

STATE OF MICHIGAN
IN THE SUPREME COURT

MARK HACKEL, in his capacity as
Macomb County Executive,
Plaintiff/Counter-Defendant/Appellee,

v.

MACOMB COUNTY BOARD OF
COMMISSIONERS,
Defendant/Counter-Plaintiff/Appellant.

Case No. 166363
Court of Appeals No. 362775
Macomb County Circuit Court
Case No. 18-1252-CZ

Appellee's Supplemental Appendix

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Date: August 22, 2024

Index

September 27, 2021 Hearing Transcript	1a
Affidavit of Stephen Smigiel, Finance Department Director	56a
Macomb County Information Technology Policy	61a
March 17, 2022 Board of Commissioners Meeting Minutes.....	85a
August 29, 2017 Letter of Mark Deldin	102a
August 29, 2017 Letter of Bob Smith.....	103a
Charter Commission Records: Permissible Dep’t Provisions Memo	104a
Charter Commission Records: Legal Memo re: Draft Charter	118a
May 13, 2019 Draft of Proposed Macomb County Charter	120a
May 27, 2009 Charter Commission Meeting Minutes	123a
Macomb County Organization Plan	129a
List of Macomb County Charter Provisions Using “By Law”.....	162a
List of Macomb County Charter Provisions Using “By Law” and “Ordinance”	172a

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

MARK A. HACKEL, in his capacity
as Macomb County Executive,

Plaintiff,

vs.

Case No. 18-1252-CZ

MACOMB COUNTY BOARD OF COMMISSIONERS,

Defendant.

PROCEEDINGS

BEFORE THE HONORABLE JAMES M. MACERONI (P-61759), JUDGE

Mount Clemens, Michigan - Monday, September 27, 2021

APPEARANCES:

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TABLE OF CONTENTS

Page

WITNESSES:

(No witnesses offered)

EXHIBITS:

(No exhibits offered)

Received

1 Mount Clemens, Michigan

2 September 27, 2021

3 At about 10:43 a.m.

4 - - -

5 (REPORTER'S NOTE: "Inaudible" means a
6 word or words were not heard well
7 enough to be able to discern a proper
8 interpretation either because of
9 shuffling of papers, or the speaker did
10 not talk loud enough, or was not picked
11 up by the microphone.)

12 THE CLERK: Hackel versus Macomb County.

13 MR. VIVIANO: Good morning, your Honor. Joe
14 Viviano appearing on behalf of the county executive.

15 THE COURT: Good morning.

16 MR. WEBSTER: Good morning, your Honor.
17 Peter Webster on behalf of the Board of
18 Commissioners.

19 THE COURT: Good morning. And, Counsel, I
20 appreciate your patience. I know you've been sitting
21 here since 10:00. I don't know, I think it was --

22 MR. VIVIANO: We have cross-motions --

23 THE COURT: -- a full moon last night.

24 MR. VIVIANO: -- this morning, your Honor.

25 No problem. We are happy to be back in court for a

1 change.

2 THE COURT: Well, and I'm happy to have you
3 back. Okay. So, I understand that your
4 cross-motions, umm, regarding this issue, regarding
5 the, specifically the IT, umm, and there's
6 a -- there's a motion, response to that motion and
7 then a motion on your -- partial summary disposition
8 on your end in response to that motion, so I'm not
9 sure --

10 MR. VIVIANO: Well, your Honor --

11 THE COURT: -- who would like to go first?

12 MR. VIVIANO: -- one housekeeping.

13 THE COURT: Sure.

14 MR. VIVIANO: And then we can flip a coin or
15 you can go first --

16 MR. WEBSTER: Okay.

17 MR. VIVIANO: -- I don't care. Umm, but
18 our -- I just want to clear up one point of
19 confusion. Our original motion we asked for
20 dismissal of Count 2. I know, and then I looked at
21 this while preparing, this issue comes up in
22 Count 1 and Count 2. I know your order, I know our
23 intent, I know Mr. Webster's in line with this. This
24 is to dispose of the financial software issue
25 completely one way or the other.

1 THE COURT: Right.

2 MR. VIVIANO: So that's just for
3 housekeeping. I think you are in agreement with
4 that.

5 THE COURT: And it's just a financial
6 software issue, correct?

7 MR. VIVIANO: Right.

8 THE COURT: Regarding that particular --

9 MR. WEBSTER: Yeah, it was, that is correct,
10 your Honor. If I may just briefly go through a
11 timeline.

12 THE COURT: Sure.

13 MR. WEBSTER: So, the original Complaint
14 that was filed by the county executive was filed back
15 in March of 2018, and that included the issue where
16 the county executive was trying to preclude the
17 establishment of the older adult advisory committee.

18 THE COURT: Right.

19 MR. WEBSTER: The Board of Commissioners
20 answered that, and then filed a counter-claim with a
21 two count one instead. Mr. Viviano just mentioned
22 the one is the access to the county financial
23 information aspect and the other aspect is breach of
24 contract.

25 THE COURT: Okay.

1 MR. WEBSTER: Or, I'm sorry, the -- the --

2 THE COURT: So this was a, and I was curious
3 about that, it was -- it was a Counter-Complaint as
4 to the issue of the -- regarding the --

5 MR. VIVIANO: The original Complaint was the
6 older adult advisory.

7 THE COURT: Right.

8 MR. VIVIANO: They responded with a
9 counter-complaint with two issues, the financial
10 software issue and then a contracting ordinance, the
11 contracting ordinance issue which --

12 THE COURT: Okay.

13 MR. VIVIANO: -- Mr. Webster and I told you
14 on our call we are going to try to work out --

15 THE COURT: You are going to try and work
16 that one out.

17 MR. VIVIANO: -- that second issue.

18 MR. WEBSTER: Exactly.

19 MR. VIVIANO: We are here on the first
20 issue.

21 THE COURT: Okay. Got it.

22 MR. WEBSTER: So what's left is that the
23 Court had ruled on the older adult advisory
24 committee.

25 THE COURT: Right.

1 MR. WEBSTER: We are going to work out and
2 work on a settlement structure with respect to that
3 contracting issue.

4 THE COURT: Okay.

5 MR. WEBSTER: So what does remain --

6 THE COURT: Right, is the access to that
7 software.

8 MR. WEBSTER: -- is the access to the
9 financial information, and so that's the
10 cross-motions before the Court.

11 THE COURT: Gotcha. Okay.

12 MR. WEBSTER: So, as we present in our
13 briefing, the question for the Court is, does the
14 charter grant the power to the county executive to
15 limit the Board of Commissioners access to that
16 county financial information, and that is, does the
17 charter grant, technically not, the Board of
18 Commissioners that exclusive authority to determine
19 how, what and when the Board of Commissioners sees
20 that financial information.

21 THE COURT: Okay. And currently it is by
22 quarterly report; is that correct?

23 MR. WEBSTER: The charter requires a
24 quarterly report.

25 THE COURT: Okay.

1 MR. WEBSTER: And --

2 THE COURT: And in this instance, you would
3 be requesting essentially realtime access to, I guess
4 for lack of a better term, the books, like realtime
5 access to the county software which would include
6 everything, and realtime access is read-only. In
7 other words, the Board of Commissioners
8 couldn't -- couldn't change any entries or anything
9 like that, but essentially it would allow a
10 representative from the board to, and correct me if
11 I'm wrong, but essentially log in at any time and see
12 in realtime this software.

13 MR. WEBSTER: Yeah, it is just the current
14 information, that's what realtime means, it is
15 current information.

16 THE COURT: Right.

17 MR. WEBSTER: Read-only, one person, and so
18 that person would, and that is on the staff of the
19 Board of Commissioners and of their legislative
20 affairs would be that one person.

21 THE COURT: And one person would have access
22 to it.

23 MR. WEBSTER: That is correct.

24 THE COURT: Okay. Now, is it -- is
25 this -- I guess is -- is that type of access

1 replicated any -- anywhere else that you are aware
2 of?

3 MR. WEBSTER: Yeah, I was just going to
4 mention two things, if I may. The Court asked about
5 one, the quarterly reports. The charter mandates the
6 minimum with a floor, and if the Court looks at
7 Section 3.7(D), D says, or any other information --

8 THE COURT: Right.

9 MR. WEBSTER: -- as provided by law or
10 ordinance. And that's what this does. Okay. So
11 there's an expressed provision under the charter
12 which requires the executive to provide that
13 information.

14 Interestingly, further, with respect to the
15 access to this information, and the important part is
16 this, is that it is -- it is rolled down as much more
17 detailed information, and I can go into that. It's
18 explained in Exhibit 6 with respect to our motion
19 where we present an affidavit and show the Court what
20 this does, what the practical effect is, and how it
21 helps the Board of Commissioners. The board of
22 commissioners has access --

23 THE COURT: You said that's Exhibit 6?

24 MR. WEBSTER: Correct.

25 THE COURT: Okay.

1 MR. WEBSTER: The Board of Commissioners has
2 access to this type of information only for its own
3 administrative staff budget. Okay. Interestingly,
4 other departments --

5 THE COURT: They do now.

6 MR. WEBSTER: They do now.

7 THE COURT: (Inaudible) -- you were saying,
8 correct?

9 MR. WEBSTER: But that's only as to the
10 board and not as to any other department. Other
11 departments have access into that information for
12 their own department. The only entity that can see
13 across all departments is the county executive
14 finance department. The Board of Commissioners is
15 simply asking for that, umm, again, read-only access.
16 And, so, that answers the Court's question of how
17 it's provided. Well, it's provided across the board
18 siloed where the executive is the only entity through
19 the finance department. It can see all the
20 information. We believe the Board of Commissioners
21 strongly, as expressed through its ordinance, that it
22 should have access to that information, and the
23 easiest, most reasonable is to provide this read-only
24 look where the legislative director can see the
25 information as opposed to, and I'm going to jump

1 ahead a little bit -- what's happening practically is
2 that we asked for information. The executive
3 actually doesn't even provide information from the
4 printout, but rather says, this is what I think you
5 were asking for, here's your information.

6 The problem is is that we say, no, not
7 exactly, we were looking for this. Oh, well, here's
8 the information that, now in the second go around,
9 and so, with the timing, the -- the real world
10 difficulty is that that process delays revision of
11 information and provides practical difficulties for
12 us, and that the more simple way is just simply
13 instead of having it cleared and controlled as to
14 what information has been provided by the executive,
15 just simply have someone look at it just like other
16 people can do across the board.

17 THE COURT: Well, other people within their
18 own departments, right?

19 MR. WEBSTER: And in the finance department.

20 THE COURT: Okay.

21 MR. WEBSTER: And the real world issue,
22 again, Exhibit 8, is that a, by way of example, we
23 asked for -- we get a budget amendment that asked
24 for, the clerk said, we want to change these line
25 items down here rolled down to specific detail. We

1 don't even know what that is. It is all rolled up
2 at, you know, instead of having papers and paper
3 clips and so forth down below, we just have one big
4 item, and so when we get a request we don't know what
5 that is, we have to then go back to the finance
6 department and ask, hey, where is this information
7 and so forth.

8 That is the practical issue, and I -- I
9 don't want to make it mundane, and -- and have it
10 trivial by referencing that, so I want to go back up
11 to the important part or the policy what's going on
12 here, and that is having transparency, and what the
13 charter really means and says. The basic framework
14 for the Court's decision-making is very similar to
15 the framework that the Court went through with
16 respect to the older adults advisory committee.

17 I would call out to the Court the operative
18 provision is in our briefing of the charter is
19 4.24(J). 4.24(J) is just a -- is the broad grant of
20 powers to the Board of Commissioners. And that's
21 underscored by 4.5 which said the intent of the
22 people when they adopted the charter is that any
23 power, it could have been granted to the Board of
24 Commissioners, was granted even if it is not
25 expressed, or implied, right, so, it is this broad

1 grant. That's recognized by this Court, and it's
2 recognized by published authorities including the
3 Hackel case, and I'll speak to that in a second.

4 The other important provision I'll just
5 mention is 3.7(E), That is an expressed charter
6 requirement of the executive to provide financial
7 information as required by law and by ordinance.
8 Here the issue is with respect to the ordinance, yes,
9 Section 10. -- Section 10(H) under the ordinance
10 that's adopted here every year, and we specifically
11 identify the Uniform Budgeting and Accounting Act
12 requirement. It is clear as day, and it says the
13 county executive under this form has to provide
14 information as-needed as determined by the Board of
15 Commissioners. So the charter is subject to this
16 state law requirement, case law says it has to follow
17 the state law, state law says he has to give this
18 information. And so, 3.7(D) provides that, and it
19 ties into and references the state law.

20 The other requirement I would also say under
21 the charter the Court should look at is 8.6. And 8.6
22 is directly under the finance department, and it says
23 that they have to provide information and information
24 as further identified by the Board of Commissioners
25 in this case under the ordinance. Right? And, so,

1 we have this broad grant of powers to the Board of
2 Commissioners, we have -- which is contrasted with
3 the expressed and limited grant --

4 THE COURT: Uh-huh.

5 MR. WEBSTER: -- in the county executive,
6 albeit it is enumerated to include departments under
7 the county executive, and 3.7(D) requires this, 8.6
8 requires this, and the charter, itself, rules and in
9 the state law -- (inaudible) -- which requires this.
10 And so it is with that backdrop that I would just
11 identify then what is the objection here, and the
12 objection is as to a writ. And a writ of mandamus
13 addresses, as the Court is probably well aware, clear
14 legal right, legal duty.

15 In this context, I'll speak to that. We are
16 really on opposite sides of the same coin in this
17 case, and then secondarily there is some discussion
18 about this ministerial discretion. I submit to the
19 Court, in complying with the ordinance, and we have
20 provided the case of Qualls, which is, the Court can
21 order comply with the ordinance. That's not
22 ministerial. We are not asking the Court to -- to
23 identify as in Qualls the Court's -- the opinion
24 there specifically says, we are not telling you how
25 to comply with the law there, you just got to comply

1 with the law.

2 And so in that case we are not telling you
3 how to control the streets, to enforce, you know, the
4 police, the policing in the City of Detroit in that
5 regard, but rather you have to do this. The other
6 item, and the fourth item with respect to the writ is
7 no other remedy. That's really important here. And
8 the reason why is this: In the counter-complaint we
9 attached as an exhibit, a 2014 memo in which the
10 county executive says in the memo, I'm not going to
11 veto anything that I think violates the charter,
12 whether it's a resolution or an ordinance. I am
13 simply not going to enforce it. And I'm going to be
14 the one who decides that. Okay. And so it is -- so
15 we don't even know actually theoretically what's
16 being enforced and what's not being enforced. We
17 know in this case we obviously don't have the access.
18 That memo is troubling, but in this context here, it
19 specifically underscores why the Court, or a court,
20 the third branch of government needs to tell the
21 executive you need to follow the ordinance because
22 he's already said, I am sorry, the county executive
23 has already said through memo and through the papers
24 that are filed in this case I'm not going to do it
25 unless I'm compelled to do it, and so the remedy part

1 I think is crystal clear.

2 To speak to the clear legal right, clear
3 legal duty, I would say this: The ordinance itself
4 was not vetoed.

5 THE COURT: Right.

6 MR. WEBSTER: It is then under the charter
7 valid and enforceable. It is now after -- after that
8 has been duly enacted, is that now there's an
9 assertion that it violates the charter and so I don't
10 have to follow it, okay. My point is that we cite to
11 the law that talks about the presumption of the
12 validity of that ordinance. And, again, I cite to
13 the Qualls case, and the importance there is that the
14 legislative judgment as to what the Board of
15 Commissioners needs to do its job, to look at a
16 budget, to look at budget amendments, and to look at
17 the financial -- as its role in the legislative
18 branch, the financial wherewithal and health of the
19 county, it's decided that it needed this information.
20 That decision under the case law is granted great
21 deference in terms of the validity of the ordinance.
22 And it is also buttressed and supported by two
23 concepts, one, under the MCL law that says the
24 executive has to provide this information under the
25 Uniform Budget and Accounting Act, and two, we do

1 cite to the constitution, that's controlling
2 authority per se, but rather the concept that this is
3 actually public information, and we are not saying it
4 is subject to FOIA or subject to the exemptions of
5 FOIA and how it could be redacted, but that concept
6 of transparency is critically important, umm, in the
7 context of this request.

8 The objection is then that this ordinance is
9 precluded by the charter because it is telling and
10 directing the county executive and the county
11 executive Finance Department how to do its business.
12 We submit, no, that is, we are simply asking to look
13 at the books, and that's a valid and legitimate
14 request, and that the authority, interestingly, that
15 they cite to is the Hackel case with respect to the
16 contracting issue. And that's interesting, and I
17 think a, umm, it -- in my view I think they are
18 trying to make lemonade out of lemons there with
19 respect to that Hackel case. Hackel says, and the
20 Court is well aware of this, that all
21 authority -- now it underscores the concept that all
22 authority that's not given to the executive is indeed
23 given to the Board of Commissioners, and further,
24 that Hackel also relies on the Uniform Budgeting and
25 Accounting Act, and so, that was an argument made by

1 the executive at the time, and that is the Uniform
2 Budgeting and Accounting Act allows us to control the
3 contract and the authority process. And the Court
4 there said, no, the Uniform Budgeting and Accounting
5 Act doesn't say that, and so on one hand they are
6 trying to embrace it in the older case. Here they
7 are trying to run from the Uniform Budgeting and
8 Accounting Act which expressly says that this
9 information should be provided, and so they
10 are -- and so their reliance upon the Hackel
11 case I -- I thought was a bit of an eyebrow raiser,
12 umm, in light of the expressed provisions of the
13 charter, 3.7(D), 8.6, and then is -- the general
14 backdrop is the broad grant of power that's given to
15 the Board of Commissioners.

16 I do also provide to the Court the authority
17 that where there isn't this veto, and we don't have
18 that veto message, umm, again, there's -- there's
19 case law that says, no, that's -- your chance is you
20 have to veto it and then explain why. And the point
21 is this: It is an odd approach to government where
22 the executive can say to himself, or to the -- within
23 the executive's office, I think that that violates
24 the charter, even though it is a valid and
25 enforceable ordinance, I have decided I'm not going

1 follow it. The proper course of action is to say I
2 veto it, and if it's overridden, then it's a valid
3 ordinance, and then you got to follow it until
4 otherwise, and the otherwise is come to court and do
5 what we are doing here. And, so the approach here
6 isn't should inform the Court as to why the remedy is
7 needed, and why this information is needed. And then
8 lastly, I -- I do provide the affidavit of Crystal
9 Richardson which explains why this is needed, what
10 the thinking is, the policy behind the transparency
11 of the ordinance, and then I did want to lastly
12 tell --

13 THE COURT: And that --

14 MR. WEBSTER: -- you --

15 THE COURT: Just to interrupt you, Counsel,
16 and that goes into, and I didn't read that
17 particular, umm, that affidavit, although I did
18 notice that it was referenced, but that -- that kind
19 of goes to my -- one of my questions. Umm, that
20 specifically why is this needed above and beyond what
21 is the norm that's been provided.

22 MR. WEBSTER: Yes. It -- it -- it does
23 indeed, and the form, if you will, is a set of
24 circumstances that's un -- it is not acceptable to
25 the Board of Commissioners.

1 THE COURT: Right.

2 MR. WEBSTER: It is what they are laboring
3 under. You know, I understand the critique of the
4 executive saying, hey, everything has been going
5 along great, you've been able to operate, you know,
6 you -- you shouldn't get the remedy here. And I
7 would just point out that just because it is done in
8 the past doesn't mean the future is the way -- the
9 way --

10 THE COURT: Right.

11 MR. WEBSTER: -- to go.

12 THE COURT: I agree with that.

13 MR. WEBSTER: And there was also, the Board
14 of Commissioners obviously has respect for the county
15 executive and respect for the process that
16 this -- this -- this is important to us; however,
17 umm, in -- in terms of then approving budget, then
18 having a light go on for important functions that the
19 county government does, you know, that's another
20 issue. So, this methodology of having the Court
21 decide has been in play, if you will, since 2018 and
22 so somehow that we waived any argument by not
23 asserting this I think doesn't carry the day.

24 I also wanted to touch on the quagmire
25 theory that was -- that's my words, umm --

1 THE COURT: Right.

2 MR. WEBSTER: -- but that --

3 THE COURT: The issue that the Court would
4 have to be called upon to -- or the argument, I
5 should say, that the Court should be called -- would
6 be called upon to dispute like, as I read it, the
7 argument is that, you know, access to -- that these
8 disputes will continually arise, in the narrow
9 framework of this access to the -- to the software,
10 is that fair to say?

11 MR. WEBSTER: Yes.

12 THE COURT: And also the secondary part of
13 that argument is that, well, it is kind of a slippery
14 slope argument like, well, then is it okay for three
15 people to have access or six people to have access
16 or, you know, that kind of thing.

17 MR. WEBSTER: Well --

18 THE COURT: Or to mandate what particular
19 software is used.

20 MR. WEBSTER: The Court has a good grasp of
21 that, and so kind of last things first as to the
22 slippery slope, clearly those facts are not before
23 the Court, so they are looking for, you know,
24 advisory or -- or raising, umm, these parade of
25 horrors, frankly, that we saw with respect to the

1 older advisory -- older adults advisory committee
2 which I'm, you know, didn't take place, umm, but I
3 wanted to then further talk about the legal
4 underpinnings of the quagmire theory, so to speak,
5 and that is they cite to the Gowan case in that
6 regard, and what's really interesting when you read
7 it closely, Gowan says -- umm, it is actually
8 misstated, Gowan --

9 THE COURT: I'm sorry, did you say
10 misstated?

11 MR. WEBSTER: Yeah, it's -- it's misstated
12 in the briefing.

13 THE COURT: Okay.

14 MR. WEBSTER: Because this theory of concern
15 about court oversight is not actually part of the
16 holding, but rather when you read Gowan closely it's
17 an argument that's made in another case cited in
18 Gowan from New Hampshire, and that reason was
19 actually rejected by the Gowan case, and I may say
20 rejected strongly, and in fact, the court's in quote,
21 that argument cannot be called, one, as based on a
22 false theory, and that is, and the court observed
23 that the refusal to perform public duties is a
24 detriment to good government. And that to deny the
25 writ in that case would be a reproach to the law, and

1 the court particularly underscored that there was no
2 other remedy, and so I would just point that out that
3 we -- we rely and cited on Gowan, there was an
4 attempt to say, oh, no, Gowan really supports the
5 county executive's position; absolutely not the case.

6 The other item is that, as I mentioned, the
7 parade of horrors or what -- what could be before
8 this Court is not before this Court, and all we are
9 looking at is one person looking at the same
10 information that the Finance Department looks at
11 where the Board of Commissioners is analyzing the
12 budget on an annual basis, where the Board of
13 Commissioners is looking at amendments to that budget
14 on a continuous basis, and where the Board of
15 Commissioners is setting financial policy and
16 transparency with respect to the county not just for
17 the immediate budget year but an ongoing basis and
18 where the charter in many instances specifically says
19 that the authority of the county executive to direct
20 and control the Finance Department is subject to law,
21 Uniform Budgeting and Accounting Act, other
22 ordinance, expressly providing that power and support
23 to the Board of Commissioners here to -- to provide
24 this, and the concern that somehow the Board of
25 Commissioners will be telling the Finance Department

1 what software or how to run their business or -- or
2 all of that, that's not even close to what would
3 happen here. All we are looking at is to clearly
4 look at the books as -- as we see fit as opposed to
5 the assertion that the charter has granted to the
6 executive the express power to determine how, what,
7 and when the Board of Commissioners will see that
8 financial information.

9 THE COURT: Okay. Counsel, and this is
10 probably neither here nor there, you know, based on
11 your arguments, but out of curiosity, are
12 there -- because obviously as the last maybe 10,
13 20 years we have access in this way, kind of realtime
14 access that we might not have had before, are there
15 other municipalities that operate in this way; in
16 other words, that there's realtime oversight that you
17 are aware of if you are aware.

18 MR. WEBSTER: And so --

19 THE COURT: Or there's best practice -- is
20 there any type of best practices that are -- that are
21 kind of common within that, or is that even -- I
22 don't know if that's ever even been brought up.

23 MR. WEBSTER: Yeah. As part of the record
24 here there was not record evidence before the Court,
25 and the Court is asking about municipalities, so I

1 really can't speak to that, but I can -- I can speak
2 to, umm, you know, at the county level for this type
3 of information to having access to the land item
4 data.

5 THE COURT: Right.

6 MR. WEBSTER: Absolutely. In fact, the
7 budgets are -- are rolled down and you can see that.

8 THE COURT: Okay. All right. Thank you,
9 Counsel. Mr. Viviano.

10 MR. VIVIANO: I guess Mr. Webster was going
11 to go first.

12 THE COURT: I thought you offered.

13 MR. VIVIANO: I kind of did. I didn't know
14 if he totally, you know, got through that, but --

15 THE COURT: Well, I think he accepted your
16 offer.

17 MR. VIVIANO: Yeah, it was by implication I
18 think, Judge.

19 Umm, you asked at the beginning, I was going
20 to start with that, you said is this done anywhere
21 else, and mind -- mind you, we are in a charter form
22 of government.

23 THE COURT: Sure.

24 MR. VIVIANO: We have an executive and a
25 board, it is not a board-governed county, right,

1 anymore in the same way that it was. The answer is
2 no, it is not done anywhere, no one does this. The
3 U.S. Congress doesn't go into executive departments
4 and monitor their software in realtime. This is -- I
5 have never heard of this anywhere, and I think we
6 know the Dickinson Wright firm would have found the
7 example and presented it if it exists. It doesn't
8 exist.

9 Umm, number two, Mr. Webster pins this whole
10 charter argument on 3.7(D). Okay. 3.7(D) talks
11 about quarterly reports. The executive gives -- this
12 is the whole dispute here, Judge, does the executive
13 give information or do they go mine it themselves?
14 That's sort of the huge dividing line here.

15 3.7, the executive shall file a report with
16 the commission on the financial condition of the
17 county at least quarterly. The report shall include,
18 and he's saying additional information required by
19 ordinance or law. That's in the quarterly report.
20 That doesn't say they can go gather the information
21 themselves, so that's sort of a misdirection to bring
22 up that point.

23 The veto point is another misdirection.
24 They blurry this in one little line item in the
25 entire ordinance setting the appropriation for the

1 whole county. So they leave the executive with the
2 choice, do you want to veto the entire appropriation
3 for the whole county which has nothing to do with
4 this issue, or do you want to let this go and say we
5 are not enforcing it, because the point of law that
6 matters is not there is a presumption of validity if
7 you don't veto, the point of law that matters is an
8 ordinance that violates the charter is void, period,
9 and we cited those cases.

10 The -- Mr. Webster in the charter relies on
11 3.7(D) which talks about what we are supposed to put
12 in the quarterly reports. In law, he relies on the
13 Uniform Budget and Accounting Act. That act, and
14 I'll get to that later, Judge, it says the executive
15 shall furnish the information. It doesn't say you
16 come and log into our computer and get login
17 credentials and get it yourself. That's not done
18 anywhere. That's the new thing that's in front of
19 you here.

20 I want to stress, this is not about whether
21 the commission gets information. Obviously, it does.
22 It plays a hugely important role in our county
23 government, we know that. It is not about whether we
24 have to give them information. What they want is to
25 set up shop and do realtime monitoring of software

1 systems monitored by the executive.

2 Now, I don't know how but Mr. Webster says
3 it is eyebrow raising that we cite Hackel. I
4 actually think, Judge, it would be legal malpractice
5 not to cite Hackel. We have a published opinion,
6 same two parties, looking at the same legal document,
7 looking at the exact same kind of issues, allocation
8 of powers under the charter. It tells you exactly
9 what to do in this case. It gives you the road map.
10 Umm, and two parts of Hackel, let's talk about,
11 Judge, it says when we have a dispute like this one,
12 when the board and the executive are disagreeing
13 about allocation of powers we look to the charter.
14 That's because we formed under the Charter County
15 Act, it is MCL 45.514. It says the authority,
16 duties, responsibilities of the board and the
17 executive or in the charter. So, first thing Hackel
18 says, when you have this kind of dispute, look at the
19 charter.

20 Second thing it says, which is determinative
21 in this case, if a power is granted in the charter to
22 one branch of this government and not to the other,
23 the one that is not granted cannot -- it can't
24 exercise it and it can't dictate the exercise.
25 That's easy, Judge. This case is like a math

1 equation in that respect and it is not a very complex
2 one, and that's what I want to base my argument on.
3 Number one, and Mr. -- Mr. Webster talked a lot about
4 practicalities and policies. I don't think he talked
5 too much about the law, and what the charter says and
6 what the law requires.

7 Number one, so the first part of your
8 decision tree here is does -- is this power granted
9 to the executive? And let's be clear what the power
10 is, Judge. The power is does the executive have the
11 power to control who accesses county software on what
12 terms when. Okay? There's a couple reasons before
13 we get to the charter, you know that he does. One is
14 they are here asking us to grant the access.
15 Obviously, we have the power over access or they
16 wouldn't be asking us to grant it. So that tells you
17 it's an executive power.

