



# BOARD OF COMMISSIONERS

1 S. Main St., 9<sup>th</sup> Floor  
Mount Clemens, Michigan 48043  
586.469.5125 ~ Fax: 586.469.5993  
www.macombBOC.com

## BOARD OF COMMISSIONERS

### REGULAR SESSION

THURSDAY, SEPTEMBER 25, 2014

### FINAL AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Invocation by **Commissioner Michael Boyle**
5. Adoption of Agenda
6. Approval of Minutes dated 8-20, 9-11 (Public Hearing), 9-11 and 9-18 (special), 2014 **(previously distributed)**
7. **Public Hearing** on Great Lakes Water Authority Memorandum of Understanding and Articles of Incorporation
8. Public Participation (five minutes maximum per speaker, or longer at the discretion of the Chairperson related only to issues contained on the agenda)
9. Correspondence from Executive **(discussion item only; receive and file)** (page 1) **(attached)**
10. **COMMITTEE REPORTS:**
  - a) Health and Human Services, September 22 **(no report)**
  - b) Infrastructure, September 23 **(no report)**
  - c) Finance, September 24 (page 4) **(attached)**

## MACOMB COUNTY BOARD OF COMMISSIONERS

David J. Flynn – Board Chair  
District 4

Kathy Tocco – Vice Chair  
District 11

Mike Boyle – Sergeant-At-Arms  
District 10

Toni Mocerri – District 1  
Don Brown – District 7

Marvin Sauger – District 2  
Kathy Vosburg – District 8

Veronica Klinefelt – District 3  
Fred Miller – District 9

Robert Mijac - District 5  
Bob Smith – District 12

James Carabelli – District 6  
Joe Sabatini – District 13

11. Presentation on Great Lakes Water Authority – Focus on Governance (page 23) (attached)
12. Board Chair’s Report (page 77) (attached)
13. **PROCLAMATIONS:**
  - a) Proclaiming October 3, 2014 as Manufacturing Day in Macomb County (offered by Board Chair; include all Commissioners; recommended by Infrastructure Committee on 9-23-14; previously provided at committee meeting)
  - b) Commending Giovanni “John” Lolacono on Being Named the “2014 Man of the Year” (offered by Carabelli and Sabatini; recommended by Infrastructure Committee on 9-23-14; previously provided at committee meeting)
14. **RESOLUTIONS:**
  - a) Supporting Michigan House Bill 5785 to Restore Authority to Trial-Level Courts to Apply Fees that was Taken Away by *People v. Cunningham* (offered by Vosburg; include Klinefelt and Mocerri; recommended by Finance Committee on 9-24-14) (page 121) (attached)
15. New Business
16. Public Participation (five minutes maximum per speaker or longer at the discretion of the Chairperson)
17. Roll Call
18. Adjournment



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## Macomb County Executive

### Mark A. Hackel

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Mark F. Deldin  
Deputy County Executive

TO: Honorable Chair and Members of the Commission

FROM: Mark A. Hackel, County Executive 

DATE: September 24, 2014

RE: Statement of Position on Commission Authority  
Regarding Policies, Resolutions and Ordinances

During the first two years that the Charter was in effect, the Executive Office often found the need to voice concerns about the Commission exceeding its authority when adopting policies, resolutions and ordinances. Initially those concerns were expressed through veto actions that were routinely overridden by the Commission. I subsequently began issuing veto messages that also indicated the actions would be considered as nullities if the vetoes were overridden. Even though those declarations have never been challenged, the practice of issuing vetoes still has two negative consequences. First, it makes the situation appear to be confrontational. Second, it makes it appear that the Executive is opposed to the purpose of the Commission's action when the only disagreement may be with the Board's authority to take that action.

You may recall that I attended your January organizational meeting in 2013 and pledged to work more collaboratively with the Commission. To a large extent, the working relationship between the Commission and the Executive Office has improved. But one aspect that has not improved is the Commission's tendency to take actions that are beyond its Charter authority. This continues despite frequent cautions from the Executive Office, Corporation Counsel, and our independent counsel. If anything, that practice has intensified during the past six months.

Three recent actions of the Commission illustrate these concerns. The appropriations ordinance attempts to grant powers to the Commission that are not enumerated in the Charter, it directs Executive actions, and it ignores provisions of the Charter. Second, while well-intentioned, the Human Rights policy attempts to create employment practices for the County, which under the Charter is clearly reserved for the Executive Branch. And most recently, the Commission has passed a law that intends to cite, prosecute and fine employees if they do not separate the County Seal from any other image or text by a distance no shorter than the width of the Seal itself, as measured from the outermost points of the circular banner. Certainly the design of posters and brochures is not a matter of legislative authority under the Charter.

In order to avoid the unintended appearance of confrontation over the content or purpose of the Commission's actions, I have chosen to not issue veto messages, having been advised by counsel

that an action taken without underlying authority is unenforceable whether vetoed or not. Ideally, we could come to an understanding as to the nature of the Commission's Charter authority, since these issues tend to repeat themselves. Moreover, I would like to avoid sending formal communications to the Commission every time we believe it is acting beyond its authority. That would likely create unnecessary tension between us. So as an alternative, my office has been working with Corporation Counsel and our independent counsel to develop the following Statement of Position on Commission authority as it relates to the adoption of policies, resolutions and ordinances under the County's Home Rule Charter. These seven statements summarize the many concerns we have experienced with prior Commission actions.

Statement of Position on Commission Authority

1. The Commission cannot grant powers or duties to itself through the adoption of policies, resolutions or ordinances beyond those enumerated in the Charter.
2. Historically, policy making authority has been reserved to the executive branch of government at the federal, state and local levels; the Commission has no general policy making authority beyond that specifically contained in the Charter.
3. The Commission cannot restrict, revoke or intrude into the Charter powers and duties of the Executive or Executive Branch departments through the adoption of policies, resolutions or ordinances.
4. The Commission cannot take actions that give directions to or impose requirements upon the Executive Branch beyond those specifically enumerated in the Charter.
5. The Commission cannot direct the County workforce, set work rules, or determine hours of operation for County departments, or prescribe the usage of County facilities.
6. The Commission shall act by ordinance only if required by the Charter or law, otherwise by resolution.
7. Actions of the Commission that are inconsistent with the above are not valid and will be considered as nullities by the Executive Branch.

Hopefully these statements, offered at a time when there is no specific issue before us, will clarify the position of the Executive Office and inform the Commission as to how we plan to proceed. They are offered in the spirit of fostering collaboration and understanding and not to trigger confrontation. I know the Commission is free to take whatever action it chooses, but I hope it also realizes that an action taken without underlying authority is not binding on the County and cannot be enforced.

Please let me know if you have any questions.

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## Macomb County Executive Mark A. Hackel

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Mark F. Deldin  
Deputy County Executive

TO: Honorable Chair and Members of the Commission

FROM: Mark A. Hackel, County Executive 

DATE: September 25, 2014

RE: Great Lakes Water Authority

During your September 24, 2014 Finance Committee meeting, Public Works Commissioner Anthony Marrocco informed the Commission that he believed his concurrence was required for the Memorandum of Understanding and the associated Articles of Incorporation regarding the Great Lakes Water Authority to be approved. The Commissioner cited Section 3.10 of the Charter as his authority for making that claim. That Section reads in pertinent part:

*The Executive, with the approval of the Commission and the concurrence of each Countywide Elected Official whose department will be required to allocate or transfer resources, may ...enter into any intergovernmental contract ...*

The Executive Office was fully aware of this provision during the negotiating process and understood that the Charter makes it clear that the approval of the Commission would be an absolute requirement. The concurrence of a Countywide Elected official, however, is conditional – it is only necessary when the “department is required to allocate or transfer resources.” My office never made any commitments to transfer or allocate the resources from the Commissioner’s department. There is nothing in the documents I have placed before you that *require* the Public Works Department to *allocate or transfer resources*. In fact, the Department of Public Works is not even mentioned anywhere in those documents. On the contrary, the documents offer protections against resource commitments by the County. For example, the MOU states:

*A financial obligation of the Authority shall be the financial obligation of the Authority only and not a financial obligation of an Incorporating Municipality or a constituent municipality except to the extent a municipality which is a wholesale customer may have liability in that capacity.*

Since nothing in the documents I presented to you requires the County Public Works Department to allocate or transfer resources, the concurrence of the Commissioner is unnecessary. The only action required for Macomb County to become a member of the GLWA is the approval of the Board of Commissioners.



# BOARD OF COMMISSIONERS

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September 24, 2014

**TO: BOARD OF COMMISSIONERS**  
**FROM: FRED MILLER, CHAIR, FINANCE COMMITTEE**  
**RE: RECOMMENDATIONS FROM FINANCE COMMITTEE MEETING OF 9-24-14**

At a meeting of the Finance Committee, held Wednesday, September 24, 2014, the following recommendations were made and are being forwarded to the September 25, 2014 Full Board meeting for approval:

**1. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Tocco, supported by Mocerri, to recommend that the Board of Commissioners approve the five-year contract for animal control services for the City of St. Clair Shores; further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**2. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Sauger, supported by Mocerri, to recommend that the Board of Commissioners approve the Neighborhood Stabilization Program 3 (NSP3) Program amendment, which does not affect the County budget; it is a U.S. Department of Housing and Urban Development budget adjustment; further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**3. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Tocco, supported by Klinefelt, to recommend that the Board of Commissioners authorize an increase in the Health Grant Fiscal Fund for the Health Department in the amount of \$5,000 for the Medical Reserve Corp award from the Michigan Department of Community Health, Office of Public Health Preparedness; further, this budget action addresses budgetary issues only. It does not constitute the Commission’s approval of any County contract. If a contract requires Commission approval under the County’s Contracting Policy or the County’s Procurement Ordinance, such approval must be sought separately; further, a copy of this Board of Commissioners’ action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

## MACOMB COUNTY BOARD OF COMMISSIONERS

- |                                            |                                         |                                              |                           |                              |
|--------------------------------------------|-----------------------------------------|----------------------------------------------|---------------------------|------------------------------|
| David J. Flynn – Board Chair<br>District 4 | Kathy Tocco – Vice Chair<br>District 11 | Mike Boyle – Sergeant-At-Arms<br>District 10 |                           |                              |
| Toni Mocerri – District 1                  | Marvin Sauger – District 2              | Veronica Klinefelt – District 3              | Robert Mijac - District 5 | James Carabelli – District 6 |
| Don Brown – District 7                     | Kathy Vosburg – District 8              | Fred Miller – District 9                     | Bob Smith – District 12   | Joe Sabatini – District 13   |

**4. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Carabelli, supported by Smith, to recommend that the Board of Commissioners approve the award of Request for Proposal of GIS-ROW Easement Layer to Remote Sensing and GIS Research and Outreach Services/Michigan State University in the amount of \$84,932 and authorizing the signing of associated contracts by Mark Deldin; further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**5. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Smith, supported by Carabelli, to recommend that the Board of Commissioners approve the award of bid and contract between the Macomb County Department of Roads and Anglin Civil, LLC for trail work to the Mt. Clemens and Clinton Township Hike/Bike Paths at a cost of \$421,844.20; further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**6. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Brown, supported by Carabelli, to recommend that the Board of Commissioners approve the contract outlining scope of work and funding for road widening and resurfacing along Gratiot from south of M-19 (26 Mile) to M-19/Main Street in the Village of New Haven at a cost of \$578,300 to the County Department of Roads; further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**7. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Sauger, supported by Brown, to recommend that the Board of Commissioners approve the contract between the Macomb County Department of Roads and the Michigan Department of Transportation for signal upgrades on Metropolitan Parkway at a total project cost of \$1,789,200; further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**8. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Flynn, supported by Sauger, to recommend that the Board of Commissioners execute the AIA Standard Form of Agreement (B101-2007), as modified, between the County of Macomb and Wakely Associates, Inc./Architects for the professional design services for the Central Campus Renovations – Project One, in the amount of \$1,634,907, plus reimbursable allowance not to exceed \$64,000; funding for this project is in the Capital Plan; further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**9. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Sauger, supported by Vosburg, to recommend that the Board of Commissioners execute the AIA Standard Form of Agreement (B101-2007), as modified, between the County of Macomb and Partners in Architecture, PLC, for the professional design services for the Central Campus Renovations – Project Two, in the amount of \$729,875, plus reimbursable allowance not to exceed \$3,200; funding for this project is in the Capital Plan; further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

**THE MOTION CARRIED.**

**10. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Vosburg, supported by Carabelli, to recommend that the Board of Commissioners authorize Mark Grammatico to purchase three months of military service time in the Macomb County Employees Retirement System under State Law MCLA 46.12a(14); further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**11. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Vosburg, supported by Sauger, to recommend that the Board of Commissioners authorize William Licavoli to purchase 30 months of military service time in the Macomb County Employees Retirement System under State Law MCLA 46.12a(14); further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**12. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)**

A motion was made by Carabelli, supported by Tocco, to recommend that the Board of Commissioners concur in the recommendation of Corporation Counsel concerning the case of Robert Boekema vs. County of Macomb, et al; further, a copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive. **THE MOTION CARRIED.**

**A MOTION TO ADOPT THE COMMITTEE REPORT WAS MADE BY CHAIR MILLER, SUPPORTED BY VICE-CHAIR MOCERI.**





# MACOMB COUNTY, MICHIGAN

<b>Resolution Number:</b>	<b>Full Board Meeting Date:</b>

## RESOLUTION

**Resolution to:**

Approve Contract for Animal Control Services for City of St. Clair Shores.

**Introduced By:**

Toni Mocerri, Chair, Health & Human Services Committee Chair  
 Chief Jeff Randazzo, Macomb County Animal Control

**Additional Background Information (If Needed):**

The City of St. Clair Shores, Michigan would like to enter into a five year contract with the Macomb County Animal Control. The life of contract shall commence once approved until December of 2019, with an option to renew.

Committee	Meeting Date
Health & Human Services	9-22-14
Finance	9-24-14
Full Board	9-25-14

## **Macomb County Animal Control Contracting Services**

### **Current and Past Contracted Cities**

- **Current:**
  - Warren
  - Eastpointe
  - St. Clair Shores
  - Mt. Clemens
- **Past**
  - Roseville
  - Sterling Heights

## Summary of Agreement with Contracted Cities

- The purpose of the agreement is to set service fees to be paid by the City to Animal Control
- No MCAC field officers provided
- Holding facility services only
- Pricing per animal impounded
- No yearly base price

## Fees for Services Provided

- Deceased animal disposal
  - \$10.00
- Owner Surrendered Animals
  - \$30.00
- Quarantine of animals involved in bites
  - \$225.00
- Intake of stray animals
  - \$20.00 per day
- Transportation services
  - \$66.00
- Any veterinary treatment rendered to animals brought in from contracted cities
  - Cost varies by services provided
- Any overtime paid to MCAC officers called in during hours other than normal working hours
  - Cost varies by hours worked

## St. Clair Shores Contract Budget

- \$88,000 yearly fee
- Fee includes:
  - \$72,000 yearly for new officer salary/benefits\*
  - \$56,000 spread over 5 year contract for new vehicle
  - \$4,800 yearly for vehicle upkeep and mileage
- New revenue from dog licensing:
  - Approximately \$17,000

\*Benefits package based on current premiums. Contract allows for yearly adjustment based on changes in benefit rates.

## Cities Serviced Without Contracts and Fees

- Armada
- Bruce Township
- Centerline
- Chesterfield
- Clinton Township
- Fraser
- Harrison Township
- Lenox
- Memphis
- New Baltimore
- New Haven
- Ray Township
- Richmond
- Romeo
- Shelby Township
- Utica
- Washington



## **Benefits of St. Clair Shores Contract**

- Only city providing direct funding to support all aspects of Animal Control Services provided by Macomb County
- Uniform regulation of MCAC ordinances throughout county
- St. Clair Shores has direct interest in supporting MCAC with court cases and enforcing animal ordinances



## MACOMB COUNTY, MICHIGAN

Resolution Number:

Full Board Meeting Date:

09/25/2015

### RESOLUTION

**Resolution to:**

To Approve the Neighborhood Stabilization Program 3 (NSP3) Program Amendment.

This amendment does not affect the County budget. It is a U.S. Department of Housing and Urban Development (HUD) budget adjustment.

**Introduced By:**

Toni Mocerri, Chair, Health and Human Services Committee

**Additional Background Information (If Needed):**

Macomb County received \$2,536,817 from the U.S. Department of Housing and Urban Development (HUD) through the Neighborhood Stabilization Program 3 (NSP3). The application, which also served as the plan for the County's NSP3 funds, was approved by the Board of Commissioners (Board) on March 24, 2011. On April 12, 2012 the Board amended the plan in order to allocate the County's NSP3 funding (less administration) to the Oakwood Senior Housing facility in the City of Eastpointe.

A condition of grant closeout involves an evaluation of the County's program by a third-party technical assistance (TA) provider assigned to the County by HUD. During the evaluation, the TA provider determined that the County's NSP3 funded activities were set up incorrectly in the Disaster Recovery Grant Reporting System (DRGR). DRGR is the system used by HUD to track NSP funded activities.

In order to complete the closeout of the grant, the set-up of the County's NSP3 funded activities must be corrected in order to reflect the amount of funds dedicated to housing for households with incomes that do not exceed 50% area median income (AMI) which is referred to by HUD as LH25. The proposed amendment will allow for two activities to be set up under the Oakwood project which is needed to reflect the amount of funding allocated to LH25. The amendment will not change the activity type (rental housing) or the intended beneficiaries (income-eligible senior citizens).

Committee	Meeting Date
Health and Human Services	9-22-14
Finance	9-24-14
Full Board	9-25-14



# MACOMB COUNTY, MICHIGAN

Resolution Number:	Full Board Meeting Date:

## RESOLUTION

### Resolution to:

Please submit a request to the Macomb County Board of Commissioners to authorize an increase in the Health Grant Fiscal Fund for the Health Department in the amount of \$5,000 for the Medical Reserve Corp award from the Michigan Department of Community Health, Office of Public Health Preparedness.

Further, this budget action addresses budgetary issues only. It does not constitute the Commission's approval of any County contract. If a contract requires Commission approval under the County's Contracting Policy or the County's Procurement Ordinance, such approval must be sought separately. FORWARD TO THE FINANCE COMMITTEE.

\*(This language was added by Health and Human Services Committee Chair Mocerri.)

### Introduced By:

Toni Mocerri, Chair, Health and Human Services Committee

### Additional Background Information (If Needed):

The Michigan Department of Community Health (MDCH) Office of Public Health Preparedness (OPHP) has awarded the Macomb County Health Department Medical Reserve Corp (MCHD-MRC) a \$5,000 grant award. The \$5,000 will support the marketing and recruitment of volunteers to the Macomb County MRC with special emphasis toward recruiting medical professionals.

The MRC strengthens the community by recruiting and training non-medical and medical volunteers that can be ready and able to provide organized assistance to the Health Department and surrounding communities in the event of a county-wide public health emergency, large scale disaster, terrorist event or disease outbreak. Currently, the MCHD-MRC is comprised mostly of non-medically trained volunteers. The funding provided under this grant will be utilized to increase the number of medically trained volunteers.

Committee	Meeting Date
Health and Human Services	9-22-14
Finance	9-24-14
Full Board	9-25-14



# MACOMB COUNTY, MICHIGAN

**Resolution Number:**

**Full Board Meeting Date:**

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## RESOLUTION

**Resolution to:**

Approve the award of Request for Proposal of GIS-ROW Easement Layer to Remote Sensing & GIS Research and Outreach Services/Michigan State University in the amount of \$84,932.00 and authorizing the signing of associated contracts by Mark Deldin.

**Introduced By:**

Commissioner James Carabelli, Infrastructure Committee

**Additional Background Information (If Needed):**

This project is budgeted in the 2014 and 2015 Department of Roads budget.

