

Stanton, Terry A. (Treasury)

From: Headen, Frederick (Treasury)
Sent: Wednesday, September 16, 2015 12:49 PM
To: Saxton, Thomas (Treasury); Workman, Wayne (TREASURY)
Cc: Stanton, Terry A. (Treasury); Cline, Richard (Treasury); Dempkowski, Angela (Treasury)
Subject: RE: Flint follow up

Tom and Wayne:

This is as revised based upon additional notes from Eric. This is ready to go.

Fred

Summary from September 15, 2015, conference call between Treasury and City of Flint officials.

The participants were: Tom Saxton, Wayne Workman, Fred Headen, and Eric Cline, from Treasury, and Dayne Walling, Natasha Henderson (City Administrator), Pete Bade (City Attorney), Tony Chubb (Assistant City Attorney), and Jody Lundquist (Finance Director) from the City.

Issues discussed:

- The City of Flint is involved in two lawsuits regarding water and sewer rates: *Kincaid* and *Shears*. *Kincaid* was decided by the Michigan Court of Appeals on June 11, 2015. The Court held that a 35 percent increase in water and sewer rates imposed by City officials on September 16, 2011, violated the City charter and that EM Mike Brown had no statutory authority to later ratify those rate increases in May of 2012. The Court of Appeals remanded the case to Genesee County Circuit Court. City officials intended to appeal the Court of Appeals *Kincaid* decision to the Michigan Supreme Court, but missed the filing deadline by one day.
- *Shears* was decided by the Genesee County Circuit Court by a non-final order on August 17, 2015. Among other things, the Court enjoined City officials from any longer imposing the 35 increase in water and sewer rates; from disconnecting water or sewer service due to delinquent bills dating back to September 16, 2011; and from placing liens on property due to delinquent bills dating back to September 16, 2011. City officials have filed an appeal with the Michigan Court of Appeals seeking, among other things, a stay of the Genesee County Circuit Court injunction.
- In the interim, City officials are complying with the Court's order in *Shears*. City officials estimated that removal of the 35 percent increase in water and sewer rates from future bills will cost roughly \$600,000 per month, or \$7.2 million annually. Therefore, if the Court orders either refunds or credits against future water and sewer bills, retroactive to September 16, 2011, the cost would be roughly \$28.8 million to date (i.e., \$600,000 per month times 48 months to date). The City Administrator indicated that City officials have not developed a plan to issue a refund of this magnitude because the City lacks sufficient funds to do so and they believe the City would be unable to operate at that point.
- The City Administrator noted that the accounts receivable for water and sewer operations that are over 30 days old has increased from \$7.8 million to \$8.4 million since the *Shears* order. She also noted that, because

City officials are prohibited from disconnecting water or sewer service for non-payment, they expect this number to continue to increase.

- The City Administrator noted that the measures taken to preserve funds within the water and sewer system to address these issues have delayed needed capital improvements, which has further exacerbated problems within the system. However, City officials cannot address capital needs without additional revenue.
- The City Administrator brought up and stressed the importance of the State assistance sought by the Mayor in his September 14, 2015, letter to the Governor. The Mayor requested \$30.0 million for infrastructure and capital improvements related to the City's water and sewer system. Wayne indicated that the Mayor's request had been received and promptly disseminated within Treasury and was being reviewed. However, he also indicated that, in his opinion, existing funding options were limited without additional legislative action.

From: Cline, Richard (Treasury)

Sent: Wednesday, September 16, 2015 10:15 AM

To: Workman, Wayne (TREASURY) <WorkmanW@michigan.gov>; Headen, Frederick (Treasury) <HeadenF@michigan.gov>; Saxton, Thomas (Treasury) <SaxtonT@michigan.gov>

Cc: Stanton, Terry A. (Treasury) <StantonT@michigan.gov>

Subject: RE: Flint follow up

I am working on it right now.

You should see a summary of my notes within 15 minutes.

Eric Cline | Department Manager

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

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From: Workman, Wayne (TREASURY)

Sent: Wednesday, September 16, 2015 10:14 AM

To: Headen, Frederick (Treasury) <HeadenF@michigan.gov>; Saxton, Thomas (Treasury) <SaxtonT@michigan.gov>

Cc: Stanton, Terry A. (Treasury) <StantonT@michigan.gov>; Cline, Richard (Treasury) <cliner1@michigan.gov>

Subject: RE: Flint follow up

Eric will have a summary around noon to share, so we can edit down.

Wayne L. Workman

Deputy State Treasurer

Michigan Department of Treasury

From: Headen, Frederick (Treasury)

Sent: Wednesday, September 16, 2015 9:40 AM

To: Workman, Wayne (TREASURY) <WorkmanW@michigan.gov>; Saxton, Thomas (Treasury) <SaxtonT@michigan.gov>