18 Two is the executive has wielded this
19 authority without question since the inception of
20 this charter form of government issuing a security
21 policy saying who can access what sections of this
22 financial software system. The executive doesn't
23 have the kind of carte blanche access they want to
24 give to someone on the Board of Commissioners.
25 The -- the -- the one solution, the financial

1 software, it is sort of a need-to-know basis and it
2 is bifurcated, and that's all done by the executive.
3 Those are not, with respect, Judge, judicial
4 decisions. You don't -- you don't know about this
5 software nor should you, you don't know who should be
6 in it. You don't know, you know, it is not like
7 there's nothing in there. It has all the Social
8 Security numbers of all the county employees,
9 including a bunch of people in this building, it's
10 got their medical stuff, it has
11 confidential/nonconfidential information. It is all
12 in there. Okay. So, what I want to do in this
13 argument is first giving you the decision tree from
14 the opinion. Your first question: Is this authority
15 over access to financial software granted to the
16 executive? I think a topic that Mr. Webster didn't
17 discuss at all in their brief on their response to us
18 at Page 4, umm, they say, quote, the county executive
19 does not and cannot point to any charter provision as
20 a source of this purported authority. They know if
21 we have the power they are going to lose the case so
22 they make that statement. I think there is a major
23 problem there, the power is expressly granted by the
24 charter. It's been our unbroken practice, which I
25 just talked about, Judge, read 3.5(A), 3.5(C), so

1 here's the question: Does the charter grant us
2 authority over this issue of access to county
3 software? 3.5(A), quote, the executive has the
4 authority, duty and responsibility to, A, supervise,
5 coordinate, direct and control all county departments
6 except for departments headed by county-wide elected
7 officials other than the executive, facilities,
8 operations and services, except as otherwise provided
9 by charter or law. I want to read that again without
10 the parenthetical. I'm sorry. I am breathing, it is
11 like a mask thing, I got to get in better shape for
12 this mask that -- (inaudible). Umm, the, umm --

13 THE COURT: Counsel, you can remove your
14 mask when you are up here and arguing.

15 MR. VIVIANO: You don't mind if we do?

16 THE COURT: Yes. No, I don't mind, that's
17 good. That's quite all right.

18 MR. VIVIANO: Do you mind?

19 MR. WEBSTER: No. Please, go right ahead.

20 MR. VIVIANO: Okay. Okay. So let me reread
21 that without the parenthetical because it is kind of
22 clunky. The executive has the authority, duty and
23 responsibility to supervise, coordinate, direct, and
24 control all county departments, facilities,
25 operations and services except as otherwise provided

1 by charter or law. Law being state law. Umm,
2 that -- every word of that one conclusion, right, to
3 pick the software system to say who can access it,
4 that's part of supervising, coordinating, directing,
5 controlling. You can pick any of those words, Judge,
6 department, the Finance Department, facilities,
7 operations, services. It is no different than the
8 fact that the executive puts locks on the doors or
9 does whatever, that's -- that's part of the
10 executive's power, it is expressly granted, okay?

11 So does the executive have the power under
12 the charter? Obviously. It has it right there, it's
13 exercised it the whole time. If you had any doubt in
14 your mind, 3.5(C) then goes forward to say that in
15 addition to the express grant in 3.5(A), the
16 executive has the power in 3.5(C) to discharge the
17 duties granted to the executive by this charter law
18 or ordinance, and exercise all incidental powers,
19 necessary or convenient for the discharge of the
20 duties and functions specified in this charter or
21 lawfully delegated to the executive.

22 So, having granted carte blanche authority
23 to supervise, administer, direct all the departments,
24 facilities, operations, services, an incidental power
25 to that, I think it is direct, Judge, but if you want

1 to look at the incidental power, you can pick the
2 software system to say who can access, set the
3 parameters of access, falls squarely in that umbrella
4 of executive authority which is why the executive has
5 done this this entire time. Umm, you know,
6 they -- they seem to make an argument in their -- in
7 their brief that unless it is described at a micro
8 level --

9 THE COURT: Right.

10 MR. VIVIANO: -- unless it says you have
11 authority to control software access, then we don't
12 have the power. It is not how a charter works,
13 Judge, you get these broad grants of authority and
14 that's why there is an incidental powers provision
15 that says whatever you need do to take care of this
16 broad grant of authority you have that power, too.
17 Okay. So that was first the question I asked you to
18 consider, does the executive have the authority.
19 It's obviously, yes. Right?

20 The second question, does the commission
21 have any authority in this area, and Mr. Webster's
22 presentation, his brief, were -- were very strong on
23 statements of sweeping authority, umm, very thin on
24 looking at the actual language of the charter, and
25 what were -- so I have made a list of the provisions

1 they cited, not only the ones he said here but in
2 their brief. And, quickly, Judge, go through his
3 questions. Does the commission have any authority in
4 this area? They cite 4.1 of the charter. That
5 provision says -- now, I don't even have an excuse
6 for breathing heavy, I don't know why I am doing
7 that, so, umm, the 4.1, the commission is created and
8 the legislative power of a county is vested in this
9 commission. Okay. The legislative power, Judge, we
10 are talking about something expressly granted to the
11 executive, provision is totally irrelevant, it grants
12 them the legislative power. We don't dispute that.
13 4.4(A) is another thing they cited. It gives the
14 commission the power to adopt, amend or appeal
15 ordinance or resolutions. Well, that's sort of a
16 vanilla statement. Fine. It doesn't tell you
17 whether a particular ordinance is valid. An
18 ordinance that violates the charter is invalid. So
19 that one doesn't matter, either.

20 4.4(J), which Mr. Webster put a lot of
21 emphasis on, I don't think he stated the key language
22 in 4.4(J), it gives the commission the power to,
23 quote, exercise any power granted by law to charter
24 or general law counties unless otherwise provided by
25 this charter, which is what we just talked about. It

1 is otherwise provided by the charter, and not to
2 them.

3 4.5 is another thing that Mr. Webster cited,
4 and about the enumerated powers are not exclusive.
5 He talked about the Hackel decision, okay? It says,
6 in addition to the powers enumerated in this charter,
7 implied by this charter or appropriate to the
8 exercise of the powers enumerated in this charter,
9 the commission shall have and may exercise all
10 legislative powers which this charter could
11 specifically enumerate as provided by the
12 constitution and the laws of the State of Michigan.
13 It points you right back to legislative powers.

14 So if we are talking about allocation of
15 power and people staying in their lanes, this is
16 clearly an executive power, it's right under those
17 provisions, it is clearly not a commission power,
18 there is no power under this, they have never claimed
19 there is, they have never exercised that once you get
20 to that point in this analysis, Judge, I would submit
21 to the Court when you have a published opinion that
22 tells you if one party has the power and the other
23 doesn't, the other one can't exercise it and it can't
24 direct your exercise of it, and that's it, and the
25 case is over, and that's as simple as that.

1 I want to go back to the point about no one
2 here is saying the commission has no entitlement to
3 information. This -- this is sort of where they want
4 to argue the case. We know they need information to
5 carry out their functions. The charter says to give
6 quarterly reports and has broad provisions in the
7 quarterly reports, give any additional information
8 required by ordinance or law in the report. It gives
9 an annual balance budget report, says similar
10 language, put whatever information in that report
11 that they require.

12 By the way, Judge, if they make a reasonable
13 request for information we are going to fill it, we
14 are -- we are here to cooperate in county government,
15 we are not trying to block information, we are trying
16 to respect the allocation of powers in the charter,
17 and I think this is the -- I don't think you have any
18 wiggle room on that Hackel decision, on the decision,
19 because, like I said, you rarely have a published
20 decision, same parties, same document, same kind of
21 issue. It tells you exactly how to decide it.

22 But I do want to address sort of the
23 practical issues because no one is trying to gum up
24 county government or make it work less efficiently.
25 The right to have the executive supply information,

1 it doesn't include the right to gather it yourself
2 however you want to. That's the key difference I
3 said earlier, that's the dividing line here. It
4 doesn't mean -- if we were in 1921 instead of 2021,
5 they would have people sitting over the desks in the
6 finance office watching people, on -- on a
7 transaction-by-transaction basis, which is done
8 nowhere. Okay. So, if they don't have the right to
9 information doesn't mean you get to gather it, and I
10 think that is really spelled out in all of the
11 different ways they try to get there. They can't get
12 there by the charter. There's nothing in the charter
13 that gets them there.

14 THE COURT: Wouldn't the more analogous
15 situation would be if you were talking about 1921, to
16 have someone who essentially has access to records,
17 you just go over and look at the records, whereas now
18 you can access, umm, those records online. Like if I
19 was the individual appointed by the Board of
20 Commissioners, I could log in and see the records
21 right now as opposed to, you know, as opposed to
22 someone, I mean, it's ominous to suggest that someone
23 standing over someone's shoulder.

24 MR. VIVIANO: Maybe. I won't argue with
25 that --

1 THE COURT: Okay.

2 MR. VIVIANO: -- with that analogy, but all
3 the same concerns would pertain. If you are the
4 person in that file cabinet and you are responsible
5 for making sure these records are in order and
6 there's an entirety of records and no records leave
7 this place, you would tightly control access. And
8 all the more with software, Judge, and all the more
9 with software. So, fine, if we had file cabinets, I
10 think one really helpful thing they do, so number
11 one, right to information doesn't mean you get to
12 gather it yourself.

13 Two, they compare themselves to a member of
14 the general public. You think you would be thinking
15 about this for two minutes if a member of the general
16 public said I want to log onto the county financial
17 software.

18 THE COURT: Right.

19 MR. VIVIANO: Hit -- your gavel would
20 already hit, we would be out of here. This
21 is -- this is the distinction now why the right to
22 information doesn't mean you can do whatever you
23 want, it doesn't mean you go through the file
24 cabinets, in your example, it doesn't mean you log
25 onto the software, it means the appropriate

1 government body furnishes it, subject to all of these
2 safeguards we've built up in the law. It doesn't
3 matter what statute you look at. The UBAA says the
4 executive shall furnish the information. FOIA,
5 Judge, it's got 28 different exemptions. It has a
6 coordinator, which is the county executive here. A
7 member of the public doesn't say I want that and then
8 walk into the offices in the County Building and open
9 the drawer. That's not how it works. Someone goes
10 through it, they look for confidential information,
11 they sort it out, they look for your exemption, they
12 insure, in your example, we don't want people walking
13 in and out of the file cabinets where we have to
14 keep -- keep the integrity of these records, and so,
15 that's kind of like this what's the big deal argument
16 Mr. Webster is making, which is a decidedly nonlegal,
17 nonjusticiable issue. I mean, do you know or does he
18 know or do I know, is it a big deal to log into this?
19 No, we don't. Because we didn't pick the software
20 service, we are not over with the executive
21 interfacing with the company, we don't know what past
22 incidents have happened. This is the definition of a
23 nonjusticiable question. I mean, I don't know, you
24 don't know, the executive is given the
25 responsibility, the executive knows, and the

1 executive has the authority to direct that policy;
2 every one of the statutes he cites. So, again,
3 there's absolutely nothing in the charter that
4 supports their argument. Every statute he cites
5 contemplates the appropriate government body
6 furnishing information subject to legal safeguards.
7 None of them contemplate direct access like this
8 which is probably, Judge, why it is not done anywhere
9 else.

10 And in terms of the transparency point that
11 Mr. Webster made, every check in the county is posted
12 online. We just had a Macomb Daily article about our
13 audit which is totally clean, which is remarkable,
14 which never happens. I don't know if you saw that.
15 We cite it in our brief. Members of the commission
16 were complimenting the executive office for its
17 transparency.

18 And then in terms of how vital this is, you
19 know better than anyone, this case has kicked along
20 and dragged along, they passed it four years ago,
21 they didn't pay attention to it for two years, they
22 have been passing budgets all along on time. Have
23 you heard any big outcry we can't pass the budgets,
24 we need this? It doesn't exist. We wait four years
25 to get her to tell you, again, this is all totally --

1 THE COURT: It is a different provision now,
2 correct?

3 MR. VIVIANO: No. It's included --

4 THE COURT: It is not even the same.

5 MR. VIVIANO: It is included in the --

6 THE COURT: The language is somewhat
7 different.

8 MR. VIVIANO: It's a little broader now.

9 THE COURT: It is a little broader, yeah.

10 MR. VIVIANO: It's a little broader now. It
11 says all financials of reporting software in the
12 county. I don't have the exact words. But if this
13 was some -- first of all, whether -- whether they
14 think it is important or not, that's not a legal
15 question, Judge. The Hackel opinion is your legal
16 analysis. I'm trying to make you more comfortable
17 with that question. If this was a vital matter of
18 public importance, why did they let the case languish
19 for the last two years and do literally nothing. I
20 know I did nothing because I'm on the defense side of
21 it, and I'm thinking, the more time that goes by the
22 more apparent it is that these issues don't need to
23 be here, and we are wasting public money and time.
24 It really belies how vital this is that this case has
25 been sitting here this long.

1 The, umm, the mandamus analysis flows from
2 whatever you decide on the first part, right? I
3 mean, so, if you find that it violates the charter
4 and the allocation of powers, the ordinance is
5 invalid and there is no clear legal right or duty, so
6 it is sort of the same issue run back to you. To
7 say -- you can't -- you can't get mandamus, you can
8 only get it for, umm, nondiscretionary functions,
9 right? So, I am trying to think of an example, but
10 you know, there was an issue on the same sex marriage
11 in different states where the clerk wouldn't give the
12 license. That's -- that's a purely ministerial,
13 here's your hundred dollars, give this. You can't
14 get mandamus on a discretionary issue. And, Judge,
15 who accesses county software when, on what
16 conditions, who's allowed to look at what parts of
17 it, you are in the heart of a discretionary
18 determination by the executive, you are in the heart
19 of a power that's granted to him, mandamus is a
20 totally inappropriate remedy. You would be deciding
21 with the limited information we have presented to you
22 in this case, you would try to decide whether it is a
23 big deal or not. It is not a judicial question.

24 In terms of being continuous in nature and
25 the slippery slope, I want to address that. It is

1 not a one-time act, go do this, which is what
2 mandamus is most suited for. It is inherently
3 continuous because you are granting access to the
4 software if you were to grant this motion on an
5 ongoing basis. We might change the software, they
6 might tell you it is not appropriate access, they
7 want to manipulate and run reports and do things, I
8 don't know how that's all going to work and neither
9 do you. Umm, the slippery slope, he can say that all
10 those other things are not in front you, but here's
11 what is in front of you. Can the commission pass an
12 ordinance telling the executive how to manage access
13 to county software? That is in front of you, and if
14 you decide they can, what is stopping them from
15 passing the next ordinance that says the whole board
16 can look at it, or members of the public can look at
17 it. So we don't -- we don't deal in just really
18 narrow bands of facts and that's the only thing that
19 matters. The precedent you would be setting if you
20 went along with this argument is that the board is
21 allowed to pass an ordinance telling the executive
22 how to manage access to software. Once you have done
23 that, what is to stop them from doing what you called
24 the parade of horrors. I think it is a completely
25 valid concern.

1 THE COURT: I didn't call it that.

2 MR. WEBSTER: That was mine.

3 MR. VIVIANO: What other -- did you call it
4 something else?

5 THE COURT: I am going to say that
6 wasn't -- yeah, that wasn't my -- my term.

7 MR. WEBSTER: That was not the Court's -- --

8 MR. VIVIANO: That's some other thing I
9 didn't understand. It was --

10 THE COURT: It was Counsel's term.

11 MR. VIVIANO: He uses -- he uses a lot of
12 big words. But the -- I'm kidding -- but
13 the -- the -- umm, what is the abstracted legal
14 ruling you would make that he's asking you to make?
15 The Board of Commissioners can pass an ordinance and
16 tell the executive how to manage access to the
17 software. That's what he wants to say. Once you
18 make that precedent, they -- why couldn't they do all
19 the other stuff you are saying? It doesn't matter if
20 they are not doing it now. Umm, you know,
21 that -- that's exactly the problem. But listen,
22 because if you bring this all around, I addressed all
23 of that because Mr. Webster is really long on
24 practicalities and transparencies. We are in a
25 courtroom. Let's focus on the law.

1 Number one, the executive clearly has the
2 power, couldn't be more clear, 3.5(A), 3.5(C).
3 There's no room to dispute that.

4 Number two, I just went through every
5 provision. They have no authority in this area.
6 This is the Hackel decision. It tells you exactly
7 how to rule, Judge, and I don't think there was
8 anywhere to go from that decision.

9 Thank you, your Honor.

10 THE COURT: Okay. All right. Thank you. I
11 am going to, because you both filed motions for
12 summary disposition, you both filed responses to each
13 other's motions for summary disposition, and I know
14 you've outlined the arguments, because I've read them
15 that you stated here today. So in the interest of
16 time, I am going waive any rebuttal, okay? From
17 either of you.

18 MR. VIVIANO: Thank you, your Honor.

19 MR. WEBSTER: Thank you, your Honor.

20 THE COURT: Both of you have a good day.

21 MR. WEBSTER: You, too.

22 MR. VIVIANO: Take care.

23 THE COURT: I'm obviously taking the matter
24 under advisement. I will issue an opinion.
25

(Proceedings concluded at 11:30 a.m.)

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1 CERTIFICATION

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3
4
5 STATE OF MICHIGAN)
6) SS
7 COUNTY OF MACOMB)

8 I, Susan L. Hassig, Certified Court
9 Reporter of the Sixteenth Judicial Circuit, State of
10 Michigan, do hereby certify that the foregoing pages
11 comprise a full, true and correct transcript of the
12 proceedings taken by means of video recordation
13 without the benefit of a court reporter present in
14 the matter of MARK A. HACKEL, in his capacity as
15 Macomb County Executive, Plaintiff, versus MACOMB
16 COUNTY BOARD OF COMMISSIONERS, Defendant,
17 Case No. 18-1252-CZ on Monday, September 27, 2021.

18
19 /s/Susan L. Hassig

20
21 _____
22 Susan L. Hassig, CSR-0939
23 Official Court Reporter

24
25 Date: October 4, 2022
Mount Clemens, Michigan

/	48 ^[1] - 1:14 48042 ^[1] - 1:24 48043-7911 ^[1] - 1:14 48084-3312 ^[1] - 1:17	address ^[2] - 36:22, 42:25 addressed ^[1] - 44:22 addresses ^[1] - 14:13 administer ^[1] - 32:23 administrative ^[1] - 10:3 adopt ^[1] - 34:14 adopted ^[2] - 12:22, 13:10 adult ^[3] - 5:17, 6:6, 6:23 adults ^[2] - 12:16, 22:1 advisement ^[1] - 45:24 advisory ^[7] - 5:17, 6:6, 6:23, 12:16, 21:24, 22:1 affairs ^[1] - 8:20 affidavit ^[3] - 9:19, 19:8, 19:17 ago ^[1] - 40:20 agree ^[1] - 20:12 agreement ^[1] - 5:3 ahead ^[2] - 11:1, 31:19 albeit ^[1] - 14:6 allocation ^[5] - 28:7, 28:13, 35:14, 36:16, 42:4 allow ^[1] - 8:9 allowed ^[2] - 42:16, 43:21 allows ^[1] - 18:2 amend ^[1] - 34:14 amendment ^[1] - 11:23 amendments ^[2] - 16:16, 23:13 analogous ^[1] - 37:14 analogy ^[1] - 38:2 analysis ^[3] - 35:20, 41:16, 42:1 analyzing ^[1] - 23:11 annual ^[2] - 23:12, 36:9 answer ^[1] - 26:1 answered ^[1] - 5:20 answers ^[1] - 10:16 apparent ^[1] - 41:22 appeal ^[1] - 34:14 APPEARANCES ^[1] - 1:12 appearing ^[1] - 3:14 appointed ^[1] - 37:19	appreciate ^[1] - 3:20 approach ^[2] - 18:21, 19:5 appropriate ^[4] - 35:7, 38:25, 40:5, 43:6 appropriation ^[2] - 26:25, 27:2 approving ^[1] - 20:17 area ^[3] - 33:21, 34:4, 45:5 argue ^[2] - 36:4, 37:24 arguing ^[1] - 31:14 argument ^[15] - 17:25, 20:22, 21:4, 21:7, 21:13, 21:14, 22:17, 22:21, 26:10, 29:2, 30:13, 33:6, 39:15, 40:4, 43:20 arguments ^[2] - 24:11, 45:14 arise ^[1] - 21:8 article ^[1] - 40:12 as-needed ^[1] - 13:14 aspect ^[2] - 5:23 asserting ^[1] - 20:23 assertion ^[2] - 16:9, 24:5 attached ^[1] - 15:9 attempt ^[1] - 23:4 attention ^[1] - 40:21 audit ^[1] - 40:13 authorities ^[1] - 13:2 authority ^[26] - 7:18, 17:2, 17:14, 17:21, 17:22, 18:3, 18:16, 23:19, 28:15, 29:19, 30:14, 30:20, 31:2, 31:4, 31:22, 32:22, 33:4, 33:11, 33:13, 33:16, 33:18, 33:21, 33:23, 34:3, 40:1, 45:5 aware ^[5] - 9:1, 14:13, 17:20, 24:17	23:14, 23:17, 30:1, 37:7, 43:5 Beaver ^[1] - 1:16 BEFORE ^[1] - 1:10 beginning ^[1] - 25:19 behalf ^[2] - 3:14, 3:17 behind ^[1] - 19:10 belies ^[1] - 41:24 below ^[1] - 12:3 benefit ^[1] - 47:13 best ^[2] - 24:19, 24:20 better ^[3] - 8:4, 31:11, 40:19 beyond ^[1] - 19:20 bifurcated ^[1] - 30:2 big ^[6] - 12:3, 39:15, 39:18, 40:23, 42:23, 44:12 Big ^[1] - 1:16 bit ^[2] - 11:1, 18:11 blanche ^[2] - 29:23, 32:22 block ^[1] - 36:15 blurry ^[1] - 26:24 Board ^[30] - 3:17, 5:19, 7:15, 7:17, 7:19, 8:7, 8:19, 9:21, 10:1, 10:14, 10:20, 12:20, 12:23, 13:14, 13:24, 14:1, 16:14, 17:23, 18:15, 19:25, 20:13, 23:11, 23:12, 23:14, 23:23, 23:24, 24:7, 29:24, 37:19, 44:15 board ^[11] - 8:10, 9:21, 10:10, 10:17, 11:16, 25:25, 28:12, 28:16, 43:15, 43:20 BOARD ^[2] - 1:6, 47:16 board-governed ^[1] - 25:25 body ^[2] - 39:1, 40:5 books ^[3] - 8:4, 17:13, 24:4 branch ^[3] - 15:20, 16:18, 28:22 breach ^[1] - 5:23 breathing ^[2] - 31:10, 34:6 brief ^[5] - 30:17, 33:7, 33:22, 34:2, 40:15 briefing ^[3] - 7:13, 12:18, 22:12 briefly ^[1] - 5:10 bring ^[2] - 26:21, 44:22		
/s/Susan ^[1] - 47:19	1					
1	5					
1 ^[1] - 4:22 10 ^[2] - 13:9, 24:12 10(H) ^[1] - 13:9 10:00 ^[1] - 3:21 10:43 ^[1] - 3:3 11:30 ^[1] - 46:1 18-1252-CZ ^[2] - 1:5, 47:17 1921 ^[2] - 37:4, 37:15	586 ^[1] - 1:15					
2	6					
2	6 ^[2] - 9:18, 9:23					
2	8					
2 ^[3] - 1:14, 4:20, 4:22 20 ^[1] - 24:13 2014 ^[1] - 15:9 2018 ^[2] - 5:15, 20:21 2021 ^[4] - 1:11, 3:2, 37:4, 47:17 2022 ^[1] - 47:25 248 ^[1] - 1:17 2600 ^[1] - 1:16 27 ^[3] - 1:11, 3:2, 47:17 28 ^[1] - 39:5	8 ^[1] - 11:22 8.6 ^[4] - 13:21, 14:7, 18:13	A				
2		a.m ^[2] - 3:3, 46:1 able ^[2] - 3:7, 20:5 absolutely ^[3] - 23:5, 25:6, 40:3 abstracted ^[1] - 44:13 acceptable ^[1] - 19:24 accepted ^[1] - 25:15 access ^[42] - 5:22, 7:6, 7:8, 7:15, 8:3, 8:5, 8:6, 8:21, 8:25, 9:15, 9:22, 10:2, 10:11, 10:15, 10:22, 15:17, 21:7, 21:9, 21:15, 24:13, 24:14, 25:3, 29:14, 29:15, 29:21, 29:23, 30:15, 31:2, 32:3, 33:2, 33:3, 33:11, 37:16, 37:18, 38:7, 40:7, 43:3, 43:6, 43:12, 43:22, 44:16 accesses ^[2] - 29:11, 42:15 Accounting ^[8] - 13:11, 16:25, 17:25, 18:2, 18:4, 18:8, 23:21, 27:13 act ^[2] - 27:13, 43:1 Act ^[9] - 13:11, 16:25, 17:25, 18:2, 18:5, 18:8, 23:21, 27:13, 28:15 action ^[1] - 19:1 actual ^[1] - 33:24 addition ^[2] - 32:15, 35:6 additional ^[2] - 26:18, 36:7		advisory ^[7] - 5:17, 6:6, 6:23, 12:16, 21:24, 22:1 affairs ^[1] - 8:20 affidavit ^[3] - 9:19, 19:8, 19:17 ago ^[1] - 40:20 agree ^[1] - 20:12 agreement ^[1] - 5:3 ahead ^[2] - 11:1, 31:19 albeit ^[1] - 14:6 allocation ^[5] - 28:7, 28:13, 35:14, 36:16, 42:4 allow ^[1] - 8:9 allowed ^[2] - 42:16, 43:21 allows ^[1] - 18:2 amend ^[1] - 34:14 amendment ^[1] - 11:23 amendments ^[2] - 16:16, 23:13 analogous ^[1] - 37:14 analogy ^[1] - 38:2 analysis ^[3] - 35:20, 41:16, 42:1 analyzing ^[1] - 23:11 annual ^[2] - 23:12, 36:9 answer ^[1] - 26:1 answered ^[1] - 5:20 answers ^[1] - 10:16 apparent ^[1] - 41:22 appeal ^[1] - 34:14 APPEARANCES ^[1] - 1:12 appearing ^[1] - 3:14 appointed ^[1] - 37:19	address ^[2] - 36:22, 42:25 addressed ^[1] - 44:22 addresses ^[1] - 14:13 administer ^[1] - 32:23 administrative ^[1] - 10:3 adopt ^[1] - 34:14 adopted ^[2] - 12:22, 13:10 adult ^[3] - 5:17, 6:6, 6:23 adults ^[2] - 12:16, 22:1 advisement ^[1] - 45:24 advisory ^[7] - 5:17, 6:6, 6:23, 12:16, 21:24, 22:1 affairs ^[1] - 8:20 affidavit ^[3] - 9:19, 19:8, 19:17 ago ^[1] - 40:20 agree ^[1] - 20:12 agreement ^[1] - 5:3 ahead ^[2] - 11:1, 31:19 albeit ^[1] - 14:6 allocation ^[5] - 28:7, 28:13, 35:14, 36:16, 42:4 allow ^[1] - 8:9 allowed ^[2] - 42:16, 43:21 allows ^[1] - 18:2 amend ^[1] - 34:14 amendment ^[1] - 11:23 amendments ^[2] - 16:16, 23:13 analogous ^[1] - 37:14 analogy ^[1] - 38:2 analysis ^[3] - 35:20, 41:16, 42:1 analyzing ^[1] - 23:11 annual ^[2] - 23:12, 36:9 answer ^[1] - 26:1 answered ^[1] - 5:20 answers ^[1] - 10:16 apparent ^[1] - 41:22 appeal ^[1] - 34:14 APPEARANCES ^[1] - 1:12 appearing ^[1] - 3:14 appointed ^[1] - 37:19	23:14, 23:17, 30:1, 37:7, 43:5 Beaver ^[1] - 1:16 BEFORE ^[1] - 1:10 beginning ^[1] - 25:19 behalf ^[2] - 3:14, 3:17 behind ^[1] - 19:10 belies ^[1] - 41:24 below ^[1] - 12:3 benefit ^[1] - 47:13 best ^[2] - 24:19, 24:20 better ^[3] - 8:4, 31:11, 40:19 beyond ^[1] - 19:20 bifurcated ^[1] - 30:2 big ^[6] - 12:3, 39:15, 39:18, 40:23, 42:23, 44:12 Big ^[1] - 1:16 bit ^[2] - 11:1, 18:11 blanche ^[2] - 29:23, 32:22 block ^[1] - 36:15 blurry ^[1] - 26:24 Board ^[30] - 3:17, 5:19, 7:15, 7:17, 7:19, 8:7, 8:19, 9:21, 10:1, 10:14, 10:20, 12:20, 12:23, 13:14, 13:24, 14:1, 16:14, 17:23, 18:15, 19:25, 20:13, 23:11, 23:12, 23:14, 23:23, 23:24, 24:7, 29:24, 37:19, 44:15 board ^[11] - 8:10, 9:21, 10:10, 10:17, 11:16, 25:25, 28:12, 28:16, 43:15, 43:20 BOARD ^[2] - 1:6, 47:16 board-governed ^[1] - 25:25 body ^[2] - 39:1, 40:5 books ^[3] - 8:4, 17:13, 24:4 branch ^[3] - 15:20, 16:18, 28:22 breach ^[1] - 5:23 breathing ^[2] - 31:10, 34:6 brief ^[5] - 30:17, 33:7, 33:22, 34:2, 40:15 briefing ^[3] - 7:13, 12:18, 22:12 briefly ^[1] - 5:10 bring ^[2] - 26:21, 44:22
3			argue ^[2] - 36:4, 37:24 arguing ^[1] - 31:14 argument ^[15] - 17:25, 20:22, 21:4, 21:7, 21:13, 21:14, 22:17, 22:21, 26:10, 29:2, 30:13, 33:6, 39:15, 40:4, 43:20 arguments ^[2] - 24:11, 45:14 arise ^[1] - 21:8 article ^[1] - 40:12 as-needed ^[1] - 13:14 aspect ^[2] - 5:23 asserting ^[1] - 20:23 assertion ^[2] - 16:9, 24:5 attached ^[1] - 15:9 attempt ^[1] - 23:4 attention ^[1] - 40:21 audit ^[1] - 40:13 authorities ^[1] - 13:2 authority ^[26] - 7:18, 17:2, 17:14, 17:21, 17:22, 18:3, 18:16, 23:19, 28:15, 29:19, 30:14, 30:20, 31:2, 31:4, 31:22, 32:22, 33:4, 33:11, 33:13, 33:16, 33:18, 33:21, 33:23, 34:3, 40:1, 45:5 aware ^[5] - 9:1, 14:13, 17:20, 24:17	argue ^[2] - 36:4, 37:24 arguing ^[1] - 31:14 argument ^[15] - 17:25, 20:22, 21:4, 21:7, 21:13, 21:14, 22:17, 22:21, 26:10, 29:2, 30:13, 33:6, 39:15, 40:4, 43:20 arguments ^[2] - 24:11, 45:14 arise ^[1] - 21:8 article ^[1] - 40:12 as-needed ^[1] - 13:14 aspect ^[2] - 5:23 asserting ^[1] - 20:23 assertion ^[2] - 16:9, 24:5 attached ^[1] - 15:9 attempt ^[1] - 23:4 attention ^[1] - 40:21 audit ^[1] - 40:13 authorities ^[1] - 13:2 authority ^[26] - 7:18, 17:2, 17:14, 17:21, 17:22, 18:3, 18:16, 23:19, 28:15, 29:19, 30:14, 30:20, 31:2, 31:4, 31:22, 32:22, 33:4, 33:11, 33:13, 33:16, 33:18, 33:21, 33:23, 34:3, 40:1, 45:5 aware ^[5] - 9:1, 14:13, 17:20, 24:17		
3	a.m ^[2] - 3:3, 46:1 able ^[2] - 3:7, 20:5 absolutely ^[3] - 23:5, 25:6, 40:3 abstracted ^[1] - 44:13 acceptable ^[1] - 19:24 accepted ^[1] - 25:15 access ^[42] - 5:22, 7:6, 7:8, 7:15, 8:3, 8:5, 8:6, 8:21, 8:25, 9:15, 9:22, 10:2, 10:11, 10:15, 10:22, 15:17, 21:7, 21:9, 21:15, 24:13, 24:14, 25:3, 29:14, 29:15, 29:21, 29:23, 30:15, 31:2, 32:3, 33:2, 33:3, 33:11, 37:16, 37:18, 38:7, 40:7, 43:3, 43:6, 43:12, 43:22, 44:16 accesses ^[2] - 29:11, 42:15 Accounting ^[8] - 13:11, 16:25, 17:25, 18:2, 18:4, 18:8, 23:21, 27:13 act ^[2] - 27:13, 43:1 Act ^[9] - 13:11, 16:25, 17:25, 18:2, 18:5, 18:8, 23:21, 27:13, 28:15 action ^[1] - 19:1 actual ^[1] - 33:24 addition ^[2] - 32:15, 35:6 additional ^[2] - 26:18, 36:7	8 ^[1] - 11:22 8.6 ^[4] - 13:21, 14:7, 18:13	advisory ^[7] - 5:17, 6:6, 6:23, 12:16, 21:24, 22:1 affairs ^[1] - 8:20 affidavit ^[3] - 9:19, 19:8, 19:17 ago ^[1] - 40:20 agree ^[1] - 20:12 agreement ^[1] - 5:3 ahead ^[2] - 11:1, 31:19 albeit ^[1] - 14:6 allocation ^[5] - 28:7, 28:13, 35:14, 36:16, 42:4 allow ^[1] - 8:9 allowed ^[2] - 42:16, 43:21 allows ^[1] - 18:2 amend ^[1] - 34:14 amendment ^[1] - 11:23 amendments ^[2] - 16:16, 23:13 analogous ^[1] - 37:14 analogy ^[1] - 38:2 analysis ^[3] - 35:20, 41:16, 42:1 analyzing ^[1] - 23:11 annual ^[2] - 23:12, 36:9 answer ^[1] - 26:1 answered ^[1] - 5:20 answers ^[1] - 10:16 apparent ^[1] - 41:22 appeal ^[1] - 34:14 APPEARANCES ^[1] - 1:12 appearing ^[1] - 3:14 appointed ^[1] - 37:19	argue ^[2] - 36:4, 37:24 arguing ^[1] - 31:14 argument ^[15] - 17:25, 20:22, 21:4, 21:7, 21:13, 21:14, 22:17, 22:21, 26:10, 29:2, 30:13, 33:6, 39:15, 40:4, 43:20 arguments ^[2] - 24:11, 45:14 arise ^[1] - 21:8 article ^[1] - 40:12 as-needed ^[1] - 13:14 aspect ^[2] - 5:23 asserting ^[1] - 20:23 assertion ^[2] - 16:9, 24:5 attached ^[1] - 15:9 attempt ^[1] - 23:4 attention ^[1] - 40:21 audit ^[1] - 40:13 authorities ^[1] - 13:2 authority ^[26] - 7:18, 17:2, 17:14, 17:21, 17:22, 18:3, 18:16, 23:19, 28:15, 29:19, 30:14, 30:20, 31:2, 31:4, 31:22, 32:22, 33:4, 33:11, 33:13, 33:16, 33:18, 33:21, 33:23, 34:3, 40:1, 45:5 aware ^[5] - 9:1, 14:13, 17:20, 24:17	argue	