Infrastructure

09/23/2014

Committee

Meeting Date

Finance

9-24-14

Full Board

9-25-14





# MACOMB COUNTY, MICHIGAN

Resolution Number:	Full Board Meeting Date:

## RESOLUTION

Resolution to:
<p>Approve the award of bid and contract between the Macomb County Department of Roads and Anglin Civil, LLC for trail work to the Mt. Clemens and Clinton Township Hike/Bike Paths at a cost of \$421,844.20.</p>

Introduced By:
Commissioner James Carabelli

Additional Background Information (If Needed):
<p>This project is included in the current DOR construction budget and will connect the trail from Shadyside Park to Gratiot to Wellington Crescent to Metro Parkway bike path, as well as connecting the sidewalk on North River Road to the boardwalk along Clinton River through McArthur Park.</p>

Infrastructure	<b>09/23/2014</b>
Committee	Meeting Date
Finance	9-24-14
Full Board	9-25-14



# MACOMB COUNTY, MICHIGAN

Resolution Number:	Full Board Meeting Date:

## RESOLUTION

Resolution to:
<p>Approve the contract outlining scope of work and funding for road widening and resurfacing along Gratiot from south of M-19 (26 Mile) to M-19/Main Street in the Village of New Haven at a cost of \$578,300 to the County Dept of Roads.</p>

Introduced By:
<p>Commissioner James Carabelli, Infrastructure Committee</p>

Additional Background Information (If Needed):
<p>DOR will pay for cost from 26 Mile to M-3/M-19 intersection work being performed by MDOT at a cost of \$578,300. This is budgeted for 2014-2015 FY.</p>

Infrastructure

09/23/2014

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Committee

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Meeting Date

Finance

9-24-14

Full Board

9-25-14



# MACOMB COUNTY, MICHIGAN

Resolution Number:	Full Board Meeting Date:

## RESOLUTION

Resolution to:
<p>Approve the contract between the Macomb County Department of Roads and the Michigan Department of Transportation for signal upgrades on Metropolitan Parkway at a total project cost of \$1,789,200.</p>

Introduced By:
<p>Commissioner James Carabelli</p>

Additional Background Information (If Needed):
<p>This project is budgeted in the 2014/2015 DOR traffic construction budget. MDOT has estimated the total contract cost of \$1,789,200, with \$1,200,000 to be covered by federal funding, leaving a balance of \$589,200 to be covered by the Department of Roads.</p>

Infrastructure

09/23/2014

Committee

Meeting Date

Finance

9-24-14

Full Board

9-25-14



# MACOMB COUNTY, MICHIGAN

Resolution Number:	Full Board Meeting Date:

## RESOLUTION

Resolution to:
<p>Execute the AIA Standard Form of Agreement (B101-2007), as modified, Between the County of Macomb and Wakely Associates, Inc./Architects, for the Professional Design Services for the Central Campus Renovations - Project One in the amount of \$1,634,907, plus reimbursable allowance not to exceed \$64,000.</p> <p>Funding for this Project is in the Capital Plan.</p>

Introduced By:
<p>Jim Carabelli, Chair, Infrastructure Committee</p>

Additional Background Information (If Needed):
<p>Purchasing solicited RFP's on the MITN Site. 346 Vendors were notified of the solicitation and 61 Vendors viewed the documents. 5 RFP's were received.</p> <p>Attachments:</p> <p>AIA Standard Form of Agreement (B-101-2007) as modified (Attachment A)                  Letter of Recommendation - Plante Moran Cresa (Attachment B)                  RFP Clarification - Wakely Associates, Inc./Architects (Attachment C)                  Final Bid Tabulation Summary - Plante Moran Cresa (Attachment D)                  Architect/Engineer Criteria Selection Process - Final Score (Attachment E)                  RFP - Wakely Associates, Inc./Architects (Attachment F)</p>

Committee	Meeting Date
Infrastructure	9-23-14
Finance	9-24-14
Full Board	9-25-14





# MACOMB COUNTY, MICHIGAN

Resolution Number:	Full Board Meeting Date:

## RESOLUTION

Resolution to:
<p>Execute the AIA Standard Form of Agreement (B101-2007), as modified, Between the County of Macomb and Partners in Architecture, PLC, for the Professional Design Services for the Central Campus Renovations - Project Two in the amount of \$729,875, plus reimbursable allowance not to exceed \$3,200.</p> <p>Funding for this Project is in the Capital Plan.</p>

Introduced By:
<p>Jim Carabelli, Chair, Infrastructure Committee</p>

Additional Background Information (If Needed):
<p>Purchasing solicited RFP's on the MITN Site. 388 Vendors were notified of the solicitation and 66 Vendors viewed the documents. 2 RFP's were received.</p> <p>Attachments:</p> <p>AIA Standard Form of Agreement (B-101-2007) as modified (Attachment A)                  Letter of Recommendation - Plante Moran Cresa (Attachment B)                  Final Bid Tabulation Summary - Plante Moran Cresa (Attachment C)                  Architect/Engineer Criteria Selection Process - Final Score (Attachment D)                  RFP - Partner's in Architecture PLC. (Attachment E)</p>

Committee	Meeting Date
Infrastructure	9-23-14
Finance	9-24-14
Full Board	9-25-14



# MACOMB COUNTY, MICHIGAN

Resolution Number:	Full Board Meeting Date:

## RESOLUTION

Resolution to:
<p>Authorize Mark Grammatico to purchase 3 months of military service time in the Macomb County Employees Retirement System under State Law MCLA 46.12a(14)</p>

Introduced By:
<p>Fred Miller, Chair, Finance Committee</p>

Additional Background Information (If Needed):
<p>See attached letter</p>

Committee	Meeting Date
Finance	9-24-14
Full Board	9-25-14



# MACOMB COUNTY, MICHIGAN

**Resolution Number:**

**Full Board Meeting Date:**



## RESOLUTION

**Resolution to:**

Authorize William Licavoli to purchase 30 months of military service time in the Macomb County Employees Retirement System under State Law MCLA 46.12a(14)

**Introduced By:**

Fred Miller, Chair, Finance Committee

**Additional Background Information (If Needed):**

See attached letter

Committee	Meeting Date
Finance	9-24-14
Full Board	9-25-14

RESOLUTION NO.

FULL BOARD MEETING DATE: \_\_\_\_\_

AGENDA ITEM: \_\_\_\_\_

MACOMB COUNTY, MICHIGAN

RESOLUTION TO: CONCUR IN THE RECOMMENDATION OF CORPORATION COUNSEL CONCERNING THE CASE OF ROBERT BOEKEMA VS. COUNTY OF MACOMB, ET AL

INTRODUCED BY: CHAIRPERSON FRED MILLER, FINANCE COMMITTEE

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Counsel’s recommendation regarding this pending litigation will be provided to each Commissioner under a separate attorney/client privileged communication.

COMMITTEE/MEETING DATE

FINANCE – 9-24-14  
Full Board 9-25-14









# Governance

Sept. 25, 2014

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which is no



## **Proposed Terms and Agreements**

- **The GLWA will be formed if the Detroit City Council, or Detroit Emergency Manager Kevyn Orr, and at least one Board of Commissioners of Macomb, Oakland or Wayne counties approve Articles of Incorporation**
- **Must be approved/disapproved no later than October 10, 2014**
  - **Approval means 40 year lease of DWSD infrastructure for \$50 million/year. This is a \$32.5 million cost for the Tri-County Region and a \$17.5 million cost for Detroit.**

# Who makes up the GLWA?

**GLWA will be made up of 6 members**

- **2 appointed by the Mayor of Detroit**
- **1 appointed by Macomb County**
- **1 appointed by Oakland County**
- **1 appointed by Wayne County**
- **1 appointed by the Governor from a service area outside the three counties**

**\*If a county does not approve membership in the Authority the Governor will appoint a member of that county to serve at his pleasure\***



## **Macomb County Board Appointment Details**

- Initial term for 1 year and all subsequent terms will be 4 years

## **GLWA Board Member Criteria and Compensation**

Shall possess minimum education and professional experience standards with at least 7 years of experience in a regulated industry, a utility, engineering, finance, accounting or law

May be compensated within the limits set by supermajority and approved by the Mayor of the City and the County Executives of each County, consistent with practices for other large public utilities

May be reimbursed for actual and necessary expenses incurred while attending Board meetings or performing other authorized official business of the GLWA



## Macomb County Board Appointment Details

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## **Central Provisions must be approved by a supermajority (5/6) vote**

- **Appointment of a general manager/executive director;**
- **Approval of rates; fees and charges and rate setting protocols;**
- **Issuance of debt, which shall be revenue backed debt;**
- **Approval of annual operating budget;**
- **Approval of rolling out a Five Year Capital Improvement Plan;**
- **Adoption of a procurement policy;**
- **Approval of a lease of a systems from the City of Detroit;**
- **Removal of any board member for cause;**
- **Compensation of Board Members which shall be consistent with practices for other large public utilities. (Confirmed by Mayor and County Executives)**



## How can the GLWA be dissolved?

GLWA may be dissolved by unanimous vote but only after all existing and future debt has been paid;

- GLWA will be automatically dissolved if:
- Provision of the AOI is rejected by the bankruptcy process
  - GLWA fails to agree on lease terms within 200 days of effective date
  - Lease terms differ from provisions set forth by the MOU

Once the GLWA has been formed, Macomb County may be released of membership from the GLWA at anytime if all the following criteria is met:

- Two-third majority vote by the Board of Commissioners;
- Unanimous vote by GLWA (excluding Macomb County);
- Payment of all financial obligations;
- Water and Sewer services may continue via contract.

## Corporation Counsel

- What all encompasses the lease terms?
- What decisions aren't covered under the supermajority vote?
- What are the details on dissolving the Authority?
- Is concurrence needed from the Public Works Commissioner?

## Independent Counsel

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# Independent Counsel

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## **Macomb County Charter Section 3.10**

**The Executive, with the approval of the Commission and concurrence of each Countywide Elected Official whose department will be required to allocate or transfer resources, may:**

**(a) Enter into any intergovernmental contract which is not specifically prohibited by law;**

**(b) Join, establish, or form with any other governmental unit an intergovernmental district or authority to perform a public function or service, which each is authorized to perform separately, the performance of which is not prohibited by law;**



# Corporation Counsel



# Independent Counsel

## Upcoming DWSD-GLWA Meetings

9/25/14 (Thursday) 7pm Full Board Meeting/Public Hearing - Presentation of GLWA: Focus on Governance

9/30/14 (Tuesday) 9am Full Board Meeting - Presentation on GLWA: Focus on Finance

10/6/14 (Monday) 12pm Government Operations Committee Meeting - Presentation on GLWA: Focus on Operations & Maintenance

10/9/14 (Thursday) 9am Full Board Meeting / Public Hearing - Final Debate; Vote on GLWA MOU and/or AOI

## Additional Questions

- What are the key similarities and differences between the GLWA AOI and the DWSD AOI?
- What are the key similarities and differences between the GLWA AOI and the "Cobo Hall Authority" AOI?
- What are the benefits for ratepayers with the adoption of the GLWA agreement?
- What happens to the terms of the lease after the 40 years?
- If the GLWA is formed and Macomb, Wayne, and Oakland join, then will the communities outside the tri-county area who are involved in the DWSD system have the same privileges as the communities of Macomb, Wayne, and Oakland?
- What is the significance of the Public Works Commissioner dropping his dispute in bankruptcy?



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## **Upcoming DWSD-GLWA Meetings**

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# Governance Sept. 25, 2014

**Macomb County Board Appointment Details**

- Initial term for 1 year and all subsequent terms will be 4 years

**GLWA Board Member Criteria and Compensation**

Shall possess minimum education and professional experience standards with at least 7 years of experience in a regulated industry, a utility, engineering, finance, accounting or law

May be compensated within the limits set by supermajority and approved by the Mayor of the City and the County Executives of each County, consistent with practices for other large public utilities

May be reimbursed for actual and necessary expenses incurred while attending Board meetings or performing other authorized official business of the GLWA

**How can the GLWA be dissolved?**

GLWA may be dissolved by supermajority vote but only after all existing and future debt has been paid.

GLWA will be automatically dissolved if:

- Provision of the ACS is rejected by the bankruptcy process
- GLWA fails to agree on lease terms within 200 days of effective date
- Lease terms differ from provisions set forth by the MOU

**Corporation Counsel**

- What all encompasses the lease terms?
- What decisions aren't covered under the supermajority vote?
- What are the details on dissolving the Authority?
- Is concurrence needed from the Public Works Commissioner?

**Once the GLWA has been formed, Macomb County may be relieved of all the following criteria to meet:**

- Two-third majority vote by the Board of Commissioners;
- Unanimous vote by GLWA (including Macomb County);
- Payment of all financial obligations;
- Water and sewer services may continue via contract.

**Important Dates**

- Sept 25, 2014 - Governance Meeting
- Oct 10, 2014 - Approval Deadline
- Nov 1, 2014 - Formation of GLWA
- Nov 1, 2014 - Start of Operations

**What is the purpose of the GLWA?**

- To provide a unified water and sewer service for the Tri-County Region
- To ensure the highest quality of service to customers
- To provide a cost-effective and sustainable water and sewer service
- To ensure the highest quality of service to customers

**Proposed Terms and Agreements**

- The GLWA will be formed if the Detroit City Council, or Detroit Emergency Manager Kevyn Orr, and at least one Board of Commissioners of Macomb, Oakland or Wayne counties approve Articles of Incorporation
- Must be approved/disapproved no later than October 10, 2014
- Approval means 40 year lease of DWSD infrastructure for \$50 million/year. This is a \$32.5 million cost for the Tri-County Region and a \$17.5 million cost for Detroit.

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**Opening 100th GLWA Meeting**

- Sept 25, 2014 - Governance Meeting
- Oct 10, 2014 - Approval Deadline
- Nov 1, 2014 - Formation of GLWA
- Nov 1, 2014 - Start of Operations

**GLWA Board Composition**

- One representative from each of the three counties
- One representative from the City of Detroit
- One representative from the State of Michigan
- One representative from the Tri-County Region

**Corporation Counsel**

**Important Dates**

# Great Lakes Water Authority





**Great Lakes Water Authority**  
 Sept. 24, 2014  
 (Picture next slide)

**Macomb Board of Commissioner's  
 Timeline**

- 9/24/14 (Wednesday) 9am Finance Committee Meeting** - Overview Presentation of GLWA MOU and AOI terms
- 9/25/14 (Thursday) 7pm Full Board Meeting/Public Hearing** - Presentation of GLWA - Focus on Governance
- 9/30/14 (Tuesday) 9am Full Board Meeting** - Presentation on GLWA - Focus on Finance
- 10/6/14 (Monday) 12pm Government Operations Committee Meeting** - Presentation on GLWA - Operations & Maintenance
- 10/9/14 (Thursday) 9am Full Board Meeting and Public Hearing** - Final Debate; Vote on GLWA MOU and AOI

**Key Definitions**

**Water and Sewer Department (DWSD):** Operated by a Board of Water Commissioners who oversee operations and management of the system.

**Detroit Board of Water Commissioners:** Made up of seven members

- Four from the City of Detroit
- One each appointed Wayne County Executive, the Oakland County Water Resources Commissioner and the Macomb Public Works Commissioner with confirmation by the Mayor of Detroit

**Great Lakes Water Authority (GLWA):** Proposed regional water that would oversee operations and major decisions for the water and sewer systems of most Metro-Detroit suburbs. It would be comprised of a six member board.

- One appointment from the City of Detroit Mayor
- One appointment each from the Macomb, Oakland, Wayne County Executives
- One appointment from the Governor

**Memorandum of Understanding (MOU):** A framework for the establishment of the GLWA by the City of Detroit, Oakland County, Wayne County, and Macomb County

**Articles of Incorporation (AIO):** A set of bylaws that outlines the authorities of the GLWA with signatories from the City of Detroit, Oakland County, Wayne County, and Macomb County

**GLWA member:** Members of the GLWA (City of Detroit, Oakland County, Wayne County, and Macomb County )

**GLWA customer:** All local municipalities that currently contract with DWSD and potentially transfer and/or establish a new contract with the GLWA

**DWSD Background**

- DWSD has a 1,079 square mile water service area  
128 communities;  
40 percent of Michigan's population
- DWSD has a 946-square-mile wastewater service area;  
77 communities  
Treats an average of 710 million gallons of flow a day
- DWSD's FY 2014/2015 operating budget was about \$363.8 million
- Employs about 1,600 people
- Water and Sewer systems date back to 1800s  
Wood pipes still in use

## DWSD Historical Facts

**1852:** Board of Water Commissioners was created;

**1850s-1870s:** There was expansion of waterworks in response to population growth;

**1879:** Water Works Park is up and running with 152 million gallons pumped every day;

**1956:** Gerald J. Remus (Superintendent and Chief Engineer of DWS) revitalized the expansion policy of DWS; goal to reach all of metro Detroit

**1977:** Federal Judge John Fiekens takes control over DWSD due to non-compliance with the Clean Water Act.

**2010:** U.S. District Judge Sean Cox receives oversight of DWSD from Judge Fiekens

**2011:** Judge Cox orders the Board of Water Commissioners be created

**March 2013:** DWSD oversight shifts from Judge Cox to Detroit EM

## Board of Water Commissioners

- Created in 2011 by Judge Cox
- Seven member board
- Made up of four representatives from
  - the City of Detroit and
  - one representative each appointed by the Wayne County Executive, the Oakland County Water Resources Commissioner and the Macomb Public Works Commissioner
- Oversees DWSD operation, rate setting & management

## Macomb County's involvement with DWSD

**1960s:** Detroit proposes building interceptor systems in Macomb and Oakland counties

**1966:** Macomb County Board of Supervisors creates the Macomb County Wastewater Disposal District and appoints the Macomb County Drain Commissioner to Macomb's drainage district

**1967:** Macomb County Drain Commissioner enters into a wastewater services agreement with Detroit

**2009:** Oakland-Macomb Interceptor Drain Drainage District ("OMID") was created, acquiring the Detroit-built interceptors in Macomb County, OMID entered into a wastewater contract with Detroit, and the Detroit/Macomb wastewater contract was terminated. Macomb County now contracts with OMID.

## Detroit bankruptcy to Now

**July 18, 2013-** Detroit files for bankruptcy

**Early October, 2013** - City of Detroit Emergency Manager prepares a 10-Year Business Plan for DWSD as it relates to the possible transfer to a new Authority proposal of establishing a new "Authority" with a \$9 billion lease payment over 40 year term

**October - December, 2013** - Individual counties evaluate the Emergency Manager's proposal, which states proposal significantly underestimates the liabilities of DWSD

**December, 2013 - January, 2014** - Detroit Emergency Manager Kevyn Orr and representatives of the three counties work on drafting a MOU to structure a lease deal. Oakland County and Macomb County do not support proposals

**February, 2014** - Oakland County holds a public hearing providing summary and analysis of Emergency Manager's DWSD lease proposal. Macomb County attends.

**April 2014:** Mediation is ordered between the City of Detroit, Macomb, Oakland and Wayne counties with Judge Cox

**August, 2014-** Judge Cox requests to meet with Commissioners, Public Works departments and County Executives to further mediation, in hopes of reaching a lease agreement palatable for all involved

**Sept. 9, 2014-** An MOU was signed by the County Executives of Macomb, Oakland, and Wayne Counties, along with the Mayor of Detroit and the Governor of Michigan for the Great Lakes Water Authority to be formed.

### Terms and Agreement

The GLWA will be formed if the Detroit City Council, or Detroit Emergency Manager Kevyn Orr, and at least one Board of Commissioners of Macomb, Oakland or Wayne counties approve Articles of Incorporation

Must be approved/disapproved no later than October 10, 2014

Approval means 40 year lease of DWSD infrastructure for \$50 million/year

### Who pays the \$50 million annual payment?

#### The Great Lakes Water Authority:

\$17.5 million paid by the Detroit ratepayers

\$32.5 million paid by the Tri-County Region ratepayers

### Regional Water System

128 communities total

17 in Macomb County

### Regional Sewer System

77 Communities

11 in Macomb County



### What does NO mean?

- Macomb County will be considered a customer of the Authority, not a member;
- Water rates will not be subject to the same rates as Authority members;
- They could be higher and will NOT be subject to the 4%, 10 year cap.
- GLWA customer: All local municipalities that currently contract with DWSD and potentially transfer and/or establish a new contract with the
- GLWA The Governor will appoint a member of Macomb County to represent it;

### What does YES mean?

- Macomb County will be a member of the GLWA, represented by one appointee
- Overall revenue rates will not increase above 4% for the first 10 years.

### What does YES mean?

- Governance
- Finance
- Operations and Maintenance

### Governance

- **The GLWA will operate and control the regional water supply and sewage disposal systems owned by City of Detroit**
- **Certain provisions must be approved by a supermajority vote**

### Issue Requiring a Supermajority Vote

- Appointment of a general manager/executive director;
- Approval of rates; fees and charges and rate setting protocols;
- Issuance of debt, which shall be revenue backed debt;
- Approval of annual operating budget;
- Approval of rolling out a Five Year Capital Improvement Plan;
- Adoption of a procurement policy;
- Approval of a lease of a systems from the City of Detroit;
- Removal of any board member for cause;
- Compensation of Board Members which shall be consistent with practices for other large public utilities. (Confirmed by Mayor and County Executives)

### Governance

- **GLWA may be dissolved by unanimous vote but only after all existing and future debt has been paid**
- **GLWA will be automatically dissolved if:**
  - **Provision of the AOI is rejected by the bankruptcy process**
  - **GLWA fails to agree on lease terms within 200 days of effective date**
  - **Lease terms differ from provisions set forth by the MOU**

### Finance

- The GLWA has no taxing authority;
- The GLWA has the authority to bond;
- No obligations for Macomb County General Fund to fund the City of Detroit' s water and sewer system;
- All lease payments must fix the DWSD infrastructure;
- Lease payments will support bond issue(s) to speed up the DWSD repair and rebuilding;

### Operations and Maintenance

- GLWA shall commit to and adopting reporting practices for transparency in O&M
- GLWA shall adopt a two-year operating budget for FY 2017 and beyond
- GLWA shall adopt a procurement policy
- GLWA shall make every effort to employ individuals and contract with vendors within the region
- GLWA may be eligible for State funding to assist with improving the regional water and sewer system
- GLWA may revise as necessary the DWSD Water And Wastewater Master Plans to optimize the capacity of the system
- GLWA has the authority to convey, sell, transfer, exchange, lease, or dispose of property rights to any person or entity in a manner that is proper, fair, and valuable
- All current union and customer contracts will be honored
- The GLWA is to be operational in 200 days (By April 27,2015)

Stakeholder Input

Office of the County Executive  
(Hackel picture next slide)

Department of Public Works  
(Marrocco picture next slide)

Corporation Counsel  
Board of Commissioners' Action

1. Approve/Reject Memorandum of Understanding  
Commission must approve MOU per Charter § 3.10(a) and (b)  
\*The Executive, with the approval of the Commission... may... (a) Enter into any intergovernmental agreement... (b) Join, establish, or form with any other governmental unit an intergovernmental... authority to perform a public function...\*  
Vote is up or down  
Non-action by Oct 10, 2014, is a rejection
2. Adopt/Reject GLWA Articles of Incorporation  
Commission must approve Articles per MOU ¶ 1  
  
\*The Authority shall be established upon adoption of the article of incorporation by the City and the legislative body of at least one County...\*  
Vote is up or down  
Non-action by Oct 10, 2014, is rejection
3. Inconsistent Actions  
Approval/Adoption of both MOU and Articles = Macomb joins GLWA  
Rejection of either MOU or Articles = Macomb does not join GLWA  
Rejection of MOU moots need to take action on Articles of Incorporation



**City of Detroit**  
Approve on Sept. 19

**Wayne County**  
Votes Oct. 2

**Oakland County**  
Votes Oct. 8

**Macomb Board of Commissioners' Timeline**  
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Presentation of GLWA - Focus on Governance  
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**Macomb County Board of Commissioners  
Consolidated Information on Great Lakes Water Authority (GLWA) Proposal**

**September 24, 2014**

## **DEFINITIONS & ACRONYMS**

- **Administrative Consent Order** - A legal agreement signed on July 21, 2011 between DWSD and the Michigan Department of Environmental Quality (DEQ), to bring DSWD's waste water treatment plant (WWTP) into compliance with its NPDES discharge permit<sup>1</sup>
- **Articles of Incorporation (AOI)** - A set of bylaws that outlines the authorities of the GLWA with signatories from the City of Detroit, Oakland County, Wayne County, and Macomb County<sup>2</sup>
- **Competitive Grant Assistance Program (CGAP)** - Incentive-based grant program administered by the State of Michigan to encourage cooperation between two or more qualified jurisdiction<sup>3</sup>
- **Counterpart** - a written paper which is one of several documents which constitute a contract, such as a written offer and a written acceptance. Often a contract is in several counterparts which are the same but each paper is signed by a different party, particularly if they are in different localities<sup>4</sup>
- **Detroit Water & Sewerage Department (DWSD)** - A branch of the City of Detroit government that operates the Water Supply and Sewage Disposal System owned by the City of Detroit. The Department is governed by a seven-member Board of Water Commissioners whose members are appointed by the Mayor. Four commissioners, by City Charter requirements, represent Detroit residents. Three remaining commissioners represent suburban wholesale customers with appointees from Wayne, Oakland and Macomb counties.<sup>5</sup>
- **General Retirement System (GRS)** - The pension system for the City of Detroit

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<sup>1</sup> [http://www.michigan.gov/documents/deq/deq-wrd-npdes-DSWD-ACO\\_415429\\_7.pdf](http://www.michigan.gov/documents/deq/deq-wrd-npdes-DSWD-ACO_415429_7.pdf), Accessed September, 2014.

