th Quarter Budget Amendment

Hello Eric,

The projected general fund balance is $643,548.00, and the budget also takes into account that the City is adding $1,000,000 to the reserve. This is great news!

-Natasha

Sent via Natasha L Henderson's Samsung Galaxy Note®

-------- Original message --------
From: "Cline, Richard (Treasury)" <cliner1@michigan.gov>
Date: 06/29/2015 4:33 PM (GMT-05:00)
To: "Natasha Henderson (nhenderson@cityofflint.com)" <nhenderson@cityofflint.com>
Subject: FW: PRESS RELEASE: FY15 4th Quarter Budget Amendment

Natasha,

Hi. Good news here.

Please tell me what the about of GF Fund Balance will be that you will end up with.

We want to provide this number in a monthly update we send to the Treasurer and Governor.

If you could let me know as soon as you can, I would appreciate it.

Regards,

Eric Cline | Department Manager

State of Michigan | Michigan Department of Treasury | Office of Fiscal Responsibility

430 W. Allegan Street, 3rd Floor | Lansing, MI 48922

Lansing Office (517) 335-2078 | Cell Phone (517) 243-8450 | Traverse City Office (231) 922-5228

E-mail clinerl@michigan.gov

From: Jason Lorenz [mailto:jlorenz@cityofflint.com]
Sent: Monday, June 29, 2015 3:56 PM
Subject: PRESS RELEASE: FY15 4th Quarter Budget Amendment

For Immediate Release

Fourth Quarter Budget Amendment Shows Positive Finish for Flint's Fiscal Year 2015

Flint, Michigan – June 29, 2015 – The City of Flint's fourth quarter budget amendment shows that Flint will end its fiscal year with a positive budget balance. The adopted biennial budget is for fiscal years 2015 and 2016. As of the end of the quarter, all of the City's funds, including the General Fund, will be without a deficit at the end FY15. The fourth quarter FY15 budget amendment will be presented to Flint City Council during a special meeting tonight at 5:30pm in the City Council Chambers.

Flint Mayor Dayne Walling praised the fiscal news as a milestone marking a historic shift in the City's finances. "The City of Flint has made great strides toward financial stability and it is encouraging to see the general fund with a positive reserve for the first time in a decade," said Walling. The fiscal year ends Tuesday, June 30, 2015.

–END–

-Jason Lorenz

Public Information Officer

City of Flint

(810) 237-2039

jlorenz@cityofflint.com