<p>broad [7] - 12:19, 12:25, 14:1, 18:14, 33:13, 33:16, 36:6</p> <p>broader [3] - 41:8, 41:9, 41:10</p> <p>brought [1] - 24:22</p> <p>budget [9] - 10:3, 11:23, 16:16, 20:17, 23:12, 23:13, 23:17, 36:9</p> <p>Budget [2] - 16:25, 27:13</p> <p>Budgeting [6] - 13:11, 17:24, 18:2, 18:4, 18:7, 23:21</p> <p>budgets [3] - 25:7, 40:22, 40:23</p> <p>building [1] - 30:9</p> <p>Building [1] - 39:8</p> <p>built [1] - 39:2</p> <p>bunch [1] - 30:9</p> <p>business [2] - 17:11, 24:1</p> <p>buttressed [1] - 16:22</p>	<p>change [4] - 4:1, 8:8, 11:24, 43:5</p> <p>charter [57] - 7:14, 7:17, 7:23, 9:5, 9:11, 12:13, 12:18, 12:22, 13:5, 13:15, 13:21, 14:8, 15:11, 16:6, 16:9, 17:9, 18:13, 18:24, 23:18, 24:5, 25:21, 26:10, 27:8, 27:10, 28:8, 28:13, 28:17, 28:19, 28:21, 29:5, 29:13, 29:20, 30:19, 30:24, 31:1, 31:9, 32:1, 32:12, 32:17, 32:20, 33:12, 33:24, 34:4, 34:18, 34:23, 34:25, 35:1, 35:6, 35:7, 35:8, 35:10, 36:5, 36:16, 37:12, 40:3, 42:3</p> <p>Charter [1] - 28:14</p> <p>check [1] - 40:11</p> <p>choice [1] - 27:2</p> <p>CIRCUIT [1] - 1:1</p> <p>Circuit [1] - 47:9</p> <p>circumstances [1] - 19:24</p> <p>cite [9] - 16:10, 16:12, 17:1, 17:15, 22:5, 28:3, 28:5, 34:4, 40:15</p> <p>cited [6] - 22:17, 23:3, 27:9, 34:1, 34:13, 35:3</p> <p>cites [2] - 40:2, 40:4</p> <p>City [1] - 15:4</p> <p>claim [1] - 5:20</p> <p>claimed [1] - 35:18</p> <p>clean [1] - 40:13</p> <p>clear [9] - 4:18, 13:12, 14:13, 16:1, 16:2, 29:9, 42:5, 45:2</p> <p>cleared [1] - 11:13</p> <p>clearly [5] - 21:22, 24:3, 35:16, 35:17, 45:1</p> <p>Clemens [4] - 1:11, 1:14, 3:1, 47:25</p> <p>CLERK [1] - 3:12</p> <p>clerk [2] - 11:24, 42:11</p> <p>clips [1] - 12:3</p> <p>close [1] - 24:2</p> <p>closely [2] - 22:7, 22:16</p> <p>clunky [1] - 31:22</p> <p>coin [2] - 4:14, 14:16</p> <p>comfortable [1] - 41:16</p>	<p>commission [13] - 26:16, 27:21, 33:20, 34:3, 34:7, 34:9, 34:14, 34:22, 35:9, 35:17, 36:2, 40:15, 43:11</p> <p>COMMISSIONERS [2] - 1:6, 47:16</p> <p>Commissioners [30] - 3:18, 5:19, 7:15, 7:18, 7:19, 8:7, 8:19, 9:21, 10:1, 10:14, 10:20, 12:20, 12:24, 13:15, 13:24, 14:2, 16:15, 17:23, 18:15, 19:25, 20:14, 23:11, 23:13, 23:15, 23:23, 23:25, 24:7, 29:24, 37:20, 44:15</p> <p>commissioners [1] - 9:22</p> <p>committee [4] - 5:17, 6:24, 12:16, 22:1</p> <p>common [1] - 24:21</p> <p>company [1] - 39:21</p> <p>compare [1] - 38:13</p> <p>compelled [1] - 15:25</p> <p>complaint [2] - 6:9, 15:8</p> <p>Complaint [3] - 5:13, 6:3, 6:5</p> <p>completely [2] - 4:25, 43:24</p> <p>complex [1] - 29:1</p> <p>complimenting [1] - 40:16</p> <p>comply [3] - 14:21, 14:25</p> <p>complying [1] - 14:19</p> <p>comprise [1] - 47:11</p> <p>computer [1] - 27:16</p> <p>concept [3] - 17:2, 17:5, 17:21</p> <p>concepts [1] - 16:23</p> <p>concern [3] - 22:14, 23:24, 43:25</p> <p>concerns [1] - 38:3</p> <p>concluded [1] - 46:1</p> <p>conclusion [1] - 32:2</p> <p>condition [1] - 26:16</p> <p>conditions [1] - 42:16</p> <p>confidential [1] - 39:10</p> <p>confidential/nonconfidential [1] - 30:11</p> <p>confusion [1] - 4:19</p>	<p>Congress [1] - 26:3</p> <p>consider [1] - 33:18</p> <p>constitution [2] - 17:1, 35:12</p> <p>contemplate [1] - 40:7</p> <p>contemplates [1] - 40:5</p> <p>CONTENTS [1] - 2:1</p> <p>context [3] - 14:15, 15:18, 17:7</p> <p>continually [1] - 21:8</p> <p>continuous [3] - 23:14, 42:24, 43:3</p> <p>contract [2] - 5:24, 18:3</p> <p>contracting [4] - 6:10, 6:11, 7:3, 17:16</p> <p>contrasted [1] - 14:2</p> <p>control [8] - 15:3, 18:2, 23:20, 29:11, 31:5, 31:24, 33:11, 38:7</p> <p>controlled [1] - 11:13</p> <p>controlling [2] - 17:1, 32:5</p> <p>convenient [1] - 32:19</p> <p>cooperate [1] - 36:14</p> <p>coordinate [2] - 31:5, 31:23</p> <p>coordinating [1] - 32:4</p> <p>coordinator [1] - 39:6</p> <p>correct [9] - 5:6, 5:9, 7:22, 8:10, 8:23, 9:24, 10:8, 41:2, 47:11</p> <p>counsel [2] - 24:9, 31:13</p> <p>Counsel [3] - 3:19, 19:15, 25:9</p> <p>Counsel's [1] - 44:10</p> <p>Count [3] - 4:20, 4:22</p> <p>count [1] - 5:21</p> <p>counter [3] - 5:20, 6:9, 15:8</p> <p>Counter [1] - 6:3</p> <p>counter-claim [1] - 5:20</p> <p>Counter-Complaint [1] - 6:3</p> <p>counter-complaint [2] - 6:9, 15:8</p> <p>counties [1] - 34:24</p> <p>COUNTY [4] - 1:1, 1:6, 47:6, 47:16</p> <p>county [43] - 3:14,</p>	<p>5:14, 5:16, 5:22, 7:14, 7:16, 8:5, 10:13, 13:13, 14:5, 14:7, 15:10, 15:22, 16:19, 17:10, 20:14, 20:19, 23:5, 23:16, 23:19, 25:2, 25:25, 26:17, 27:1, 27:3, 27:22, 29:11, 30:8, 30:18, 31:2, 31:5, 31:6, 31:24, 34:8, 36:14, 36:24, 38:16, 39:6, 40:11, 41:12, 42:15, 43:13</p> <p>County [5] - 1:3, 3:12, 28:14, 39:8, 47:15</p> <p>county-wide [1] - 31:6</p> <p>couple [1] - 29:12</p> <p>course [1] - 19:1</p> <p>court [7] - 3:25, 15:19, 19:4, 22:15, 22:22, 23:1, 47:13</p> <p>Court [31] - 1:23, 6:23, 7:10, 7:13, 9:4, 9:6, 9:19, 12:15, 12:17, 13:1, 13:21, 14:13, 14:19, 14:20, 14:22, 15:19, 17:20, 18:3, 18:16, 19:6, 20:20, 21:3, 21:5, 21:20, 21:23, 23:8, 24:24, 24:25, 35:21, 47:8</p> <p>COURT [71] - 1:1, 3:15, 3:19, 3:23, 4:2, 4:11, 4:13, 5:1, 5:5, 5:8, 5:12, 5:18, 5:25, 6:2, 6:7, 6:12, 6:15, 6:21, 6:25, 7:4, 7:6, 7:11, 7:21, 7:25, 8:2, 8:16, 8:21, 8:24, 9:8, 9:23, 9:25, 10:5, 10:7, 11:17, 11:20, 14:4, 16:5, 19:13, 19:15, 20:1, 20:10, 20:12, 21:1, 21:3, 21:12, 21:18, 22:9, 22:13, 24:9, 24:19, 25:5, 25:8, 25:12, 25:15, 25:23, 31:13, 31:16, 33:9, 37:14, 38:1, 38:18, 41:1, 41:4, 41:6, 41:9, 44:1, 44:5, 44:10, 45:10, 45:20, 45:23</p> <p>court's [1] - 22:20</p> <p>Court's [4] - 10:16, 12:14, 14:23, 44:7</p>
--	--	--	---	---

<p>courtroom [1] - 44:25</p> <p>created [1] - 34:7</p> <p>credentials [1] - 27:17</p> <p>critically [1] - 17:6</p> <p>critique [1] - 20:3</p> <p>cross [3] - 3:22, 4:4, 7:10</p> <p>cross-motions [3] - 3:22, 4:4, 7:10</p> <p>crystal [1] - 16:1</p> <p>Crystal [1] - 19:8</p> <p>CSR-0939 [2] - 1:22, 47:21</p> <p>curiosity [1] - 24:11</p> <p>curious [1] - 6:2</p> <p>current [2] - 8:13, 8:15</p>	<p>departments [10] - 10:4, 10:11, 10:13, 11:18, 14:6, 26:3, 31:5, 31:6, 31:24, 32:23</p> <p>described [1] - 33:7</p> <p>desks [1] - 37:5</p> <p>detail [1] - 11:25</p> <p>detailed [1] - 9:17</p> <p>determination [1] - 42:18</p> <p>determinative [1] - 28:20</p> <p>determine [2] - 7:18, 24:6</p> <p>determined [1] - 13:14</p> <p>detriment [1] - 22:24</p> <p>Detroit [1] - 15:4</p> <p>Dickinson [1] - 26:6</p> <p>dictate [1] - 28:24</p> <p>difference [1] - 37:2</p> <p>different [6] - 32:7, 37:11, 39:5, 41:1, 41:7, 42:11</p> <p>difficulties [1] - 11:11</p> <p>difficulty [1] - 11:10</p> <p>direct [8] - 23:19, 31:5, 31:23, 32:23, 32:25, 35:24, 40:1, 40:7</p> <p>directing [2] - 17:10, 32:4</p> <p>directly [1] - 13:22</p> <p>director [1] - 10:24</p> <p>disagreeing [1] - 28:12</p> <p>discern [1] - 3:7</p> <p>discharge [2] - 32:16, 32:19</p> <p>discretion [1] - 14:18</p> <p>discretionary [2] - 42:14, 42:17</p> <p>discuss [1] - 30:17</p> <p>discussion [1] - 14:17</p> <p>dismissal [1] - 4:20</p> <p>dispose [1] - 4:24</p> <p>disposition [3] - 4:7, 45:12, 45:13</p> <p>dispute [6] - 21:6, 26:12, 28:11, 28:18, 34:12, 45:3</p> <p>disputes [1] - 21:8</p> <p>distinction [1] - 38:21</p> <p>dividing [2] - 26:14, 37:3</p> <p>document [2] - 28:6,</p>	<p>36:20</p> <p>dollars [1] - 42:13</p> <p>done [9] - 20:7, 25:20, 26:2, 27:17, 30:2, 33:5, 37:7, 40:8, 43:22</p> <p>doors [1] - 32:8</p> <p>doubt [1] - 32:13</p> <p>down [5] - 9:16, 11:25, 12:3, 25:7</p> <p>dragged [1] - 40:20</p> <p>drawer [1] - 39:9</p> <p>duly [1] - 16:8</p> <p>duties [4] - 22:23, 28:16, 32:17, 32:20</p> <p>duty [5] - 14:14, 16:3, 31:4, 31:22, 42:5</p>	<p>44:21, 45:6</p> <p>example [5] - 11:22, 26:7, 38:24, 39:12, 42:9</p> <p>except [3] - 31:6, 31:8, 31:25</p> <p>exclusive [2] - 7:18, 35:4</p> <p>excuse [1] - 34:5</p> <p>executive [70] - 3:14, 5:14, 5:16, 7:14, 9:12, 10:13, 10:18, 11:2, 11:14, 13:6, 13:13, 14:5, 14:7, 15:10, 15:21, 15:22, 16:24, 17:10, 17:11, 17:22, 18:1, 18:22, 20:4, 20:15, 23:19, 24:6, 25:24, 26:3, 26:11, 26:12, 26:15, 27:1, 27:14, 28:1, 28:12, 28:17, 29:9, 29:10, 29:17, 29:18, 29:22, 30:2, 30:16, 30:18, 31:3, 31:7, 31:22, 32:8, 32:11, 32:16, 32:17, 32:21, 33:4, 33:18, 34:11, 35:16, 36:25, 39:4, 39:6, 39:20, 39:24, 39:25, 40:1, 40:16, 42:18, 43:12, 43:21, 44:16, 45:1</p> <p>Executive [2] - 1:3, 47:15</p> <p>executive's [3] - 18:23, 23:5, 32:10</p> <p>exemption [1] - 39:11</p> <p>exemptions [2] - 17:4, 39:5</p> <p>exercise [8] - 28:24, 32:18, 34:23, 35:8, 35:9, 35:23, 35:24</p> <p>exercised [2] - 32:13, 35:19</p> <p>exhibit [1] - 15:9</p> <p>Exhibit [3] - 9:18, 9:23, 11:22</p> <p>EXHIBITS [1] - 2:14</p> <p>exhibits [1] - 2:14</p> <p>exist [2] - 26:8, 40:24</p> <p>exists [1] - 26:7</p> <p>explain [1] - 18:20</p> <p>explained [1] - 9:18</p> <p>explains [1] - 19:9</p> <p>express [2] - 24:6, 32:15</p> <p>expressed [6] - 9:11, 10:21, 12:25, 13:5,</p>	<p>14:3, 18:12</p> <p>expressly [5] - 18:8, 23:22, 30:23, 32:10, 34:10</p> <p>eyebrow [2] - 18:11, 28:3</p>
D				
<p>Daily [1] - 40:12</p> <p>data [1] - 25:4</p> <p>Date: _October [1] - 47:25</p> <p>deal [4] - 39:15, 39:18, 42:23, 43:17</p> <p>decide [5] - 20:21, 36:21, 42:2, 42:22, 43:14</p> <p>decided [2] - 16:19, 18:25</p> <p>decidedly [1] - 39:16</p> <p>decides [1] - 15:14</p> <p>deciding [1] - 42:20</p> <p>decision [10] - 12:14, 16:20, 29:8, 30:13, 35:5, 36:18, 36:20, 45:6, 45:8</p> <p>decision-making [1] - 12:14</p> <p>decisions [1] - 30:4</p> <p>Defendant [2] - 1:7, 47:16</p> <p>Defendant(s) [1] - 1:16</p> <p>defense [1] - 41:20</p> <p>deference [1] - 16:21</p> <p>definition [1] - 39:22</p> <p>delays [1] - 11:10</p> <p>delegated [1] - 32:21</p> <p>deny [1] - 22:24</p> <p>department [8] - 10:10, 10:12, 10:14, 10:19, 11:19, 12:6, 13:22, 32:6</p> <p>Department [5] - 17:11, 23:10, 23:20, 23:25, 32:6</p>				
E				
<p>easiest [1] - 10:23</p> <p>easy [1] - 28:25</p> <p>effect [1] - 9:20</p> <p>efficiently [1] - 36:24</p> <p>either [3] - 3:8, 34:19, 45:17</p> <p>elected [1] - 31:6</p> <p>embrace [1] - 18:6</p> <p>emphasis [1] - 34:21</p> <p>employees [1] - 30:8</p> <p>enacted [1] - 16:8</p> <p>end [1] - 4:8</p> <p>enforce [2] - 15:3, 15:13</p> <p>enforceable [2] - 16:7, 18:25</p> <p>enforced [2] - 15:16</p> <p>enforcing [1] - 27:5</p> <p>entire [3] - 26:25, 27:2, 33:5</p> <p>entirety [1] - 38:6</p> <p>entitlement [1] - 36:2</p> <p>entity [2] - 10:12, 10:18</p> <p>entries [1] - 8:8</p> <p>enumerate [1] - 35:11</p> <p>enumerated [4] - 14:6, 35:4, 35:6, 35:8</p> <p>equation [1] - 29:1</p> <p>essentially [4] - 8:3, 8:9, 8:11, 37:16</p> <p>establishment [1] - 5:17</p> <p>evidence [1] - 24:24</p> <p>exact [2] - 28:7, 41:12</p> <p>exactly [6] - 6:18, 11:7, 28:8, 36:21,</p>				
F				
<p>facilities [4] - 31:7, 31:24, 32:6, 32:24</p> <p>fact [3] - 22:20, 25:6, 32:8</p> <p>facts [2] - 21:22, 43:18</p> <p>fair [1] - 21:10</p> <p>falls [1] - 33:3</p> <p>false [1] - 22:22</p> <p>file [5] - 26:15, 38:4, 38:9, 38:23, 39:13</p> <p>filed [6] - 5:14, 5:20, 15:24, 45:11, 45:12</p> <p>fill [1] - 36:13</p> <p>finance [6] - 10:14, 10:19, 11:19, 12:5, 13:22, 37:6</p> <p>Finance [5] - 17:11, 23:10, 23:20, 23:25, 32:6</p> <p>financial [17] - 4:24, 5:5, 5:22, 6:9, 7:9, 7:16, 7:20, 13:6, 16:17, 16:18, 23:15, 24:8, 26:16, 29:22, 29:25, 30:15, 38:16</p> <p>financials [1] - 41:11</p> <p>fine [2] - 34:16, 38:9</p> <p>firm [1] - 26:6</p> <p>first [12] - 4:11, 4:15, 6:19, 21:21, 25:11, 28:17, 29:7, 30:13, 30:14, 33:17, 41:13, 42:2</p> <p>fit [1] - 24:4</p> <p>flip [1] - 4:14</p> <p>floor [1] - 9:6</p> <p>flows [1] - 42:1</p> <p>focus [1] - 44:25</p> <p>FOIA [3] - 17:4, 17:5, 39:4</p> <p>follow [5] - 13:16, 15:21, 16:10, 19:1, 19:3</p> <p>FOR [1] - 1:1</p> <p>foregoing [1] - 47:10</p> <p>form [4] - 13:13, 19:23, 25:21, 29:20</p> <p>formed [1] - 28:14</p> <p>forth [2] - 12:3, 12:7</p> <p>forward [1] - 32:14</p>				