<sup>2</sup> Articles of Incorporation of Great Lakes Water Authority, September 2014.

<sup>3</sup> Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority, September 9, 2014.

<sup>4</sup> <http://dictionary.law.com/Default.aspx?selected=377>, Accessed September, 2014.

<sup>5</sup> [http://www.dwsd.org/downloads\\_n/about\\_dwsd/fact\\_sheet/dwsd\\_fact\\_sheet.pdf](http://www.dwsd.org/downloads_n/about_dwsd/fact_sheet/dwsd_fact_sheet.pdf), Accessed September, 2014.



- **Great Lakes Water Authority (GLWA) ("Authority")** - The proposed authoritative body that will lease and operate the assets of the DWSD that is located outside of the City of Detroit. The GLWA include representatives from the City of Detroit, Oakland County, Wayne County, and Macomb County<sup>6</sup>
  - **Incorporating Municipality ("Member")** - Members of the GLWA (City of Detroit, Oakland County, Wayne County, and Macomb County )<sup>7</sup>
  - **Constituent Municipality ("Customer ")** - All local municipalities that currently contract with DWSD and potentially transfer and/or establish a new contract with the GLWA<sup>8</sup>
  
- **Memorandum of Understanding (MOU)** - A framework for the establishment of the GLWA for the City of Detroit, Oakland County, Wayne County, and Macomb County which was established on September 9, 2014<sup>9</sup>
  
- **National Pollutant Discharge Elimination System (NPDES) Permit** - The NPDES permit process was initiated by The Federal Water Pollution Control Act amendments of 1972. The purpose of the program is to control the discharge of pollutants into surface waters by imposing effluent limitations to protect the environment. Currently, authority for NPDES permit issuance rests with the Michigan Department of Environmental Quality<sup>10</sup>
  
- **Plan of Adjustment ("Plan")** - Plan for the adjustment of debts of the City of Detroit as a result of the bankruptcy proceedings. The MOU states that the debt obligations of the GLWA should follow the rate structures outlined in the Plan. This Plan continues to be amended as the bankruptcy proceedings continue. As of September 16, 2014, the Plan is at its seventh amended version<sup>11</sup>
  
- **State Revolving Fund (SRF)** - Clean Water State Revolving Fund, Drinking Water State Revolving Fund, and Michigan's Water Pollution Control Revolving Fund, collectively known as the State Revolving Fund (SRF), is a low 2.5% interest loan financing program that assists qualified local municipalities with the construction of needed water pollution control facilities<sup>12</sup>

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<sup>6</sup> Articles of Incorporation of Great Lakes Water Authority, September 2014.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority, September 9, 2014.

<sup>10</sup> [http://www.michigan.gov/deq/0,4561,7-135-3313\\_3682\\_3713-10197--,00.html](http://www.michigan.gov/deq/0,4561,7-135-3313_3682_3713-10197--,00.html), Accessed September, 2014.

<sup>11</sup> <http://www.detroitmi.gov/EmergencyManager/BankruptcyChapter9.aspx>, Accessed September, 2014.

<sup>12</sup> [http://www.michigan.gov/deq/0,1607,7-135-3307\\_3515\\_4143---,00.html](http://www.michigan.gov/deq/0,1607,7-135-3307_3515_4143---,00.html), Accessed September, 2014.

- **Veolia** - Veolia Environmental Services North America (VESNA), is a publicly owned company that helps customers in the industrial, commercial and governmental sectors safely manage waste, ensure compliance and maintain efficient operating processes. Headquartered in Chicago, Illinois, VESNA reported annual revenues of \$1.1 billion in 2012, and has approximately 5,400 employees across the United States, Puerto Rico and parts of Canada (British Columbia and Ontario). The MOU allows the City of Detroit to retain Veolia's services to undertake an assessment of the system and provide recommendations<sup>13</sup>

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<sup>13</sup> <http://www.veoliaes.com/content/veolia/en/about-us/company-profile.html>, Accessed September, 2014.

## **HISTORY AND BACKGROUND**

### ***Facts of DWSD<sup>14</sup>***

- DWSD has a 1,079 square mile water service area
  - 128 communities;
  - 40 percent of Michigan's population
- DWSD has a 946-square-mile wastewater service area;
  - 77 communities;
  - Treats an average of 710 million gallons of flow a day
- DWSD's FY 2014/2015 operating budget was about \$363.8 million
- Employs about 1,600 individuals
- Water and Sewer systems date back to 1800s
  - Wood pipes still in use

### ***Brief History of DWSD (1852 - 2011)<sup>15</sup>***

- 1852: The Board of Water Commissioners was created
- 1850s-1870s: Expansion of waterworks in response to population growth
- 1879: Water Works Park is up and running with 152 million gallons pumped every day
- 1956: Gerald J. Remus (Superintendent and Chief Engineer of DWS) revitalized the expansion policy of DWS; goal to reach all of metro Detroit
- 1977: Federal Judge John Fiekens takes control over DWSD due to non-compliance with the Clean Water Act.
- 2010: U.S. District Judge Sean Cox receives oversight of DWSD from Judge Fiekens
  - Consideration: In March 2013, DWSD ended federal oversight since May 1977 when a federal lawsuit was initiated against the DWSD due to non-compliance of the Clean Water Act. Judge Sean Cox issued a court order finding the DWSD "has achieved substantial compliance" with the federal Clean Water Act. At this time, Judge Cox rejected a proposal from an evaluation committee, made up of city officials, to lease DWSD's assets for about \$50 million per year in lieu of payment of taxes. However, Cox found some of the revenue projections from the committee report "pure speculation," and said he did not have the legal authority to make the proposed changes. He stated that if the City of Detroit and/or its regional customer communities wish to pursue the creation of a regional authority, they may do so through the political/legislative process.<sup>16</sup>
- 2011: Board of Water Commissioners created by Judge Sean Cox
  - Seven member board

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<sup>14</sup> [http://www.dwsd.org/pages\\_n/about\\_dwsd.html](http://www.dwsd.org/pages_n/about_dwsd.html), Accessed September, 2014.

<sup>15</sup> Ibid.

<sup>16</sup> Halcom, Chad. "Federal oversight of Detroit water department ends after nearly 36 years". Crain's Detroit Business. March 27, 2013.

<http://www.craindetroit.com/article/20130327/NEWS/130329875/federal-oversight-of-detroit-water-department-ends-after-nearly-36> Accessed September, 2014.



- Made up of four representatives from the City of Detroit and one representative each appointed by the Wayne County Executive, the Oakland County Water Resources Commissioner and the Macomb Public Works Commissioner
- Oversees DWSD operation, rate setting & management

### ***History of Macomb County and Water & Sewer (1960 - Present)<sup>17</sup>***

- In the 1960s, Detroit approached a variety of suburban communities with regard to providing them with wastewater transportation and treatment services at Detroit's wastewater treatment plant. In the case of Macomb County and part of eastern Oakland County, Detroit proposed to build and operate large interceptor sewers in Macomb County to receive sewage from adjacent local communities and transport that sewerage to this treatment plant.
- In anticipation of the construction of the proposed interceptor system and a wastewater services contract with Detroit, the Macomb County Board of Supervisors created the Macomb County Wastewater Disposal District comprised of the entire county and appointed the Macomb County Drain Commissioner as county agency for administration of the district. Macomb County Resolution 850, February 14, 1966; Resolution of December 29, 1966. The enabling statute was 1939 PA 342, MCL 46.171 et seq. A drain commissioner when designated as county agency pursuant to PA 342 has "supervision and control of the management and operation of all improvements, facilities, and services" established pursuant to the Act.
- Resolution 850 specifically provided in relevant parts:
  - That there is hereby authorized to be established a system or systems of water, sewer and/or sewage disposal improvements and services ... within and between cities, villages and townships, or any duly authorized and established combinations thereof, within or without the county....
  - That the Drain Commissioner ... as duly designated County Agency, is authorized for and on behalf of the County ... to locate, acquire, purchase, construct, own, maintain and/or operate water mains [etc.] and sewers, [and] sewage interceptors ... and contract with any of the units of government specified in said Act 342 ... or any duly authorized and established combination thereof for the purchase of water and for the use of their sewers and sewage disposal plants...
  - The Drain Commissioner ... is authorized to engage consultants, assistants, attorneys and employees ... by agreements or contracts made by and with the Drain Commissioner of the County of Macomb...

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<sup>17</sup> E-mail dated September 19, 2014 from Richard Sulaka, Macomb County Deputy Public Works Commissioner - Government Relations.

- Act 342 defines “units of governments” as a city, village, township, charter township, and any duly authorized and established combinations thereof, within or without the county. MCL 46.171(2) (c).
- The office of the Macomb County Drain Commissioner devolved into the office of Macomb County Public Works Commissioner in 1975 pursuant to MCL 280.21 and Board of Commissioners Resolution 1278, April 29, 1975.
- Since 1966 as “county agency,” the Public Works Commissioner has carried out a number of water and sewer projects within Macomb County. In 1967, acting for and on behalf of Macomb County, the Public Works Commissioner entered into a wastewater services contract with the City of Detroit for much of the urbanized area of Macomb County north of 14 Mile Road. The Public Works Commissioner acting as county agency executed the contract between Detroit and Macomb County. Acting for the County, the Public Works Commissioner likewise has entered into wastewater contracts with a number of municipalities in the county.
- In 2009, the Oakland-Macomb Interceptor Drain Drainage District (“OMID”) was created. It acquired the Detroit-built interceptors in Macomb County. The OMID entered into a wastewater contract with Detroit, and the Detroit/Macomb wastewater contract was terminated. Macomb County now contracts with OMID. However, under the Detroit/OMID contract, Macomb County retains a variety of rights in dealing with Detroit, just as if it were a customer with a direct contract.

#### ***Macomb County and DWSD (1977 - Present)<sup>18</sup>***

- In 1977, the United States sued Detroit under the Clean Water Act related to violations of water quality standards at Detroit’s wastewater treatment plant (the “1977 Sewer Case”). All wastewater customers of Detroit were ultimately added as defendants including Macomb County. The Macomb County Public Works Commissioner through counsel has appeared on behalf of and acted for Macomb County throughout the case which continues today.
- In February 2011, Wayne, Oakland and Macomb Counties and the City of Detroit agreed to an order in the 1977 Sewer Case that revised the manner in which commissioners were appointed to the Board of Water Commissioners and other related reforms. Again, the Macomb County Public Works Commissioner acted for Macomb County in entering into that agreement. Under the Stipulated Order setting forth the revised governance provision, Detroit’s mayor is now required to appoint one commissioner nominated by the Macomb County Public Works Commissioner. Stipulated Order, 1977 Sewer Case (Feb. 11, 2011).

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<sup>18</sup> Ibid.

- The Detroit City Charter provides for a seven-member Board of Water Commissioners appointed by Detroit's mayor to oversee the Detroit Water and Sewerage Department. By long standing practice, Detroit's mayor appointed a commissioner from each of Oakland, Macomb and Wayne Counties to the Board after consultation with the drain commissioners in each county or their successors.

***Initial Proposal From Emergency Manager (May 2013 - April 2014)<sup>19</sup>***

- **Mid-July, 2013** - City of Detroit Emergency Manager begins evaluation of DWSD assets
- **Early October, 2013** - City of Detroit Emergency Manager prepares a 10-Year Business Plan for DWSD as it relates to the possible transfer to a new Authority and begins conversation with the three counties to propose establishing a new "Authority" with a \$9 billion lease payment over 40 year term
- **October - December, 2013** - Individual counties, including Oakland County and the Macomb County Public Works Department independently evaluate the Emergency Manager's proposal. The overall consensus from Oakland County and Macomb County Public Works Department is that the Emergency Manager's proposal significantly underestimates the liabilities of DWSD (i.e. deteriorating infrastructure, OPEB obligations. etc.)
- **Mid-November, 2013** - Macomb County Public Works Department (via Deputy Commissioner Richard Sulaka) attends Macomb County BOC Full Board meeting and provides summary and analysis of the Emergency Manager's proposal and outlines next steps
- **December, 2013 - January, 2014** - Detroit Emergency Manager Kevin Orr and representatives of the three counties work on drafting a MOU to structure a lease deal. However, an agreement never materializes with lack of support from Oakland County and Macomb County
- **February, 2014** - The Oakland BOC, Oakland County Deputy County Executive Gerald Poisson, and Assistant County Executive Robert Daddow, hold a public hearing providing summary and analysis of Emergency Manager's DWSD lease proposal. Macomb BOC Board Chair Dave Flynn, Commissioner Jim Carabelli, and Deputy Commissioner Rich Sulaka also attend the meeting
- **April, 2014** - At the Finance Committee meeting, Macomb County Public Works provides update on recent events of DWSD and provides overview of the assets of the DWSD

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<sup>19</sup> Compiled by the Macomb County Board of Commissioner Staff. September, 2014.

**Judge Cox Proposal for GLWA (April 2014 - September 2014)<sup>20</sup>**

- **March/April 2014** - Initial Authority discussions failed based on “monetizing” DWSD assets / revenues to benefit of City of Detroit General Fund creditors
- **April, 2014** - Judge Cox resumes DWSD mediation
- **May - September, 2014** - Agreement that lease payment will “stay in the system” for City of Detroit local system or Detroit share of common costs
  - Finance Working Group determination of feasibility of \$50 million “control premium” in form of lease payment
- **September 9, 2014** - Memorandum of Understanding / Articles of Incorporation drafted for execution by Principals of counties and City of Detroit
  - Pending affirmation by respective local government governing boards
  - Multi-track implementation planning process pending

**Current DWSD Lease Terms with Macomb County**

- Sewer<sup>21</sup>
  - 11 communities contract with DWSD through the Oakland Macomb Interceptor District (OMID);
  - Warren and Mt. Clemens treat their own wastewater;
  - Centerline contracts directly with the City of Detroit;
  - Remaining communities are either on septic or contract through separate wastewater districts

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<sup>20</sup> DWSD - Great Lakes Water Authority Memorandum of Understanding Presentation, September 10, 2014, [http://www.dwsd.org/downloads\\_n/about\\_dwsd/bowc/presentations/GLWA\\_MOU\\_Overview2014-09-10.pdf](http://www.dwsd.org/downloads_n/about_dwsd/bowc/presentations/GLWA_MOU_Overview2014-09-10.pdf).

<sup>21</sup> E-mail dated September 11, 2014 from Richard Sulaka, Macomb County Deputy Public Works Commissioner - Government Relations.



- Water
  - The following provides a list of Macomb County municipalities that contract with DWSD<sup>22</sup>

<b>Detroit Water and Sewerage Department – Water and Sewer Service Contracts Serving Macomb County</b>				
	<b>Contract Date</b>	<b>Contract Term</b>	<b>County</b>	
<b>Water Service</b>				
Center Line	2008	30 Years	M	
Chesterfield Township	2014	30 Years	M	
Clinton Township	2009	30 Years	M	
Eastpointe	2008	30 Years	M	
Fraser	2009	30 Years	M	
Harrison Township	2010	30 Years	M	
Lenox Township	2009	30 Years	M	
Macomb Township	2009	30 Years	M	
New Haven, Village of	2010	30 Years	M	
Romeo	2012	30 Years	M	
Roseville	2008	30 Years	M	
Shelby Township	2010	30 Years	M	
St. Clair Shores	2008	30 Years	M	
Sterling Heights	2008	30 Years	M	
Utica	2009	30 Years	M	
Warren	2011	30 Years	M	
Washington Township	2008	30 Years	M	
<b>Sewer Service</b>				
Oakland Macomb Interceptor District	2009	30 Years	M	
Center Line	2008	15 Years	M	

<sup>22</sup> Rothstein, Eric. Rothstein Responses to Macomb County on MOU v5 EPR (091714).

- Current list of DWSD contracts and local municipalities<sup>23</sup>

Current DWSD Sewage Contracts				
Customer	County	Original Contract Date	Contract Expiration Date	Notes
Allen Park	Wayne	06/24/1974	2009	Initial Meeting held 05/29/2013
Dearborn East	Wayne	10/29/1957	1992	Attempted to schedule a meeting in June 2013
Dearborn Northeast	Wayne	10/03/1955	Indefinite	Attempted to schedule a meeting in June 2013
Dearborn West	Wayne	08/20/1961	2011	Attempted to schedule a meeting in June 2013
Farmington	Oakland	09/11/1956	1991	Initial meeting scheduled for 8/14/2013
Grosse Pointe	Wayne	12/16/1940	Indefinite	In negotiations. Next meeting scheduled for 8/15/2013
Grosse Pointe Farms	Wayne	01/06/1941	Indefinite	In negotiations. Next meeting scheduled for 8/13/2013
Grosse Pointe Park	Wayne	09/30/1940	Indefinite	GPP approved model contract on 6/24/2013
Hamtramck	Wayne	08/13/1941	Indefinite	Initial meeting held 6/6/2013
Harper Woods	Wayne	04/29/1958	Indefinite	Initial meeting held 6/6/2013
Highland Park	Wayne	06/08/1983	Not Specified	
Kuhn District	Wayne	11/01/1962	2012	
Melvindale	Wayne	01/05/1977	2012	Attempted to schedule meeting in June 2013
N.E. Wayne County	Wayne	01/13/1944	2001 per 1961 amendment	Initial meeting scheduled for 8/27/2013
Redford Township	Wayne	09/30/1940	Indefinite	In negotiations
Rouge Valley	Wayne	08/15/1961	2011	In negotiations. Last meeting held 6/24/2013
Center Line	Macomb	07/01/2008	2023 Renewable w/o Action 15 yrs, yr to yr after	Initial meeting held 7/2/2013
Evergreen-Farmington District	Oakland	12/30/1958	2008 Renewable w/o action 10 year periods	
Wayne County Area #3	Wayne	07/03/1950	1960 Renewable w/o action 10 year periods	
Wayne County Area #6	Wayne	11/01/1951	1961 renewable w/o action 10 year periods	
Oakland-Macomb Interceptor District	Oakland/Macomb	09/01/2009	2039 Renewable w/o action 10 year periods	

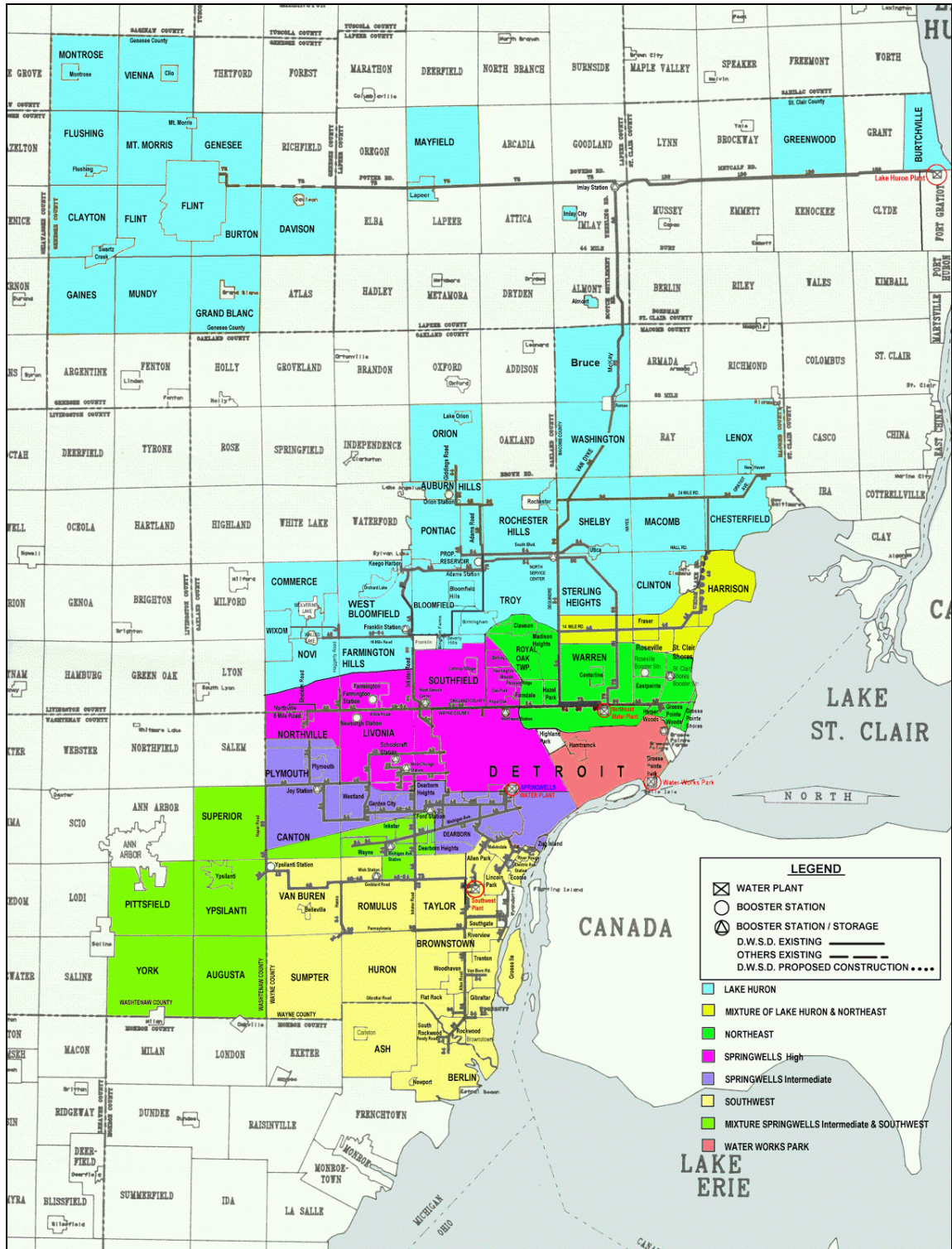
<sup>23</sup> Agenda Item 5G: Memo from Raphael Chirolla, DWSD Manager I to Board of Water Commissioners Finance Committee dated July 22, 2013.

