

Pleyte, Beth (Treasury)

From: Brader, Valerie (GOV)
Sent: Wednesday, April 17, 2013 5:33 PM
To: Dillon, Andy (Treasury)
Cc: Headen, Frederick (Treasury); Stibitz, Brom (Treasury); Saxton, Thomas (Treasury); Muchmore, Dennis (GOV); Roberts, John (GOV)
Subject: Re: KWA and City of Flint. URGENT

Fausone chairs the DWSD Board of Water Commissioners, which is actually a body that exists under the Detroit Charter and is appointed by the Mayor. Fausone's appointment to the board was facilitated by the federal court, as a suburban representative (Bing agreed to name suburban reps; I can't remember if he did it to avoid an order or if Cox ended up issuing one on the matter). The Board's decisions in almost all key matters (rates, contracts) are subject to approval by the City Council, so KO does not need to listen to them.

All members of the board are mayoral appointees who serve at his pleasure, so in theory, KO could even fire Fausone if he tried this. the only potential obstacle is the potential federal court order, which if it exists, would arguably require him to ask Wayne County for a new name. I would need to refresh myself on Cox's orders on this to be sure of the process. Even if Cox technically ordered this, the federal court would likely avoid getting involved if the issue (as this is) was unrelated to the sewer system. I can't see any appeals court upholding a judge's order with that as the basis, and the 6th Circuit made it pretty clear in 07 or 08 that the federal court in this case had no authority over the water side of the system, and the argument that the water and sewer systems are linked via shared management is DOA.

Sent from my iPad

On Apr 17, 2013, at 8:59 AM, "Dillon, Andy (Treasury)" <DillonA2@michigan.gov> wrote:

He chairs the oversight board the federal judge put in place. Point well taken though. We need to understand to what extent KO needs to listen to this board.

Sent from my iPad

On Apr 17, 2013, at 8:54 AM, "Headen, Frederick (Treasury)" <HeadenF@michigan.gov> wrote:

Andy:

I forwarded this information to Frank Monticello, at the Attorney General's Office, and will keep Valerie apprised as to any developments at that end. I do not know what role Mr. Fausone plays in this matter, but his sentiments would seem to be idle threats given that the Emergency Manager now has statutory control over DWSD.

Fred

From: Dillon, Andy (Treasury)
Sent: Wednesday, April 17, 2013 8:33 AM
To: Stibitz, Brom (Treasury); Saxton, Thomas (Treasury); Muchmore, Dennis (GOV); Roberts, John (GOV); Headen, Frederick (Treasury); Brader, Valerie (GOV)
Cc: Snyder, Rick (GOV)
Subject: Fwd: KWA and City of Flint. URGENT

Interesting threat here. They will seek to recover sunk costs through rates in last two years. My guess is this will be a wildly huge increase. We cannot ignore the threat. We need legal advice asap. This needs immediate attention.

Fred please work with the AG and Valerie.

Brom, please advise Kurtz.

Note threat to HP. The two were never connected but this is a nail in the decayed coffin of HP.

Sent from my iPad

Begin forwarded message:

From: "Fausone, Jim" <JFausone@fb-firm.com>
Date: April 17, 2013, 8:08:55 AM EDT
To: "Walsh, John J." <jwalsh@fb-firm.com>, "Dillon, Andy (Treasury)" <DillonA2@michigan.gov>, Robert Ficano <IMSheriff2you@aol.com>, "william.misterovich@macombgov.org" <william.misterovich@macombgov.org>, orrk <orrk@detroitmi.gov>, "bkenoyer@ford.com" <bkenoyer@ford.com>, "blackmm@mail.resa.net" <blackmm@mail.resa.net>, "Fausone, Jim" <JFausone@fb-firm.com>, "fredtheengineer@comcast.net" <fredtheengineer@comcast.net>, "jamjomar@msn.com" <jamjomar@msn.com>, "jwilliams@dickinsonwright.com" <jwilliams@dickinsonwright.com>, "ldforte@comerica.com" <ldforte@comerica.com>, Mary Blackmon <blackmm@att.net>
Cc: Sue McCormick <mccormick@dwdsd.org>, Matthew Schenk <schenk@dwdsd.org>
Subject: FW: KWA and City of Flint

Folks - I am disappointed to report that Flint/Genesee rejected the offer last night by press release to the Flint Journal.

The next step will be to send Flint a termination letter. Flint plans on buying water from DWSD for the next 3 years. Under the old contract, a termination letter is sent and then 12 months later DWSD can set new rates for the water delivered in year 2 and 3. The new rates will recover all sunk costs.

I am convinced the DWSD team acted in good faith and put forth an attractive offer. The local politics trumped reason, economics and