<p>four [2] - 40:20, 40:24</p> <p>fourth [1] - 15:6</p> <p>framework [3] - 12:13, 12:15, 21:9</p> <p>frankly [1] - 21:25</p> <p>front [4] - 27:18, 43:10, 43:11, 43:13</p> <p>full [2] - 3:23, 47:11</p> <p>functions [4] - 20:18, 32:20, 36:5, 42:8</p> <p>furnish [2] - 27:15, 39:4</p> <p>furnishes [1] - 39:1</p> <p>furnishing [1] - 40:6</p> <p>future [1] - 20:8</p>	<p>H</p> <p>HACKEL [2] - 1:3, 47:14</p> <p>Hackel [15] - 3:12, 13:3, 17:15, 17:19, 17:24, 18:10, 28:3, 28:5, 28:10, 28:17, 35:5, 36:18, 41:15, 45:6</p> <p>Hampshire [1] - 22:18</p> <p>hand [1] - 18:5</p> <p>happy [2] - 3:25, 4:2</p> <p>hassig [2] - 1:22, 47:19</p> <p>Hassig [2] - 47:8, 47:21</p> <p>headed [1] - 31:6</p> <p>health [1] - 16:18</p> <p>heard [3] - 3:6, 26:5, 40:23</p> <p>heart [2] - 42:17, 42:18</p> <p>heavy [1] - 34:6</p> <p>helpful [1] - 38:10</p> <p>helps [1] - 9:21</p> <p>hereby [1] - 47:10</p> <p>himself [1] - 18:22</p> <p>hit [2] - 38:19, 38:20</p> <p>holding [1] - 22:16</p> <p>Honor [8] - 3:13, 3:16, 3:24, 4:10, 5:10, 45:9, 45:18, 45:19</p> <p>HONORABLE [1] - 1:10</p> <p>horribles [3] - 21:25, 23:7, 43:24</p> <p>housekeeping [2] - 4:12, 5:3</p> <p>huge [1] - 26:14</p> <p>hugely [1] - 27:22</p> <p>hundred [1] - 42:13</p>	<p>27:22, 41:14</p> <p>IN [1] - 1:1</p> <p>inappropriate [1] - 42:20</p> <p>inaudible [1] - 14:9</p> <p>Inaudible [2] - 3:5, 10:7</p> <p>inaudible [1] - 31:12</p> <p>inception [1] - 29:19</p> <p>incidental [4] - 32:18, 32:24, 33:1, 33:14</p> <p>incidents [1] - 39:22</p> <p>include [4] - 8:5, 14:6, 26:17, 37:1</p> <p>included [3] - 5:15, 41:3, 41:5</p> <p>including [2] - 13:2, 30:9</p> <p>indeed [2] - 17:22, 19:23</p> <p>individual [1] - 37:19</p> <p>inform [1] - 19:6</p> <p>information [56] - 5:23, 7:9, 7:16, 7:20, 8:14, 8:15, 9:7, 9:13, 9:15, 9:17, 10:2, 10:11, 10:20, 10:22, 10:25, 11:2, 11:3, 11:5, 11:8, 11:11, 11:14, 12:6, 13:7, 13:14, 13:18, 13:23, 16:19, 16:24, 17:3, 18:9, 19:7, 23:10, 24:8, 25:3, 26:13, 26:18, 26:20, 27:15, 27:21, 27:24, 30:11, 36:3, 36:4, 36:7, 36:10, 36:13, 36:15, 36:25, 37:9, 38:11, 38:22, 39:4, 39:10, 40:6, 42:21</p> <p>inherently [1] - 43:2</p> <p>instance [1] - 8:2</p> <p>instances [1] - 23:18</p> <p>instead [4] - 5:21, 11:13, 12:2, 37:4</p> <p>insure [1] - 39:12</p> <p>integrity [1] - 39:14</p> <p>intent [2] - 4:23, 12:21</p> <p>interest [1] - 45:15</p> <p>interesting [2] - 17:16, 22:6</p> <p>interestingly [3] - 9:14, 10:3, 17:14</p> <p>interfacing [1] - 39:21</p> <p>interpretation [1] - 3:8</p>	<p>interrupt [1] - 19:15</p> <p>invalid [2] - 34:18, 42:5</p> <p>irrelevant [1] - 34:11</p> <p>issue [25] - 4:4, 4:21, 4:24, 5:6, 5:15, 6:4, 6:10, 6:11, 6:17, 6:20, 7:3, 11:21, 12:8, 13:8, 17:16, 20:20, 21:3, 27:4, 31:2, 36:21, 39:17, 42:6, 42:10, 42:14, 45:24</p> <p>issues [4] - 6:9, 28:7, 36:23, 41:22</p> <p>issuing [1] - 29:20</p> <p>IT [1] - 4:5</p> <p>item [6] - 12:4, 15:6, 23:6, 25:3, 26:24</p> <p>items [1] - 11:25</p> <p>itself [2] - 14:8, 16:3</p>	<p>lanes [1] - 35:15</p> <p>language [4] - 33:24, 34:21, 36:10, 41:6</p> <p>languish [1] - 41:18</p> <p>last [4] - 3:23, 21:21, 24:12, 41:19</p> <p>lastly [2] - 19:8, 19:11</p> <p>law [32] - 9:9, 13:7, 13:16, 13:17, 13:19, 14:9, 14:25, 15:1, 16:11, 16:20, 16:23, 18:19, 22:25, 23:20, 26:19, 27:5, 27:7, 27:12, 29:5, 29:6, 31:9, 32:1, 32:17, 34:23, 34:24, 36:8, 39:2, 44:25</p> <p>lawfully [1] - 32:21</p> <p>laws [1] - 35:12</p> <p>least [1] - 26:17</p> <p>leave [2] - 27:1, 38:6</p> <p>left [1] - 6:22</p> <p>legal [12] - 14:14, 16:2, 16:3, 22:3, 28:4, 28:6, 40:6, 41:14, 41:15, 42:5, 44:13</p> <p>legislative [9] - 8:19, 10:24, 16:14, 16:17, 34:8, 34:9, 34:12, 35:10, 35:13</p> <p>legitimate [1] - 17:13</p> <p>lemonade [1] - 17:18</p> <p>lemons [1] - 17:18</p> <p>less [1] - 36:24</p> <p>level [2] - 25:2, 33:8</p> <p>license [1] - 42:12</p> <p>light [2] - 18:12, 20:18</p> <p>limit [1] - 7:15</p> <p>limited [2] - 14:3, 42:21</p> <p>line [5] - 4:23, 11:24, 26:14, 26:24, 37:3</p> <p>list [1] - 33:25</p> <p>listen [1] - 44:21</p> <p>literally [1] - 41:19</p> <p>LLC [1] - 1:23</p> <p>locks [1] - 32:8</p> <p>log [6] - 8:11, 27:16, 37:20, 38:16, 38:24, 39:18</p> <p>login [1] - 27:16</p> <p>look [18] - 10:24, 11:15, 13:21, 16:15, 16:16, 17:12, 24:4, 28:13, 28:18, 33:1, 37:17, 39:3, 39:10, 39:11, 42:16, 43:16</p> <p>looked [1] - 4:20</p>
<p>G</p> <p>gather [4] - 26:20, 37:1, 37:9, 38:12</p> <p>gavel [1] - 38:19</p> <p>general [4] - 18:13, 34:24, 38:14, 38:15</p> <p>given [4] - 17:22, 17:23, 18:14, 39:24</p> <p>gotcha [1] - 7:11</p> <p>governed [1] - 25:25</p> <p>government [12] - 15:20, 18:21, 20:19, 22:24, 25:22, 27:23, 28:22, 29:20, 36:14, 36:24, 39:1, 40:5</p> <p>Gowan [8] - 22:5, 22:7, 22:8, 22:16, 22:18, 22:19, 23:3, 23:4</p> <p>grant [13] - 7:14, 7:17, 12:19, 13:1, 14:1, 14:3, 18:14, 29:14, 29:16, 31:1, 32:15, 33:16, 43:4</p> <p>granted [15] - 12:23, 12:24, 16:20, 24:5, 28:21, 28:23, 29:8, 30:15, 30:23, 32:10, 32:17, 32:22, 34:10, 34:23, 42:19</p> <p>granting [1] - 43:3</p> <p>grants [2] - 33:13, 34:11</p> <p>grasp [1] - 21:20</p> <p>great [2] - 16:20, 20:5</p> <p>guess [3] - 8:3, 8:25, 25:10</p> <p>gum [1] - 36:23</p>	<p>I</p> <p>identified [1] - 13:24</p> <p>identify [3] - 13:11, 14:11, 14:23</p> <p>immediate [1] - 23:17</p> <p>implication [1] - 25:17</p> <p>implied [2] - 12:25, 35:7</p> <p>importance [2] - 16:13, 41:18</p> <p>important [9] - 9:15, 12:11, 13:4, 15:7, 17:6, 20:16, 20:18,</p>	<p>J</p> <p>JAMES [1] - 1:10</p> <p>job [1] - 16:15</p> <p>Joe [1] - 3:13</p> <p>JOSEPH [1] - 1:13</p> <p>Judge [22] - 25:18, 26:12, 27:14, 28:4, 28:11, 28:25, 29:10, 30:3, 30:25, 32:5, 32:25, 33:13, 34:2, 34:9, 35:20, 36:12, 38:8, 39:5, 40:8, 41:15, 42:14, 45:7</p> <p>JUDGE [1] - 1:10</p> <p>judgment [1] - 16:14</p> <p>judicial [2] - 30:3, 42:23</p> <p>Judicial [1] - 47:9</p> <p>jump [1] - 10:25</p>	<p>K</p> <p>keep [2] - 39:14</p> <p>key [2] - 34:21, 37:2</p> <p>kicked [1] - 40:19</p> <p>kidding [1] - 44:12</p> <p>kind [13] - 19:18, 21:13, 21:16, 21:21, 24:13, 24:21, 25:13, 28:7, 28:18, 29:23, 31:21, 36:20, 39:15</p> <p>knows [1] - 39:25</p>	<p>L</p> <p>laboring [1] - 20:2</p> <p>lack [1] - 8:4</p> <p>land [1] - 25:3</p>

<p>looking [9] - 11:7, 21:23, 23:9, 23:13, 24:3, 28:6, 28:7, 33:24</p> <p>looks [2] - 9:6, 23:10</p> <p>lose [1] - 30:21</p> <p>loud [1] - 3:10</p>	<p>13:5</p> <p>mentioned [2] - 5:21, 23:6</p> <p>message [1] - 18:18</p> <p>methodology [1] - 20:20</p> <p>MI [3] - 1:14, 1:17, 1:24</p> <p>MICHIGAN [2] - 1:1, 47:5</p> <p>Michigan [5] - 1:11, 3:1, 35:12, 47:10, 47:25</p> <p>micro [1] - 33:7</p> <p>microphone [1] - 3:11</p> <p>might [3] - 24:14, 43:5, 43:6</p> <p>mind [6] - 25:21, 31:15, 31:16, 31:18, 32:14</p> <p>mine [2] - 26:13, 44:2</p> <p>minimum [1] - 9:6</p> <p>ministerial [3] - 14:18, 14:22, 42:12</p> <p>minutes [1] - 38:15</p> <p>misdirection [2] - 26:21, 26:23</p> <p>misstated [3] - 22:8, 22:10, 22:11</p> <p>Monday [2] - 1:11, 47:17</p> <p>money [1] - 41:23</p> <p>monitor [1] - 26:4</p> <p>monitored [1] - 28:1</p> <p>monitoring [1] - 27:25</p> <p>moon [1] - 3:23</p> <p>morning [5] - 3:13, 3:15, 3:16, 3:19, 3:24</p> <p>most [2] - 10:23, 43:2</p> <p>motion [7] - 4:6, 4:7, 4:8, 4:19, 9:18, 43:4</p> <p>motions [5] - 3:22, 4:4, 7:10, 45:11, 45:13</p> <p>Mount [4] - 1:11, 1:14, 3:1, 47:25</p> <p>MR [80] - 3:13, 3:16, 3:22, 3:24, 4:10, 4:12, 4:14, 4:16, 4:17, 5:2, 5:7, 5:9, 5:13, 5:19, 6:1, 6:5, 6:8, 6:13, 6:17, 6:18, 6:19, 6:22, 7:1, 7:5, 7:8, 7:12, 7:23, 8:1, 8:13, 8:17, 8:23, 9:3, 9:9, 9:24, 10:1, 10:6, 10:9,</p>	<p>11:19, 11:21, 14:5, 16:6, 19:14, 19:22, 20:2, 20:11, 20:13, 21:2, 21:11, 21:17, 21:20, 22:11, 22:14, 24:18, 24:23, 25:6, 25:10, 25:13, 25:17, 25:24, 31:15, 31:18, 31:19, 31:20, 33:10, 37:24, 38:2, 38:19, 41:3, 41:5, 41:8, 41:10, 44:2, 44:3, 44:7, 44:8, 44:11, 45:18, 45:19, 45:21, 45:22</p> <p>mundane [1] - 12:9</p> <p>municipalities [2] - 24:15, 24:25</p>	<p>O</p> <p>objection [3] - 14:11, 14:12, 17:8</p> <p>observed [1] - 22:22</p> <p>obviously [8] - 15:17, 20:14, 24:12, 27:21, 29:15, 32:12, 33:19, 45:23</p> <p>odd [1] - 18:21</p> <p>OF [7] - 1:1, 1:1, 1:6, 2:1, 47:5, 47:6, 47:16</p> <p>offer [1] - 25:16</p> <p>offered [3] - 2:4, 2:14, 25:12</p> <p>office [3] - 18:23, 37:6, 40:16</p> <p>offices [1] - 39:8</p> <p>Official Court Reporter [1] - 47:22</p> <p>officials [1] - 31:7</p> <p>older [7] - 5:17, 6:6, 6:23, 12:16, 18:6, 22:1</p> <p>ominous [1] - 37:22</p> <p>once [3] - 35:19, 43:22, 44:17</p> <p>one [38] - 4:12, 4:18, 4:25, 5:21, 5:22, 6:16, 8:17, 8:20, 8:21, 9:5, 12:3, 15:14, 16:23, 18:5, 19:19, 22:21, 23:9, 26:2, 26:24, 28:11, 28:22, 28:23, 29:2, 29:3, 29:7, 29:13, 29:25, 32:2, 34:19, 35:22, 35:23, 36:1, 36:23, 38:10, 38:11, 40:2, 43:1, 45:1</p> <p>one-time [1] - 43:1</p> <p>ones [1] - 34:1</p> <p>ongoing [2] - 23:17, 43:5</p> <p>online [2] - 37:18, 40:12</p> <p>open [1] - 39:8</p> <p>operate [2] - 20:5, 24:15</p> <p>operations [4] - 31:8, 31:25, 32:7, 32:24</p> <p>operative [1] - 12:17</p> <p>opinion [6] - 14:23, 28:5, 30:14, 35:21, 41:15, 45:24</p> <p>opposed [4] - 10:25, 24:4, 37:21</p> <p>opposite [1] - 14:16</p> <p>order [3] - 4:22,</p>	<p>14:21, 38:5</p> <p>ordinance [33] - 6:10, 6:11, 9:10, 10:21, 13:7, 13:8, 13:9, 13:25, 14:19, 14:21, 15:12, 15:21, 16:3, 16:12, 16:21, 17:8, 18:25, 19:3, 19:11, 23:22, 26:19, 26:25, 27:8, 32:18, 34:15, 34:17, 34:18, 36:8, 42:4, 43:12, 43:15, 43:21, 44:15</p> <p>original [3] - 4:19, 5:13, 6:5</p> <p>otherwise [6] - 19:4, 31:8, 31:25, 34:24, 35:1</p> <p>outcry [1] - 40:23</p> <p>outlined [1] - 45:14</p> <p>overridden [1] - 19:2</p> <p>oversight [2] - 22:15, 24:16</p> <p>own [3] - 10:2, 10:12, 11:18</p>
<p>M</p> <p>MACERONI [1] - 1:10</p> <p>MACOMB [4] - 1:1, 1:6, 47:6, 47:15</p> <p>Macomb [5] - 1:3, 1:24, 3:12, 40:12, 47:15</p> <p>Main [1] - 1:14</p> <p>major [1] - 30:22</p> <p>malpractice [1] - 28:4</p> <p>manage [3] - 43:12, 43:22, 44:16</p> <p>mandamus [6] - 14:12, 42:1, 42:7, 42:14, 42:19, 43:2</p> <p>mandate [1] - 21:18</p> <p>mandates [1] - 9:5</p> <p>manipulate [1] - 43:7</p> <p>map [1] - 28:9</p> <p>March [1] - 5:15</p> <p>MARK [2] - 1:3, 47:14</p> <p>marriage [1] - 42:10</p> <p>mask [3] - 31:11, 31:12, 31:14</p> <p>math [1] - 28:25</p> <p>matter [6] - 34:19, 39:3, 41:17, 44:19, 45:23, 47:14</p> <p>matters [3] - 27:6, 27:7, 43:19</p> <p>MCL [2] - 16:23, 28:15</p> <p>mean [11] - 20:8, 37:4, 37:9, 37:22, 38:11, 38:22, 38:23, 38:24, 39:17, 39:23, 42:3</p> <p>means [5] - 3:5, 8:14, 12:13, 38:25, 47:12</p> <p>medical [1] - 30:10</p> <p>member [3] - 38:13, 38:15, 39:7</p> <p>members [2] - 40:15, 43:16</p> <p>memo [4] - 15:9, 15:10, 15:18, 15:23</p> <p>mention [2] - 9:4,</p>	<p>N</p> <p>narrow [2] - 21:8, 43:18</p> <p>nature [1] - 42:24</p> <p>necessary [1] - 32:19</p> <p>need [6] - 15:21, 30:1, 33:15, 36:4, 40:24, 41:22</p> <p>need-to-know [1] - 30:1</p> <p>needed [6] - 13:14, 16:19, 19:7, 19:9, 19:20</p> <p>needs [2] - 15:20, 16:15</p> <p>never [4] - 26:5, 35:18, 35:19, 40:14</p> <p>New [1] - 22:18</p> <p>new [1] - 27:18</p> <p>next [1] - 43:15</p> <p>night [1] - 3:23</p> <p>nondiscretionary [1] - 42:8</p> <p>none [1] - 40:7</p> <p>nonjusticiable [2] - 39:17, 39:23</p> <p>nonlegal [1] - 39:16</p> <p>norm [1] - 19:21</p> <p>NOTE [1] - 3:5</p> <p>nothing [6] - 27:3, 30:7, 37:12, 40:3, 41:19, 41:20</p> <p>notice [1] - 19:18</p> <p>nowhere [1] - 37:8</p> <p>number [6] - 26:9, 29:3, 29:7, 38:10, 45:1, 45:4</p> <p>numbers [1] - 30:8</p>	<p>P</p> <p>P-61759 [1] - 1:10</p> <p>P48783 [1] - 1:16</p> <p>P60378 [1] - 1:13</p> <p>Page [2] - 2:2, 30:18</p> <p>pages [1] - 47:10</p> <p>paper [1] - 12:2</p> <p>papers [3] - 3:9, 12:2, 15:23</p> <p>parade [3] - 21:24, 23:7, 43:24</p> <p>parameters [1] - 33:3</p> <p>parenthetical [2] - 31:10, 31:21</p> <p>part [10] - 9:15, 12:11, 15:25, 21:12, 22:15, 24:23, 29:7, 32:4, 32:9, 42:2</p> <p>partial [1] - 4:7</p> <p>particular [4] - 5:8, 19:17, 21:18, 34:17</p> <p>particularly [1] - 23:1</p> <p>parties [2] - 28:6, 36:20</p> <p>parts [2] - 28:10, 42:16</p> <p>party [1] - 35:22</p> <p>pass [4] - 40:23, 43:11, 43:21, 44:15</p> <p>passed [1] - 40:20</p> <p>passing [2] - 40:22, 43:15</p>		

<p>past [2] - 20:8, 39:21</p> <p>patience [1] - 3:20</p> <p>pay [1] - 40:21</p> <p>people [10] - 11:16, 11:17, 12:22, 21:15, 30:9, 35:15, 37:5, 37:6, 39:12</p> <p>per [1] - 17:2</p> <p>perform [1] - 22:23</p> <p>period [1] - 27:8</p> <p>person [6] - 8:17, 8:18, 8:20, 8:21, 23:9, 38:4</p> <p>pertain [1] - 38:3</p> <p>Peter [1] - 3:17</p> <p>PETER [1] - 1:16</p> <p>pick [4] - 32:3, 32:5, 33:1, 39:19</p> <p>picked [1] - 3:10</p> <p>pins [1] - 26:9</p> <p>place [2] - 22:2, 38:7</p> <p>Plaintiff [2] - 1:4, 47:15</p> <p>Plaintiff(s) [1] - 1:13</p> <p>play [1] - 20:21</p> <p>plays [1] - 27:22</p> <p>point [13] - 4:18, 16:10, 18:20, 20:7, 23:2, 26:22, 26:23, 27:5, 27:7, 30:19, 35:20, 36:1, 40:10</p> <p>points [1] - 35:13</p> <p>police [1] - 15:4</p> <p>policies [1] - 29:4</p> <p>policing [1] - 15:4</p> <p>policy [5] - 12:11, 19:10, 23:15, 29:21, 40:1</p> <p>position [1] - 23:5</p> <p>posted [1] - 40:11</p> <p>power [34] - 7:14, 12:23, 18:14, 23:22, 24:6, 28:21, 29:8, 29:9, 29:10, 29:11, 29:15, 29:17, 30:21, 30:23, 32:10, 32:11, 32:16, 32:24, 33:1, 33:12, 33:16, 34:8, 34:9, 34:12, 34:14, 34:22, 34:23, 35:15, 35:16, 35:17, 35:18, 35:22, 42:19, 45:2</p> <p>powers [13] - 12:20, 14:1, 28:8, 28:13, 32:18, 33:14, 35:4, 35:6, 35:8, 35:10, 35:13, 36:16, 42:4</p> <p>practical [4] - 9:20, 11:11, 12:8, 36:23</p> <p>practicalities [2] -</p>	<p>29:4, 44:24</p> <p>practically [1] - 11:1</p> <p>practice [2] - 24:19, 30:24</p> <p>practices [1] - 24:20</p> <p>precedent [2] - 43:19, 44:18</p> <p>preclude [1] - 5:16</p> <p>precluded [1] - 17:9</p> <p>preparing [1] - 4:21</p> <p>present [3] - 7:12, 9:19, 47:13</p> <p>presentation [1] - 33:22</p> <p>presented [2] - 26:7, 42:21</p> <p>presumption [2] - 16:11, 27:6</p> <p>printout [1] - 11:4</p> <p>problem [4] - 3:25, 11:6, 30:23, 44:21</p> <p>Proceedings [1] - 46:1</p> <p>PROCEEDINGS [1] - 1:9</p> <p>proceedings [1] - 47:12</p> <p>process [3] - 11:10, 18:3, 20:15</p> <p>proper [2] - 3:7, 19:1</p> <p>provide [10] - 9:12, 10:23, 11:3, 13:6, 13:13, 13:23, 16:24, 18:16, 19:8, 23:23</p> <p>provided [12] - 9:9, 10:17, 11:14, 14:20, 18:9, 19:21, 31:8, 31:25, 34:24, 35:1, 35:11</p> <p>provides [2] - 11:11, 13:18</p> <p>providing [1] - 23:22</p> <p>provision [9] - 9:11, 12:18, 13:4, 30:19, 33:14, 34:5, 34:11, 41:1, 45:5</p> <p>provisions [4] - 18:12, 33:25, 35:17, 36:6</p> <p>public [8] - 17:3, 22:23, 38:14, 38:16, 39:7, 41:18, 41:23, 43:16</p> <p>published [4] - 13:2, 28:5, 35:21, 36:19</p> <p>purely [1] - 42:12</p> <p>purported [1] - 30:20</p> <p>put [3] - 27:11, 34:20, 36:10</p> <p>puts [1] - 32:8</p>	<p>Q</p> <p>quagmire [2] - 20:24, 22:4</p> <p>Qualls [3] - 14:20, 14:23, 16:13</p> <p>quarterly [9] - 7:22, 7:24, 9:5, 26:11, 26:17, 26:19, 27:12, 36:6, 36:7</p> <p>questions [2] - 19:19, 34:3</p> <p>quickly [1] - 34:2</p> <p>quite [1] - 31:17</p> <p>quote [4] - 22:20, 30:18, 31:3, 34:23</p> <p>R</p> <p>raiser [1] - 18:11</p> <p>raising [2] - 21:24, 28:3</p> <p>rarely [1] - 36:19</p> <p>rather [4] - 11:4, 15:5, 17:2, 22:16</p> <p>read [11] - 8:6, 8:17, 10:15, 10:23, 19:16, 21:6, 22:6, 22:16, 30:25, 31:9, 45:14</p> <p>read-only [4] - 8:6, 8:17, 10:15, 10:23</p> <p>real [2] - 11:9, 11:21</p> <p>really [11] - 12:13, 14:16, 15:7, 22:6, 23:4, 25:1, 37:10, 38:10, 41:24, 43:17, 44:23</p> <p>realtime [9] - 8:3, 8:4, 8:6, 8:12, 8:14, 24:13, 24:16, 26:4, 27:25</p> <p>reason [2] - 15:8, 22:18</p> <p>reasonable [2] - 10:23, 36:12</p> <p>reasons [1] - 29:12</p> <p>rebuttal [1] - 45:16</p> <p>Received [1] - 2:14</p> <p>recognized [2] - 13:1, 13:2</p> <p>record [2] - 24:23, 24:24</p> <p>recording [1] - 47:12</p> <p>records [8] - 37:16, 37:17, 37:18, 37:20, 38:5, 38:6, 39:14</p> <p>redacted [1] - 17:5</p> <p>referenced [1] - 19:18</p>	<p>references [1] - 13:19</p> <p>referencing [1] - 12:10</p> <p>refusal [1] - 22:23</p> <p>regard [2] - 15:5, 22:6</p> <p>regarding [4] - 4:4, 5:8, 6:4</p> <p>rejected [2] - 22:19, 22:20</p> <p>reliance [1] - 18:10</p> <p>relies [3] - 17:24, 27:10, 27:12</p> <p>rely [1] - 23:3</p> <p>remain [1] - 7:5</p> <p>remarkable [1] - 40:13</p> <p>remedy [6] - 15:7, 15:25, 19:6, 20:6, 23:2, 42:20</p> <p>remove [1] - 31:13</p> <p>replicated [1] - 9:1</p> <p>report [8] - 7:22, 7:24, 26:15, 26:17, 26:19, 36:8, 36:9, 36:10</p> <p>reporter [1] - 47:13</p> <p>Reporter [2] - 1:23, 47:9</p> <p>REPORTER'S [1] - 3:5</p> <p>reporting [1] - 41:11</p> <p>Reporting [1] - 1:23</p> <p>reports [6] - 9:5, 26:11, 27:12, 36:6, 36:7, 43:7</p> <p>representative [1] - 8:10</p> <p>reproach [1] - 22:25</p> <p>request [4] - 12:4, 17:7, 17:14, 36:13</p> <p>requesting [1] - 8:3</p> <p>require [1] - 36:11</p> <p>required [3] - 13:7, 26:18, 36:8</p> <p>requirement [4] - 13:6, 13:12, 13:16, 13:20</p> <p>requires [6] - 7:23, 9:12, 14:7, 14:8, 14:9, 29:6</p> <p>reread [1] - 31:20</p> <p>resolution [1] - 15:12</p> <p>resolutions [1] - 34:15</p> <p>respect [15] - 7:2, 9:14, 9:18, 12:16, 13:8, 15:6, 17:15,</p>	<p>17:19, 20:14, 20:15, 21:25, 23:16, 29:1, 30:3, 36:16</p> <p>responded [1] - 6:8</p> <p>response [3] - 4:6, 4:8, 30:17</p> <p>responses [1] - 45:12</p> <p>responsibilities [1] - 28:16</p> <p>responsibility [3] - 31:4, 31:23, 39:25</p> <p>responsible [1] - 38:4</p> <p>revision [1] - 11:10</p> <p>Richardson [1] - 19:9</p> <p>road [1] - 28:9</p> <p>Road [1] - 1:16</p> <p>role [2] - 16:17, 27:22</p> <p>rolled [4] - 9:16, 11:25, 12:1, 25:7</p> <p>room [2] - 36:18, 45:3</p> <p>rule [1] - 45:7</p> <p>ruled [1] - 6:23</p> <p>rules [1] - 14:8</p> <p>ruling [1] - 44:14</p> <p>run [4] - 18:7, 24:1, 42:6, 43:7</p> <p>S</p> <p>safeguards [2] - 39:2, 40:6</p> <p>saw [2] - 21:25, 40:14</p> <p>se [1] - 17:2</p> <p>second [5] - 6:17, 11:8, 13:3, 28:20, 33:20</p> <p>secondarily [1] - 14:17</p> <p>secondary [1] - 21:12</p> <p>Section [3] - 9:7, 13:9</p> <p>sections [1] - 29:21</p> <p>security [1] - 29:20</p> <p>Security [1] - 30:8</p> <p>see [8] - 8:11, 10:12, 10:19, 10:24, 24:4, 24:7, 25:7, 37:20</p> <p>seem [1] - 33:6</p> <p>sees [1] - 7:19</p> <p>September [3] - 1:11, 3:2, 47:17</p> <p>service [1] - 39:20</p> <p>services [4] - 31:8,</p>
--	--	---	---	---