<b>Current DWSD Water Contracts (Past Initial Terms)</b>				
<b>Customer</b>	<b>County</b>	<b>Original Contract Date</b>	<b>Contract Expiration Date</b>	<b>Notes</b>
Chesterfield Township	Macomb	10/18/1971	2006	Last meeting held 2/28/2013. Would like more pressure on its southern meters. The Department closed the 22 Mile valve instead of the 24 Mile valve on Fairchild this summer to increase pressure to CH04.
Dearborn	Wayne	06/10/1931	Indefinite	In negotiations. Sent exhibit A's on 8/15/2012
Flint	Genesee	12/20/1965	2000	Will terminate on 4/17/2014
Greater Lapeer C.U.A.	Lapeer	03/08/1969	2004	Held meetings with Imlay City and City of Lapeer on 7/10/2013. In addition, held meetings with Almont and Champion Bus (Imlay Twp) on 7/12/2013
Grosse Pointe Park	Wayne	07/01/1920	Indefinite	Met with GPP. Currently Uninterested in signing model contract
Lincoln Park	Wayne	08/03/1922	Indefinite	Initial meeting held 7/11/2013
St. Clair County - Greenwood	St. Clair	06/03/1974	2009	Desires Raw Water
Gibraltar	Wayne	05/12/1986	2021	
Grosse Ile Township	Wayne	12/03/1980	2015	
Inkster	Wayne	09/03/1986	2021	
Riverview	Wayne	06/20/1979	2014	
Trenton	Wayne	06/19/1985	2020	

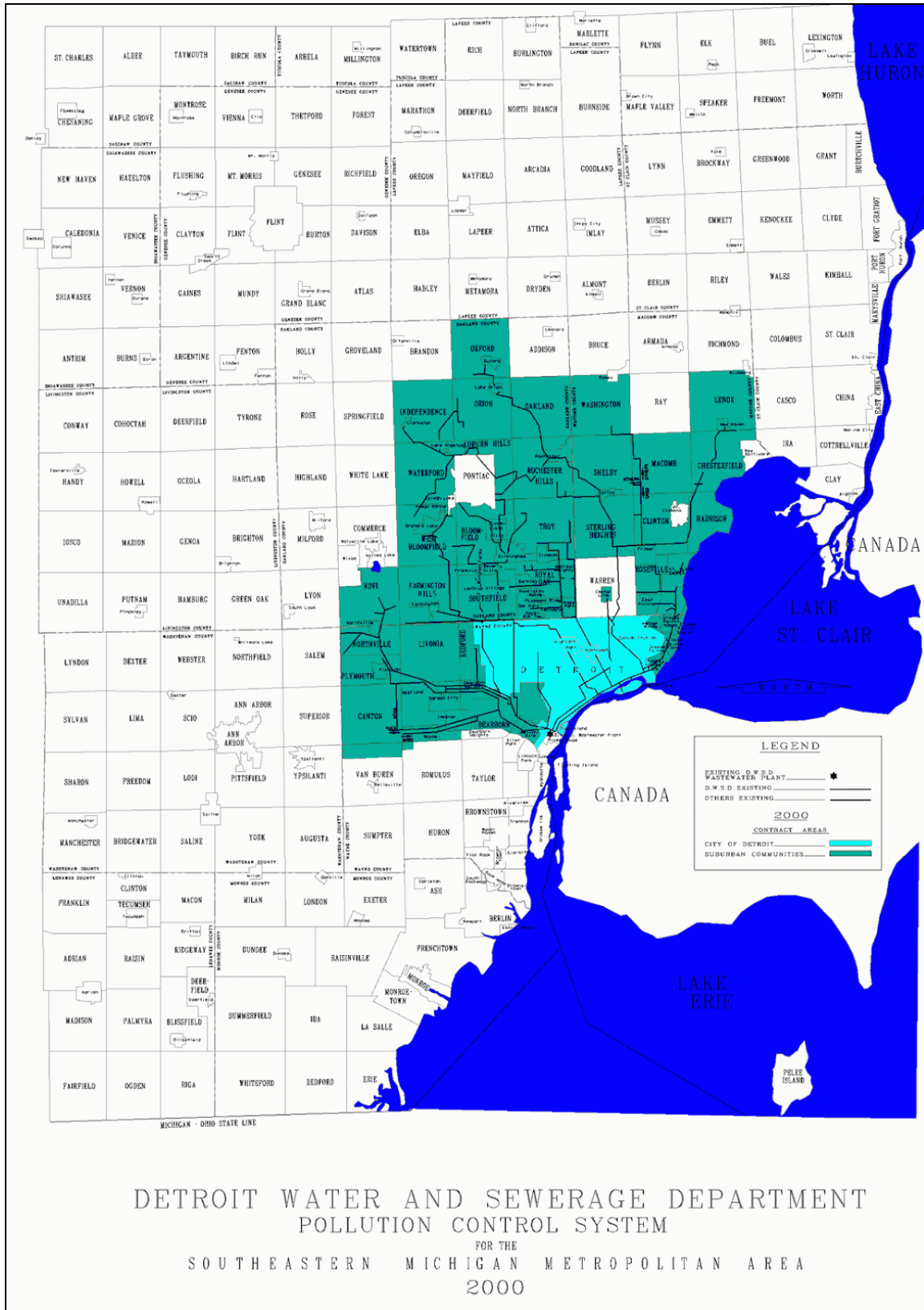
<b>Current DWSD Water Contracts (Initial Terms Beyond Ten Years)</b>			
<b>Customer</b>	<b>County</b>	<b>Original Contract Date</b>	<b>Contract Expiration Date</b>
Allen Park	Wayne	09/09/2008	2038 Renewable w/o Action 10 year periods
Ash Township	Monroe	04/28/2009	2039 Renewable w/o Action 10 year periods
Auburn Hills	Oakland	11/20/2009	2039 Renewable w/o Action 10 year periods
Belleville	Wayne	09/23/2008	2038 Renewable w/o Action 10 year periods
Berlin Township	St. Clair	03/17/2009	2039 Renewable w/o Action 10 year periods
Brownstown Township	Wayne	03/17/2009	2039 Renewable w/o Action 10 year periods
Bruce Township	Macomb	03/23/2010	2040 Renewable w/o Action 10 year periods
Canton Township	Wayne	05/20/2008	2038 Renewable w/o Action 10 year periods
Center Line	Macomb	10/14/2008	2038 Renewable w/o Action 10 year periods
Clinton Township	Macomb	02/24/2009	2039 Renewable w/o Action 10 year periods
Commerce Township	Oakland	07/27/2010	2040 Renewable w/o Action 10 year periods
Dearborn Heights	Wayne	09/09/2008	2038 Renewable w/o Action 10 year periods
Eastpointe	Macomb	09/30/2008	2038 Renewable w/o Action 10 year periods
Ecorse	Wayne	07/27/2010	2040 Renewable w/o Action 10 year periods
Farmington	Oakland	06/23/2009	2039 Renewable w/o Action 10 year periods
Farmington Hills	Oakland	09/15/2009	2039 Renewable w/o Action 10 year periods
Ferndale	Oakland	05/20/2008	2038 Renewable w/o Action 10 year periods
Flat Rock	Wayne	05/04/2010	2040 Renewable w/o Action 10 year periods
Fraser	Macomb	01/13/1002	2039 Renewable w/o Action 10 year periods
Garden City	Wayne	03/17/2009	2039 Renewable w/o Action 10 year periods
Grosse Pointe Shores	Wayne	09/21/2010	2040 Renewable w/o Action 10 year periods
Grosse Pointe Woods	Wayne	07/21/2009	2039 Renewable w/o Action 10 year periods
Hamtramck	Wayne	06/15/2010	2040 Renewable w/o Action 10 year periods
Harper Woods	Wayne	05/18/2010	2040 Renewable w/o Action 10 year periods
Harrison Township	Macomb	07/27/2010	2040 Renewable w/o Action 10 year periods
Hazel Park	Oakland	05/04/2010	2040 Renewable w/o Action 10 year periods
Huron Township	Wayne	05/19/2009	2039 Renewable w/o Action 10 year periods
Keego Harbor	Oakland	09/15/2009	2039 Renewable w/o Action 10 year periods
Lenox Township	Macomb	09/15/2009	2039 Renewable w/o Action 10 year periods
Livonia	Wayne	07/21/2009	2039 Renewable w/o Action 10 year periods
Macomb Township	Macomb	07/21/2009	2039 Renewable w/o Action 10 year periods
Madison Heights	Oakland	09/15/2009	2039 Renewable w/o Action 10 year periods
Melvindale	Wayne	07/21/2009	2039 Renewable w/o Action 10 year periods
New Haven	Macomb	05/04/2010	2040 Renewable w/o Action 10 year periods
Northville	Oakland/Wayne	06/24/2008	2038 Renewable w/o Action 10 year periods
Northville Township	Wayne	06/24/2008	2038 Renewable w/o Action 10 year periods
Novi	Oakland	07/21/2009	2039 Renewable w/o Action 10 year periods
Oak Park	Oakland	03/17/2009	2039 Renewable w/o Action 10 year periods
Oakland County Drain Commission	Oakland	11/20/2009	2039 Renewable w/o Action 10 year periods
Orion Township	Oakland	01/27/2009	2039 Renewable w/o Action 10 year periods
Plymouth	Wayne	10/14/2008	2038 Renewable w/o Action 10 year periods
Plymouth Township	Wayne	05/19/2009	2039 Renewable w/o Action 10 year periods
Pontiac	Oakland	07/27/2010	2040 Renewable w/o Action 10 year periods
Redford Township	Wayne	08/08/2008	2038 Renewable w/o Action 10 year periods
River Rouge	Wayne	07/27/2010	2040 Renewable w/o Action 10 year periods
Rochester Hills	Oakland	07/21/2009	2039 Renewable w/o Action 10 year periods
Rockwood	Wayne	01/12/2010	2040 Renewable w/o Action 10 year periods
Romeo	Macomb	11/11/2012	2042 Renewable w/o Action 10 year periods
Romulus	Wayne	04/28/2009	2039 Renewable w/o Action 10 year periods
Roseville	Macomb	10/14/2008	2039 Renewable w/o Action 10 year periods
Royal Oak Township	Oakland	05/18/2010	2040 Renewable w/o Action 10 year periods
Shelby Township	Macomb	05/18/2010	2040 Renewable w/o Action 10 year periods
South Rockwood	Monroe	02/24/2009	2039 Renewable w/o Action 10 year periods
Southeastern Oakland County Water A	Oakland	09/15/2009	2039 Renewable w/o Action 10 year periods



### Map of Current DWSR Regional Water System



### Map of Current DWS Regional Sewer System



**SUMMARY OF MOU and AOI<sup>24</sup>****GENERAL AGREEMENT TERMS**

- **Establishment of a regional water and sewer/stormwater authority to be called the Great Lakes Water Authority (GLWA) under the provisions of 1955 PA 233, as amended, MCL 124.281 et seq., to operate, control, and improve both the Water Supply and Sewage Disposal Systems owned by the City of Detroit and presently operated by the DWSD**
  
- **As per Section 3.10 (a) and (b) of the Macomb County Charter, the MOU must be approved by the Macomb County Board of Commissioners**
  - If approved, any filed objections to Plan of Adjustment should be withdrawn
  - Consideration: The Charter requires that the Executive's agreement to enter into an intergovernmental agreement must be approved by the Board of Commissioners. Per the Charter, the Executive may sign the MOU without prior Board approval, but also per the Charter, the Board has final approval authority. Until, or unless, the Board approves it, the MOU has no force or effect and is not binding on Macomb. In a very realistic sense, the MOU is little more than the Executive's agreement to submit the issue to the Board because it is only the Board which can make a final decision which is binding on the County.<sup>25</sup>
  - Consideration: The vote is a simple up or down. Non-action by Oct 10, 2014, is a rejection.<sup>26</sup>
  
- **The GLWA will be formed if the Detroit City Council, or Detroit Emergency Manager Kevyn Orr, and at least one Board of Commissioners of Macomb, Oakland or Wayne counties approve Articles of Incorporation**
  - If a Board of Commissioners votes not to join to the Authority after it is created then the Governor will appoint a representative from their area
  - Consideration: If a Board of Commissioners votes not to join to the Authority after it is created then there is a possibility that based on state statute (MCL 124.290), the charges or rates charged for services to a non-constituent municipality may be greater than those to constituent municipalities<sup>27</sup>
  - If the City votes not to join the Authority then the lease terms are no longer valid (*Note*: The Detroit City Council approved by a vote of 7-2 on September 19, 2014)

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<sup>24</sup> Unless otherwise noted, Articles of Incorporation of Great Lakes Water Authority, September 2014 and/or Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority, September 9, 2014.

<sup>25</sup> E-mail dated September 11, 2014 from John Schapka, Macomb County Corporation Counsel.

<sup>26</sup> E-mail dated September 22, 2014 from John Schapka, Macomb County Corporation Counsel.

<sup>27</sup> E-mail dated September 11, 2014 from Richard Sulaka, Macomb County Deputy Public Works Commissioner - Government Relations.

- **The Articles of Incorporation must be approved/disapproved no later than October 10, 2014**
  - Consideration: The Macomb County Board of Commissioners must approve Articles per MOU Paragraph 1<sup>28</sup>
    - *“The Authority shall be established upon adoption of the article of incorporation by the City and the legislative body of at least one County...”*
  - Consideration: The vote is a simple up or down. Non-action by Oct 10, 2014, is a rejection.<sup>29</sup>
- **Consideration: Scenarios of Inconsistent Actions by Macomb BOC<sup>30</sup>**
  - Approval/Adoption of both MOU and AOI = Macomb joins GLWA
  - Rejection of either MOU or AOI = Macomb does not join GLWA
  - Rejection of MOU moots, need to take action on AOI
- **The MOU may be executed in two or more counterparts**

### **GOVERNANCE<sup>31</sup>**

- **The GLWA is formed to operate, control, and improve the regional water supply and sewage disposal systems owned by City of Detroit**
  - The GLWA will be made up of 6 members: 2 appointed by the Mayor of Detroit, 1 each by Macomb, Oakland and Wayne county Executives and one by the Governor from a service area outside the three counties.
  - All GLWA Board members shall possess minimum education and professional experience standards with at least 7 years of experience in a regulated industry, a utility, engineering, finance, accounting or law
  - GLWA Board members may be compensated within the limits set by the affirmative vote of at least 5 members of the Board and approved by the Mayor of the City and the County Executives of each County consistent with practices for other large public utilities
  - GLWA Board members may be reimbursed for actual and necessary expenses incurred while attending Board meetings or performing other authorized official business of the Authority
  - Consideration: Appointment of GLWA Board member is based on provisions of Macomb County Charter
  - Consideration: The AOI does not include any provision to exclude elected officials, their staff and/or appointees to be appointed as GLWA Board member

<sup>28</sup> E-mail dated September 22, 2014 from John Schapka, Macomb County Corporation Counsel.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Unless otherwise noted, Articles of Incorporation of Great Lakes Water Authority, September 2014 and/or Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority, September 9, 2014.



- **Major issues will require a supermajority vote (5 out of 6 members) for approval. These include decisions relating to:**
  - Appointment of the Authority's general manager/executive director;
  - Approval of rates; fees and charges and rate setting protocols;
  - Issuance of debt, which shall be revenue backed debt;
  - Approval of annual operating budget;
  - Approval of rolling out a Five Year Capital Improvement Plan;
  - Adoption of a procurement policy;
  - Approval of a lease of a systems from the City of Detroit;
  - Removal of any board member for cause;
  - Compensation of Board Members, which shall be consistent with practices for other large public utilities. (However, this must be approved by the Mayor of Detroit and the County Executives of each County)
  
- **GLWA may be dissolved by unanimous vote but only after all existing and future debt has been paid<sup>32</sup>**
  
- **GLWA will be automatically dissolved if<sup>33</sup>:**
  - Provision of the AOI is rejected by the bankruptcy process
  - GLWA fails to agree on lease terms with City of Detroit within 200 days of effective date
  - Lease terms differ from provisions set forth by the MOU
  
- **Once the GLWA has been formed, Macomb County may be released of membership from the GLWA at anytime with the following criteria<sup>34</sup>:**
  - Two-third majority vote by the Board of Commissioners
  - Unanimous vote by GLWA excluding Macomb County
  - Payment of all financial obligations
  - Water and Sewer services may continue via contract

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<sup>32</sup> Articles of Incorporation of Great Lakes Water Authority Article 5.A, September 2014.

<sup>33</sup> Articles of Incorporation of Great Lakes Water Authority Article 5.C., September 2014.

<sup>34</sup> Articles of Incorporation of Great Lakes Water Authority Article 5.B., September 2014.

**FINANCE<sup>35</sup>**

- **The Fiscal Year of the GLWA begins on July 1 and end on 30<sup>36</sup>**
- **The GLWA has no tax power**
- **The GLWA has authority to issue bonds**
  - The GLWA has authority to issue bonds to operate and maintain the regional system
  - The GLWA has authority to issue bonds for improvements for other local systems within its service areas where assets are not owned by City of Detroit
  - The GLWA has authority to issue bonds to help finance City of Detroit water and sewer system, however, the debt service will be solely responsible to the City of Detroit customers
  - Consideration: GLWA bonds under the Revenue Bond Act (Revenue bond is a special type of municipal bond distinguished by its guarantee of repayment solely from revenues generated by GLWA)
  - Any bonds issued by GLWA is under the full faith and credit of the GLWA
  - Consideration: Full faith and credit of Macomb County and Macomb County municipalities will NOT be used for GLWA bonds
  - Consideration: Potentially, Retiree Health Care bond rating will be restructured with GLWA, which will mean a possible estimated savings of \$25 million for costs associated to those employees that will be transferred to GLWA
  - Consideration: Potentially, Capital bond rating will be restructured with GLWA, which will mean a possible estimated savings of \$25 million for costs associated to those employees that will be transferred to GLWA
- **The GLWA leases regional assets from the city for \$50 million a year for 40 years of which \$32.5 million comes from the region and \$17.5 million from the City of Detroit, based on total sewer and water revenues<sup>37</sup>**
  - The leased assets will include<sup>38</sup>:
    - Approximately 400 miles of regional water mains;
    - Approximately 360 miles of regional sewer pipe;
    - 5 water filtration systems;
    - The Jefferson Avenue Sewage Treatment Plant;
    - Number of retention basins and pump stations

<sup>35</sup> Unless otherwise noted, Articles of Incorporation of Great Lakes Water Authority, September 2014 and/or Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority, September 9, 2014.

<sup>36</sup> Articles of Incorporation of Great Lakes Water Authority Article 6, September 2014.

<sup>37</sup> E-mail dated September 10, 2014 from Richard Sulaka, Macomb County Deputy Public Works Commissioner - Government Relations.