<p>31:25, 32:7, 32:24 set [3] - 19:23, 27:25, 33:2 setting [3] - 23:15, 26:25, 43:19 settlement [1] - 7:2 sex [1] - 42:10 shall [5] - 26:15, 26:17, 27:15, 35:9, 39:4 shape [1] - 31:11 shop [1] - 27:25 shoulder [1] - 37:23 show [1] - 9:19 shuffling [1] - 3:9 side [1] - 41:20 sides [1] - 14:16 siload [1] - 10:18 similar [2] - 12:14, 36:9 simple [2] - 11:12, 35:25 simply [5] - 10:15, 11:12, 11:15, 15:13, 17:12 sitting [3] - 3:20, 37:5, 41:25 situation [1] - 37:15 six [1] - 21:15 Sixteenth [1] - 47:9 SLH [1] - 1:23 slippery [4] - 21:13, 21:22, 42:25, 43:9 slope [4] - 21:14, 21:22, 42:25, 43:9 Social [1] - 30:7 software [32] - 4:24, 5:6, 6:10, 7:7, 8:5, 8:12, 21:9, 21:19, 24:1, 26:4, 27:25, 29:11, 29:22, 30:1, 30:5, 30:15, 31:3, 32:3, 33:2, 33:11, 38:8, 38:9, 38:17, 38:25, 39:19, 41:11, 42:15, 43:4, 43:5, 43:13, 43:22, 44:17 solution [1] - 29:25 someone [6] - 11:15, 29:24, 37:16, 37:22, 39:9 somewhat [1] - 41:6 sorry [4] - 6:1, 15:22, 22:9, 31:10 sort [8] - 26:14, 26:21, 30:1, 34:15, 36:3, 36:22, 39:11, 42:6 source [1] - 30:20 speaker [1] - 3:9</p>	<p>specific [1] - 11:25 specifically [7] - 4:5, 13:10, 14:24, 15:19, 19:20, 23:18, 35:11 specified [1] - 32:20 spelled [1] - 37:10 squarely [1] - 33:3 SS [1] - 47:5 staff [2] - 8:18, 10:3 standing [1] - 37:23 start [1] - 25:20 STATE [2] - 1:1, 47:5 state [6] - 13:16, 13:17, 13:19, 14:9, 32:1 State [2] - 35:12, 47:9 statement [2] - 30:22, 34:16 statements [1] - 33:23 states [1] - 42:11 statute [2] - 39:3, 40:4 statutes [1] - 40:2 staying [1] - 35:15 Ste [2] - 1:14, 1:16 stop [1] - 43:23 stopping [1] - 43:14 Street [1] - 1:14 streets [1] - 15:3 stress [1] - 27:20 strong [1] - 33:22 strongly [2] - 10:21, 22:20 structure [1] - 7:2 stuff [2] - 30:10, 44:19 subject [6] - 13:15, 17:4, 23:20, 39:1, 40:6 submit [3] - 14:18, 17:12, 35:20 sue.hassig@gmail.com [1] - 1:24 suggest [1] - 37:22 suited [1] - 43:2 summary [3] - 4:7, 45:12, 45:13 supervise [3] - 31:4, 31:23, 32:23 supervising [1] - 32:4 supply [1] - 36:25 support [1] - 23:22 supported [1] - 16:22 supports [2] - 23:4, 40:4</p>	<p>supposed [1] - 27:11 Susan [3] - 1:22, 47:8, 47:21 sweeping [1] - 33:23 system [3] - 29:22, 32:3, 33:2 systems [1] - 28:1</p> <p>T</p> <p>TABLE [1] - 2:1 talks [3] - 16:11, 26:10, 27:11 technically [1] - 7:17 term [3] - 8:4, 44:6, 44:10 terms [6] - 16:21, 20:17, 29:12, 40:10, 40:18, 42:24 THE [74] - 1:1, 1:10, 3:12, 3:15, 3:19, 3:23, 4:2, 4:11, 4:13, 5:1, 5:5, 5:8, 5:12, 5:18, 5:25, 6:2, 6:7, 6:12, 6:15, 6:21, 6:25, 7:4, 7:6, 7:11, 7:21, 7:25, 8:2, 8:16, 8:21, 8:24, 9:8, 9:23, 9:25, 10:5, 10:7, 11:17, 11:20, 14:4, 16:5, 19:13, 19:15, 20:1, 20:10, 20:12, 21:1, 21:3, 21:12, 21:18, 22:9, 22:13, 24:9, 24:19, 25:5, 25:8, 25:12, 25:15, 25:23, 31:13, 31:16, 33:9, 37:14, 38:1, 38:18, 41:1, 41:4, 41:6, 41:9, 44:1, 44:5, 44:10, 45:10, 45:20, 45:23 themselves [3] - 26:13, 26:21, 38:13 theoretically [1] - 15:15 theory [4] - 20:25, 22:4, 22:14, 22:22 thin [1] - 33:23 thinking [3] - 19:10, 38:14, 41:21 third [1] - 15:20 three [1] - 21:14 ties [1] - 13:19 tightly [1] - 38:7 timeline [1] - 5:11 timing [1] - 11:9 today [1] - 45:15 topic [1] - 30:16 totally [5] - 25:14, 34:11, 40:13, 40:25,</p>	<p>42:20 touch [1] - 20:24 transaction [2] - 37:7 transaction-by-transaction [1] - 37:7 transcript [1] - 47:11 transparencies [1] - 44:24 transparency [6] - 12:12, 17:6, 19:10, 23:16, 40:10, 40:17 tree [2] - 29:8, 30:13 trivial [1] - 12:10 troubling [1] - 15:18 Troy [1] - 1:17 true [1] - 47:11 try [4] - 6:14, 6:15, 37:11, 42:22 trying [9] - 5:16, 17:18, 18:6, 18:7, 36:15, 36:23, 41:16, 42:9 two [14] - 5:21, 6:9, 9:4, 16:22, 16:25, 26:9, 28:6, 28:10, 29:18, 38:13, 38:15, 40:21, 41:19, 45:4 type [4] - 8:25, 10:2, 24:20, 25:2</p> <p>U</p> <p>U.S [1] - 26:3 UBAA [1] - 39:3 umbrella [1] - 33:3 umm [32] - 4:4, 4:5, 4:17, 10:15, 17:6, 17:17, 18:12, 18:18, 19:17, 19:19, 20:17, 20:25, 21:24, 22:2, 22:7, 25:2, 25:19, 26:9, 28:10, 30:18, 31:12, 32:1, 33:5, 33:23, 34:7, 37:18, 42:1, 42:8, 43:9, 44:13, 44:20 unbroken [1] - 30:24 under [18] - 9:11, 13:9, 13:13, 13:20, 13:22, 13:25, 14:6, 16:6, 16:20, 16:23, 16:24, 20:3, 28:8, 28:14, 32:11, 35:16, 35:18, 45:24 underpinnings [1] - 22:4 underscored [2] - 12:21, 23:1 underscores [2] -</p>	<p>15:19, 17:21 Uniform [8] - 13:11, 16:25, 17:24, 18:1, 18:4, 18:7, 23:21, 27:13 unless [4] - 15:25, 33:7, 33:10, 34:24 up [11] - 3:11, 4:18, 4:21, 12:1, 12:10, 24:22, 26:22, 27:25, 31:14, 36:23, 39:2 uses [2] - 44:11</p> <p>V</p> <p>valid [6] - 16:7, 17:13, 18:24, 19:2, 34:17, 43:25 validity [3] - 16:12, 16:21, 27:6 vanilla [1] - 34:16 versus [2] - 3:12, 47:15 vested [1] - 34:8 veto [8] - 15:11, 18:17, 18:18, 18:20, 19:2, 26:23, 27:2, 27:7 vetoed [1] - 16:4 video [1] - 47:12 view [1] - 17:17 violates [6] - 15:11, 16:9, 18:23, 27:8, 34:18, 42:3 vital [3] - 40:18, 41:17, 41:24 VIVIANO [35] - 1:13, 3:13, 3:22, 3:24, 4:10, 4:12, 4:14, 4:17, 5:2, 5:7, 6:5, 6:8, 6:13, 6:17, 6:19, 25:10, 25:13, 25:17, 25:24, 31:15, 31:18, 31:20, 33:10, 37:24, 38:2, 38:19, 41:3, 41:5, 41:8, 41:10, 44:3, 44:8, 44:11, 45:18, 45:22 Viviano [3] - 3:14, 5:21, 25:9 void [1] - 27:8 vs [1] - 1:5</p> <p>W</p> <p>wait [1] - 40:24 waive [1] - 45:16 waived [1] - 20:22 walk [1] - 39:8 walking [1] - 39:12</p>
---	---	---	--	---

wants ^[1] - 44:17
wasting ^[1] - 41:23
watching ^[1] - 37:6
ways ^[1] - 37:11
webster ^[10] - 6:13,
26:9, 27:10, 28:2,
29:3, 30:16, 35:3,
39:16, 40:11, 44:23
WEBSTER ^[47] -
1:16, 3:16, 4:16, 5:9,
5:13, 5:19, 6:1, 6:18,
6:22, 7:1, 7:5, 7:8,
7:12, 7:23, 8:1, 8:13,
8:17, 8:23, 9:3, 9:9,
9:24, 10:1, 10:6, 10:9,
11:19, 11:21, 14:5,
16:6, 19:14, 19:22,
20:2, 20:11, 20:13,
21:2, 21:11, 21:17,
21:20, 22:11, 22:14,
24:18, 24:23, 25:6,
31:19, 44:2, 44:7,
45:19, 45:21
Webster ^[3] - 3:17,
25:10, 34:20
Webster's ^[1] - 4:23
webster's ^[1] - 33:21
whereas ^[1] - 37:17
wherewithal ^[1] -
16:18
whole ^[6] - 26:9,
26:12, 27:1, 27:3,
32:13, 43:15
wide ^[1] - 31:6
wielded ^[1] - 29:18
wiggle ^[1] - 36:18
WITNESSES ^[1] - 2:3
witnesses ^[1] - 2:4
word ^[2] - 3:6, 32:2
words ^[7] - 3:6, 8:7,
20:25, 24:16, 32:5,
41:12, 44:12
works ^[2] - 33:12,
39:9
world ^[2] - 11:9,
11:21
Wright ^[1] - 26:6
writ ^[4] - 14:12, 15:6,
22:25

Y

year ^[2] - 13:10,
23:17
years ^[5] - 24:13,
40:20, 40:21, 40:24,
41:19
yourself ^[3] - 27:17,
37:1, 38:12

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

MARK A. HACKEL, in his capacity as
Macomb County Executive,

Case No. 2018-001252-CZ

Plaintiff,

Hon. James M. Maceroni

v.

MACOMB COUNTY BOARD OF
COMMISSIONERS,

Defendant/Counter-Plaintiff,
v.

MARK A. HACKEL, in his capacity as
Macomb County Executive,

Counter-Defendant.

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AFFIDAVIT OF STEPHEN SMIGIEL

STATE OF MICHIGAN)
) ss
COUNTY OF MACOMB)

STEPHEN SMIGIEL, being duly sworn, states as follows:

1. I make this affidavit based on my personal knowledge and am competent to testify to the facts stated herein.

2. I am currently the Finance Director of Macomb County. I have held this position since May of 2015. From August 1997—May 2015, I served as Interim Finance Director, Assistant Finance Director, Accounting Manager, and Internal Audit Officer. I have over 31 years of experience in managing the financial affairs of Macomb County.

3. The Finance and IT Departments have managed financial software programs to administer County finances and operations for many decades, both before and after the Executive form of government. The Finance Department currently administers the finances of the County through a program called OneSolution.

4. The program not only administers and manages County finances, but also contains confidential payroll and human resources information, including but not limited to W-2 earnings, garnishment and child support withholding amounts and social security numbers of employees, spouses, and dependents. There is no way to separate access to public and private information within the system.

5. For this reason, the Executive, the County's Corporation Counsel, and the Chief Information Security Officer develop and administer an Information Technology ("IT") Security Policy which tightly controls both system access and system use.

6. That Policy is ultimately approved by the Executive Office and the Executive has complete discretion to alter or amend its provisions. This policy is not required to be approved by the Commission and the Commission has never sought approval.

7. Pursuant to the policy, only a handful of people within the Finance and IT

Departments have broad access to OneSolution, and strict controls apply even to these individuals' use.

8. Each Department has only limited access to departmental records on an as-needed basis.

9. The Executive himself does not even have login credentials.

10. Over and above quarterly financial statements and annual audits provided to the Commission, every single check issued by the County is published in searchable and downloadable format.

11. To the Finance Department's knowledge, the Commission has never requested access to OneSolution or its predecessor programs for budget review or any other purpose.

12. Because of the dynamic nature of software, the Commission will necessarily alter certain data, such as the system access log, within the OneSolution program by the very act of opening and reading a file.

13. Macomb County, through various entities, uses over twenty financial software programs in addition to OneSolution, including

- Accela Public Works—Soil erosion permits and other
- All Paid (GovPay)—Used for public to send inmate funds
- BS&A—Equalizer Assessing Treasurer & Equalization
- BS&A—Equalizer Delinquent Tax Treasurer & Equalization
- BS&A—Equalizer PRE Audit Treasurer & Equalization
- BS&A—Equalizer Tax Treasurer & Equalization
- CarEvantag—Macomb Community Action (Meals on Wheels)
- CBDG Financials—Macomb Community Action (Grants)

- Chameleon—Animal Control (dog licenses)
- Chasebank—Interfaces for credit card payments
- Commissary—Used for inmate payments
- Courtreimbursement—Reimbursement at Courts
- CRTChecks—Check system at Courts
- Jailbond—System for Jail bonds
- Jailcheck—Check system at Jail
- Jailreimbursement—Reimbursement at Jail
- Kiosk (Touch Pay)—Used for public to send inmate funds
- MICES Courts—State system for child care
- Precision—Roads
- Rehab Loans—Macomb Community Action—Loan administration
- Square Payment—Clerks credit card payments
- Sympro—Investment Management Software
- Teller—Cashiering software used by Treasurer

14. Use of the OneSolution system is intended primarily for users that are knowledgeable of the financial operations of the County and the particular departments in which they work. Use of the system by those without such knowledge could result in misinterpretation of the underlying data.

15. Neither the Executive nor the Finance Department has ever failed to provide the Commission with the information they required to adopt a budget, and the Commission has never claimed they lacked the information it required to adopt a budget.


16. In my opinion, read-only access would not enhance the quality of information that

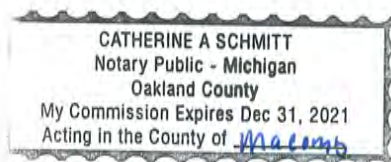
is already provided to the Commission. The Finance Department routinely responds to inquiries or requests for information from the Commission. The personnel in the Finance Department are trained in OneSolution and can pull and compile relevant information upon request. This is the most efficient way to provide this information to the Commission with the highest level of clarity and accuracy.


Stephen Smigiel

STATE OF MICHIGAN)
) ss
MACOMB COUNTY)

Signed and sworn to before me on this 6 day of August, 2021.


Catherine A. Schmitt, Notary Public
State of Michigan, County of Oakland
My commission expires: 12/31/2021
Acting in the County of Macomb





MACOMB COUNTY GOVERNMENT

Information Technology Security Policy



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government
Department of Information Technology

Contents

1	Revision History	4
2	PURPOSE	4
3	SCOPE	4
4	REQUIREMENTS	4
5	GLOSSARY	5
6	REFERENCES	6
6.1	Procedures	6
6.2	Objectives of this policy	6
6.2.1	Protect the confidentiality, integrity and availability of information for MACOMB COUNTY GOVERNMENT customers and business partners.....	6
6.2.2	Protect MACOMB COUNTY GOVERNMENT infrastructure from service interruptions caused by malicious activity.	6
6.2.3	Provide secure methods of connectivity for MACOMB COUNTY GOVERNMENT mobile workforce, customers and business partners.	6
6.2.4	Ensure applicable compliance security standards are continually met.	6
7	POLICY DETAIL.....	7
7.1	Introduction.....	7
7.1.1	Information Security Is Everyone's Responsibility	7
7.1.2	Administrative Security Management for All Networked Devices & Computers.....	7
7.2	Part I. - Access Control.....	7
7.2.1	Section A. - System Login Policy	7
7.2.2	Section B. - Access Policy.....	8
7.2.3	Section C. - Account Management Policy	9
7.2.4	Section E. - Password Management Policy for MACOMB COUNTY GOVERNMENT Internal Systems; Non Customer Facing	10
7.2.5	Section F. - Network Integrity Policy	12
7.2.6	Section G. - Remote Access/VPN Policy	14
7.2.7	Section H. - Virus Management Policy.....	15
7.3	Part I. - Operational Control.....	15
7.3.1	Section A. - Information Security Administrator Roles and Responsibilities ...	15
7.3.2	Section B. - Development Policy	17
7.3.3	Section C. - Log Management and Audit Support Policy	17
7.3.4	Section D. - Incident Handling Policy	17

(Effective: 3/1/2017)

Page 2 of 24

Information Security Policy v4.4



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7.3.5	Section E. - Administrative Policy	18
7.4	Part II. - Information Usage.....	19
7.4.1	Section A. - Intellectual Property Policy	19
7.4.2	Section B. - Asset Protection Policy	20
7.4.3	Section C. - Sensitive Information Handling Policy	21
7.4.4	Section D. - Acceptable Use Policy	22
8	Records	23

Applies to: All employees

Issued:



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

1 Revision History

Revision	Date	Description of Change(s)	Originator(s)
1	6/6/2016	Original Issue	CBI

2 PURPOSE

This policy defines the directives for Information Security. Noncompliance with any part of this policy may result in disciplinary action up to and including termination of employment.

3 SCOPE

This policy is applicable to all MACOMB COUNTY GOVERNMENT employees, contractors, infrastructure and anyone acting at the behest of MACOMB COUNTY GOVERNMENT or interacting with MACOMB COUNTY GOVERNMENT infrastructure in any capacity.

4 REQUIREMENTS

SOX, PCI DSS, HIPAA, CJIS



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

5 GLOSSARY

Un-trusted Network	Any network or network component managed by Information Technology or covered by this security policy.
PCI DSS	Payment Card Industry Data Security Standard
Privileged User Account	<p>When defining what constitutes a "Privileged User Account" the following questions should be asked of the account's capability:</p> <ol style="list-style-type: none"> 1. Can action be undertaken by this account that modifies system wide performance or capability or elevates other accounts on the system to do so? 2. Can action be undertaken by this account that modifies application wide performance or capability or elevates other accounts within the system to do so? <p>If the answer is "yes" to either question, that account should be considered "privileged" and treated accordingly. Otherwise, the account authority should be considered normal under general security policies.</p>
SwA	Software Assurance (SwA) is defined as the level of confidence that software is free from vulnerabilities, either intentionally designed into the software or accidentally inserted at any time during its lifecycle and that the software functions in the intended manner.
TS	Technology Services
System Manager	User/s granted permission to perform limited administrative functions on behalf of a department.
FOIA	The Freedom of Information Act (FOIA) is a law that gives the right to access information from the federal government.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government
Department of Information Technology

6 REFERENCES

6.1 Procedures

All documentations relating to this policy will be maintained by the Information Security Administrator.

6.2 Objectives of this policy

- 6.2.1 Protect the confidentiality, integrity and availability of information for MACOMB COUNTY GOVERNMENT customers and business partners.
- 6.2.2 Protect MACOMB COUNTY GOVERNMENT infrastructure from service interruptions caused by malicious activity.
- 6.2.3 Provide secure methods of connectivity for MACOMB COUNTY GOVERNMENT mobile workforce, customers and business partners.
- 6.2.4 Ensure applicable compliance security standards are continually met.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7 POLICY DETAIL

7.1 Introduction

7.1.1 Information Security Is Everyone's Responsibility

Responsibility for information security on a day-to-day basis is everyone's duty. All users with access to MACOMB COUNTY GOVERNMENT systems must complete security awareness training, review this policy and related security procedures annually.

7.1.2 Administrative Security Management for All Networked Devices & Computers

Configuration of any node attached to the MACOMB COUNTY GOVERNMENT network must comply with this Information Security policy. No computer, hub, router, switch or other network appliance will be permitted corporate connectivity unless that device is managed and controlled by Information Technology.

All devices with corporate connectivity will fully comply with this policy. Any exceptions must be approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director.

7.2 Part I. – Access Control

7.2.1 Section A. – System Login Policy

7.2.1.1 *User-ID & Password Authentication Required for Network Resource Access*

All users must have their identity verified with a unique user-ID and password, or by other means that provide equal or greater security, prior to being permitted access to MACOMB COUNTY GOVERNMENT network resources.

7.2.1.2 *System Access for Individual User Accounts with Unique Login & Passwords*

Unless previously approved by the Information Security Administrator and system resource owner, computer and network system access will be authenticated using logins and passwords that are unique to each individual user. Access control to files, databases, computers and other system resources via shared group or generic accounts is prohibited.

Special permission to use shared logins will only be granted if the system cannot otherwise support unique authentication, or if the system requires the use of a generic shared account. These



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

accounts are not to be considered individual user accounts nor are they to be treated as such. Ownership of such accounts will be assigned to & documented by a system resource owner, approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director.

Requests for shared accounts will require the completion of the following:

IT_FORM_020102a

7.2.1.3 Disclosure of Incorrect Log-In Information

If any part of the login sequence is incorrect when logging into a MACOMB COUNTY GOVERNMENT computer or data communications system, the user will not be given specific feedback indicating the source of the problem. The user will be informed only that the login process was incorrect.

7.2.1.4 Automatic Log-off/Screen Blank Process

If there has been no activity on a computer terminal or PC workstation for thirty (30) minutes, the system will automatically blank the screen and request either a password, or require the user to re-login to the session.

7.2.1.5 Locking the Workstation or Terminal

Users must not leave their PC workstation or terminal unattended without first locking the interactive session, or password protecting the screen.

7.2.2 Section B. - Access Policy

7.2.2.1 Privilege Restriction Based on the Need-to-Withhold

Access to MACOMB COUNTY GOVERNMENT computer and communication systems will be granted by default to all authorized users unless the manager controlling a specific system has specifically defined access control rules. Role based requests, (e.g. Make this person look like the person in the system) are only permissible on certain systems and must have a secondary approval, typically the system manager or equivalent, to ensure that the user is not being granted permissions to the systems deemed restricted. If no secondary approver can be identified, all such requests must be approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director. The requesting manager will be responsible for access granted erroneously due to a role based request.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7.2.2.2 Revocation of Access Privileges

MACOMB COUNTY GOVERNMENT may revoke the privileges of any user at any time. Conduct that interferes with the normal and proper operation of MACOMB COUNTY GOVERNMENT information systems, adversely affects the ability of others to use these information systems, or that is harmful or offensive to others will not be permitted. An external network will be disconnected as a result of activity that may expose MACOMB COUNTY GOVERNMENT to unacceptable vulnerability.

7.2.2.3 Prohibition Against Attempted Circumvention of Access Controls

All MACOMB COUNTY GOVERNMENT staff must refrain from utilizing remote control software or other such means that circumvent the authorized access control mechanisms provided by MACOMB COUNTY GOVERNMENT. This includes the exploitation of operating systems and/or access control software to gain network access (e.g., logmein, gotomypc, Meraki or any other bidirectional remote access/connectivity). Ownership of such accounts will be assigned to & documented by a system resource owner, approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director.

7.2.2.4 Misrepresentation of Identity on Electronic Communication Systems

Misrepresenting, obscuring, suppressing or replacing a user's identity on an electronic communications system is forbidden. The user name, electronic mail address, organizational affiliation and related information included with messages or postings must reflect the actual originator of the messages or postings.

Using another computer under a logged in user's name other than your own is forbidden.

7.2.2.5 Real-Time External Network Connections Require Access Control Gateway

All in-bound, real-time external connections to MACOMB COUNTY GOVERNMENT internal networks and/or multi-user computer systems must pass through an Information Security Administrator approved access control point (i.e., a Firewall or Gateway) before users can reach any MACOMB COUNTY GOVERNMENT resources.

7.2.3 Section C. – Account Management Policy

7.2.3.1 Granting User-IDs to Non-Employees

Individuals who are not employees, contractors or consultants must not be granted a user-ID or otherwise be given privileges to



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

use internal MACOMB COUNTY GOVERNMENT computers, networks or communications systems. Unless otherwise approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director.

7.2.3.2 Limited Number of Privileged Users

Privileged user access must be strictly limited to those individuals who absolutely must have such privileges for authorized business purposes, including application administration. These privileged user-IDs must not be used as primary log in accounts for normal corporate business use.

7.2.3.3 Dormant User-IDs and Automatic Privilege Revocations for Corporate, Internal Business Systems; Non Customer Facing

All user-IDs will have the associated privileges revoked in accordance with the Helpdesk Desk Provisioning Policy or after a ninety (90) day period of inactivity.

All workstation, laptop or server accounts will be removed from the production Active Directory OU after a ninety (90) day period of inactivity.

7.2.4 Section E. - Password Management Policy for MACOMB COUNTY GOVERNMENT Internal Systems; Non Customer Facing

Exceptions to the Password Management Policy may be granted by the Information Security Administrator on a case by case basis for legacy applications provided that an upgrade path has been identified. This upgrade path must eventually lead to compliance with the Password Management Policy or a sunset of the application/infrastructure. This Password Management Policy should be considered the minimum level of security necessary. Applications not using two factor identification, must comply with the following requirements:

7.2.4.1 Minimum Password Length

Password length will be checked automatically at the time of creation. All passwords must have at least eight (8) characters and consist of Upper Case and Lower Case letters and numbers. The use of special characters is recommended.

7.2.4.2 User-Chosen Passwords Must Not Be Reused

Users must not construct passwords that are identical or substantially similar to passwords that they previously employed for some period of time or number of occurrences. The system or application must be capable of denying the password change based on failure of these conditions.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7.2.4.3 Display and Printing of Passwords

The display and printing of passwords must be masked, suppressed or otherwise obscured so that unauthorized parties will not be able to observe or subsequently recover them.

7.2.4.4 Periodic Forced Password Changes

All individual user accounts will be automatically forced to change passwords at least once every ninety (90) days.

7.2.4.5 Limit on Consecutive Unsuccessful Attempts to Enter a Password

To prevent password guessing or brute force attacks, the number of consecutive attempts to enter an incorrect password will be strictly limited. After three unsuccessful attempts to enter a password, the involved user-ID will be either: (a) suspended until reset by a system administrator; or (b) temporarily disabled until user contacts the IT helpdesk.

7.2.4.6 Requests via Telephone to Reset Passwords

Requests made over the telephone to reset passwords will not be honored unless the identity of the caller has first been verified. This action can only be performed by contacting the IT Helpdesk at 586-469-5697. The new password will not be emailed to any email account not owned and maintained by MACOMB COUNTY GOVERNMENT. Refer to Human Resource's policy if needing access to an employee's account.

7.2.4.7 Storage of Passwords in Readable Form

Passwords must never be stored in readable form in any system, software infrastructure or log for any reason.

Passwords must always be encrypted or hashed out when stored, transmitted over networks, typed into systems or in any other form where unauthorized persons may read or otherwise intercept them.

7.2.4.8 Changing Vendor Default Passwords

All vendor-supplied default passwords must be changed before any computer or communications system is used for MACOMB COUNTY GOVERNMENT business.

7.2.4.9 Writing Passwords Down and Leaving Where Others Could Discover

Passwords must not be written down and left in a place where unauthorized persons might discover them.

7.2.4.10 Password Sharing Prohibition

Passwords to individual user accounts should never be shared or revealed to anyone other than the authorized user. Only approved group or application accounts previously approved by the



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

Information Security Administrator, and the Chief Information Officer or Deputy Director, and the resource/application owner may be shared with authorized users of that account.

Password sharing exposes the authorized user to responsibility for actions that the other party takes while using the password. If users must share computer resident data, they must use electronic mail, directories on local area network servers or other Information Technology authorized mechanisms. An exception is given to systems where a default password must be given for initial login.

This prohibition extends to third parties and their agents. Sharing of account information may result in corrective action.

7.2.4.11 Users Responsible for All Activities Involving Personal User-IDs

Users are responsible for all activity performed with their individual user-IDs, and will be held accountable for all activity conducted under their user-ID. User-IDs must not be utilized by anyone but the individuals to whom they have been issued. Users must not allow others to perform any activity with their user-IDs. Similarly, users are forbidden from performing any activity with IDs belonging to other users. Under special circumstances, with the approval of the Information Security Administrator, and the Chief Information Officer or Deputy Director, approved users may log in as another user to repair, investigate or observe.

7.2.4.12 Forced Change of All Passwords

Whenever an unauthorized party has compromised a system, the system manager(s) must immediately change any password of any account that may have been compromised within the involved system. Even suspicion of a compromise requires that affected passwords are changed immediately. All recent changes to user and system privileges will be reviewed by the Information Security Administrator, for unauthorized modifications.

7.2.5 Section F. – Network Integrity Policy

7.2.5.1 Security Mechanisms Must Not Be Compromised

Requests to circumvent MACOMB COUNTY GOVERNMENT Information Security Policy or mechanisms that might risk compromising MACOMB COUNTY GOVERNMENT data or systems will NOT be satisfied unless: (a) the Information Security Administrator and Chief Information Officer or Deputy Director formally approves the request in writing; or (b) MACOMB COUNTY



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

GOVERNMENT is directed by the Legal Department, in writing, to comply with a law or court order.

7.2.5.2 Untrusted Networks Must be Isolated

All networks not directly managed and controlled by Information Technology are considered untrusted networks. Interconnections between MACOMB COUNTY GOVERNMENT and any untrusted network must have separately defined logical domains, each protected with suitable security perimeters and access control mechanisms.

7.2.5.3 All Internet Accessible Servers Must Be Protected

All servers accessible via public or untrusted networks must be hardened and protected with suitable security parameters and access control mechanisms as defined by the Information Security Administrator.

7.2.5.4 Third Party and Public Facing Servers Must Be Placed on Separate Subnets

Third party or public-facing servers are those that require direct access from untrusted networks. All such servers will be placed on subnets separate from the internal MACOMB COUNTY GOVERNMENT network (DMZ). Firewalls and/or other appropriate security mechanisms must be employed to restrict traffic flow from the public servers to the internal networks.

7.2.5.5 Firewall Configuration Change Requires Network Manager Approval

Changes to firewall configuration requires a submission to the change control process and the approval of the Information Security Administrator, unless otherwise stated.

7.2.5.6 Internet and Extranet Connections Require Approved Firewalls

All connections between MACOMB COUNTY GOVERNMENT internal networks and the Internet (or any other untrusted network) must include an approved firewall and related access controls as defined by the Information Security Administrator.

7.2.5.7 Intranet Servers Must Not be Directly Connected to Any Untrusted Network

Intranet servers must not have direct connectivity to any untrusted network. Instead, an intermediate server, device or appliance must be used, including an approved firewall and related access controls.

7.2.5.8 Inventory of IT Connections to External Networks

The Technical Services & Networking Manager must maintain, and the Information Security Administrator must annually audit, a current inventory of all connections between the MACOMB COUNTY GOVERNMENT network and external data networks.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7.2.5.9 Modems or Dual Homing Devices Connected to the Corporate Network

Employees and contractors are prohibited from using dial-up modems or other remote access devices, hardware or software that are simultaneously connected to the MACOMB COUNTY GOVERNMENT corporate network and an untrusted network (called "dual homing").

7.2.5.10 Review and Termination of Outsourcing Contracts for Security Violations

All contracts that require corporate or Intranet connectivity to an untrusted network must be approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director. It is the contract manager's responsibility to make sure that all such provisions are adhered to. All contracts should allow MACOMB COUNTY GOVERNMENT to terminate the contract for cause if it can be shown that the outsourcing firm or vendor does not abide by the information security terms of the contract.

7.2.6 Section G. – Remote Access/VPN Policy

7.2.6.1 Remote Connections Must Always Utilize Access Control Gateway

All inbound connectivity connected to MACOMB COUNTY GOVERNMENT internal networks and/or computer systems must pass through an additional access control point (such as a firewall or Remote Access Device), which has been approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director, before users reach any internal resources.

7.2.6.2 All VPNs Must Use Information Security Administrator Approved Encryption Protocol and Algorithms

All VPN connections must use approved protocols and encryption algorithms to encrypt all communication through VPN connectivity.

7.2.6.3 External Connectivity Procedural Directive

All new external network connections including remote access of business partners and VPN must be approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director. All External connections must have a MACOMB COUNTY GOVERNMENT "sponsor" who is responsible for the external organization's activities on the MACOMB COUNTY GOVERNMENT network.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government
Department of Information Technology

7.2.7 Section H. - Virus Management Policy

7.2.7.1 *Virus & Malware Checking at Servers and Desktop Machines*

An Information Security Administrator approved Virus & Malware screening software will be installed, updated and managed by Information Technology on all MACOMB COUNTY GOVERNMENT servers and desktops. This software will be audited by the Information Security Administrator.

7.2.7.2 *Immediate Reporting of Suspected Computer Virus Infestation*

If a virus is detected on a MACOMB COUNTY GOVERNMENT device, it must be immediately be disconnected from the MACOMB COUNTY GOVERNMENT network and reported to the IT Helpdesk.

7.2.7.3 *All User Involvement with Computer Viruses Prohibited*

Users must not intentionally write, generate, compile, copy, collect, propagate, execute or attempt to introduce any computer code designed to self-replicate, damage or otherwise hinder the performance of, or access to, any MACOMB COUNTY GOVERNMENT computer, network or information. Examples of such software are a Virus, Malware, Worm or Trojan Horse.

7.3 Part I. - Operational Control

7.3.1 Section A. - Information Security Administrator Roles and Responsibilities

7.3.1.1 *Information Security Mission Supports MACOMB COUNTY GOVERNMENT Goals*

The Information Security Administrator is charged with the prevention of loss or compromise of MACOMB COUNTY GOVERNMENT's critical, valuable and sensitive information resources. It coordinates and directs specific actions to provide a secure and stable information systems environment consistent with MACOMB COUNTY GOVERNMENT goals and objectives.

7.3.1.2 *Overview of Tasks Performed by INFORMATION SECURITY*

The Information Security Administrator is responsible for establishing, maintaining and disseminating information security policies and standards. The focus of these tasks is on information in the custodial care of MACOMB COUNTY GOVERNMENT, no matter what form it takes, what technology is used to handle it, where it resides or which people possess it.

7.3.1.3 *Specific Tasks Performed by INFORMATION SECURITY Administrator*

The Information Security Administrator is responsible for providing the direction and technical expertise to ensure that



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

MACOMB COUNTY GOVERNMENT's information is properly protected. This includes consideration of the confidentiality, integrity and availability of both information and the systems that handle it. The Information Security Administrator is the subject matter expert on information security matters between all MACOMB COUNTY GOVERNMENT departments and divisions. As part of their responsibility, the Information Security Administrator performs risk assessments, prepares action plans, evaluates vendor products, participates on in-house system development projects, assists with control implementations, investigates information security breaches and performs other activities which are necessary to assure a secure information handling environment.

7.3.1.4 Regular Monitoring of Information Security Vulnerability Advisories

On a weekly or more frequent basis, the Information Security Administrator will review all pertinent information security vulnerability advisories issued by trusted organizations. As appropriate, system administrators will be promptly informed of the remedy.

7.3.1.5 Computer Emergency Response Team

The Information Security Administrator is responsible for maintaining an in-house computer emergency response team (CERT) that provides accelerated problem notification, damage control, and problem correction services in the event of computer related emergencies such as virus infestations, hacker break-ins, etc.

Reference: CERT Incident Response Plan

7.3.1.6 Centralized Authority for Information Security

Guidance, direction and authority for information security activities are centralized with the Information Security Administrator.

7.3.1.7 Authority to Review Information Security Procedures for Compliance

The Information Security Administrator has the authority to review all procedures for compliance with this Policy.

7.3.1.8 Information Security Administrator Responsible for Related Training

The Information Security Administrator must provide refresher courses and other materials to regularly remind employees, temporaries, consultants and contractors about their information security obligations.

7.3.1.9 Information Systems Security Risk Assessment

The Information Security Administrator is responsible to ensure that information systems security risk assessments for critical



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

information systems and critical production applications are performed at least every two years.

7.3.1.10 Information Security Review of Information Systems Controls

The Information Security Administrator will periodically review the adequacy of, and compliance with, information systems controls as defined by the Information Security Administrator.

7.3.2 Section B. - Development Policy

7.3.2.1 Software Assurance/Security Requirements Identification Prior to Development/Acquisition

Before a new system is developed or acquired, the purchaser must ensure that security requirements are clearly specified and conform to MACOMB COUNTY GOVERNMENT policies.

Software Assurance (SwA) is defined as, "the level of confidence that software is free from vulnerabilities, either intentionally designed into the software or accidentally inserted at any time during its lifecycle, and that the software functions in the intended manner". All applications must be tested prior to being placed into production with an Information Security approved methodology or toolset to ensure SwA.

7.3.3 Section C. - Log Management and Audit Support Policy

7.3.3.1 Persons Authorized to View Logs

All server logs must be maintained in a form that cannot readily be viewed by unauthorized persons. A person is unauthorized if he or she is not a member of the Internal Audit staff, Information Security staff or systems management staff; or if he or she does not clearly have a need for such access to perform regular duties. Unauthorized users must be approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director prior to being granted access to logs.

7.3.4 Section D. - Incident Handling Policy

7.3.4.1 Required Reporting of Information Security Incidents

All suspected information security incidents must be reported as quickly as possible to the Information Technology HelpDesk.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7.3.4.2 Information to Capture When Reporting a Security Incident

To provide evidence for investigation, prosecution, and disciplinary actions, certain information, to the extent possible and practicable must be immediately captured whenever a computer crime or abuse is suspected. The information to be immediately collected includes the current system configuration, security logs and backup copies of all potentially involved files.

In reference to section 7.4.3.2: Any activities or other participation with respect to any such investigation may be pursued only at the direction of Human Resources and Labor Relations, or Corporation Counsel (for FOIA requests), and the Sheriff's office (with a case number from the Detective Bureau). For further explanation, contact Human Resources and Labor Relations.

7.3.5 Section E. - Administrative Policy

7.3.5.1 Risk Acceptance Process and Permissible Exceptions to Policies

Exceptions to information security policies will be permitted in rare instances where a risk analysis examining the implications of being out of compliance has been performed, formally documented, and approved by the Information Security Administrator, and the Chief Information Officer or Deputy Director in writing.

7.3.5.2 Designated System Administrator for All Multi-User Systems

Every MACOMB COUNTY GOVERNMENT multi-user computer system must have a designated system owner or administrator to define user privileges, monitor access control logs, and perform similar activities.

7.3.5.3 Prompt Implementation of Security Patches

All security patches provided by a software vendor must be promptly installed after testing.

7.3.5.4 Periodic Independent Review of Information Systems Controls

An independent and externally provided review of information systems controls must be obtained every five (5) years. These reviews must include efforts to determine both the adequacy of, and compliance with controls. Persons responsible for implementing and maintaining controls must not perform the reviews.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7.4 Part II. - Information Usage

7.4.1 Section A. - Intellectual Property Policy

7.4.1.1 *Information is an Important MACOMB COUNTY GOVERNMENT Asset*

Information is an important MACOMB COUNTY GOVERNMENT asset. Accurate, timely, relevant and properly protected information is absolutely essential to MACOMB COUNTY GOVERNMENT's business. To ensure that information is handled properly, all access to, use of and processing of MACOMB COUNTY GOVERNMENT information must be consistent with MACOMB COUNTY GOVERNMENT information systems, related policies and standards.

7.4.1.2 *Custodial Responsibility of all Information, Files and Messages*

Technical Services & Networking has custodial responsibility of all information, files and messages stored on its computer and network systems as well as all messages transmitted via these systems.

7.4.1.3 *Removal of Unauthorized Copyrighted Information and Software*

Third party copyrighted information or software that MACOMB COUNTY GOVERNMENT does not have specific approval to store and/or use must not be stored and/or used on MACOMB COUNTY GOVERNMENT systems or networks. When found, systems administrators will remove such information and software unless the involved users can provide appropriate authorization.

7.4.1.4 *Default Copyright Protection for Information Posted to Internet*

All users must ascertain the intellectual property rights for all material they discover on the Internet before using it for any other purpose. All material on the internet is assumed to be owned by a third party, and subject to copyright protection, unless statements to the contrary are found. Proper attribution must be given to all works owned by a third party that allows copying.

7.4.1.5 *Copyright Prohibitions*

MACOMB COUNTY GOVERNMENT adheres to third party license agreements and rights in copyright with respect to software and other works of authorship. The following activities, without appropriate authorization from the owner of the software or work, are strictly prohibited: a) copying; b) distribution; c) creation of derivative works (modifications); d) public performance; and e) public display. If any users perform any of the foregoing activities without appropriate authorization, corrective action may be taken.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

7.4.1.6 Transmission of Unauthorized Copyrighted Information and Software over MACOMB COUNTY GOVERNMENT Systems or Networks

Information owned (copyrighted) by a third party, or software that MACOMB COUNTY GOVERNMENT does not have specific approval to copy or transmit must not be transmitted through or on MACOMB COUNTY GOVERNMENT systems or networks.

7.4.2 Section B. - Asset Protection Policy

7.4.2.1 Information Systems Equipment Disposal

Disposal of all information systems equipment must be approved by Information Technology. Before computer storage media, is sent to a vendor for trade-in, servicing or disposal, all MACOMB COUNTY GOVERNMENT sensitive information must be destroyed or concealed according to methods approved by the Information Security Administrator. Computer storage media includes but is not limited to desktop and laptop computers, cell phones, tablets and copy machines.

Reference: CJIS Policy Section 5.8.3 – 5.8.4; HIPAA Regulation [§164.310\(d\)\(2\)\(i\)](#)

7.4.2.2 Browsing on MACOMB COUNTY GOVERNMENT Systems and Networks Prohibited

Users must not browse through MACOMB COUNTY GOVERNMENT computer systems or networks. For example, curious searching for interesting files and/or programs in the directories of other users is prohibited. Steps taken to legitimately locate information needed to perform one's job are not considered browsing.

7.4.2.3 Compliance with Michigan Legislations

MACOMB COUNTY GOVERNMENT will comply with all applicable Michigan Legislations, as specified by the MACOMB COUNTY GOVERNMENT Legal Department.

7.4.2.4 Authorization to Read Electronic Mail Messages of Employees

When approved by appropriate Human Resources management, electronic mail messages flowing through MACOMB COUNTY GOVERNMENT systems may be monitored for internal policy compliance, suspected criminal activity and other systems management reasons.

7.4.2.5 Protection of MACOMB COUNTY GOVERNMENTs Property Alternative Work Sites

The security of MACOMB COUNTY GOVERNMENT property at an alternative work site is just as important as at MACOMB COUNTY GOVERNMENT Offices. At alternative work sites, reasonable



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government
Department of Information Technology

precautions must be taken to protect MACOMB COUNTY GOVERNMENT hardware, software and information from theft, damage and misuse.

7.4.2.6 Information Stored in Portable Computers Owned by MACOMB COUNTY GOVERNMENT

MACOMB COUNTY GOVERNMENT provides selected members of its workforce with portable computer equipment so that they may perform their jobs at remote locations, including hotel rooms and personal residences. It is the responsibility of the selected members to provide appropriate physical security measures ensuring the safety and security of equipment when removed off MACOMB COUNTY GOVERNMENT premises. The information stored in these computers is MACOMB COUNTY GOVERNMENT property, and like the equipment, it must be returned to MACOMB COUNTY GOVERNMENT at the time workers are no longer employed by MACOMB COUNTY GOVERNMENT. In accordance with this policy and all other applicable MACOMB COUNTY GOVERNMENT policy and procedure, MACOMB COUNTY GOVERNMENT-owned information may be inspected or used in any manner, and at any time, as deemed appropriate by authorized MACOMB COUNTY GOVERNMENT personnel.

7.4.3 Section C. - Sensitive Information Handling Policy

7.4.3.1 Release of Systems Documentation to Third Parties

Prior to being released to third parties, all documentation describing MACOMB COUNTY GOVERNMENT systems or system procedures must be reviewed by the Information Security Administrator in conjunction with Corporation Counsel to ensure sensitive information is handled appropriately.

7.4.3.2 Confidentiality of Investigations

All investigations of alleged criminal or abusive conduct must be kept confidential and shared only with persons who have a need to know. Any activities or other participation with respect to any such investigation may be pursued only at the direction of Human Resources and Labor Relations, or Corporation Counsel (for FOIA requests), and the Sheriff's office (with a case number from the Detective Bureau). For further explanation, contact Human Resources and Labor Relations.

Reference Human Resources Policy: Law Enforcement Investigations and Contacts

7.4.3.3 Disclosure of Information Systems' Vulnerabilities

Specific information about information systems' vulnerabilities, such as the details of a recent system break-in, must NOT be



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

distributed to persons who do not have a demonstrable need to know.

7.4.4 Section D. - Acceptable Use Policy

7.4.4.1 *All Electronic Data Are Company Records*

MACOMB COUNTY GOVERNMENT reserves the right to access or disclose messages sent or received over its electronic mail system. MACOMB COUNTY GOVERNMENT may also disclose electronic mail messages to law enforcement officials without prior notice to the individuals who may have sent or received messages. At any time, and without prior notice, MACOMB COUNTY GOVERNMENT reserves the right to examine electronic mail, personal file directories, hard disk drive files and other information stored on MACOMB COUNTY GOVERNMENT information systems. This includes, but is not limited to, personal and non-business related information that is stored within MACOMB COUNTY GOVERNMENT resources. As referred in section 7.4.3.2: All requests must go through Human Resources and Labor Relations, or Corporation Counsel (for FOIA requests), or the Detective Bureau (for Criminal Investigations).

7.4.4.2 *Message Content Restrictions for MACOMB COUNTY GOVERNMENT Information Systems*

MACOMB COUNTY GOVERNMENT information systems may not be used for unlawful or unethical activities, personal financial gain or used in a manner inconsistent with other MACOMB COUNTY GOVERNMENT policies and guidelines.

7.4.4.3 *Obligation to Monitor Content of Information Systems*

MACOMB COUNTY GOVERNMENT reserves the right to remove any message, file, database, graphic or other material from its information systems.

7.4.4.4 *Prohibition against Exploiting Security Vulnerabilities of Systems*

Vulnerabilities or deficiencies in information systems must not be exploited to: (a) damage systems or information; (b) gain unauthorized access; or (c) take resources away from other users. All such vulnerabilities and deficiencies must be promptly reported to the Information Technology Department. Vulnerability identification and tools used for exploitation must not be distributed or used, neither should workers test internal controls on production systems, unless specifically approved by the Information Security Administrator.

7.4.4.5 *Incidental Personal Use of Information Systems Permissible*

MACOMB COUNTY GOVERNMENT information systems may be used occasionally for incidental personal use provided that such



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

use does not directly or indirectly interfere with the operation of computer facilities or services, cost MACOMB COUNTY GOVERNMENT money, interfere with employment obligations to MACOMB COUNTY GOVERNMENT or detract in any way from job performance. E-mail records from personal use on MACOMB COUNTY GOVERNMENT systems belong to MACOMB COUNTY GOVERNMENT, and the user has no expectation of privacy.

7.4.4.6 Retention of Electronic Mail and Instant Messaging

All users with access to MACOMB COUNTY GOVERNMENT systems are responsible for complying with the terms of any licensing agreement that pertains to any vendor software package provided to them for use.

8 Records

All exceptions to this policy will be maintained by the Information Security Administrator while active and for a period of at least 6 months after the exception is no longer relevant. This documentation will be kept either in digital or hard copy format and accessible for auditors.



INFORMATION TECHNOLOGY SECURITY POLICY

Macomb County Government

Department of Information Technology

Approval/s

A handwritten signature in black ink, appearing to read "Steven Monato".

Steven Monato
Information Security Administrator

3-28-17

Date

A handwritten signature in black ink, appearing to read "Jake van Blerk".

Jake van Blerk
Chief Information Security Officer

3-28-17.

Date

A handwritten signature in black ink, appearing to read "John Schapka".

John Schapka
Director of Corporation Counsel

3-29-2017

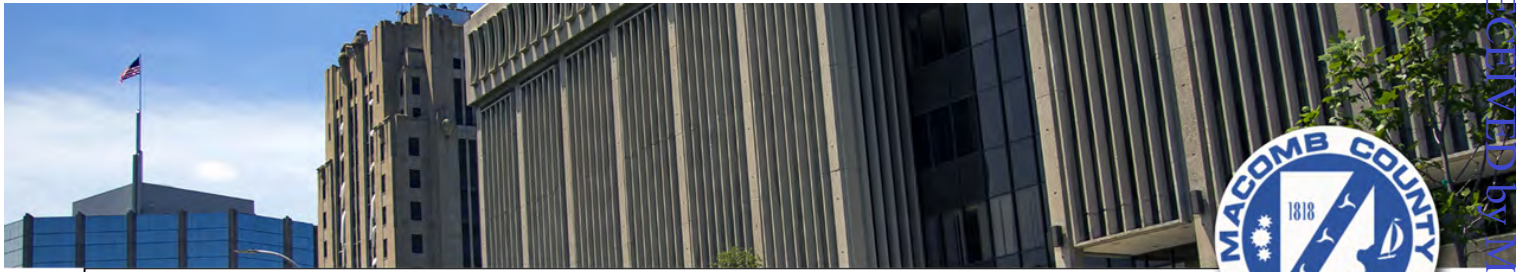
Date

A handwritten signature in black ink, appearing to read "Mark F. Deldin".

Mark F. Deldin
Chief Deputy County Executive

3-31-2017

Date



Macomb County Board of Commissioners

Don Brown – Board Chair (07)

Harold L. Haugh – Vice Chair (11)

Barbara Zinner – Sergeant-At-Arms (10)

District 01 – Michelle Nard
District 06 – Jeff Farrington

District 02 – Mai Xiong
District 08 – Phil Kraft

District 03 – Veronica Klinefelt
District 09 – Antoinette Wallace

District 04 – Joseph V. Romano
District 12 – Julie Matuzak

District 05 – Donald VanSyckel
District 13 – Joe Sabatini

DATE/TIME: Thursday, March 17, 2022, 3:00 PM

COMMITTEE: Full Board of Commissioners

CHAIR: Chair Don Brown, Vice-Chair Harold L. Haugh

LOCATION: Administration Building, One South Main Street, 9th Floor, Mount Clemens, MI 48043

MINUTES APPROVED APRIL 28, 2022

1. Call to Order

The meeting was called to order by the Chairperson at 03:00 PM in the Administration Building, 1 S. Main St., 9th Floor Mount Clemens, Michigan 48043.

Present: Michelle Nard, Joe Sabatini, Phil Kraft, Veronica Klinefelt, Harold L. Haugh, Don Brown, Joseph V. Romano, Barbara Zinner, Antoinette Wallace, Jeff Farrington, Don VanSyckel, Mai Xiong

Absent: Julie Matuzak

Others: Chief of Staff Crystal Richardson, BOC Technology Liaison Luke Bisciaio, Director of Legislative Affairs Kyle McKee

2. Pledge of Allegiance

3. Invocation by Commissioner Klinefelt

4. Adoption of Agenda

Motion to adopt the agenda dated Thursday, March 17, 2022, as amended, removing item 12h. THE MOTION PASSED.

Motioned by: Michelle Nard

Seconded by: Joe Sabatini

Vote Summary: (11 - 1 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - Joseph V. Romano

Abstain - None

5. Approval of Minutes

a) dated February 24, 2022

Motion to approve the minutes dated February 24, 2022.
THE MOTION PASSED.

Motioned by: Antoinette Wallace
 Seconded by: Don VanSyckel

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner
 Nay - None
 Abstain - None

6. Public Participation (three minutes max per speaker, related only to issues on the agenda)

None

7. Proclamations

- a) A Proclamation Commending Police Chief Michael Patrick Upon his Retirement from the Armada Village Police Department / Don Brown, Board Chair

adopt a proclamation commending Police Chief Michael Patrick upon his retirement from the Armada Village Police Department

- b) A Proclamation Proclaiming April 2022 as Middle Eastern and Arab American Heritage Month / Don Brown, Chair

adopt a proclamation proclaiming April 2022 as Middle Eastern and Arab American Heritage Month.

Motion to adopt Proclamations 7a and 7b.

THE MOTION PASSED.

Motioned by: Harold L. Haugh
 Seconded by: Jeff Farrington

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner
 Nay - None
 Abstain - None

8. Appointments

- a) Community Mental Health Board

5 total vacancies

4 three-year terms to expire March 31, 2025

1 partial term to expire March 31, 2023

Candidates for 3-year terms:

Marilyn Bardill
 Mary Bracken
 Megan Burke (reappointment)
 Linda Busch (reappointment)
 Shawn Elliott
 Ryan Fantuzzi (reappointment)
 Dana Freers (reappointment)
 Shane Gianino
 Briana Jacob
 Cynthia Konal
 James M. Perna
 Jacqueline M. Raxter
 Jessica Ross
 Moira Smith
 Hadel Toma
 Gloria Vettese
 Brian Zajac

Candidates for partial term:

Mary Bracken
 Shane Gianino
 Briana Jacob
 Cynthia Konal
 Jacqueline M. Raxter
 Jessica Ross
 Thomas L. Semaan
 Moira Smith
 Hadel Toma
 Gloria Vettese
 AeYanna Yett
 Brian Zajac

A roll call vote was taken on the 4 three-year terms:

Voting for Burke were: Farrington, Klinefelt, Kraft, Nard, Romano, Sabaini, Wallace, Xiong, Zinner, Haugh and Brown. Burke received 11 votes.
 Voting for Busch were: Farrington, Klinefelt, Kraft, Nard, Sabatini, Wallace, Xiong, Zinner, Haugh and Brown. Busch received 10 votes.
 Voting for Fantuzzi were: Farrington, Klinefelt, Kraft, Nard, Romano, Sabatini, Wallace, Xiong, Zinner, Haugh and Brown. Fantuzzi received 11 votes.
 Voting for Freers were: Farrington, Klinefelt, Kraft, Nard, Romano, Sabatini, Wallace, Xiong, Zinner, Haugh and Brown. Freers received 11 votes.
 Voting for Gianino was: VanSyckel. Gianino received 1 vote.
 Voting for Konal was: VanSyckel. Konal received 1 vote.
 Voting for Smith was: VanSyckel. Smith received 1 vote.
 Bardill, Bracken, Elliott, Jacob, Perna, Raxter, Ross and Toma received 0 votes.

A motion was made to appoint Megan Burke, Linda Busch, Ryan Fantuzzi and Dana Freers to the Community Mental Health Services Board, three-year terms beginning April 1, 2022 and expiring March 31, 2025.

THE MOTION PASSED.

Motioned by: Veronica Klinefelt

Seconded by: Joe Sabatini

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner
 Nay - None
 Abstain - None

A roll call vote was taken on the 1 partial term:

First Round:

Voting for Ross was: Farrington and Sabatini. Ross received 2 votes.

Voting for Smith was: Romano, VanSyckel and Zinner. Smith received 3 votes.

Voting for Yett was: Klinefelt, Nard, Wallace and Xiong. Yett received 4 votes.

Voting for Zajac was: Kraft, Haugh and Brown. Zajac received 3 votes.

Bardill, Gianino, Jacob, Konal, Raxter, Semaan, Toma and Vettese received 0 votes.

Second Round:

Voting for Smith was: Romano. Smith received 1 vote.

Voting for Yett was: Klinefelt, Nard, Wallace and Xiong. Yett received 4 votes.

Voting for Zajac was: Farrington, Kraft, Sabatini, VanSyckel, Zinner, Haugh and Brown. Zajac received 7 vote.

A motion was made to appoint Brian Zajac to the Community Mental Health Services Board, partial term, expiring March 31, 2023.

THE MOTION PASSED.

Motioned by: Jeff Farrington

Seconded by: Veronica Klinefelt

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

b) 42-1 District Court Magistrate

Circuit Court Judges Appointment with Board Approval

Darra Slanec

Motion to approve the Circuit Court Judge appointment of Darra Slanec as the Magistrate for 42-1 District Court.

THE MOTION PASSED.