<sup>38</sup> Summary of GLWA Regional Partnership - Oakland County Board of Commissioners Water Alternatives Study Committee, September 10, 2014.

- City of Detroit will retain ownership of these assets
    - Regional assets will include all infrastructure, equipment, facilities, land and other such fixed assets other than those retained as local assets by the City of Detroit
  - Lease terms will not be agreed upon if the \$50 million lease payment would cause the entire Regional and Detroit local water and sewer system to be:
    - Unable to provide a reasonable level of service
    - Unable to satisfy its debt obligations
    - Unable to adhere to the commitments set forth in the Plan of Adjustment
  - Consideration: There are no Macomb County General Fund obligations
- **All lease payments must stay within the water and sewer system to fix the infrastructure**
    - City of Detroit must use the \$50 million annual lease payment for the following:
      - City of Detroit's water and sewer (local) infrastructure improvements;
      - Debt service associated with Detroit's local infrastructure improvements;
      - City of Detroit's share of cost to GLWA's capital improvements
    - The Detroit local system has suffered more than 5,000 water main breaks in the last three years and the rate of incidents is dramatically increasing (2011-12: 1,200 breaks; 2012-13: 1,675 breaks; 2013-14: est. 1,900 breaks by year end)<sup>39</sup>
    - The majority of the city's water mains are between 70 and 90 years old and failing at a rapid rate<sup>40</sup>
    - Consideration: Lease payments can not be used to support payments to the City of Detroit's general fund
    - Consideration: If Detroit chooses to bond, the GLWA's \$50 million lease payment may fund the debt service (principal and interest) associated with potentially \$500 - \$800 million in bond issues to repair Detroit's local water and sewer system<sup>41</sup>
    - Consideration: At the City of Detroit bankruptcy hearing, Sue McCormick, Director of DWSD, anticipates that DWSD must spend about \$100 million per year on water system improvements and \$100 million annually on sewerage improvements for the next 10 years, (total of \$2 billion)<sup>42</sup>

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<sup>39</sup> Powerpoint Presentation from Mike Duggan, Mayor of City of Detroit, to the City of Detroit's City Council on September 17, 2014.

<sup>40</sup> Saul Mikalonis Crain's Blog

<http://www.crainsdetroit.com/article/20140911/BLOG103/140919961/regional-water-deal-promising-but-more-political-will-needed-to>, Accessed September, 2014.

<sup>41</sup> Summary of GLWA Regional Partnership - Oakland County Board of Commissioners Water Alternatives Study Committee, September 10, 2014.

<sup>42</sup> <http://www.freep.com/story/news/local/detroit-bankruptcy/2014/09/16/detroit-bankruptcy-day/15742353/>, Accessed September, 2014.

- Consideration: Rebuilding 1% (30 miles) of its system each year at a cost of about \$25 million would have put the city on par with the national average. However, DWSD has spent no more than \$3.4 million in each of the last three years to rebuild its mains<sup>43</sup>
- **City of Detroit remains responsible for its own local (retail) water and sewer system**
  - The City of Detroit local system is made up of about 3,000 miles of local sewer pipes and 3,400 miles of local water mains servicing the neighborhoods of Detroit<sup>44</sup>
  - City of Detroit will have full responsibility to repair and rebuild their local system<sup>45</sup>
  - Like all wholesale customers, the City of Detroit retains the obligation to pay the entire cost of water and sewer services provided to the city regardless of the actual collections from their customers<sup>46</sup>
  - City of Detroit keeps their own bad debt expenses<sup>47</sup>
  - City of Detroit retains and will take full responsibility for billing and collection for the Detroit local system, including the inability to collect from its residents and businesses
- **Currently all customers that use the City of Detroit's water and sewer system assets pay their annual share of the \$26.216 million (\$20.7 million for the rate of return for water system; \$5.516 million pursuant to settlements for the sewer system), for the City's recognition of ownership. This is already factored in to the current rate calculations currently set by contractual agreement. This cost will be frozen and all customers will continue to make their share of this payment.**
  - Consideration: The GLWA have no obligation to pay a share of this cost

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<sup>43</sup>Saul Mikalonis Crain's Blog

<http://www.crainsdetroit.com/article/20140911/BLOG103/140919961/regional-water-deal-promising-but-more-political-will-needed-to>, Accessed September, 2014.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.



- **A regional \$4.5 million annual Water Residential Assistance Fund is created**
  - The GLWA will create a Water Residential Assistance Program to help support residential water customers across the region that is financially unable to afford water services
  - Residential water customers receiving financial support must agree to take appropriate actions to reduce water consumption
  - \$4.5 mil dedicated for 2014-15 and 0.5% of budgeted operating revenue per year thereafter (Estimates: 2015: \$4.5 million; 2016: \$4.7 million; 2017: \$4.9 million)<sup>48</sup>
  
- **The GLWA may have additional financial obligations based on the final version of the Plan of Adjustment**
  - 90 days after the establishment of the Authority, the Authority will need to work with the City and the Investment Committee of GRS to reach an agreement on the dollar amount for one-time payment in lieu of pension liability payments
    - Current pension liability payment = \$42.9 million per year (not including \$2.5 million in annual administrative expenses or the one-time restructuring cost payment of \$20 million in 2014/15) over 9 years pursuant to Plan of Adjustment<sup>49</sup>
  - If DWSD GRS is not 100% funded, then a contribution must be made over 5 years at an interest rate equal to then GRS investment return rate, to help with shortfall
  
- **Revenue requirement increases are capped at 4% per year for 10 years for the overall GLWA leased system**
  - DWSD retained a consultant, Veolia, to do an independent review to validate the revenue assumption and perform other due diligence necessary to formulate a strategic plan upon the launch of the Authority. The parties have the right to opt out of the deal if the review shows the 4% annual revenue requirement will not be able to be achieved
  - Consideration: Since the 4% increase cap is based on overall revenue increase, the increase in rates will differ in individual communities. In addition, individual communities might have differing rate of increases if they choose to make additional improvements to their local systems, use water and sewer equity in lieu of imposing rate increases, and for other causes specific to their local system. Some communities may have a 10% increase, while other communities have a 1% increase. As long as the overall revenue does not increase each year by more than 4%, it satisfies the terms of the agreement.

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<sup>48</sup> Powerpoint Presentation from Mike Duggan, Mayor of City of Detroit to the City of Detroit's City Council, September 17, 2014.

<sup>49</sup> Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority, September 9, 2014.

- Consideration: Based on an extensive analysis by several financial experts, the parties believe that the savings resulting from actions taken in bankruptcy, lower financing costs, better energy usage and more efficient operations will allow the GLWA to make these payments within existing and already projected revenues and operate on annual revenue increases of more than 4% a year for the next 10 years
- Consideration: At the City of Detroit bankruptcy hearing, Sue McCormick, Director of DWSD, said she expects annual rate increases of about 4% per year will offset the amount of money the system must borrow for repairs and upgrades but declined to estimate how much that increase will offset the amount that must be borrowed. She also said the creation of a new, regional water authority could help to reduce expenses<sup>50</sup>

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<sup>50</sup> <http://www.freep.com/story/news/local/detroit-bankruptcy/2014/09/16/detroit-bankruptcy-day/15742353/>, Accessed September, 2014.

**OPERATIONS AND MAINTENANCE (O&M)<sup>51</sup>**

- **GLWA shall commit to and adopting reporting practices for transparency in O&M**
- **GLWA shall adopt a two-year operating budget for FY 2017 and beyond<sup>52</sup>**
- **GLWA shall adopt a procurement policy<sup>53</sup>**
- **GLWA shall make every effort to employ individuals and contract with vendors within the region**
- **GLWA may be eligible for State funding (i.e. CGAP, SRF, etc.) to assist with improving the regional water and sewer system**
- **GLWA may revise as necessary the DWSD Water And Wastewater Master Plans to optimize the capacity of the system**
- **All current union contracts will be honored**
  - It is estimated that about 500 of the approximate 1,400 DWSD employee will remain DWSD, with no change to their employment or collective bargaining agreement
  - The remaining 900 workers are expected to transfer to the GLWA, which will become a successor employer and will assume and honor all DWSD collective bargaining agreements, as required by Michigan law
- **All current customer contracts will be honored**
  - Counties, cities, villages, townships and authorities currently under contract with DWSD will have their existing contracts honored in full and will realize the benefits of the contracts as they previously bargained for
- **The GLWA is to be operational in 200 days**
  - The formal start of the GLWA will occur with 200 days of its legal formation (on or about April 27, 2015), subject to the due diligence process, obtaining the necessary legal approvals and execution of the final documents

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<sup>51</sup> Unless otherwise noted, Articles of Incorporation of Great Lakes Water Authority, September 2014 and/or Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority, September 9, 2014.

<sup>52</sup> Articles of Incorporation of Great Lakes Water Authority Article 9.I, September 2014.

<sup>53</sup> Articles of Incorporation of Great Lakes Water Authority Article 9.K, September 2014.

- **State of Michigan will support efforts to help form the GLWA**
  - State of Michigan will undertake all efforts to help with the transaction as it relates to permit matters (including transfer of current NPDES permit and associated Administrative Consent Order) and applications for financial assistance
  
- **Article 4.B. (15) of the Articles of Incorporation states that the GLWA has the authority to convey, sell, transfer, exchange, lease, or dispose of property rights to any person or entity in a manner that is proper, fair, and valuable**
  - Consideration: Since the regional system is owned by the City of Detroit, and not the property of GLWA, there are some opinions that the GLWA should not be able to privatize the leased system

\*\*\*\*\* END \*\*\*\*\*



## **GLWA Proposal - Incorporating Municipality Vote Results**

*As of 09-24-2014*

<b>Incorporating Municipality</b>	<b>Status</b>	<b>Results</b>
Detroit City Council	Approved on Sept. 19, 2014	Yea: 7 (Cushingberry Jr, Jenkins, Tate, Benson, Spivey, Castaneda-Lopez, Leland)  Nay: 2 (Jones, Sheffield)
Wayne County BOC	Pending Oct. 2, 2014	Number of Commissioners: 15
Oakland County BOC	Pending Oct. 8, 2014	Number of Commissioners: 21
Macomb County BOC	Pending Oct. 9, 2014	Number of Commissioners: 13

**MACOMB COUNTY, MICHIGAN**RESOLUTION TO receive and file report from Board Chair for September 2014INTRODUCED BY: Dave Flynn, Full Board

- The following is a report on activities within the Board Office which do not usually appear on committee agendas.

**Current Issues**

- DWSD – GLWA
- Martha T. Berry Medical Facility
- Campus Renovations
- Jail Feasibility Study

**Office**

- Special Counsel for issues related to DWSD-GLWA
  - Several firms were contacted; responses received from Clark Hill, Varnum, Johnson Rosati
  - Jim Crowley, Clark Hill, engaged, letter and bio attached
- Facebook “Likes” increased 140 percent from March to September
- Org Plan in place
  - BOC’s Admin Secretary position will be posted soon (Myra’s position); job description updated

**Upcoming BOC Appointments**

- Social Services Board – Apps due by Sept 26<sup>th</sup>, interviews Oct. 6<sup>th</sup>, appointments Oct. 9<sup>th</sup>

**Legislative Calendar Updates**

- **DWSD / GLWA**
  - Tuesday, 09-30-14 Full Board Meeting → Topic Focus on Finance issues
  - Monday, 10-06-14 Gov’t Ops Meeting → Topic Focus on Operations & Maintenance
  - Thursday, 10-09-14 Full Board Meeting → Public Hearing, Final Debate, Vote
  - Detroit – voted yes on 09-19-14
  - Wayne County – votes on 10-02-14
  - Oakland County – votes on 10-08-14
- **Retiree Health Care Bonding Proposal**
  - 09-30-14 Tuesday Full Board → Presentation of Resolution to Authorize Financial Plan and Resolution to Approve Interim Trust (\*informational only – no votes\*)
  - **TBD** → Vote to adopt Resolution to Authorize Financial Plan; and Resolution to Approve Interim Trust
  - SB 922 - Extension of Sunset for Pension Obligation Bonds; passed Senate 38-0, House 107-1; waiting gubernatorial signature

**Region:**

- **MAPERS**
  - September 14-16 (attended by D. Flynn)
- **MAC**
  - September 14-16 (attended by Klinefelt, Mocerri)
- **Better Transit – Better Business**
  - September 23 (attended by C. Flynn)

**Correspondence:**

- Casual Day Program thank you letters;
- Various county resolutions.

**Media:**

- See attached articles.

**BOARD CHAIR REPORT 09-25-14 Page 2****BOC – Independent Counsel:** Expenditures for Outside Legal Counsel Professional Services

Litigation InvoiceCharges:	Legal Svcs Budget Amount:	Legal Services Invoice Totals:	Budget Remaining:	%Utilized:
	\$72,500 (2014)			
		\$ 161.00 (Clark Hill final)		
		<u>3,174.00</u> (January, Dickinson Wright)		
		\$ 3,335.00	\$ 69,165.00	.046
		<u>2,377.00</u> (February)		
		\$ 5,712.00	\$ 66,788.00	.078
		<u>3,013.00</u> (March)		
		\$ 8,725.00	\$ 63,775.00	.120
		<u>3,887.00</u> (April)		
		\$12,612.00	\$ 59,888.00	.173
		<u>5,405.00</u> (May)		
		\$18,017.00	\$ 54,483.00	.248
		<u>3,775.00</u> (June)		
		\$21,792.00	\$ 50,708.00	.300
		<u>4,807.00</u> (July)		
		\$26,599.00	\$ 45,901.00	.366
		<u>4,220.00</u> (August)		
		\$30,819.00	\$ 41,681.00	.425

**COMMITTEE/MEETING DATE**

Full Board 09-25-14

###

## MICHIGAN'S PRIMARY TURNOUT: THIS YEAR IN HISTORY

The number of registered voters in Michigan has climbed to an all-time high of roughly 7.5 million (about 96% of the state's voting age population). However, the percentage of those registrants who actually participated in the Aug. 5 primary election (17.9%) was the sixth lowest since World War II.

Can anything good be said about such a miserable turnout? Only that the 2014 primary was the first in Michigan history in which there was no competition in either the Governor or U.S. Senate races for either major political party's nominations, thereby undercutting incentive for the citizenry to vote.

Here's the pattern:

% of Registered Voters Casting		% of Registered Voters Casting	
Year	Ballots	Year	Ballots
1978	24.3%	1998	20.0%
1980	21.6	2000	16.7
1982	29.1	2002	25.3
1984	20.1	2004	19.9
1986	20.6	2006	17.8
1988	19.4	2008	19.1
1990	17.8	2010	22.9
1992	24.5	2012	20.5
1994	23.4	2014	17.9
1996	20.1		



# CLARK HILL

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September 23, 2014

**Via email to dave.flynn@macombgov.org**

Mr. David J. Flynn  
Commissioner and Chair  
Macomb County Board of Commissioners  
Administration Building  
One South Main Street, 9<sup>th</sup> Floor  
Mount Clemens, MI 48043

Re: Advice regarding Great Lakes Water Authority

Dear Chairman Flynn:

This letter serves to record the terms of our engagement to represent the Macomb County Board of Commissioners, as a client, with respect to advice regarding Great Lakes Water Authority.

Jim Crowley will be the principal Clark Hill contact in this matter. Other members and/or associates of our firm may be expected to be involved in this matter as well. Where practicable, we will attempt to introduce these persons to you where their involvement in your matter is substantial or where they have an important role in handling this engagement.

For this engagement, we offer discounted differential rates of \$230 per hour for partners, \$195 for senior attorneys, \$165 per hour for associates and \$150 per hour for paralegals. These rates are the same rates set at the time of our engagement with the Commission in 2011.

Clark Hill currently represents National Public Finance Guarantee Corporation ("National") with respect to the Detroit bankruptcy. National has consented to our representation of the Macomb County Board of Commissioners as long as the term of the engagement is not extended beyond October 24, 2014, without their additional consent. Accordingly, this engagement would terminate as of that date, unless extended by agreement.

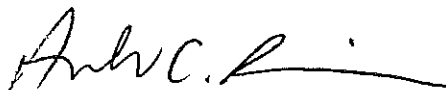
Macomb County Board of Commissioners  
September 23, 2014  
Page 2

This letter is supplemented by our Standard Terms of Engagement for Services, enclosed, which are incorporated in this letter. If you agree that this letter provides acceptable terms for our engagement in this matter, please sign and return a copy to us.

We look forward to working with you.

Respectfully submitted,

CLARK HILL PLC



Andrew C. Richner

ACR:dav  
Enclosure

We hereby accept, and agree to be bound by, the foregoing.

MACOMB COUNTY BOARD OF COMMISSIONERS

By: Daniel J. Flynn  
Its: Board Chairman

DATE: September 23, 2014

## **STANDARD TERMS OF ENGAGEMENT FOR LEGAL SERVICES**

This statement provides the standard terms of our engagement as your lawyers. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this statement carefully and contact us promptly if you have any questions.

### **GENERAL RIGHTS AND RESPONSIBILITIES OF CLIENTS OF THE FIRM**

A client of the firm has the right to: (A) expect competent representation by the firm; (B) determine the purposes to be served by the legal representation, so long as those purposes are legal and do not violate the firm's obligation to the profession or to the judiciary; (C) be kept reasonably informed about the status of the matter and have the firm respond promptly to reasonable requests for information; and (D) terminate the representation at any time, with or without cause, subject to the obligation for payment of legal services provided and costs incurred by the firm.

A client of the firm has the responsibility to: (A) obey all orders issued by a court or other tribunal concerning your matter; (B) be candid and truthful with the firm and the court or other tribunal; and (C) pay the firm as provided by this agreement and any other agreements regarding payment for legal services and expenses. A client may not: (A) demand that the firm use offensive tactics or treat anyone involved in the legal process with anything but courtesy and consideration; (B) demand any assistance which violates the Rules of Professional Conduct; or (C) pursue or insist upon a course of action which the firm reasonably believes to be illegal, fraudulent, offensive or unwise. The firm may terminate this agreement for reasons permitted under the Rules of Professional Conduct.

### **OBLIGATIONS OF A LAWYER**

All lawyers are required to observe and uphold the law, including applicable court rules; and are governed by Rules of Professional Conduct that pertain to our relationship with a client, with third persons, other professionals and the courts. All of these laws and rules apply to our representation of you, and we welcome your inquiry about them.

### **WHOM WE REPRESENT**

The person or entity whom we represent is the person or entity identified in our engagement letter and does not include any affiliates or related parties of such person or entity, such as parent companies, subsidiaries, sibling entities, and/or other affiliates; or employees, officers, directors, shareholders of a corporation, partners of a partnership, members of an association or limited liability company, and/or other constituents of a named client unless our engagement letter expressly provides otherwise.

### **THE SCOPE OF OUR WORK**

You should have a clear understanding of the legal services we will provide. Any questions that you have should be dealt with promptly.

We will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the outcome of your legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed. Your obligation to pay our fees as provided in this letter is not in any way contingent upon a result or results in the matter.

Our attorney-client relationship will be considered ended upon the earliest of (a) our completion of services in the matter(s) for which you have engaged us, (b) notification by you to us that you desire to terminate such services, or (c) notification by the firm of termination of our attorney-client relationship.

#### **WHO WILL PROVIDE THE LEGAL SERVICES**

Customarily, each client of the firm is served by a principal attorney contact. The principal attorney should be someone in whom you have confidence and with whom you enjoy working. You are free to request a change of principal attorney at any time. Subject to the supervisory role of the principal attorney, your work or parts of it may be performed by other lawyers and legal assistants in the firm. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on an efficient and timely basis.

#### **PRESERVATION OF EVIDENCE AND COMMUNICATION PROTOCOL IN LITIGATED MATTERS**

All evidence of any nature that is arguably relevant to this matter, including but not limited to documents (whether hard copy or electronic) and other physical evidence, must be preserved. Moreover, scheduled routine destruction of any stored records (whether hard copy or electronic) must be suspended immediately until after this matter is concluded. Failure to do so may result in sanctions by a court or tribunal.

In order to preserve the attorney-client privilege that attaches to our communications, it is important that all future oral communications about this matter occur only in the presence of a Clark Hill attorney. Further, all written communications about the matter should be directed to a Clark Hill attorney. You recognize that, while convenient and sometimes necessary, communications transmitted by internet, mobile and other electronic means may not be entirely secure. Therefore, in communicating by such means you accept the risks that such communications may not be protected by the attorney-client privilege, and we agree that no party will be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption, or alteration of any such communications due to any reason beyond that party's reasonable control.

#### **HOW FEES WILL BE SET**

Unless our engagement letter provides otherwise, our fees will be charged on an hourly basis, *i.e.*, time expended multiplied by the hourly rates of our lawyers and other professionals. Among the factors we consider in determining the staffing of the matter and the hourly rates charged are:

- The novelty and complexity of the issues presented, and the skill required to perform the legal services;
- The fees customarily charged in the community for similar services and the value of the services to you;
- The amount of money or value of property involved;
- The time constraints imposed by you as our client and other circumstances, such as an emergency closing, the need for injunctive relief from court, or substantial disruption of other office business;
- The experience, reputation and expertise of the lawyers performing the services.

We will keep accurate records of the time we devote to your work, including conferences (both in person and over the telephone), negotiations, factual and legal research and analysis, document preparation and revision, travel on your behalf, and other related matters. We record our time in tenths of an hour.

The hourly rates of our lawyers are adjusted periodically to reflect current levels of legal experience, changes in overhead costs and other factors.

We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Whenever possible we will respond to your request by furnishing an estimate based upon our professional judgment, but always with a clear understanding that it is not a maximum or fixed fee quotation. The ultimate cost frequently is more or less than the amount estimated.

#### **RETAINER AND TRUST DEPOSITS**

Clients of the firm are commonly asked to deposit a retainer with the firm. Unless otherwise agreed, the retainer deposit will be credited toward your unpaid invoices, if any, at the conclusion of services. While the retainer is on deposit, you grant us a security interest in such funds. At the conclusion of our legal representation or at such time as the deposit is unnecessary or is appropriately reduced, the remaining balance or an appropriate part of it will be returned to you.

Deposits which are received to cover specific items will be disbursed as provided in our agreement with you, and you will be notified from time to time of the amounts applied or withdrawn. Any amount remaining after disbursement will be returned to you.

All trust deposits we receive from you will be placed in a trust account for your benefit. Your deposit will be placed in a pooled account unless you request a segregated account. By law, interest earned on the pooled account is payable to a charitable foundation. Interest earned on a segregated trust account will be added to the deposit for your benefit and will be includable in your taxable income.



## EXPENSES

We frequently incur and/or pay on behalf of our clients a variety of expenses arising in connection with legal services. These expenses include charges made by courts, other government agencies, and service vendors. You authorize us to incur such charges on your behalf, and agree to reimburse the firm to the extent we pay these charges on your behalf. You also authorize us to incur on your behalf expenses incidental to the representation, including but not limited to deposition and transcript costs; witness fees; travel expenses; charges of outside experts and consultants; and other legal counsel fees. You agree that you will be solely responsible for such expenses and that the firm will not be responsible for such expenses. We will usually advance expenses up to \$100, and require that our clients directly pay, or deposit with us funds to pay, expenses exceeding \$100.

The firm does not charge for internal costs of routine copying, telephone, third party charges for research, faxes, secretarial overtime, mailing, and the like. However, the firm does charge for extraordinary expenses of this type, and we will bill you for them at our cost.

## FILES AND OTHER MATERIALS

Files generated in the matter will be retained by the firm as required by law, and thereafter may be retained or destroyed, at our discretion. To the extent we retain them, we will provide you reasonable access to matter files in accordance with applicable law, excluding firm files (firm administrative records, time and expense reports, personnel and staffing materials, accounting records, and internal lawyers' work product, *e.g.*, drafts, notes, internal memoranda, legal research, and factual research). Matter files to which you are given access may be reproduced at your request and at your expense. We reserve the right to make and retain copies of all documents generated or received by us in connection with the matter. After our engagement in this matter ends, upon your request and at your expense we will return any property you have entrusted to us, unless there is a balance on your account. If there is a balance on your account, the firm will assert a retaining lien on such property to the extent allowed by law. If you have not requested return of such property within a reasonable time after our engagement in the matter ends, we may retain or destroy such property at our discretion.

## TERMINATION

You may terminate our representation at any time, with or without cause, by notifying us. Your termination of our services will not affect your responsibility for payment of legal services rendered and out-of-pocket costs and internal charges incurred before termination and in connection with an orderly transition of the matter.

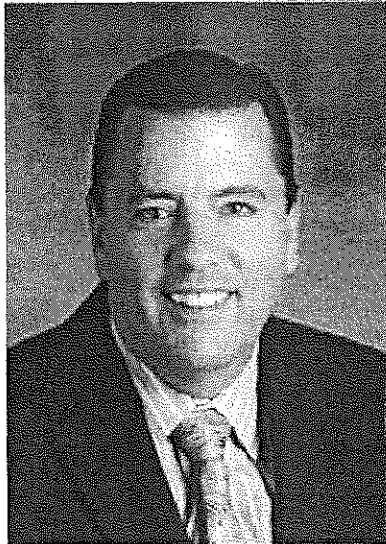
The Rules of Professional Conduct list several types of conduct or circumstances that require or allow us to withdraw from representing a client, including, for example: persistence in a course of conduct which we reasonably believe to be criminal or fraudulent, insistence upon pursuing an objective which we consider to be repugnant or imprudent, failure of a substantial nature to fulfill an obligation after reasonable warning that it will result in our withdrawal, or other good cause.

### BILLING ARRANGEMENTS AND TERMS OF PAYMENT

Our invoices will report the hours and rates for attorneys and other professionals on the matter, and describe the work performed. Unless otherwise provided in our engagement letter, we will provide you with a bill on a monthly basis. Payment is due on receipt. Any balance unpaid after 30 days of the date of the invoice shall accrue interest at the rate of seven percent (7%) per annum. Payments shall be applied first to costs and expenses, then to accrued interest, if any, and then to the unpaid fees.

We will give you notice if your account becomes delinquent, and you agree to bring the account or the retainer deposit current. If the delinquency continues and you do not arrange satisfactory payment terms, we may withdraw from the representation and pursue collection of your account. We may also request permission of any court in which we have filed an appearance on your behalf to allow us to withdraw as your counsel, and you agree that non-payment of our fees is a valid basis for our request to so withdraw. To the extent collection of your account becomes necessary, you agree that, in addition to any unpaid balance and interest thereon, we will be entitled to recover all costs and expenses of collection, including reasonable attorney fees.

# CLARK HILL



## James M. Crowley

Member

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Fax: (248) 988-2317

Email: [jcrowley@clarkhill.com](mailto:jcrowley@clarkhill.com)  
Office: Birmingham

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### Areas of Practice

Corporate Law  
Estate Planning & Probate  
Education  
Employee Benefits / ERISA  
Services  
Municipal Law  
Public Finance  
Tax  
Tax Exempt Organizations

### News

Members of Clark Hill PLC's Education Practice Group to Present at the 76th Annual MSBO Conference and Exhibit Show, May 6-8, 2014

Clark Hill Attorneys Dana L. Abrahams, James M. Crowley and Eric C. Griggs Author Articles in the Michigan Council of School Attorney's Spring Newsletter

Clark Hill Partners with Plante & Moran to Present School Law and Finance Seminar

Clark Hill Attorney James M. Crowley to present at the Michigan Association of School Boards Annual Conference October 26, 2013

Clark Hill Attorneys James M. Crowley and Joseph B. Urban to Present at the Michigan School Business Officials

### Bar Admissions

Admitted to practice in Michigan

### Education

J.D., Wayne State University School of Law, 1984  
B.A., Michigan State University, 1981

### Memberships

American Bar Association, Taxation and Family Law Sections  
State Bar of Michigan, Taxation and Family Law Sections  
National Association of Bond Lawyers

**James M. Crowley** is a member of the Education and Municipal Law Practice Group in Clark Hill's Birmingham office, where he concentrates his practice in the areas of municipal finance law, school and municipal law, tax-exempt organizations, employee benefits law, and tax law.

James has extensive experience in municipal and school finance. He regularly serves as bond counsel, underwriter's counsel, and disclosure counsel for school districts, public charter school academies, and various municipalities. In these capacities he has served as counsel relating to tax-exempt and taxable financings, fixed and variable rate financings, general obligation and revenue financings, unlimited and limited tax financings, and conduit financings.

James also has extensive experience in employee benefit and tax law issues for school districts and municipalities, including IRC 403(b) and 457 plans, cafeteria plans and early retirement incentive plans; in general school and election law; in general business, corporate and tax law, and in the division and valuation of retirement benefits in divorce, including qualified domestic relations orders, eligible domestic relations orders, and qualified court orders.

James received a B.A. in Accounting from Michigan State University in 1981, and a J.D. from Wayne State University in 1984.

**Annual Conference**

Members of Clark Hill PLC's  
Education Practice Group to  
Present at the 75th Annual  
MSBO Conference and Exhibit  
Show, April 23-25

Clark Hill Partners with Plante  
& Moran to Present School  
Law and Finance Seminar

Forty-Seven Clark Hill  
Attorneys Named 2013 Top  
Lawyers by *dBusiness*  
Magazine

Clark Hill Attorneys James M.  
Crowley and Joseph B. Urban  
to Present on Emergency  
Manager Training in Lansing

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# CLARK HILL

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 F 248.642.2174  
  
 clarkhill.com

September 25, 2014

Macomb County Board of Commissioners  
 1 South Main Street  
 Mount Clemens, Michigan 48043  
 Attention: Mr. David J. Flynn, Board Chair

**Re: Great Lakes Water Authority (“GLWA”)**

Dear Board of Commissioners:

The following are my responses to various questions that have been raised regarding the Commission’s consideration of the approval or disapproval of the Articles of Incorporation required to establish the legal entity for the Great Lakes Water Authority (“GLWA”).

By way of background, on September 9, 2014, the City of Detroit (the “City”), the State of Michigan (the “State”) and each of the County Executives from Macomb, Oakland and Wayne County (the “Counties”) executed a *Memorandum of Understanding Regarding the Formation of the Great Lakes Water Authority* (the “MOU”). The MOU was the result of a confidential mediation process ordered by the Bankruptcy Court handling the City’s Bankruptcy to address whether a regional water and sewer authority should be created and incorporated as part of the Plan of Adjustment in the City’s Bankruptcy. The MOU is the result of this mediation and provides a framework for the creation of a regional water and sewer/storm-water authority to operate, control and improve both the water supply system and the sewage disposal system currently owned by the City and presently operated by the Detroit Water and Sewerage Department (the “Department”). It is being proposed that this regional authority be created pursuant to the Municipal Sewage and Water Supply Systems Act, Act 233, Public Acts of Michigan, 1955, as amended (“Act 233”).

There are several conditions precedent to the creation of the GLWA and the consummation of the transactions contemplated in the MOU, the first of which is the establishment of the corporate entity for the GLWA. Act 233 provides that 2 or more municipalities may establish a water and/or sewer authority by the adoption of articles of incorporation by the legislative body of each of the participating municipalities.

Accordingly, as an initial matter, the MOA requires the establishment of a corporate entity for the GLWA. To accomplish this the MOU requires that the terms of the MOU be incorporated into articles of incorporation which then shall be presented to the City and the



Macomb County Board of Commissioners  
 September 25, 2014  
 Page 2

legislative bodies of the Counties for approval or disapproval no later than October 10, 2014. The MOU further provides that the GLWA shall be established upon the adoption of the articles of incorporation by the City and the legislative body of at least one of the Counties.

On September 10, 2014 the County Executive sent a letter to the Commission which included the MOU and the proposed Articles of Incorporation for the GLWA. In this letter the County Executive indicated that the MOU and Articles of Incorporation "are hereby transmitted to you as required by Section 3.10 of the Macomb County Home Rule Charter". The letter further stated that "[i]n order for Macomb County to become a member of this regional authority the Commission will have to give its formal approval." The Executive closes this letter with the following: "Please know that I will respectfully support whatever decision your body makes."

The Commission has begun its consideration of the request to approve or disapprove the Articles of Incorporation and as part of this consideration several questions have been raised. The following are each of the questions raised followed by my response.

**Is the Commission being asked to approve or disapprove both the MOU and the Articles of Incorporation?**

The MOU has already been executed by the City, the State and the County Executives and has been filed with the Bankruptcy Court. The sole purpose of the MOU is to be used as a framework for creation of the Articles of Incorporation for the GLWA. The terms of the MOU have been incorporated into the Articles of Incorporation. Under Act 233 the only requirement to create the GLWA is the adoption of the Articles of Incorporation. Therefore it is my opinion that the only action required by the Commission is to approve or disapprove the adoption of the Articles of Incorporation.

**What approvals are required to adopt the Articles of Incorporation under the Macomb County Charter?**

With respect to intergovernmental relations and agreements, Section 3.10 of the Macomb County Charter provides in pertinent part as follows:

*The Executive with the approval of the Commission and concurrence of each Countywide Elected official whose department will be required to allocate or transfer resources, may: ...*

*(b) Join, establish, or form with any other governmental unit an...authority to perform a public function or service, which each is authorized to perform separately...*

Section 3.10 provides that the Executive may approve the establishment of an authority if he has the approval of the Commission and the concurrence of a Countywide Elected Official whose department will be required to allocate or transfer resources to the GWLA. In the

Macomb County Board of Commissioners  
September 25, 2014  
Page 3

County's case, the County and various municipalities within the County are currently receiving water and sewer services from the Department pursuant to various contracts, which under the Articles of Incorporation, will be transferred to the GLWA. Any potentially affected County department would have to demonstrate that this switch from the Department to the GLWA caused it to have to allocate or transfer its resources to the GLWA.

The Charter does not specifically set forth a procedure for identifying Countywide Elected Officials whose concurrence would be required under Section 3.10. Section 3.10 does provide that the Executive may join, establish or form the authority with the Commission's approval and the concurrence of any Countywide Elected Officials with departments affected by the creation of the GLWA. This could be interpreted to require the Executive to seek the Commission's approval and any required concurrence from Countywide Elected officials before the Executive enters into the GLWA. In addition, it is my opinion that the Commission does not need any such concurrence from any Countywide Elected Official, or is it required to determine if any Countywide Elected Official is entitled to concur, before it decides whether to approve or disapprove the Articles of Incorporation.

Due to the time sensitive nature of the approval process my recommendation would be for the Commission to consider the request for the approval or disapproval of the Articles of Incorporation and, if the Commission decides to approve the adoption of the Articles of Incorporation, this approval should be communicated to the Executive. Under Section 3.10 the Executive would then have to make a decision as to whether he has the appropriate approvals to adopt the Articles of Incorporation. Any Countywide Elected Officials that felt that they are entitled to concur on the approval could then make their case to the County Executive.

**What are the consequences to the County if the Commission approves the Articles of Incorporation and the GLWA is established?**

If the County adopts the Articles of Incorporation and the GLWA is established the County becomes an Incorporating Municipality in the GLWA and will be entitled to appoint one of the six Board of Directors. The Board of Directors would then proceed to negotiate and execute all of the required operative documents, which would include the Lease with the City, and secure all of the required consents and approvals, which would include the approvals to operate the systems and the consents of the credit enhancers and bondholders to transfer all of the bonded debt from the City to the GLWA.

If the GLWA is created and becomes operational the Articles of Incorporation provide that it shall continue until dissolved by the unanimous act of the Board or by law, but in no event before all existing and future indebtedness of the GLWA has been paid or assumed by another entity.

The Articles further provide that an Incorporating Municipality may be released from membership in the GLWA if all of the following conditions are met:

Macomb County Board of Commissioners  
 September 25, 2014  
 Page 4

- 1) 2/3 majority vote of the legislative body of the withdrawing member;
- 2) Unanimous vote of the GLWA Board members, excluding the withdrawing Board member, accepting the member's request to withdraw from the GLWA; and
- 3) Payment or the provision for payment is made for all obligations of the withdrawing member to the GLWA or its creditors.

**What are the consequences to the County if the Commission does not approve the Articles of Incorporation and the GLWA is established?**

If the County does not adopt the Articles of Incorporation and the GLWA is established the Governor will appoint a Board member for the County who shall be a resident of the area to be served by the GLWA located within the County and such member shall serve at the pleasure of the Governor.

Some commentators have also pointed out that Act 233 allows the GLWA to charge greater rates to municipalities that do not participate in the GLWA. I gather the thought behind this is that the GLWA will try to penalize Macomb County for not participating. My response to this is that I do not see this as a real concern. It appears that the GLWA will be established whether Macomb County participates or not. Water and sewer rates are still required to be based on the fixed and variable costs of providing the service and the GLWA is not allowed to make a profit. Thus rates in Macomb County should not be adversely affected based on the fact that the County choose not to participate in the GLWA. If the County does not participate in the GLWA there will still be one Board member who lives in Macomb County and presumably will have some allegiance to the County.

It should also be noted that if Macomb County does not participate it will be in the same position as the municipalities located outside of the Counties that have contracted to receive water and/or sewer services from the Department. One Board member will be appointed by the Governor from this area and these municipalities will not be participants in the GLWA.

**What happens to the Lease terms upon the expiration of the initial 40 year term?**

The Articles of Incorporation provide that the Lease between the City and the Authority shall follow in all material respects the terms set forth in the MOU. The MOU provides that the City shall lease the water and sewer systems ( excluding the City's local system) "for an initial term of 40 years, extendable to at least match the term of any outstanding bonds of the Authority". The MOU further provides that the annual Lease payment shall be a payment of \$50 million from the GLWA to the City to be used in the City's discretion to improve the infrastructure of the City's water and sewer system. It is not clear to me whether the \$50 million annual lease payment is required to be continued after the initial 40 year term.

Macomb County Board of Commissioners  
September 25, 2014  
Page 5

I believe a compelling argument can be made that this annual Lease payment should be significantly reduced or eliminated at the end of the initial term based on the fact that after 40 years the GLWA will most likely have paid for or financed most if not all of the systems assets.

In this regard it should be noted that the approval of the Lease requires a 5 vote supermajority. A strategy could be for two of the Counties to join forces to negotiate a lower Lease payment after the initial 40 year term as well as other desired terms. If the Counties were not successful in negotiating acceptable terms they could choose not to approve the Lease which ultimately could cause the GLWA to dissolve.

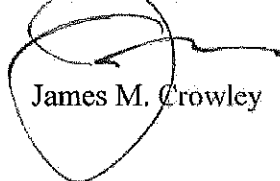
**Under the GLWA what is the status of municipalities in service areas outside of the Counties of Macomb, Oakland and Wayne?**

Municipalities outside of the Macomb, Oakland and Wayne County have not been requested to join the GLWA. The Articles of Incorporation allow the Governor to appoint one Board member residing in these service areas to serve at the pleasure of the Governor.

I trust this correspondence adequately addresses the questions that have been raised by the Commission relative to this matter. If you have any questions or would like to further discuss this matter please feel free to contact me at your convenience.

Very truly yours,

**CLARK HILL PLC**



James M. Crowley

JMC/tld  
Enclosure



# Macomb Homeless Coalition

P.O. Box 856 • Mt. Clemens, MI 48046

[www.macombhomelesscoalition.com](http://www.macombhomelesscoalition.com)

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September 3, 2014

Board of Commissioners  
c/o Mr. David Flynn  
1 S. Main St., 9<sup>th</sup> Floor  
Mt. Clemens, MI 48043

Dear Commissioner Flynn

The Macomb Homeless Coalition would like to thank you for your \$90.00 donation from the May 2014 Casual Day program. Your donation is very much appreciated and will aid Macomb County residents experiencing or at risk of homelessness.

The Coalition is a community planning body that promotes the prevention and elimination of homelessness. Your donation will allow us to continue coordinating our community's resources and services for the benefit of the 1,101 individuals and family members who are experiencing homelessness in Macomb County every single day. If you would like more information on the Coalition or our Community Connection Days, please visit us at [www.macombhomelesscoalition.com](http://www.macombhomelesscoalition.com).

We are a 501(c)3 nonprofit organization. Federal law requires us to notify you that the Macomb Homeless Coalition is providing no goods or services to you in exchange for your donation.

Again, your donation is greatly appreciated.

Thank You,

Denise Goshton  
Director

Cc: Mr. & Mrs. Dwayne Mento







# Macomb Homeless Coalition

P.O. Box 856 • Mt. Clemens, MI 48046

[www.macombhomelesscoalition.com](http://www.macombhomelesscoalition.com)

---

September 19, 2014

Board of Commissioners  
c/o Mr. David Flynn  
1 S. Main St., 9<sup>th</sup> Floor  
Mt. Clemens, MI 48043

Dear Commissioner Flynn

The Macomb Homeless Coalition would like to thank you for your \$93.00 donation from the May 2014 Casual Day program, bringing our total to \$1,429.70. Your donation is very much appreciated and will aid Macomb County residents experiencing or at risk of homelessness.

The Coalition is a community planning body that promotes the prevention and elimination of homelessness. Your donation will allow us to continue coordinating our community's resources and services for the benefit of the 1,101 individuals and family members who are experiencing homelessness in Macomb County every single day. If you would like more information on the Coalition or our Community Connection Days, please visit us at [www.macombhomelesscoalition.com](http://www.macombhomelesscoalition.com).

We are a 501(c)3 nonprofit organization. Federal law requires us to notify you that the Macomb Homeless Coalition is providing no goods or services to you in exchange for your donation.

Again, your donation is greatly appreciated.

Thank You,

Denise Goshton  
Director





Mark A. Hackel  
County Executive

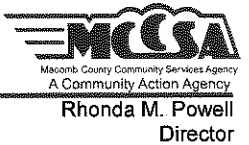
## COMMUNITY SERVICES AGENCY

21885 Dunham Road, Suite 10 • Clinton Township, Michigan 48036

Phone: (586) 469-6999 • Fax: (586) 469-5530

[www.macombgov.org/MCCSA](http://www.macombgov.org/MCCSA)

96



September 5, 2014

David J. Flynn, Board Chairman  
Board of Commissioners  
1 S. Main St., 9<sup>th</sup> Floor  
Mount Clemens, MI 48043

Dear Commissioner Flynn,

On behalf of Macomb County senior citizens receiving Meals on Wheels across our county I extend deepest appreciation for the generous casual day contributions the county employees made to the MCCSA Office of Senior Services in support of our Meals on Wheels program. This generous donation will support the delivery of hot, nutritious meals to senior citizens across Macomb County. Specifically, \$762.11 will allow us to provide 254 meals to frail, homebound seniors who may otherwise go without proper nutrition!

Again, thank you for your continued support in our effort to help prevent premature nursing home placement, malnutrition and social isolation among the aging population in Macomb County.