Motioned by: Joseph V. Romano

Seconded by: Harold L. Haugh

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

9. Health and Human Services Committee Recommendations

a) Budget Amendment: Macomb Community Action, Office of Senior Services - COVID-19 Vaccines Access Grant (\$20,000)

approve a FY2021/2022 budget amendment to increase the Macomb Community Action, Office of Senior Services Division, COVID-19 Vaccine Access Grant in the amount of \$20,000 due to increased funding from the Area Agency on Aging 1-b to be used for the administration and management of the COVID-19 Vaccines Access Program to distribute 1,600 COVID kits and COVID

booster information to Meals on Wheels participants.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- b) Budget Amendment: Macomb Community Action, Family Services Division - Low Income Housing Water Assistance Program Federal Revenue (\$1,739,942)
approve a FY2021/2022 budget amendment to increase the Macomb Community Action Water Assistance Consolidated Appropriations Program (WACAP), more specifically called Low Income Housing Water Assistance Program (LIHWAP-2022) in the amount of \$1,739,942 due to an increase in funding from the Michigan Health and Human Services to be used for assisting eligible Macomb County residents with water and sewer arrears and shut off notices.
This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- c) Budget Amendment: Macomb Community Action, Office of Senior Services - United Way Meals on Wheels Winter Relief Grant (\$20,000)
approve a FY2021/2022 budget amendment to increase the Macomb Community Action, Office of Senior Services Division, United Way Meals on Wheels Winter Relief Grant in the amount of \$20,000 due to an increase in funding from United Way of Southeastern Michigan to be used for paid driver and volunteer recruitment. (302-89523)
This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- d) Budget Amendment: Macomb Community Action - Community Development Division (\$100,000)
approve a FY2022 budget amendment for Macomb Community Action in the amount of \$100,000 (89104) by decreasing Intergovernmental Revenue with a corresponding increase to Charges for Services in order to provide support to Macomb County residents in need of temporary residential ramps.
This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

**Motion to approve Health and Human Services Committee Recommendations 9a - 9d.
THE MOTION PASSED.**

Motioned by: Harold L. Haugh

Seconded by: Joe Sabatini

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

10. Internal Services Committee Recommendations

- a) Budget Amendment: Capital Improvement Fund - Jail Cell Doors Replacement Project (Fixed Fee of \$200,000 plus reimbursable expenses up to \$20,000)
approve a FY2022 Budget Amendment in the General Fund for Facilities and Operations in the amount of \$200,000 plus reimbursable expenses in an amount not to exceed \$20,000 by decreasing non-departmental Capital Outlay with a corresponding increase to Operating Transfers Out in order to transfer funds to the Capital Improvement Fund for the Professional Design Services for the Jail Cell Doors (110) Replacement Project.
This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- b) Contract: Wakely Associates, Inc. - Jail Cell Doors Replacement Project (Fixed fee of \$200,000 plus reimbursable expenses up to \$20,000)
approve the contract with Wakely Associates, Inc. to provide professional design services from March 21, 2022 to April 30, 2023 in the amount of \$200,000 plus reimbursable expenses in the amount not to exceed \$20,000 for Facilities and Operations.. Funding is available through a concurrent budget amendment in the Capital Improvement Fund.
This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- c) Budget Amendment: Capital Improvement Fund - Jail Upper Levels Barrier Project (\$180,000 plus reimbursable expenses up to \$20,000)
approve a FY2022 budget amendment for Facilities and Operations in the amount of \$180,000 plus reimbursable expenses in an amount not to exceed \$20,000 by decreasing non-departmental Capital Outlay with a corresponding increase to Operating Transfers Out in order to transfer funds to the Capital Improvement Fund for the Professional Design Services for the Jail Upper Level(s) Barrier Project.
This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- d) Contract: Wakely Associates, Inc. - Jail Upper Levels Barrier Project (\$180,000 plus reimbursable expenses up to \$20,000)
approve the contract with Wakely Associates, Inc. to provide Professional Design Services for the Jail Upper Level(s) Barrier Project from March 21, 2022 to April 30, 2023 in the amount of \$180,000 plus reimbursable expenses in an amount not to exceed \$20,000 for Facilities and Operations. Funding is available through a concurrent budget amendment in the Capital Improvement Fund.
This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- e) Budget Amendment: Capital Improvement Fund - Sheriff Jail Management System Project (\$1,263,390)
approve a FY2022 budget amendment in the General Fund for Information Technology in the amount of \$1,263,390 by decreasing non-departmental Capital Outlay with a corresponding increase to Operating Transfers Out in order to transfer funds to the Capital Improvement Fund

for the Jail Management System Project. The purchase of this was initially approved last year, 11-18-2021, by Full Board.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- f) **Budget Amendment: Capital Improvement Fund - ArcGIS Pro Parcel Fabric Upgrade and Data Migration Project (\$34,700)**

approve a FY2022 budget amendment in the General Fund for Information Technology in the amount of \$34,700 by decreasing non-departmental capital outlay with a corresponding increase to operating transfers out in order to transfer funds to the capital improvement fund to provide funding for the ESRI ArcGIS Parcel Fabric Migration Project.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- g) **Contract: Environmental Systems Research Institute, Inc - ArcGIS Pro Parcel Fabric Upgrade and Data Migration Project (\$34,700)**

approve the contract with Environmental Systems Research Institute, Inc. (ESRI) to assist the Planning and Economic Development Department to perform an ArcGIS Pro Parcel Fabric Upgrade and Data Migration from April 2022 to December 31, 2022 for an amount not to exceed \$34,700 for Information Technology. Funding is available through a concurrent budget amendment in the Capital Improvement Fund.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- h) **Agreements: Information Technology - Maintenance Agreements for 2nd Quarter 2022 (\$1,350,380.72)**

BS&A Software - Tax and Assessing System Software (\$49,302)

Dell - Microsoft Licensing (\$766,578.72)

Qualtrics - Vaccination Software (\$534,500)

approve the maintenance agreements with BS&A Software - Tax and Assessing System Software (\$49,302), Dell -Microsoft Licensing (\$766,578.72), and Qualtrics - Vaccination Software (\$534,500) in the total amount of \$1,350,380.72 for Information Technology. Funding is available in the FY 2022 IT Equipment Maintenance Agreement account.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- i) **Purchases: Information Technology - 2022 Capital Outlay Items**

approve the purchase of IT items as specified in the attached summary, for the calendar year 2022, as long as purchases do not exceed the IT General Fund budget for the identified line items.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- j) **Budget Amendment: Capital Improvement Plan - Isilon and Power Protect Cloud, Dell Financing Payment 2 of 5 (\$258,748.68)**

approve a FY2022 budget amendment in the General Fund for Information Technology in the amount of \$258,748.68 by decreasing non-departmental Capital Outlay with a corresponding increase to Operating Transfers Out in order to transfer funds to the Capital Improvement Fund

to provide funding for the Isilon Data Storage and Power Protect Backup Solution Payment 2 of 5.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

**Motion to approve Internal Services Committee Recommendations 10a - 10j.
THE MOTION PASSED.**

Motioned by: Mai Xiong
Seconded by: Michelle Nard

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner
Nay - None
Abstain - None

11. Government Oversight Committee Recommendations

a) Waived by Finance, Audit and Budget Committee Chair

Contracts: Alight Solutions, LLC (System Integrator) and Workday, Inc. (Platform) - Enterprise Resource Planning Solution (\$10,377,624)

approve the contracts with Alight Solutions LLC (\$3,071,920) and Workday, Inc. (\$7,305,704) to provide HR and Financial Systems platform and integration from 3/17/2022 to 5/31/2028 in the total amount of \$10,377,624 for HRLR and Finance. Funding for Alight Solutions (\$3,071,920) and the Workday, Inc. 2022 licensing costs (\$854,239) is available in the Capital Improvement Fund. Future licensing fees from 2023 to 2028 (\$6,451,465) will be built into the Information Technology budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

b) Budget Amendment Corresponding to Ordinance: Veteran Services - County Burial Benefit Stipend Increase (\$50,000)

approve a FY 2022 budget amendment for Veterans Services in the amount of \$50,000 by increasing Total Expenditures with a corresponding decrease to Fund Balance in order to increase the County Burial Stipend from \$300 to \$500.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

**Motion to approve Government Oversight Committee Recommendations 11a and 11b.
THE MOTION PASSED.**

Motioned by: Veronica Klinefelt
Seconded by: Harold L. Haugh

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner
 Nay - None
 Abstain - None

12. Records and Public Safety Committee Recommendations

- a) Budget Amendment: Circuit Court Programs - Coronavirus Emergency Supplemental Funding (CESF) Grant (\$85,600)

approve a FY2022 budget amendment to increase the Circuit Court Fiscal Grant Fund in the amount of \$85,600 due to an award of the Coronavirus Emergency Supplemental Funding (CESF) grant from the Michigan State Police to be used to pay for visiting judges to hold additional jury trials to reduce the backlog which resulted from the pandemic.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- b) Contract: Tyler Technologies - Jury Management Services (3-Year Total: \$320,433)

approve the contract with Tyler Technologies to provide jury management services from January 1, 2022 to December 31, 2024 in the amount of \$320,433 for Clerk/Register of Deeds. Funding is available in the Jury Commission budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- c) Budget Amendment: Emergency Management and Communications - FY 2020 Homeland Security Grant Program (\$4,508,352)

approve a FY2022 budget amendment to increase the Emergency Management & Communications Fund 350 in the amount of \$4,508,352 to be used for the 2020 Homeland Security Grant Program.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- d) Budget Amendment: Sheriff's Office - Law Enforcement Services, Township of Washington (\$313,400)

approve a FY 2022 budget amendment for the Sheriff's Office in the amount of \$313,400 by increasing Charges for Services (\$279,000) and decreasing fund balance (\$34,400) with a corresponding increase to Personnel (\$216,800) and Non-Departmental Capital Outlay (\$96,600) in order to provide funding for two Sheriff Deputies and two patrol vehicles to be added to the Washington Township patrol contract.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- e) Agreement Amendment: Sheriff's Office - Law Enforcement Services, Township of Washington (3-Year Total: \$1,003,744)

approve the amendment to the contract with the Township of Washington to provide additional law enforcement services from April 1, 2022 to December 31, 2024 in the amount of \$1,003,744 for the Macomb County Sheriff's Office. Funding is available through a concurrent agenda item budget amendment.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement,

including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- f) Purchase: Signature Ford - Two (2) 2022 Ford Police Interceptor Vehicles (\$96,608)
approve the purchase from Signature Ford of two (2) 2022 Ford Police Interceptor Vehicles, to include uplifting and graphics in the amount of \$96,608 for the Sheriff's Office. Funding is available in the Non-Departmental Capital Outlay budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- g) Purchase: Signature Ford - Four (4) Ford Explorers (\$124,672)
approve the purchase with Signature Ford for (4) four Ford Explorers from Signature Ford with upfitting in the amount of \$124,672 for the Sheriff's Office. Funding is available in the Non-Departmental Capital Outlay budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

Motion to approve Records and Public Safety Committee Recommendations 12a - 12g.

THE MOTION PASSED.

Motioned by: Jeff Farrington

Seconded by: Harold L. Haugh

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

- h) Resolution to Authorize a Monthly E 9-1-1 Surcharge of \$0.42 per month per device

13. Finance, Audit, and Budget Committee Recommendations

- a) Lease and Notice of Federal Interest: MyCare Health Center Expansion (Health Resources and Services Administration Grant Funding, 9-Year Total: \$1,333,521.20)
approve the Lease and Notice of Federal Interest Between Macomb County (Lessor) and MyCare Health Center (Lessee) from March 1, 2022 to February 28, 2031 in the amount of \$1,33,521.20.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- b) Waived by Government Oversight Committee Chair

Collective Bargaining Agreement: Police Officer Labor Council (POLC) - January 1, 2022 to December 31, 2024

approve the Collective Bargaining Agreement: Police Officer Labor Council - January 1, 2022 to December 31, 2024

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

c) Waived by Government Oversight Committee Chair

Collective Bargaining Agreement: Fraternal Order of Police Labor Council (FOPLC) - January 1, 2022 to December 31, 2024

approve the ratification of the Collective Bargaining Agreement: Fraternal Order of Police Labor Council (FOPLC) - January 1, 2022 to December 31, 2024

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

Motion to approve Finance, Audit, and Budget Committee Recommendations 13a - 13c.
THE MOTION PASSED.

Motioned by: Antoinette Wallace

Seconded by: Don VanSyckel

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

14. Public Services Committee Recommendations

a) Subrecipient Agreements: Michigan Workforce Training Center Equipment Grant Program Award (Total: \$215,044)

Achatz Handmade Pie Company (\$43,761)

D.R.I.V.E One (\$20,000)

Elcometer, Inc. (\$43,761)

Iron Fetish Metalworks, dba I F Metalworks (\$43,761)

Medstar, Inc. (\$20,000)

RCO Engineering, Inc. (\$43,761)

approve the subrecipient agreements with Achatz Handmade Pie Company (\$43,761), D.R.I.V.E One (\$20,000), Elcometer, Inc. (\$43,761), Iron Fetih Metalworks, DBA I F Metalworks (\$43,761), Medstar, Inc. (\$20,000), and RCO Engineering, Inc. (\$43,761) to disburse awards from the Michigna Workforce Training Center Equipment Grant Program in the total amount of \$215,044 for workforce training programs for Planning and Economic Development. Funding is available in the FY2022 Planning and Economic Development Grants - Fund 361.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

b) Budget Amendment: Planning and Economic Development Grant Fund 361 - Michigan Economic Development Corporation (MEDC) - Michigan Workforce Training Center Equipment Grant Program (\$226,362.18)

approve the FY 2022 budget amendment to increase Planning and Economic Development Grants - Fund 361 in the amount of \$226,362.18 due to an increase from Michigan Economic Development Corporation (MEDC) Michigan Workforce Training Center Equipment Grant

Program for employer-driven workforce training programs to Qualified Training Providers that provide Workforce Training for employers and individuals.

This action does not constitute the Commission's approval of any contract and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Additionally, if approval is required under Ordinance 2017-03, such approval must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- c) **Cost Share Agreement: City of Sterling Heights - Traffic Signal Maintenance, Dobry Drive West of Mound Road (Total Cost: Estimated \$3,000 annually; No cost to County)**
approve the cost share agreement outlining the cost participation between the City of Sterling Heights and the Macomb County Department of Roads for the maintenance of Traffic Signal #773 at eastbound Dobry Drive at the crossover west of Mound Road in the estimated annual amount of \$3,000 (No County Cost).
This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- d) **Cost Share Agreement: City of Sterling Heights - Flashing Beacon Signal Maintenance, Westbound Service Drive West of Mound Road (Total Cost: Estimated \$3,000 Annually; No cost to County)**
approve the cost share agreement outlining the cost participation between the City of Sterling Heights and the Macomb County Department of Roads for the maintenance of the flashing beacon on the Westbound Service Drive located 2250 feet West of Mound Road in the estimated annual amount of \$3,000 (No Cost to County).
This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- e) **Cost Share Agreement: City of Sterling Heights - Traffic Signal Maintenance, Mound Road Westbound Service Drives (Total Cost: Estimated \$3,000 Annually; County Cost: Estimated \$2,250 Annually)**
approve the cost share agreement outlining the cost participation between the City of Sterling Heights and the Macomb County Department of Roads for the maintenance of Traffic Signal #209 on Mound Road Service Drives for Westbound only in the estimated annual amount of \$3,000 (\$2,250 Estimated County Cost Annually). Funding is available in the FY 2022 Traffic Department budget.
This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- f) **Cost Share Agreement: City of Sterling Heights - Traffic Signal Maintenance, Mound Road at Dobry Eastbound Service Drive (Total Cost: Estimated \$3,000 Annually; County Cost: Estimated \$1,500 Annually)**
approve the cost share agreement outlining the cost participation between the City of Sterling Heights and the Macomb County Department of Roads for the maintenance of Traffic Signal #1088 on Mound Road at Dobry Eastbound Service Drive in the estimated annual amount of \$3,000 (\$1,500 Estimated County Cost Annually). Funding is available in the FY2022 Traffic Department Budget.
This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.
- g) **Cost Share Agreement: City of Sterling Heights - Traffic Signal Maintenance, Westbound Service Drive at the Crossover East of Mound Road (Total Cost: Estimated \$3,000 Annually; County Cost: Estimated \$2,010 Annually)**

approve the cost share agreement outlining the cost participation between the City of Sterling Heights and the Macomb County Department of Roads for the maintenance of Traffic Signal #774 on the Westbound service drive at the crossover East of Mound at an estimated annual amount of \$3,000 (\$2,010 Estimated County Cost Annually). Funding is available in the FY2022 Traffic Department Budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- h) **Cost Share Agreement: Charter Township of Clinton and City of Sterling Heights - Hayes Road Resurfacing (Total Cost: \$5,362,083; County Cost: \$966,642)**

approve the cost share agreement outlining the cost participation between Clinton Township, Sterling Heights and the Macomb County Department of Roads for the resurfacing of Hayes Road from 18 Mile Road to Hall Road at a total cost of \$5,362,083 (\$966,642 County Cost). Funding is available in the FY2022 Department of Roads construction budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- i) **Contract: Midwest Power Systems, Inc. - Refurbishing Nine (9) Pump Stations (Total County Cost: \$698,000)**

approve the contract with Midwest Power Systems, Inc. to refurbish nine (9) pump stations from 3/17/22 through completion of project in the amount of \$698,000 for the Macomb County Department of Roads. Funding is available in the FY 2022 Traffic Department budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- j) **Contract: Florence Cement Company - Metropolitan Parkway, Dequindre Road to Ryan Road Intersection Pavement Surface Rehabilitation (Total Cost: \$3,740,766.87; County Cost: \$1,870,383.44)**

approve the contract with Florence Cement Company to provide rehabilitation work on Metropolitan Parkway from Dequindre to Ryan from March 17, 2022 to on or before July 31, 2022 in the amount of \$3,740,766.87 (\$1,870,383.44 County Cost) for Department of Roads. Funding is available in the FY2022 Roads Construction Budget.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

Motion to approve Public Services Committee Recommendations 14a - 14j.

THE MOTION PASSED.

Motioned by: Jeff Farrington

Seconded by: Michelle Nard

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

15. Ordinances

- a) Ordinance 2022-01: An Ordinance to Establish Criteria for Providing Qualifying Veterans Enhanced Assistance with the Payment of Burial Expenses

Motion to adopt Ordinance 2022-01: An Ordinance to Establish Criteria for Providing Qualifying Veterans Enhanced Assistance with the Payment of Burial Expenses.

THE MOTION PASSED.

Motioned by: Harold L. Haugh

Seconded by: Barbara Zinner

Vote Summary: (11 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

- b) Ordinance 2022-02: An Ordinance to Establish the Compensation of the Macomb County Commissioners Pursuant to Section 10.11.1 of the Home Rule Charter of Macomb County, Michigan

Motion to adopt Ordinance 2022-02: An Ordinance to Establish the Compensation of the Macomb County Commissioners Pursuant to Section 10.11.1 of the Home Rule Charter of Macomb County, Michigan.

THE MOTION PASSED.

Motioned by: Jeff Farrington

Seconded by: Veronica Klinefelt

Vote Summary: (6 - 5 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Michelle Nard, Don VanSyckel

Nay - Phil Kraft, Joe Sabatini, Antoinette Wallace, Mai Xiong, Barbara Zinner

Abstain - None

- c) Ordinance 2022-03: An Ordinance to Establish the Compensation of the Macomb County Executive Pursuant to Section 11.7 of the Home Rule Charter of Macomb County

Motion to adopt Ordinance 2022:03: An Ordinance to Establish the Compensation of the Macomb County Executive Pursuant to Section 11.7 of the Home Rule Charter of Macomb County, Michigan.

THE MOTION PASSED.

Motioned by: Harold L. Haugh

Seconded by: Joseph V. Romano

Vote Summary: (7 - 5 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Michelle Nard, Joseph V. Romano, Don VanSyckel

Nay - Phil Kraft, Joe Sabatini, Antoinette Wallace, Mai Xiong, Barbara Zinner

Abstain - None

- d) Ordinance 2022-04: An Ordinance to Amend and Otherwise Restate the 2021-2024 Compensation Ordinance for Countywide Elected Officials to Clarify the Compensation of Macomb County Countywide Elected Officials Pursuant to Section 10.11.1 of The Home Rule Charter of Macomb County, Michigan

Motion to adopt Ordinance 2022-04: An Ordinance to Amend and Otherwise Restate the 2021-2024 Compensation Ordinance for Countywide Elected Officials to Clarify the Compensation of Macomb County Countywide Elected Officials Pursuant to Section 10.11.1 of The Home Rule Charter of Macomb County, Michigan

THE MOTION PASSED.

Motioned by: Harold L. Haugh

Seconded by: Joseph V. Romano

Vote Summary: (8 - 4 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Michelle Nard, Joseph V. Romano, Don VanSyckel, Antoinette Wallace

Nay - Phil Kraft, Joe Sabatini, Mai Xiong, Barbara Zinner

Abstain - None

16. Resolutions

- a) Resolution 2022-8063: In Support of House Bill 5190

Motion to adopt Resolution 2022-80634: In Support of House Bill 5190 (2021)

THE MOTION PASSED.

Motioned by: Phil Kraft

Seconded by: Jeff Farrington

Vote Summary: (8 - 4 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel

Nay - Veronica Klinefelt, Antoinette Wallace, Mai Xiong, Barbara Zinner

Abstain - None

- b) Resolution 2022-8037: Approving the 2020 Homeland Security Grant Agreements (Interlocal Funding Agreements for Region 2 - \$4,508,352)

adopt Resolution 2022-8037: Approving the 2020 Homeland Security Grant Agreements.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- c) Resolution 2022-8106: Designating Public Fund Depositories in Compliance with Act 40 Public Acts of 1932 as Amended

adopt Resolution 2022-8106: Designating Public Fund Depositories in Compliance with Act 40 Public Acts of 1932 as Amended.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- d) Resolution 2022-8157: Supporting Transportation Alternatives Project (TAP) Grant Application for Trail Project for Macomb Township

adopt Resolution 2022-8157: Supporting Transportation Alternatives Project (TAP) Grant Application for Trail Project for Macomb Township.

- e) Resolution 2022-8061: A Resolution Authorizing SEMCOG as the Collective Designated Planning Agency and Authorizing the Application of the Materials Management Grant

adopt Resolution 2022-8061: A Resolution Authorizing SEMCOG as the Collective Designated Planning Agency and Authorizing the Application of the Materials Management Grant.

This action does not constitute the Commission's approval of a budget amendment and does not otherwise change or amend any other budget provision or requirement, including but not limited to the provisions and requirements of Ordinance 2021-04. Any budget amendment required for this contract/purchase/agreement must be sought separately. A copy of this Board of Commissioners' action is directed to be delivered forthwith to the Office of the County Executive.

- f) Resolution 2022-8087: A Resolution to Accept Funds for Construction of Pedestrian Mid-Bloc Crossings on 21 Mile, 22 Mile, 24 Mile and 25 Mile Roads, Funded by a Grant from the Michigan Department of Transportation

adopt Resolution 2022-8087: A Resolution to Accept Funds for Construction of Pedestrian Mid-Bloc Crossings on 21 Mile, 22 Mile, 24 Mile and 25 Mile Roads, Funded by a Grant from the Michigan Department of Transportation.

Motion to adopt Resolutions 16b - 16f.

THE MOTION PASSED.

Motioned by: Harold L. Haugh

Seconded by: Mai Xiong

Vote Summary: (12 - 0 - 0)

Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None

17. Public Participation (three minutes max per speaker)

Speakers

Nick Sage - Deputy Fire Chief, City of Eastpointe

18. Commissioner's Comments

Speakers

Veronica Klinefelt

Mai Xiong

Harold Haugh

Barbara Zinner

Phil Kraft

19. Adjournment

Motion to adjourn the March 17, 2022 meeting at 03:37 PM.

THE MOTION PASSED.

Motioned by: Joseph V. Romano

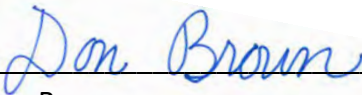
Seconded by: Barbara Zinner

Vote Summary: (13 - 0 - 0)

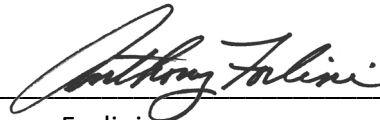
Aye - Don Brown, Jeff Farrington, Harold L. Haugh, Veronica Klinefelt, Phil Kraft, Julie Matuzak, Michelle Nard, Joseph V. Romano, Joe Sabatini, Don VanSyckel, Antoinette Wallace, Mai Xiong, Barbara Zinner

Nay - None

Abstain - None



Don Brown
Board Chair



Anthony Forlini
County Clerk / Register of Deeds



Bob Smith <bob.smith@macombgov.org>

Re: Request from Board Chair

1 message

Mark D <deldin@macombgov.org>

Tue, Aug 29, 2017 at 9:45 PM

To: Patti Dib <patti.dib@macombgov.org>, Bob Smith <bob.smith@macombgov.org>

Cc: Stephen Smigiel <stephen.smigiel@macombgov.org>, Bob Smith <bob.smith@macombgov.org>
<steve.adair@macombgov.org>, Mark Hackel <mark@markhackel.com>, Steve Adair

Bob/Patti,

Relative to your request to access the entire county financial software system (IFAS), our preference is to continue providing your office with financial information as requested. This has worked successfully for the past six budget cycles and with most of the department budget presentations already completed, there is ample time (three months +) to provide the BOC the information necessary to finalize the annual process.

Mark F. Deldin
Chief Deputy County Executive
Macomb County Government
1 S. Main St.
Mt. Clemens, MI 48043
(586) 469-7001

Sent from my iPad

On Aug 29, 2017, at 4:34 PM, Patti Dib <patti.dib@macombgov.org> wrote:

Hi Mark and Steve,

Bob asked me to forward the attached request and asks that you review and respond as soon as possible.

Thanks,
Patti

Patti Dib
Chief of Staff, Macomb County Board of Commissioners
One South Main Street, 9th Floor
Mount Clemens, MI 48043
586.469.6484
www.macombBOC.com
@MacombBOC

PRIVACY NOTICE: This message is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information, which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating or distributing this information (other than to the intended recipient) or copying this information. If you have received this communication in error, please notify me immediately by the e-mail address or telephone number listed above. Thank you.

<08-29-17 IFAS_Request.pdf>

RECEIVED by MSC 8/22/2024 4:34:04 PM

Document received by the MI Macomb 16th Circuit Court.




BOARD OF COMMISSIONERS

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

August 29, 2017

TO: Mark Deldin, Chief Deputy Executive; Steve Smigiel, Finance Director

FROM: Bob Smith, Board Chair 

RE: BOC IFAS access

The budget season is underway and commissioners are closely examining the 2018 Recommended Budget. In order to provide the Board with the additional information it needs to prepare for upcoming department overviews, I would like my staff to have the ability to look up information in IFAS, and to "drill" into line items for all funds.

I am requesting that Crystal Brenner, BOC Director of Legislative Affairs, be provided with credentials that will allow her the access as mentioned above. Since department reviews are already underway, I would like for Crystal to be granted the credentials immediately.

If there are any questions concerning this request, please let me know.

CC: Board of Commissioners

MACOMB COUNTY BOARD OF COMMISSIONERS

Bob Smith – Board Chair
District 12

James Carabelli – Vice Chair
District 6

Elizabeth Lucido – Sergeant-At-Arms
District 9

Andrey Duzyj – District 1

Marvin Sauger – District 2

Veronica Klinefelt – District 3

Joe Romano – District 4

Robert Mijac – District 5

Don Brown – District 7

Phil Krafi – District 8

Robert Leonetti – District 10

Kathy Tocco – District 11

Leon Drolet – District 13

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

County Executive Matters
Referred from Executive/Commissioners to Departmental

Section 3.10 Appointments

Unless otherwise specifically provided by this Charter or law:

- a. The County Executive shall appoint the *Deputy County Executive*, department *directors*, members of boards and commissions, representatives of the County on intergovernmental bodies, and all other appointed officials or representatives.
- b. Appointments by the County Executive shall require confirmation by a majority of the County Commissioners serving *unless such appointments are exempted from confirmation by this Section. If the County Commission fails to act on an appointment within 30 days after its submission in writing to the County Commission, the appointment is effective.*
- c. Home rule elected officials are exempt from this section.
- d. *The County Executive may appoint a confidential secretary, administrative assistant, advisory boards and commissions whose members serve on a voluntary unpaid basis, without confirmation by the County Commission and such appointments shall be exempt from approval by County Commission unless otherwise provided by law or this Charter.*
- e. All appointed persons who are employees of the County shall be employees at will.
- f. *Within 6 months of the effective date of this Charter, the County Commission shall establish and adopt qualifications and criteria for the appointment and hiring of department directors and other County government appointees. The County Executive shall ensure that all proposed appointees thereafter meet the adopted qualifications and criteria prior to confirmation by the County Commission.*

Notes:

- Much of the above language is adapted from the Wayne County Charter. At its meeting on March 9, 2009, the E/C Committee reached a consensus that department heads are to be appointed by the executive with confirmation by the county commission, but they serve at the pleasure of the executive.
- The italicized provisions require further discussion or have not yet been discussed by the Committee. Subsection (f) is a variation on an earlier proposal to mandate the establishment of qualifications for appointed positions. The Chair and several Committee members requested inclusion of the new proposal for discussion.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

PROPOSED RETIREMENT LANGUAGE

Section 9.1 Retirement System

The Macomb County Retirement System created by ordinance in effect at the time of adoption of this Charter shall continue. The accrued rights and benefits of the officers and employees of the County are recognized and this Charter shall not infringe upon or be in derogation of those accrued rights and benefits. The County Commission may amend the ordinance creating the County Retirement System.

Section 9.2 Retirement Commission

The Retirement Commission is composed of ____ members:

SEVERAL POTENTIAL OPTIONS

Number of Members	5	7	7	9	Existing
County Executive	X	X	X	X	
Treasurer	X	X		X	
Chair of Commission	X	X	X	X	X
Commissioner			X	X	X
Commissioner				X	X
Employee	X	X	X	X	X
Employee	X	X	X	X	X
Employee		X	X	X	X
Road Commission Chair		X	X	X	X

ADDITIONAL CONCEPTS TO POTENTIALLY INCLUDE:

- Existing Retirement Commission Dissolved (or stay silent and it continues)
- Elected Officials serve during their terms
- Non-officials are elected for staggered four (4) year terms
- The Retirement Commission operates the retirement plan and invests funds

WAYNE COUNTY'S LANGUAGE:

The Retirement Commission is composed of 8 members: The CEO or the designee of the CEO, the chairperson of the County Commission, and 6 elected members. The members must be residents of Wayne County. Four members shall be active employees elected by active employees of the County in the manner provided by ordinance and two members shall be retired employees elected by retired employees of the County in the manner provided by ordinance. The term of the elected members is 4 years. The Retirement Commission shall administer and manage the Retirement System. The costs of administration and management of the Retirement System shall be paid from the investment earnings of the Retirement System.

(Wayne County also included financial management objectives and standards for employing an actuary.)

¹ Existing Commission has one (1) non-voting member elected by retired employees.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

ARTICLE VI. ADDITIONAL DEPARTMENTS

One Potential Model:

Section 6.x. Home Rule Offices

(a) The home rule offices shall consist of the following elected officials: County Clerk, County Register of Deeds, County Treasurer, Prosecuting Attorney, County Sheriff, and County Public Works Commissioner.

(b) These offices shall be re-created by this Charter and, unless amended by this Charter, shall have the same powers and duties as in the past (unless amended by new state statutes, in which event the new statutes shall prevail). The offices of County Clerk and County Register of Deeds shall remain combined unless separated as permitted by law. The powers and duties of each office shall be subject to:

- (1) All Charter provisions of general or specific applicability;
- (2) All ordinances adopted by the County Commission or initiatives adopted by the voters; and
- (3) All personnel, budgeting, expenditure, and any other policies of general application recommended by the County Executive and adopted by the County Commission.

Notes:

- This concise model would eliminate the need to itemize each elected official's office or department. The alternative is the Wayne County model, which follows on the next several pages.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Section 6.1 Sheriff

The department of Sheriff is created. The head of the department is the elected Sheriff.

Section 6.1.1 Powers and Duties

The powers and duties of the department are those provided by law for county sheriffs. Additional powers and duties may be assigned the department by an organization plan adopted in accordance with this Charter.

~~**Section 6.1.2 Patrol of the Parks**~~

~~The department shall provide patrol services for the County parks system and assure the safety of users of the County parks.~~

Section 6.1.3 Contracts with Local Governments

The department may contract with units of government within the County to provide services with the approval of the Commission.