Sincerely,

Katherine R. Benford  
Division Director  
Office of Senior Services



84TH DISTRICT  
STATE CAPITOL  
P.O. BOX 30014  
LANSING, MI 48909-7514  
PHONE: (517) 373-0476  
FAX: (517) 373-9852  
E-MAIL: terrybrown@house.mi.gov

MICHIGAN HOUSE OF REPRESENTATIVES

**TERRY L. BROWN**  
STATE REPRESENTATIVE

August 19, 2014

Macomb County Board of Commissioners,  
40 North Main (1st Floor)  
Mount Clemens, MI 48043

Dear Macomb County Board of Commissioners,

As an update to the proposed nuclear waste facility in Ontario, I wanted to let you know that my written testimony in opposition to the project has been accepted for consideration at the hearings in September by the Deep Geologic Repository Joint Review Panel.

I am enclosing a press release sent out last week announcing this news and a copy of my written testimony for your review.

Sincerely,

A handwritten signature in black ink that reads "Terry Brown".

Terry Brown  
State Representative  
84th District

Enc.

FOR IMMEDIATE RELEASE  
Friday, Aug. 15, 2014

Contact: Rep. Terry Brown  
Phone: (517) 373-0476

# Rep. Brown Provides Testimony Against Nuclear Waste Site

*Lawmaker speaks out against contamination of Lake Huron waters*

PIGEON – The Canadian Deep Geologic Repository Joint Review Panel has accepted written testimony from state Representative **Terry Brown** (D-Pigeon) warning against a proposed nuclear waste repository in Ontario less than a mile from Lake Huron. In his testimony, Brown voiced concerns that radioactive material could leak from the site – as it did from a similar facility in New Mexico – and contaminate the lake.

“I am pleased that our regional perspective on this potentially dangerous nuclear waste site will be heard,” said Brown. “Michigan’s Great Lakes are key to our state’s identity, and they are one of our greatest treasures. We must keep them clean and beautiful. As a legislator, and voice for Thumb-area residents, I vow to fight hard to see that our lakes are protected.”

In the Legislature, Brown has co-sponsored a resolution urging Congress to oppose the construction of the waste site and asking Ontario Power Generation to find a new way to contain the waste. According to the Detroit Free Press, the Great Lakes are the source of drinking water for 24 million people in the U.S. and allow for Michigan’s \$2 billion fishing economy, \$4 billion boating economy and \$18 billion tourism economy.

###

Written Testimony on the  
Proposed Nuclear Waste Dump  
By State Representative Terry Brown

All of us who live in Michigan's Thumb recognize that the Great Lakes are a natural treasure, providing billions of dollars in tourism, recreation and business, drinking water for millions, and a beautiful environment for all of us to enjoy. Many of our residents believe, as I do, that we must be aware of new threats coming our way and remain vigilant in protecting these wonders of the natural world, not only for us, but also for future generations. Over the past year I have been hearing more and more about a proposed nuclear waste repository in Ontario that is located less than a mile from Lake Huron. Concerns are mounting that radioactive material could leak from the site.

As a member of the International Great Lakes Legislative Caucus, I have had the opportunity to study storage of nuclear waste along the Great Lakes. As national and international policy is developed, my studies have helped me to understand the complexity of dealing with material that can retain its radioactivity for 100,000 years or more.

Simply put, Ontario Power Generation has not made a convincing case for its burial plan. As a Review Panel, you cannot – based on the information that OPG has provided you – conclude that this proposed repository will actually contain the radionuclides for the very, very long time periods the hazard demands. As a Great Lakes legislator, I cannot conclude that this project will not harm the Great Lakes.

Since the hearing ended in October, you have received almost a thousand pages of additional information from Ontario Power Generation and the Canadian Nuclear Safety Commission (CNCS), mostly in response to questions you have posed during the hearing or since the hearing. But the new information is not convincing. In fact, in some cases, the new reports only increase concerns about the project and its harmful effects.

For example, a self-described “independent expert group” hired by Ontario Power Generation to assist in responding to your Information Requests points to the immensity of the Great Lakes and has acknowledged that leakage from the proposed Deep Geologic Repository is possible; but goes on to say that the radioactive waste will be diluted by the immense waters of the Great Lakes. This group of experts estimated that the amount would be “small” in comparison to the large volume of water that is in the great lakes, or even the rainfall.

I take issue with this argument, for three reasons:

- There is no level of radioactive release into the Great Lakes that is acceptable, particularly given that it will be added to a radiological burden already imposed on the Lakes
- The amount of radioactive release could actually be much higher than this group's calculation, particularly given all the unknowns with this proposal
- Dilution is not the solution

We have heard from such experts as Kevin Powers from the Ontario Power Generation (OPG), Mark Jensen of the Nuclear Waste Management Organization (NWMO), and David Pstrak, U.S. Nuclear Regulatory Commission (NRC).

In a meeting I attended at St. Clair County Community College I spoke to Dr. Gordon Edwards, a prominent Canadian nuclear scientist and president of the Canadian Coalition for Nuclear Responsibility about the current



plans by OPG to bury nuclear wastes from 20 nuclear reactors in Ontario in a Deep Geological Repository (DGR) less than a mile from Lake Huron, just across the lake from the Thumb.

Dr. Edwards calls on citizens from the Great Lakes region to speak out boldly against this project. He suggests that by burying these radioactive toxic wastes, which will remain "hot" for thousands of years, they are simply abandoning the waste. He suggests that science has not developed a solution for making these materials safe and if plans proceed they will become inaccessible if a problem develops.

In April, the Detroit Free Press reported that, according to Dr. Frank Greening, a nuclear scientist who once worked for Ontario Power Generation, the materials to be stored in the proposed Canadian underground site are "hundreds of times more radioactive than was told to Canadian government officials considering the site."

The issues raised by Dr. Greening's review of the waste inventory and the OPG response are reason enough alone to say "stop". At this point, OPG cannot – or will not – say definitively what wastes are destined for their proposed underground caverns, what the quantity or what the radioactivity will be, or how they will deal with future problems. How can they say that they know how to solve a problem when they cannot even say with any accuracy what the size or nature of the problem is?

The paper also reported there was "a February accident at a similar underground nuclear waste storage facility in New Mexico that left workers on the surface exposed to radiation." An accident or leak at this site, right on Lake Huron, would be devastating! But such an accident and radioactive leak has occurred at the Waste Isolation Pilot Plant, the very project which Ontario Power Generation has repeatedly pointed to as their example of a successfully operating deep geologic repository.

Dr. Edwards describes the concept of "Rolling Stewardship" of nuclear wastes, as an intergenerational plan to keep the wastes well packaged, constantly monitored, and easily retrievable for many generations to come until a genuine solution is found to permanently eliminate the toxicity of these man-made radioactive pollutants.

Simply stated, I believe it is a terrible idea to create a nuclear waste dump within a mile of our Great Lakes. In an effort to let the Canadian Nuclear Safety Commission's Joint Review Panel know what their closest neighbors think of their plans I was proud to cosponsor House Concurrent Resolution 7 to urge Congress to oppose the construction of this underground nuclear waste repository right across the water in Ontario. I will continue to speak out against this proposal as this is a risk we can't afford to take with our Great Lakes.

*County  
of  
Cheboygan*

**BOARD OF COMMISSIONERS**

County Building  
P.O. Box 70, Room 131  
Cheboygan, Michigan 49721

Tel ~ (231) 627-8855  
Fax ~ (231) 627-8881  
E-mail ~ ccao@cheboygancounty.net

**RESOLUTION 14-13**

**IN SUPPORT OF HCR 31**

**WHEREAS**, the U.S. Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) have released a 371-page draft regulation for Definition of Waters of the U.S. under the clean Water Act; and

**WHEREAS**, both agencies are seeking a rule change to give the federal government more authority by expanding the definition of "navigable waters" in the Clean Water Act; and

**WHEREAS**, the rule change proposed by the EPA and the Corps would subject almost all physical areas with a connection to downstream navigable waters, including features such as ditches, natural or man-made ponds, and flood plains, to the jurisdiction of the Clean Water Act; and

**WHEREAS**, the proposed rule change, if adopted, will cause significant harm to local farmers, stall the development of businesses, take control of land used for sustainable food production out of our local providers' hands and negatively impact county-owned and maintained infrastructure such as roadside ditches and county drains; and

**WHEREAS**, the cost to our farms, municipalities, and taxpayers will be enormous; and

**WHEREAS**, HCR 31 calls for the EPA and Corps to withdraw their proposed rule expanding the definition of "waters of the United States" under the Clean Water Act; now

**THEREFORE, BE IT RESOLVED** that the Cheboygan County Board of Commissioners supports HCR 31 calling for the U.S. Environmental Protection Agency and the Army Corps of Engineers to withdraw their proposed rule expanding the definition of "waters of the United States" under the Clean Water Act; and

District 1  
Linda Socha  
Chair

District 2  
Bruce Gauthier

District 3  
Pete Redmond  
Vice-Chair

District 4  
Cal Gouine

District 5  
Tony Matelski


District 6  
John B. Wallace

District 7  
Sue Allor

**BE IT FURTHER RESOLVED** that copies of this Resolution be forwarded to all Michigan Counties, National Association of Counties, Michigan Association of Counties, Governor Rick Snyder, U.S. Senator Carl Levin, U.S. Senator Debbie Stabenow, Congressman Dan Benishek, State Senator Howard Walker, State Representative Peter Petallia, State Representative Frank Foster, the U.S. Environmental Protection Agency and the Army Corps of Engineers.

I, Mary Ellen Tryban, Clerk of Cheboygan County and of the Cheboygan County Board of Commissioners do hereby certify that the above foregoing was adopted by the Board at their regular meeting on August 12<sup>th</sup>, 2014.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the County of Cheboygan on the 12<sup>th</sup> day of August, 2014 at Cheboygan, Michigan.

  
Mary Ellen Tryban  
Cheboygan County Clerk

*County  
of  
Cheboygan*

**BOARD OF COMMISSIONERS**

County Building  
P.O. Box 70, Room 131  
Cheboygan, Michigan 49721

Tel ~ (231) 627-8855  
Fax ~ (231) 627-8881  
E-mail ~ ccao@cheboygancounty.net

**RESOLUTION 14-14**

**OPPOSING THE DEVELOPMENT OF AN  
UNDERGROUND NUCLEAR WASTE FACILITY**

**WHEREAS**, a Canadian power company is proposing to develop an underground nuclear waste facility near Kincardine, Ontario; and

**WHEREAS**, the proposed facility would be situated less than one mile from the Lake Huron shoreline; and


**WHEREAS**, storing low and intermediate level waste so close to Lake Huron, which constitutes 21% of the world's fresh water supply, jeopardizes the fragile ecosystem and is a risk that cannot be afforded; now

**THEREFORE, BE IT RESOLVED** that the Cheboygan County Board of Commissioners hereby opposes the development of an underground nuclear waste facility near Kincardine, Ontario because of the risk of polluting the Great Lakes and upsetting the ecosystem; and

**BE IT FURTHER RESOLVED** that a copy of this Resolution be distributed to all Michigan Counties, President Barack Obama, Governor Rick Snyder, U.S. Senator Carl Levin, U.S. Senator Debbie Stabenow, Congressman Dan Benishek, State Senator Howard Walker, State Representative Peter Petallia, State Representative Frank Foster and the Province of Ontario.

I, Mary Ellen Tryban, Clerk of Cheboygan County and of the Cheboygan County Board of Commissioners do hereby certify that the above foregoing was adopted by the Board at their regular meeting on August 12<sup>th</sup>, 2014.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the County of Cheboygan on the 12<sup>th</sup> day of August, 2014 at Cheboygan, Michigan.

  
Mary Ellen Tryban  
Cheboygan County Clerk

District 1  
Linda Socha  
Chair

District 2  
Bruce Gauthier

District 3  
Pete Redmond  
Vice-Chair

District 4  
Cal Gouine

District 5  
Tony Matelski

District 6  
John B. Wallace

District 7  
Sue Allor

## Macomb Marine Division shows off newest boat in its fleet

Tue, Aug 19

detroitnews.com



Purchase Image

**Macomb County Sheriff Anthony Wickersham, left, U.S. Rep. Candice Miller, U.S. Coast Guard Sector Detroit Deputy Commander Ray Negron and U.S. Rep. Sander Levin talk inside the pilot house of a new patrol boat purchased, in part, with a FEMA grant. (Todd McInturf / The Detroit News)**

*Macomb County Sheriff Anthony Wickersham, left, U.S. Rep. Candice Miller, U.S. Coast Guard Sector Detroit Deputy Commander Ray Negron and U.S. Rep. Sander Levin talk inside the pilot house of a new patrol boat purchased, in part, with a FEMA grant.*

Harrison Township— The Marine Division of the Macomb County Sheriff's Office on Tuesday

displayed one of its three new patrol boats bought with a federal grant.

"I'd like to thank all of those who were an integral part in us receiving this grant and being able to replace an outdated fleet," Sheriff Anthony Wickersham said at the event at the Marine Division building.

The sheriff's office was awarded \$640,790 to buy the boats through the FEMA Port Security Grant Program

☑ . The grant was combined with a 25 percent county contribution. The total amount of the purchase of the patrol boats is \$854,386.

Made in Oregon, the 27-foot Almar/North River boat comes equipped with twin 250-hp Yamaha motors, radar, camera systems, fire pumps and mobile

☑ data terminals. Its top speed is 50 knots.

"This boat is used by the U.S. Navy and also law enforcement agencies throughout America," Wickersham said.

The Marine Division's fleet consists of 11 boats, he said. Three older boats will go to auction.

The new patrol boat arrived earlier this month. He said the other two will arrive in the next two weeks.

The Marine Division patrols Lake St. Clair, covering 85 square miles, including 30½ miles of shoreline connecting to 57 miles of rivers and streams, and a one-mile stretch bordering Canada.



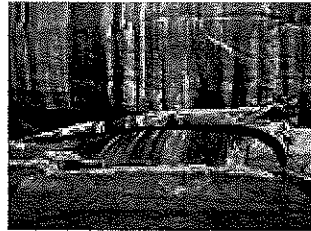
Macomb has 26 marinas and 10 access sites available for public access to Lake St. Clair, which is known as the busiest freshwater lake in America, according to the Marine Division.

Wickersham thanked U.S. Reps. Candice Miller, R-Harrison Township, and Sander Levin, D-Royal Oak, who were in attendance. He also thanked County Executive

☑ Mark Hackel and David Flynn, board of commissioners chair, and board members.



• — The Marine Division of the Macomb County Sheriff's Office on Tuesday displayed one of its three new patrol boats bought with a federal grant.



Upload your photos of what makes Michigan a great place to live in our 8th annual contest! Finalists selected weekly, prizes awarded Sept. 3.

• 4 BEDROOM, 2.5 BATH...

#### REAL LIVING KEY

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• 3 bedrooms, 1 bath...

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Carol Lukity

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Updated & tastefully decorated kitchen w/ door wall to sunroom that has a Tiki Bar! New roof July '14! New C/A 12', HWT 10', Gar. door opener 12', Dual electric ...

• Six Acres Of Sandy Shoreline W...

STATEWIDE REAL ESTATE

VICKI BENDER

989-280-6026

Executive Home on South Manistique Lake - Gated drive, 3 bedrooms and bath with 2 lower-level guests bedrooms and bath with sauna. Stone fireplace, wrap around...

• 4 Bedrooms â€¢ 5 Bathrooms â€¢...

The Macomb Daily (<http://www.macombdaily.com>)

## Road agencies gear up for harsh, costly winter

By Frank DeFrank, The Macomb Daily

Wednesday, August 27, 2014



Costs associated with last year's wicked winter weather could carry over to 2014-15 as road officials and others charged with keeping roads clear replenish salt supplies.

"The harsh winter last year caused many road agencies, and other public entities ... to deplete their salt reserves," Denise Donahue, director of the County Road Association, wrote in a news release distributed this week.

"As the demand for early salt delivery increased this year, so did the price."

Donahue, whose association represents the interests of Michigan's 83 county road agencies, said many agencies have experienced, or expect to experience, increased salt prices as they fill up their storage barns in anticipation of the coming winter.

The statewide average price per ton for salt \$65.71, the association reported. That represents an increase of about 46.3 percent from a year ago.

Typically, road agencies stock up on salt between now and October – called an "early fill" -- and hope Old Man Winter cooperates and they don't have to purchase more.

"We're filling up all our storage facilities to capacity," said Robert Hoepfner, director the Macomb County Department of Roads.

Hoepfner said the price per ton his department paid for early fill salt is \$47.80 per ton, about the same as last year. Macomb County stockpiles about 40,000 to 50,000 tons of salt in five storage facilities to start a new season.

Last year, that wasn't nearly enough. Macomb County used 74,000 tons of salt, about 50 percent more than during a normal season. The road department spent about \$3.7 million for salt.

"It was a rough winter," Hoepfner said.

But another winter like last year, which saw record salt usage, would mean re-stocking the supplies mid-winter.

Hoepfner said a second fill of his storage facilities would carry a price tag of \$77.15 per ton, a whopping 61 percent hike over the early fill price.

“It gives me a stomach ache,” he said.

The numbers vary, but the story is similar in Oakland County, said Craig Bryson, spokesman for the Road Commission of Oakland County.

Oakland County used a bit more than 100,000 tons of salt last year, compared to a five-year average of 63,000 tons.

When his agency replenished its supply this summer, Bryson said the price for early fill jumped about 25 percent over last year.

Early projections for the winter of 2014-2015 call for conditions as bad or worse than they were a year ago. If those projections pan out, road agencies will have little choice but to absorb the additional costs and deal with battered budgets, Donahue said.

“Michigan’s state and local road agencies have a legal responsibility to keep roads reasonably safe for travel,” she said.

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URL: <http://www.macombdaily.com/general-news/20140827/road-agencies-gear-up-for-harsh-costly-winter>

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## Environmental activists call for pollution solutions

By Chad Sekweski, The Macomb Daily

Thursday, August 28, 2014



Two days after Oakland County officials admitted that they dumped an unprecedented 2.1 billion gallons of partially treated sewage into the Macomb County waterways during the massive Aug. 11 storm, environmental activists on Thursday called for a return to the policing of polluters that was in place several years ago.

These activists warned that drenching rainstorms are becoming more common, and sewage system overflows packed with fertilizers and other “nutrient-rich” discharges will increasingly lead to a Lake St. Clair shoreline plagued by algae, tainted water and seaweed-style aquatic plants dominating the water surface.

“The citizens of Macomb County and Michigan want to be a part of the solution. Unfortunately, we are kept in the dark. But, ‘No news is not good news.’ Is it really Pure Michigan? Do we really have a Blue Economy? Who knows?” said Doug Martz, who served for 14 years as the first and only chairman of the now-defunct Macomb County Water Quality Board.

The recommendations of the 1997 Blue Ribbon Commission on Lake St. Clair – which were updated a decade later – established a Water Quality Board to oversee pollution problems, a special prosecutor to crack down on polluters, and a special Health Department team that inspected hundreds of miles of drains tracking down pollution “hot spots.”

All of the enforcement operations within that “three-legged stool” have been eliminated or sharply curtailed over the past several years.

Meanwhile, officials who oversee Oakland and Macomb sewer facilities say that the unrelenting storm of Aug. 11, which dumped 5 inches or more of rain in many of the suburbs, would have overwhelmed any sewage system.

Oakland County Water Resources Commissioner Jim Nash and Macomb County Public Works Commissioner Anthony Marrocco have indicated their drainage systems are not built for such a downpour in a relatively short amount of time.

Martz and others spoke at a press conference held at the Harrison Township lakefront home of Paul Gutierrez, with a swampy patch of weeds in the background jutting out from the seawall in a space equivalent to a large back yard.

The towering phragmites, similar to cattails, combined with other invasive species of plants growing in green water, have eliminated the Gutierrez family's view of Lake St. Clair. Sometimes, they have to keep their windows closed due to the stench of human waste coming from their waterfront.

Critics say Oakland and Macomb county communities that discharge raw sewage into the drains and streams that flow into Lake St. Clair -- owe some relief to those who live "at the end of the pipe."

Gutierrez said he wants to see sewer relief valves shut down and all communities in the drainage area of Lake St. Clair engage in improvements that separate rain water from toilet water in two distinct networks of pipes.

"People say we can't afford it. Well, how much did (the storm) cost all of those people in this area who had their basements flooded," said Gutierrez, whose home is located in a stagnant section of the shoreline just south of the flush created by the mouth of the Clinton River Spillway. "It's not until you live on the lake that you learn what the problem is."

The 2.1 billion gallons flushed from southeast Oakland County on Aug. 11 occurred at the GWK Drain, traditionally known as the Twelve Towns Drain, that dumps directly into Macomb's Red Run Drain at Dequindre south of 13 Mile Road. From there, the contaminants flow through residential neighborhoods to the Clinton River and then out to Lake St. Clair.

That volume of pollution doubles the tragic 1 billion-gallon discharge by Oakland County in 1994 that led to a summer of beach closings on Lake St. Clair and a buildup of seaweed mounds on the lakeshore. Following the Aug. 11 torrential rains, the Oakland County release through the GWK Drain was nearly seven times larger than all the overflows at sewer facilities in Macomb County combined.

The new figures from Oakland and other revisions bring the total sewage discharges into streams, rivers and eventually the lake on Aug. 11 to 2.5 billion gallons. That is the equivalent of 3,779 Olympic-sized swimming pools.

In addition, the amount of untreated raw sewage dumped into the waters by Macomb County communities during the flood was raised dramatically in the final numbers, from nearly 6 million gallons to 140 million gallons.

It took two weeks after the big storm before the public was made fully aware of all the sewage discharges that occurred in the hours and days of the aftermath.

The new numbers bring the total amount of partially treated and raw sewage spewed into the lake this year to about 4 billion gallons.

Linda Schweitzer, an associate professor of environmental chemistry at Oakland University, told the press on Thursday that low levels of pharmaceuticals and industrial pollutants could be hidden – and never detected – within those massive overflows of sewage-tainted rain water.

Carl Freeman, a Wayne State University biology professor, said that officials should also be worried about viruses in the discharged wastewater and a toxic version of bacteria known as microcystis.

Martz, Freeman and Schweitzer formed a trio about a dozen years ago that routinely warned the public of various pollution problems in the lake. Thursday's press event marked the first time they have appeared together since County Executive Mark Hackel disbanded the Water Quality Board and replaced it with a new board,



which meets privately and is focused on promoting lakefront entertainment events.

In his remarks, Freeman also suggested that the harmful algae blooms that earlier this summer shut down the drinking water systems of Toledo, Ohio, and a small portion of southern Michigan could blossom here due to poor water quality.

A decade ago, Macomb County played the lead role in creating a high-tech drinking water monitoring system that stretched from Port Huron through the St. Clair River, Lake St. Clair and the Detroit River to Wyandotte. But that protective network, put in place at 13 sites at an initial cost more than \$2 million, has largely been shut down. Advocates say it could have been saved by tacking on a \$1-per-year surcharge to property owner's water bills in the tri-county area.

In the 1990s, Oakland County officials balked at spending \$950 million to separate the sewers in the 14 communities that rely upon the Twelve Towns Drain. Instead, \$144 million was spent to expand the massive sewage retention basin and make other sewer improvements in the surrounding area of Madison Heights.

That expensive project made only a marginal difference, Martz said, adding that several Macomb communities also have to answer for their lack of effort in eliminating the pollution problems.

“Warren is supposed to be a separated sewer system with separate pipes” for rainwater and sewage water, said Martz. “So why do the people in Warren have sewage in their basements . . . in their yards, in their streets? People shouldn't have sewage in their basements in 2014. And we shouldn't have sewage in this lake.”

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URL: <http://www.macombdaily.com/government-and-politics/20140828/environmental-activists-call-for-pollution-solutions>

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## Water quality solution depends on cooperation of all

1:00 am

detroitnews.com



*High algae levels in Lake Erie gave Toledo a brief water scare this summer.*

Water quality issues have been dotting the front pages of our paper for many years. This year alone we have seen the people of Toledo and downriver communities being told to not drink their water because of the toxic "blue algae" that has clogged Lake Erie.

Closer to home we have had beach closings, unprecedented sewage discharges and basements being flooded from antiquated sewer systems that still combine storm water with the sanitary sewers that carry our toilet waste.

Talks were and are being held among Macomb, Oakland, Wayne counties and the city of Detroit about setting up a regional water system.

Federal Judge Sean Cox issued a gag order on all parties to not release details of the negotiations. While I understand the reasoning behind that, given the sensitivity of negotiations, I hope that Judge Cox understands that waterfront communities want to see solutions to the neglect of our infrastructure.

While I do want to see a regional water and sewer system, I also want to take this opportunity as the state representative of a waterfront community to address not only the failures of Detroit's reported mismanagement of their water department, but also the issues that I believe need to be considered.

I would like to see all communities separate their sanitary sewage from their storm water or find a way to effectively retain sewage until it can properly be treated.

Does this cost money? Sure it does; just ask Mount Clemens, which spent \$30 million to separate its systems. Or Fraser, which also spent millions. But the payback has been huge, not only for Lake St. Clair and the blue economy, but, during the recent storm, communities that separated their systems didn't have the widespread basement flooding that plagued communities with older systems.

The problem is, communities have very little reason to fix their systems. The Department of Environmental Quality will issue permits to legally dump partially-treated sewage (or in many cases, untreated) into our waterways. Permit costs are miniscule compared to the costs of properly treating the sewage. I would propose that the DEQ charge a much higher rate and turn that money over to the waterfront communities for their cleanup efforts.

This will do two things: It will provide the necessary funds to do clean-ups on the lake, and it will cause local politicians to take a second look on how they treat their sewage.

Additionally, Macomb and Oakland counties are spending millions of dollars suing each other in a lawsuit that centers around allowing the city of Warren access to a sewer line for its excess sewage that currently gets dumped into the Red Run drain. This ends up in the backyards of the residents in the district I serve, which eventually aids in the growth of the toxic algae blooms.

The sewer has the capacity to treat all of the aforementioned entities. Macomb owns 51 percent of the system. If we will truly have a regional system, I ask that the final master plan end the lawsuit. Let's start acting like we are all in this together.

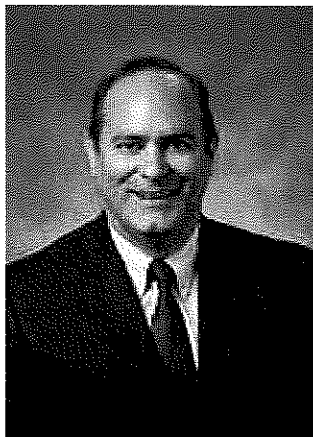
We need a regional water monitoring system for our drinking water. Several years ago U.S. Rep. Candice Miller secured federal funds to monitor our drinking water. That money, together with the funds secured at the state level from the efforts of then-State Rep. Dan Accavitti and Macomb County Water Quality board chairman Doug Martz established a monitoring system that extended from chemical valley on the St. Clair River to the Detroit River intake.

Unfortunately, because funding hasn't been in place for the upkeep of the system, most of the monitoring has been dismantled, leaving most of Southeast Michigan vulnerable. For the cost of under a buck a year to each ratepayer in the region, we can keep our residents safe — and keep chemical valley honest.

I urge Judge Cox to make this funding part of the regional solution.

This may be my bucket list, but I believe that it is the wish list of everyone in our state: Real solutions that will end the lawsuits, end the basement flooding and provide Michiganians with safe, clean water for drinking and for recreation with our families.

*State Rep. Anthony Forlini, R-Harrison Township, represents the 24th District.*



Forlini



- **Ingrid Jacques: Hey, do you want to pay my tuition?**



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more. They tell the story of their city and what it is becoming.

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The Macomb Daily (<http://www.macombdaily.com>)

## **Judge's declaration of independence for Martha T. Berry prompts Hackel to seek severance**

### **Ruling sparks Hackel to seek end to county providing services**

By Chad Selweski, The Macomb Daily

and Jameson Cook, The Macomb Daily

Friday, September 5, 2014

A judge's decision affirming the Human Services Board's authority to operate Martha T. Berry Medical Center prompted County Executive Mark Hackel to seek to eliminate services the county provides to the facility.

But his plan was met with skepticism from county Board of Commissioners Chairman David Flynn, who urged deliberation and encouraged negotiations for the county to continue helping operate the facility.

Judge James Biernat last week ruled against Hackel's 2013 attempt to nix a deal between the county board and the HSB, and assert control over the Martha T. Berry Medical Care Facility in Mount Clemens. The Aug. 28 opinion came in a lawsuit filed a year ago by the HSB against Hackel in Macomb County Circuit Court in Mount Clemens.

The decision triggered plans by Hackel to begin withdrawing several services that county government provides to the facility: payroll, accounting, human resources, risk management, legal services, building and grounds maintenance, billing and collections, and information technology.

"They were trying to have the best of both worlds," Hackel said Thursday of the HSB. "They wanted to be independent and they were using all of our resources but they were not transparent at all. They did not have any oversight whatsoever."

In a detailed, five-page memo to the Board of Commissioners, Hackel says the court ruling will require quick, widespread changes at the county's medical care facility. He set an Oct. 31 deadline but said he could be flexible with the date.

The Hackel memo also says that Martha T. Berry would have to enter into negotiations to keep their employees in the county pension system and would be required to take on the unfunded financial liabilities associated with health care for the facility's retirees.

However, Flynn, who applauded the ruling, said the executive should pull back the reins on the plans and proceed with caution. He said he hopes the county and HSB can reach a deal for the county to provide some or all of the services and avoid harming operations at the facility.

"I urge caution and pragmatism," Flynn said Thursday. "Our alliance with Martha T. Berry did not happen overnight and the transition period should not happen overnight. I would urge we take our time and make this a deliberate transition."

Roger Facione, HSB chairman, said he is pleased with the ruling but agreed with Flynn.

"There were ... clarifications needed," he said. "If things are going to change, we need time to plan for that."

Flynn pointed out that the 217-bed facility in Mount Clemens, founded in 1949, provides long-term care for the poor who cannot afford to pay for care.

"Martha T. Berry is a place where people who are indigent receive medical care and who otherwise might not otherwise receive care," he said. "These people live in our neighborhoods and are part of our families."

Its operation is 87-percent funded by Medicaid and 10 percent by Medicare, according Facione. No county funds are expended.

Flynn and Facione said the facility pays the county for the services through the county's cost-allocation procedure as well as for rent and debt service for renovations a decade ago. The facility is slated to pay \$685,000 this year and \$715,000 next year, and paid \$656,000 last year for support services. The HSB also paid \$964,000 in bond payments and rent, they said.

The annual budget is between \$25 million and \$26 million, Facione said.

Flynn said the county should not lose the revenue generated from providing the services, saying the arrangement is a net financial gain; it adds minimal burden to county staff. "We're providing these services already," he said.

Prior to the operating agreement, the county subsidized Martha T. Berry's operation with up to \$5 million per year. The HSB has cut costs through compensation sacrifices by employees and improved bed utilization to eliminate the need for a subsidy, officials said.

But Hackel's memo asserts that a series of problems linger at Martha T. Berry: lawsuits filed over patient care; excessive employee turnover; health, fire and safety deficiencies in the building; and a high level of patient and staff complaints.

A primary reason Hackel sought to gain control of the facility was the HSB's handling of labor contract negotiations, rather than adhering to the charter's prescribed role for the executive's human resources director.

In his ruling, Biernat says that a 1939 state law trumps Hackel's contention that the county charter gives him authority to operate Martha T. Berry. State law put the decision in the hands of the county Board of Commissioners, which in 2009 reached a Joint Operating Agreement with the three-member HSB to run the Martha T. Berry.

If the county board decided to rescind the JOA, which it could do at any time, operation would revert back to the county under the executive.

Hackel indicated he will not appeal the ruling.

The other two HSB members are Margaret Hader, who like Facione was appointed by the board, and Janice Nearon, who is state appointed.

HSB attorney Bill Moore said that the ruling may remove the county's liability for Martha T. Berry.

"It's arguable the county would not have any obligation," he said.

He said there are 34 county medical facilities in Michigan, some of them funded by a millage assessment.

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URL: <http://www.macombdaily.com/government-and-politics/20140905/judges-declaration-of-independence-for-martha-t-berry-prompts-hackel-to-seek-severance>

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## Macomb County weighs expanding anti-bias rules

Sun, Sep 7

detroitnews.com

Mount Clemens— Commissioners are to consider a new policy providing protection for county workers against discrimination based on gender and sexual orientation.

Macomb is the latest municipality to codify protections against discrimination on the basis of sexual orientation and gender identity. More than 35 communities across the state have adopted similar ordinances.

If approved Monday by the Board of Commissioners' Government Operations Committee, the Human Rights Policy will be taken up by the full board Sept. 18.

The county has a recently amended human resources handbook that includes language regarding sexual orientation only. The proposed policy will provide protection against discrimination based on gender and sexual orientation to the more than 2,700 county employees.

Additionally, Commissioner Fred Miller is recommending Macomb's Purchasing Policy be amended to include protections based on gender and sexual orientation.

In a written explanation, Miller stressed that while the board is crafting policy changes to codify protections for all employees, it doesn't mean special treatment.

"These changes will not create unisex restrooms, change dress requirements or afford people special privileges," Miller wrote in a column in support of the measure. "Rather, all employees in the county and those we contract will have the guarantee of a work environment where they and their ideas are respected based on their expertise and not disregarded because of their real or perceived lifestyle choices."

Miller did not respond to requests for comment.

Equality Michigan, a statewide LGBT advocacy and anti-violence organization, met with members of the county board to provide guidance on the policy, said Sommer Foster, director of political advocacy.

"We are happy that they are going to protect their workers," Foster said.

Macomb is following the lead of other counties and the state that offer similar protections to workers.

■ In February, an executive order was approved in Wayne County that extends the county's employment and non-discrimination policies to include sexual orientation and gender identity.

■ Oakland County's Equal Employment Opportunity Policy was amended in 2010 to include sexual orientation, said Nancy Scarlet, director of human resources.

■ In April, Bay County passed an internal policy prohibiting employee discrimination against the LGBT community.

Sterling Heights become in June the first Macomb County community to expand its nondiscrimination ordinance to include sexual orientation and gender identity. But the 7-0 vote by the City Council has been met with opposition.

Opponents of the ordinance filed a petition last month seeking to put the change up for a public vote.

“The opposition turned in some signatures and it was not enough,” Foster said. “They were given a week where they could collect 700 more. We are waiting to hear if they have collected the right amount and if the signatures that they have collected are valid.”

Steven J. Guitar, city spokesman, said the clerk’s office is checking the validity of the additional signatures.

Michigan’s Elliott-Larsen Civil Rights Act, passed in 1976, bans discrimination in employment, housing and public accommodations based on religion, race, color, national origin, age, sex, height, weight and marital status. It does not include sexual orientation, gender identity, gender expression and HIV status.

- **Macomb County weighs expanding anti-bias rules**

— Commissioners are to consider a new policy providing protection for county workers against discrimination based on gender and sexual orientation.

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The Oakland Press (<http://www.theoaklandpress.com>)

## Oakland County officials praise new regional water authority

Tuesday, September 9, 2014

Oakland County officials are reacting enthusiastically to today's announcement about the creation of a Great Lakes Regional Water Authority.

The new entity will include two members appointed by the Detroit mayor, one each by suburban counties and one by the Governor.

"It really was 15 months of intense bargaining and intense negotiation," said Oakland County Executive L. Brooks Patterson. "We just signed it a moment ago."

Jim Ellison, Royal Oak mayor, said the water system needed revamping. "With all four entities agreeing on the plan moving forward, it's probably a positive thing," said Ellison.

Speaking about an earlier proposal by Oakland County to create its own water system, "The cost of new infrastructure would have been ridiculous," said Ellison.

Royal Oak, with more than 57,000 residents, handles its own water and sewer pipe maintenance. "But we have always gotten (Detroit's) rate increases and had to pass them onto the residents."

Officials today said rate increases of no more than 4 percent are forecast in the next 10 years.

Oakland County Water Resources Commissioner Jim Nash said county water department officials are excited to be part of the regional shift.

"The entire region can now work together to make needed upgrades and repairs, focus on the future with regards to environmental protections and stormwater planning, and also protect ratepayers," Nash said.

"We think this can be a new beginning that is the most fair to all the parties involved and is the best chance for a win-win outcome."

The Village of Oxford is part of a consortium of 11 communities that receives sewer treatment from Detroit through Oakland's Water Resources office.

Manager Joe Young said the deal announced Tuesday was "wonderful."

"I don't deal with Detroit as much, due to the consortium ... (but) I think this will provide more accountability and better understanding of what rates are and how expenses and rates are developed and charged accordingly," said Young.

# The Detroit News

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SEPTEMBER 10, 2014

## County commissioners cautiously optimistic about new water authority

STEVE PARDO AND CHRISTINE FERRETTI THE DETROIT NEWS

— A regional water authority proposed Tuesday by Detroit Mayor Mike Duggan and leaders from Wayne, Oakland and Macomb appears to be headed for approval by all three counties.

Commissioners in the three counties said they need time to study the details, but one day after the plans for a Great Lakes Water Authority were announced, they expressed restrained optimism.

“Overall, I think it’s a deal we can live with,” said Michael J. Gingell, Oakland County commission chair. “We were able to negotiate some of the terms that were important to Oakland County such as representation, and the money we pay stays in the system.”

Oakland commissioners are expected to vote Oct. 8.

Under the plan, the suburban authority would be managed by two representatives appointed by Duggan and one appointee each from Wayne, Oakland and Macomb counties. A sixth person would be appointed by Gov. Rick Snyder to represent communities outside the three counties. Rate hikes and major decisions, including contracts and hirings, would have to be approved by a super majority of at least five of six votes.

The authority needs approval of at least one county commission and the Detroit City Council to become reality. The council is supposed to consider the potential lease of the water department within 10 days, according to Bill Nowling, spokesman for Emergency Manager Kevyn Orr. If the council rejects it, Orr could override. The counties need to consider the proposed authority by Oct. 10.

Most Detroit City Council members have declined to comment on the plan, citing the need to fully review its details.

On Tuesday, council member Saunteel Jenkins said based on what she’s seen, the authority “looks like a good deal for all involved.” She has not revealed how she may vote.

The second-term councilwoman said it allows the city to retain ownership of the assets while giving the counties “more input.”

“They wanted more responsibility and say in how this system is run. They get that, but we also get to maintain control of our water system here in the city of Detroit,” she said.

The city’s water and sewer lines would stay under the control of the Detroit Water and Sewerage Department. The authority would pay \$50 million a year for 40 years to lease the suburban water and sewerage infrastructure.

The concern was whether the authority could sustain making a \$50 million lease payment to the city without

more than doubling suburban rates, said Wayne County Commissioner Shannon Price, R-Canton. Suburban officials had long complained they weren't being allowed by Orr to look at the DWSD books and repeatedly shot down proposals for multi-million dollar payments to Detroit. Because water negotiations were taking place under a federal gag order, county executives were not supposed to share details with their boards.

Wayne County Chief Financial Officer Mark Abbo said it is believed the deal could allow Detroit to issue bonds of up to \$800 million to fix the aging Detroit infrastructure. DWSD bonds are at junk status. But bonds issued by the authority would likely be ranked as investment grade, resulting in millions in savings, Abbo said.

Wayne County commissioners are expected to vote Oct. 2 to approve the county becoming a member of the authority. They cautioned they did need time to study the information. Commissioners are expected to meet at least one more time as a group before the vote.

In Macomb County, the 13-member board plans to establish meeting dates to "review, analyze and understand fully" what the water agreement means to the county and its ratepayers, said David Flynn, chairman of the Macomb County commission. A final vote date is expected by the end of the week.

Flynn said it was premature to say how he will vote on the plan. The negotiation, he said, had give and take for all involved. But the plan is supported by Executive Mark Hackel. Flynn said it provides increased input from counties and that he was generally supportive of regional authorities.

"When you have a better representation on the governing authority and our direct interests are advocated for, you'll have a more efficient and effective water system," he said.

**Resolution Supporting Michigan House Bill (HB) 5785  
To Restore Authority To Trial-Level Courts To Apply Fees  
That Was Taken Away by *People v. Cunningham***

**Commissioner Kathy Vosburg, Supported by Commissioner Veronica Klinefelt,  
and Commissioner Toni Mocerri, on Behalf of the Board of Commissioners,  
Offers the Following Resolution:**

WHEREAS, *People v. Cunningham* involved a defendant who was ordered to pay \$130 for the crime victim's rights assessment, \$68 in minimum state costs, and \$1,000 in unspecified court costs, however, the defendant moved to reduce or vacate the amount of court costs imposed to reflect the amount of actual costs incurred by the circuit court in connection with defendant's case; and

WHEREAS, on June 18, 2014, in a unanimous opinion by Justice Stephen Markman, the Supreme Court held that current state law does not provide courts with the independent authority to impose costs upon criminal defendants, but rather, it gives courts the authority to impose only those costs that the legislature has separately authorized by statute, and a court may impose costs in a criminal case only if those costs are authorized by statute; and

WHEREAS, the decision in *People v. Cunningham* threatens to destabilize the entire court system in the state by eliminating court costs they routinely levied for a decade; and

WHEREAS, on September 18, 2014, the Michigan House legislature responded to the Court's opinion by taking quick action to adopt House Bill (HB) 5785 to restore the authority to trial-level courts to apply "user fees"; and

WHEREAS, HB 5785 was drafted with input from a broad array of stakeholders, from judges to administrators to counties to attorneys; and

WHEREAS, all Michigan local courts, and the counties responsible for them, stand to lose as much as \$100 million if the ruling is not mitigated; and

WHEREAS, the office of the Macomb County Circuit Court is also in full support of HB 5785, and according to the Court's Administration, the potential impact of the *People v. Cunningham* decision is estimated to be approximately \$900,000 for the Circuit Court, and approximately \$1.3 million, if the District Courts in Romeo and New Baltimore are included; and

WHEREAS, in addition to restoring court authority, the bill includes new transparency and reporting requirements to monitor the progress of these fees; and

WHEREAS, on September 22, 2014, a letter was sent by Commissioners Dave Flynn, Kathy Vosburg, Veronica Klinefelt, and Toni Mocerri, to State Senators Steve Bieda and Tory Rocca, Macomb County State Senators, and members of the Senate Judiciary Committee, to encourage them to show support for the bill.



NOW THEREFORE BE IT RESOLVED that the Macomb County Board of Commissioners supports House Bill (HB) 5785 to restore authority to trial-level courts to apply fees that were taken away by *People v. Cunningham*.

BE IT FURTHER RESOLVED that the Macomb County Board of Commissioners urges Michigan State Senators to either remove the sunset amendment on the bill or extend the sunset to 36 months.

BE IT FURTHER RESOLVED that digital copies of this resolution, if possible, be provided to the Macomb County State Legislative Delegation, Oakland County Board of Commissioners, Wayne County Board of Commissioners, Washtenaw County Board of Commissioners, Macomb County Executive Mark Hackel, Macomb County Circuit Court Chief Judge John Foster, Macomb County Prosecutor Eric Smith, Macomb County Clerk Carmella Sabaugh, Macomb County Court Administrator Jennifer Phillips, Michigan Association of Counties Government Affairs Associate Dana Gill, and GCSI Director Kirk Profit.