Notes:

- This is Wayne County's language.
- State law merely says the following:

It is hereby provided that this act shall be so construed as to require the sheriff, under-sheriff and deputy sheriffs to perform all reasonable services within the jurisdiction of their offices for which the county may be liable and to serve and execute all civil writs and processes that may be reasonably served and executed by said officers under salary.

- When considering the Sheriff's authority to enter contracts, it may be prudent to expand the authority to include non-County agencies, such as various drug task forces and Homeland Security groups. It may also be prudent to authorize the Sheriff to allocate personnel and resources to such groups without Commission approval (perhaps with the Executive's approval instead), particularly if such assignments are sensitive or dangerous in nature.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Section 6.2 Prosecuting Attorney

The department of Prosecuting Attorney is created. The head of the department is the elected Prosecuting Attorney.

Section 6.2.1 Powers and Duties

The powers and duties of the department are those provided by law for prosecuting attorneys. Additional powers and duties may be assigned the department by an organization plan adopted in accordance with this Charter.

Notes:

- This is Wayne County's language.
- State law provides (generally):

The prosecuting attorneys shall, in their respective counties, appear for the state or county, and prosecute or defend in all the courts of the county, all prosecutions, suits, applications and motions whether civil or criminal, in which the state or county may be a party or interested.

The prosecuting attorney, or county corporation counsel in a county which has employed an attorney in lieu of the prosecuting attorney to represent the county in civil matters, shall give opinions, in cases where this state, a county, or a county officer may be a party or interested, when required by a civil officer in the discharge of the officer's respective official duties relating to an interest of the state or county.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Section 6.3 County Clerk/Register of Deeds

The departments of County Clerk and Register of Deeds are created and combined, as they were at the time of adoption of this Charter, to create the department of County Clerk/Register of Deeds. The head of the department is the elected County Clerk/Register of Deeds.

Section 6.3.1 Powers and Duties

The powers and duties of the department are those provided by law for county clerks and registers of deeds ~~except as provided in Article IV~~. Additional powers and duties may be assigned the department by a reorganization plan adopted in accordance with this Charter.

Section 6.3.2 Central Records

The department shall maintain central records of the County as provided by law or ordinance.

~~Section 6.3.3 Printing and Duplication~~

~~The department shall supervise and control the County printing and duplication facility.~~

Notes:

- This is Wayne County's language.
- Does Macomb County have a printing and duplication facility?
- The Constitution provides:

The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

- Michigan law provides:

The county clerk of each county, or in his absence his deputy, shall be the clerk of the board of supervisors of such county. It shall be the duty of such clerk:

First, To record all the proceedings of such board in a book provided for that purpose;

Second, To make regular entries of all their resolutions and decisions upon all questions;

Third, To record the vote of each supervisor on any question submitted to the board, if required by any member present;

Fourth, To preserve and file all accounts acted upon by the board, and on no account to allow such accounts to be taken from his office;

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Fifth, To certify, under the seal of the circuit court of his county, without charge, copies of any and all resolutions or decisions on any of the proceedings of such board, when required by such board or any member thereof, or when required by any other person upon payment of 6 cents per folio therefor; and such certificate shall be prima facie evidence of the matters therein set forth;

Sixth, To perform such other and further duties as such board may, by resolution, require.

➤ State law also provides:

Each county clerk shall appoint 1 or more deputies, to be approved by the circuit judge, 1 of whom shall be designated in the appointment as the successor of such clerk in case of vacancy from any cause, and may revoke such appointment at his pleasure, which appointment and revocation shall be in writing, under his hand, and filed in the office of the county treasurer, and the deputy or deputies, may perform the duties of such clerks.

That the county clerk and his sureties shall be responsible for the acts of his deputy or deputies, and in case of the death, resignation or removal of the clerk, or in any case of a vacancy by any other means in the said office of clerk, the deputy or deputies shall severally perform all the duties of such clerk until such vacancy shall be filled.

➤ Similar state laws apply to the Register of Deeds:

(1) The register of deeds shall appoint a deputy or deputies, 1 of whom shall serve as the chief deputy. The register shall employ personnel necessary to perform the functions and duties of the office of register of deeds. The number of employees shall be approved by the county board of commissioners.

(2) Before taking office, a person appointed under this section shall take the constitutional oath of office as required by section 1 of 1951 PA 22, MCL 15.151.

(3) The register of deeds may revoke his or her appointment at any time.

(4) An appointment or revocation made under this section shall be in writing and filed with the county clerk.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

➤ **Section 6.4 County Treasurer**

The department of County Treasurer is created. The head of the department is the elected Treasurer.

Section 6.4.1 Powers and Duties

The powers and duties of the department are those provided by law for county treasurers. Additional powers and duties may be assigned the department by an organization plan adopted in accordance with this Charter.

Section 6.4.2 Investment Power

The department shall receive, deposit, and invest funds belonging to and under the control of the County as provided by law and this Charter.

Notes:

- This is Wayne County's language.
- Wayne County also included a provision requiring the department to collect current taxes assessed on the County tax rolls within the City of Detroit and to otherwise act as the agent for the County in connection with the Delinquent Tax Revolving Fund.
- State law provides:

It shall be the duty of the county treasurer to receive all moneys belonging to the county, from whatever source they may be derived; and all moneys received by him for the use of the county, shall be paid by him only on the order of the board of supervisors, signed by their clerk, and countersigned by their chairman, except when special provision for the payment thereof is or shall be otherwise made by law.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Section 6.5 Public Works

The office of Drain Commissioner and the department of Public Works are created and combined, as they were at the time of adoption of this Charter, to create the department of Public Works. The head of the department is the elected Public Works Commissioner.

Section 6.5.1 Powers and Duties

The powers and duties of the department are those provided by law. Unless modified pursuant to state law, the Public Works Commissioner shall be elected in the same manner and for the same term as a drain commissioner and shall carry out the powers and duties of a drain commissioner as permitted by law. Additional powers and duties may be assigned the department by an organization plan adopted in accordance with this Charter.

Notes:

- The alternative mechanism for handling drain commissioner and public works responsibilities, under state law, is to establish an elected drain commissioner *and* a department of public works which would be overseen and operated by a board of public works (or to eliminate the drain commissioner and add one more person to the board, or to allow the drain commissioner to also serve the board's functions). However, state law also allows the merging of public works functions with those of the drain commissioner. Macomb County has exercised the authority to implement that merger. The above language would carry that decision forward under the new Charter.
- Under state law, if a drain commissioner performs functions other than acting as a drain commissioner, such as operating sewers, lake level and soil erosion enforcement, and facilitating compliance with federal clean water act mandates, the County may change the name of the office to the "office of water resources commissioner." The same election process and the duties of a drain commissioner would continue for that office.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Section 6.6 General Provisions

The following general provisions shall govern the officers and departments created in this Article.

Section 6.6.1 Reorganization

The powers and duties specifically delegated by this Charter to departments headed by elected officers shall not be modified by an organization plan implemented under Article III.

- This provision mirrors Wayne County's reorganization language. Note that it does not prevent an organization plan from assigning additional responsibilities, but instead it merely requires that any specific powers noted in the Charter cannot be reorganized.

Section 6.6.2 Functions Performed Within Authorized Appropriations

Elected officers shall manage their departments and exercise their powers and duties within authorized and allotted appropriations.

- This is an adaptation of similar Wayne County language (the grammar has been modified).

Section 6.6.3 Compensation

- (a) Compensation for the elected officials under this Article, and any others that are created by Charter or state law, shall be established by ordinance adopted by the County Commission. A change in compensation after it is established shall not be effective before the commencement of a new term. Any change in compensation shall be adopted by the County Commission prior to the filing deadline for the primary election in which candidates for the elected office are to be nominated.
 - (b) Compensation for the initial home rule elected officials and employees installed under this Charter shall be the same as that established at the time this Charter becomes effective.
- This compensation language was approved by consensus at the E/C Committee meeting on April 13, 2009.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Section 6.6.4 Vacancies

A vacancy in an office created under this Article occurs as provided by state law. Such vacancies shall be filled in the manner provided by law.

- By Constitution and statute, the circuit court judges fill a vacancy in the position of County Clerk or Prosecutor.
- By statute, the other vacancies are filled by the County Clerk, Prosecutor, and presiding or senior Probate Judge.
- Under state law:

The office of county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor or coroner in any county in this state shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the county in which his office is located; his conviction of an infamous crime or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

- State law also addresses deaths before commencement of a term.

Section 6.6.5 Constitution and State Law

The existence, organization, qualifications, powers, and duties of the officers and departments established by this Article shall continue to be governed by the Michigan Constitution and state law unless this Charter specifically provides otherwise.

- For each of the elected offices, the Constitution and Michigan law provide for qualifications, powers, and duties. This language is intended as a catchall to ensure that the Charter is not misconstrued as eliminating those constitutional and state law provisions that have not specifically been changed in the Charter.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

Additional Consideration Items:

- **Legal Counsel.** Litigation in Wayne County over the years has involved certain elected officials filing lawsuits against other elected officials. However, these individuals are merely department heads of the municipal corporation. They do not act for the County when they file suit or hire lawyers for legal opinions. “Departments” of County government are not legally-recognized entities, nor do they have standing to sue other Departments or the County itself. (“Michigan police departments generally cannot be sued in their own right because they are not a distinct legal unit apart from the municipality that creates them.”) (The “[historic district study committee] was created by and is part of [the village].”) Instead, the elected department head files the suit or requests the opinion in his/her own name as a person with an interest in a certain outcome. The interest may be related to the operations of the office, but the interest is rarely authorized by the Executive or County Commission. (“The Sheriff, when sued in his official capacity, *is* the County.”) (A board is not amenable to suit because “it has no legal means of raising funds for payment.”) State law authorizes these officials to seek opinions from Corporation Counsel, but it does not authorize them to use County funds to obtain a different opinion or to file a suit if the opinion is not acceptable. The only other authority in state law is an authorization for the County Commission to provide legal counsel to an elected official who is sued and neither the Prosecutor nor Corporation Counsel can represent that official. However, legal advice, counsel, or court action are only required in a case that involves an official act or duty of the office of the County official.

Therefore, to prevent these Wayne County anomalies, which are divisive and expensive, the Committee may want to consider imposing restrictions or rules on these practices.

- **Deputies and Employees.** By law, the county treasurer, the register of deeds, the coroners and the drain commissioner “shall and are hereby authorized to appoint a chief deputy, and all other deputies, clerks and employees employed in the departments of each of the said officers. The number and salaries of the said deputies, clerks and employees herein provided for shall be fixed in the same manner as they are fixed for deputies, clerks and employees of the other departments of the county government. The salaries of such deputies, clerks and employees shall be payable in the same manner and at the same time that other county employees are paid.” MCL 45.51. In other words, if the Committee does not want this statutory mandate to control, the Charter will need to address these issues. Arguably, an organization plan would trump the statute because such a plan will be authorized by the voters and memorialized in the Charter, but clear Charter language would end any debate.

Similarly, where the county treasurer, county clerk and register of deeds receive salaries in lieu of fees, “each of said officers may appoint a deputy or deputies who may perform all the official acts which the officer making such appointment might legally do, and who shall be paid therefor from the general fund of the county, such salaries as the board of supervisors of the county shall determine.” MCL 45.41. Again, if the Committee does not want this statutory authorization to control, the Charter should address these issues.

Permissible Departmental Provisions
Verbiage and Numbering Subject to Legal Review and Revision
Prepared by General Counsel for Discussion 04-15-09

7.x. Auditor General

(a) A legislative Auditor General may be created by ordinance. The Auditor General shall be appointed by a majority of the Commissioners serving. The Auditor General may be removed for cause by a 2/3 vote of the Commissioners serving. The Auditor General shall be a Certified Public Accountant (CPA) with at least 5 years experience in auditing governmental bodies. The compensation for the Auditor General shall be established by the Commission.

(b) The Auditor General shall:

(1) Make audits of the financial transaction of all County agencies at least once every two years, or as otherwise directed by the County Commission;

(2) Make compliance audits of the past or current operations of any County agency, as requested by the Audit Committee of the Commission;

(3) Make performance audits of agency operations if requested by the executive officer in charge thereof; and

(4) Make a full report to the County Commission of each individual audit and file a copy with the CEO.

(c) The audit staff shall have access to the staff, property, and to the financial and other records, including computer hardware and software of all County agencies during their regular operating hours.

(d) Each officer or employee of the County has an affirmative duty to cooperate with the audit staff and to answer any question reasonably devised to enable the efficient and orderly completion of the audit.

(e) As soon as possible after the close of each fiscal year, the Auditor General shall make a report of the financial position of the County. Beginning with the fiscal year ending November 30, 2013, the Auditor General shall engage by contract and independent external auditor with the approval of a majority of the Commissioners serving, subject to the veto of the County Executive Officer and override requirement. The auditors shall be a certified public accountant. The term of the contract shall be established by the Commission, but the first-term shall be for not less than three years and an auditor may not serve more than 8 consecutive years. The contract may be terminated for cause by a majority of the Commissioners serving.

(f) The Auditor General shall perform other duties as required by ordinance. The performance of the Auditor General shall be annually reviewed by the County Commission.

(g) The Auditor General may hire, promote, discipline and remove staff employees or consultant auditors within authorized appropriations.

➤ This is Wayne County's language. The enabling statute permits, but does not require, creation of an Auditor General.

PROPOSED RETIREMENT LANGUAGE

Section 9.1 Retirement System

The Macomb County Retirement System created by ordinance in effect at the time of adoption of this Charter shall continue. The accrued rights and benefits of the officers and employees of the County are recognized and this Charter shall not infringe upon or be in derogation of those accrued rights and benefits. The County Commission may amend the ordinance creating the County Retirement System.

Section 9.2 Retirement Commission

The Retirement Commission is composed of _____ members:

SEVERAL POTENTIAL OPTIONS

Number of Members	5	7	7	9	Existing
County Executive	X	X	X	X	
Treasurer	X	X		X	
Chair of Commission	X	X	X	X	X
Commissioner			X	X	X
Commissioner				X	X
Employee	X	X	X	X	X
Employee	X	X	X	X	X
Employee		X	X	X	X
Road Commission Chair		X	X	X	X

1

ADDITIONAL CONCEPTS TO POTENTIALLY INCLUDE:

- Existing Retirement Commission Dissolved (or stay silent and it continues)
- Elected Officials serve during their terms
- Non-officials are elected for staggered four (4) year terms
- The Retirement Commission operates the retirement plan and invests funds

¹ Existing Commission has one (1) non-voting member elected by retired employees.

MEMORANDUM

TO: DRAFTING COMMITTEE

FROM: JOHN A. NITZ
DONALD P. DeNAULT, JR.
MICHAEL P. McGEE
DAVID P. MASSARON
GEORGE E. WARD
JOHN R. AXE

DATE: May 13, 2009

After reviewing the concepts approved by the various Committees of the Macomb County Charter Commission, the Legal Team is recommending further consideration of the following concepts:

1. In Article III, we recommend deletion of the paragraph entitled "Role of County Executive" because the duties and responsibilities of the County Executive are contained elsewhere in the Article. It is our conclusion that the text in the paragraph entitled "Role of County Executive" could conceivably be used by a court to limit the authority, duties, and responsibilities contained elsewhere in the Article or to provide additional mandatory obligations. Any philosophy of the Charter Commission concerning the powers of the Executive or the role of the Executive should simply be spelled out in Powers and Duties. Language that tends to be philosophical and not parallel to the authorities, powers, and duties could lead to legal ambiguity.
2. We would recommend that you consider a transitional provision that allows more than ninety (90) days for the initial plan of organization. Wayne County undertook an extensive study prior to its initial reorganization. The requirement for an evaluation of the financial impact of the proposed plan clearly requires more time for the initial plan to be prepared. We recommend six (6) months.
3. Please note that Section 3.9.2 limits the ability of the County Executive through an organization plan to eliminate, combine, or otherwise alter the departments and offices created by Article VII of the Charter. We believe that this may limit the ability of the County Executive to manage the County when circumstances change.
4. Section 3.11 (the veto authority) prohibits the County Executive from vetoing a collective bargaining agreement. We believe that practically this will give the County Commission control of collective bargaining agreements without input from the County Executive, who is nevertheless charged with managing the County's financial and administrative affairs.

Memorandum to Drafting Committee

May 13, 2009

Page 2

5. We believe the concept of attempting to force the County Commission to take action, which has been introduced in several sections of the Charter, has the unintended consequence of substantially reducing the authority of the County Executive without any real assurance that the Commission will act. The Charter currently provides no legal mechanism for forcing such action. A writ of mandamus would not lie because the decision would be more than a ministerial act. There is more likelihood of litigation under this concept than there would be under a concept in which the recommendation of the County Executive becomes effective after a period of time unless the County Board of Commissioners rejects the recommendation. We recommend that the concept of effectiveness after a date certain be used with respect to the County organizational plan and in the appointments section.
6. Section 8.3 of the Charter vests the authority to select the County's auditor for purposes of preparation of the annual independent audit with the County Commission. We believe that this conflicts with the Uniform Budgeting and Accounting Act, Act No. 2 of 1968, which vests the responsibility for the preparation of an annual financial report with the chief administrative officer of the local unit, which in the case of the County would be the County Executive. The County Executive is also responsible for the transmission of the audit to the State.
7. Because the Charter is designed to be effective for an extended period of time, we recommend that the concept in Section 3.10 of a single administrative assistant for the County Executive be revised to an "executive staff." Control of the size of the executive staff is appropriately handled in the budgeting process. It is also consistent with the County Executive's primary charge to administer the county government fairly and efficiently.
8. We believe the concept of requiring the County Commission to establish qualifications and criteria for appointing and hiring of appointed directors should be modified to a time frame which is complementary to the initial organization plan.
9. The concept of an executive having the authority to make periodic budget reductions, we believe, should be included in the Charter because it evidences sound fiscal management, which is one of the criteria for establishing the credit rating for the County. This power is commonly found in charters.
10. The Charter Commission is required to set the percentage of elector signatures needed for referendum and initiative on County matters. The State Constitution provides for 5% and 8%, respectively, on State Government matters.

**HOME RULE CHARTER
OF
MACOMB COUNTY, MICHIGAN**

DRAFT

- (c) Represent the Officers created by Article VI in the manner provided in Article VI of this Charter.

7.5.2 Corporation Counsel shall be appointed by the Executive and confirmed by the Commission.

7.5.3 Corporation Counsel may:

- (a) Hire assistant attorneys;
- (b) Appoint special counsel upon approval of the Commission; and
- (c) Keep the Executive and the Commission advised on pending litigation matters on a periodic basis.

7.5.4 Corporation Counsel and all assistant attorneys shall be licensed to practice law in the State of Michigan.

7.5.5 The Executive and the Commission shall include in the general fund of the annual budget for each fiscal year, such sums as the Executive and the Commission deem necessary for the Corporation Counsel to carry out its duties.

Section 7.6 General Provisions Governing Departments and Agencies

Agencies of the County may be created only by ordinance or an Organization Plan or as otherwise provided by law. All departments created by this Article shall perform such other duties as required by this Charter, law, Organization Plan, or the Executive.

Section 7.7 Directors

Each department created in this Article shall be headed by a director. With the approval of the Executive, a director may hire employees within budgetary appropriations in accordance with the policies of the Human Resources and Labor Relations Department.

ARTICLE VIII

FINANCE

Section 8.1 Financial Management Principles

The County shall employ generally accepted principles of accounting, auditing, and reporting appropriate for local government and as required by law.

Section 8.2 Fiscal Year

The fiscal year of the County shall be established by ordinance as permitted by law.

Section 8.3 Independent Audit

8.3.1 The Commission shall establish from its members an Audit Committee which shall hire an independent certified public accountant to conduct an annual independent audit as required by law and such other audits as determined necessary by the Audit Committee, subject to the appropriations in the County's annual budget for such purpose. Audits shall be completed and filed as required by law.

8.3.2 Copies of the audit and report shall be transmitted to the Executive, Commission, the State Treasurer, and as otherwise required by ordinance and shall be available for public inspection.

Section 8.4 Debt Limit and Borrowing Authority

The County may borrow in accordance with applicable law, except the County shall not incur any indebtedness which shall exceed 10% of the state equalized value of the taxable property within the County.

Section 8.5 Taxing Authority

8.5.1 The County may by ordinance levy and collect any tax, fee, rent, toll, or excise authorized by law.

8.5.2 The County may levy an ad valorem property tax not in excess of 1% of the state equalized valuation of the taxable property within the County. The levy of taxes from within the ad valorem property tax limitation shall not exceed, unless otherwise approved by the electors, 5.19 mills as is adjusted currently and may be adjusted in the future by applicable constitutional and statutory requirements. An increase in the tax authorization may be approved by the voters of the County for a period of not more than 20 years.

Section 8.6 Budget Preparation and Transmittal

8.6.1 The Executive shall prepare and administer a comprehensive balanced budget in a manner which assures coordination among Agencies. The Executive shall transmit the comprehensive balanced budget for the next fiscal year to the Commission at least 90 days before the next fiscal year begins. The comprehensive balanced budget prepared and recommended by the Executive shall contain, at a minimum, the budget message, budget document, the proposed appropriations ordinance containing the information required by law, and any information required by the Commission, law, or ordinance.

8.6.2 Not less than once each year the Executive shall submit to the Commission a proposed long-range capital improvement program and capital budget.

**OFFICIAL MINUTES OF THE
MACOMB COUNTY CHARTER COMMISSION
REGULAR MEETING
May 27, 2009 at 7 p.m.
held at Macomb County Administration Building
One South Main Street, 9th Floor, Mount Clemens, MI 48043**

The Macomb County Charter Commission met at 7:00 p.m. on Wednesday, May 27, 2009 on the 9th floor of the County Administration Building, in the Commissioners' Board Room, Mount Clemens. Chair Femminineo called the meeting to order at 7:05 p.m. A roll call was taken for attendance as follows:

NAME	DISTRICT	PRESENT	NOT PRESENT
Matthew J. Wroblewski	1	X	
David A. Willis	2	X	
James F. Kelly	3	X	
Louis J. Burdi	4	X	
Robert W. Slavko	5	X	
John Olekszyk	6	X	
Elisabeth Sierawski	7	X	
Donna S. Cangemi	8	X	
Michael G. Gielniak	9	X	
Rick Flynn	10	X	
Dominic J. La Rosa	11	X	
Vince Viviano	12	X	
Gary S. Anthony	13	X	
James Haggerty	14	X	
Harry Awdey	15	X	
Tom Rombach	16	X	
Jacob Michael Femminineo Jr.	17	X	
Carrie Lynn Fuca	18	X	
Bob Smith Jr.	19	X	
Marilyn Lane	20	X	
Nick Ciaramitaro	21	X	
Judy Hartwell	22	X	
James Maceroni	23	X	
Cynthia Konal	24	X	
Charles Medley	25	X	
Monika Kreft Leasure	26	X	

Also present: Ralph "Skip" Maccarone, Executive Director
Don DeNault, Attorney at Law
John Nitz, Attorney at Law
David Massaron, Attorney at Law

CONSENT AGENDA

MOTION

A motion was made by Charter Commissioner Medley, to approve the Consent Agenda, supported by Charter Commissioner Smith. **THE MOTION CARRIED.**

MACOMB COUNTY CHARTER COMMISSION – REGULAR MEETING
OFFICIAL MINUTES – May 27, 2009

AGENDA

MOTION

A motion was made by Charter Commissioner LaRosa, to adopt the agenda, supported by Charter Commissioner Slavko. **THE MOTION CARRIED.**

MINUTES

MOTION

A motion was made by Charter Commissioner Leasure, to approve the minutes from May 20, 2009, supported by Charter Commissioner Sierawski. **THE MOTION CARRIED.**

PUBLIC PARTICIPATION

Thomas Christ; 46612 River Park E; Macomb Township
Jared Maynard; 45128 Utica Green E; Shelby Township

PROPOSED CHARTER AMENDMENTS

CHARTER AMENDMENTS PROPOSED BY LEGAL TEAM FOR CONSIDERATION ON MAY 20TH

MOTION

A motion was made by Charter Commissioner Kelly, to adopt the language in Section 2.5.1 as outlined in the memo from the legal team, supported by Charter Commissioner Viviano. **THE MOTION CARRIED.**

MOTION

A motion was made by Charter Commissioner Kelly, to adopt the language in Section 3.6.4 as outlined in the memo from the legal team, supported by Charter Commissioner Smith.

MOTION TO AMEND

A motion was made by Charter Commissioner Rombach, to amend the language in Section 3.6.4, supported by Charter Commissioner Hartwell, to read as follows. *“The Commission shall approve or reject the proposed Organization Plan or any proposed amendment within 60 days after its submission. If the Commission fails to act within 60 days, the Organization Plan or amendment becomes effective.”*

MOTION TO CALL THE QUESTION

A motion was made by Charter Commissioner Flynn, to call the question, supported by Charter Commissioner Maceroni. **THE MOTION TO CALL THE QUESTION PASSED.** (Record Olekszyk No vote.)

A roll call vote was taken on the Motion to Amend.

Voting Yes were: Rombach and Femminineo. There were 2 Yes votes.

Voting No were: Anthony, Awdey, Burdi, Cangemi, Ciaramitaro, Flynn, Fuca, Gielniak, Haggerty, Hartwell, Kelly, Konal, LaRosa, Lane, Leasure, Maceroni, Medley, Olekszyk, Sierawski, Slavko, Smith, Viviano, Willis and Wroblewski. There were 24 No votes.

THE MOTION TO AMEND FAILED.

MOTION TO CALL THE QUESTION ON ORIGINAL MOTION

A motion was made by Charter Commissioner Viviano, to call the question, supported by Charter Commissioner Leasure. **THE MOTION TO CALL THE QUESTION PASSED.** (Record No votes Burdi and Ciaramitaro)

MACOMB COUNTY CHARTER COMMISSION – REGULAR MEETING
OFFICIAL MINUTES – May 27, 2009

A roll call vote was taken on the Original Motion.

Voting Yes were: Fuca, Gielniak, Kelly, Lane, Leasure, Rombach, Smithy, Viviano, Wroblewski and Femminineo. There were 10 Yes votes.

Voting No were: Anthony, Awdey, Burdi, Cangemi, Ciaramitaro, Flynn, Haggerty, Hartwell, Konal, LaRosa, Maceroni, Medley, Olekszyk, Sierawski, Slavko and Willis. There were 16 No votes.

THE ORIGINAL MOTION FAILED.

MOTION

A motion was made by Charter Commissioner Kelly, to adopt the language in Section 3.8(b) as outlined in the memo from the legal team, supported by Charter Commissioner Rombach.

MOTION TO CALL THE QUESTION

A motion was made by Charter Commissioner LaRosa, to call the question, supported by Charter Commissioner Flynn. **THE MOTION TO CALL THE QUESTION PASSED.** (Record No votes Rombach and Awdey.)

A roll call vote was taken on the Original Motion.

Voting Yes were: Anthony, Fuca, Gielniak, Kelly, Lane, Leasure, Rombach, Smith, Viviano, Wroblewski and Femminineo. There were 11 Yes votes.

Voting No were: Awdey, Burdi, Cangemi, Ciaramitaro, Flynn, Haggerty, Hartwell, Konal, LaRosa, Maceroni, Medley, Olekszyk, Sierawski, Slavko and Willis. There were 15 No votes.

THE ORIGINAL MOTION FAILED.

MOTION

A motion was made by Charter Commissioner Kelly, to adopt the language in Section 8.3.1 and 8.3.2 as outlined in the memo from the legal team, supported by Charter Commissioner Flynn.

SUBSTITUTE MOTION

A substitute motion was made by Charter Commissioner Ciaramitaro, to adopt the language he proposed in the Agenda packet in Section 8.3.1 and 8.3.2 instead of the language in the legal memo, supported by Charter Commissioner Cangemi. **THE SUBSTITUTE MOTION CARRIED.**

MOTION

A motion was made by Charter Commissioner Kelly, to adopt the language in Section 3(d) as outlined in the memo from the legal team, supported by Charter Commissioner LaRosa.

SUBSTITUTE MOTION

A substitute motion was made by Charter Commissioner Ciaramitaro, to adopt the language under 3.8(a) that he proposed in the Agenda packet, supported by Charter Commissioner Anthony. **THE SUBSTITUTE MOTION CARRIED.** (Record No vote Awdey)

MOTION

A motion was made by Charter Commissioner Kelly, to adopt the language in Section 4(a) & (b), as outlined in the memo from the legal team, supported by Charter Commissioner LaRosa.

MOTION TO POSTPONE

A motion was made by Charter Commissioner Rombach, to postpone any action regarding Section 4 (a) & (b) until the next meeting, supported by Charter Commissioner Slavko. **THE MOTION CARRIED.**

MOTION

MACOMB COUNTY CHARTER COMMISSION – REGULAR MEETING
OFFICIAL MINUTES – May 27, 2009

A motion was made by Charter Commissioner Ciaramitaro, to amend Section 3.9 as he proposed the Agenda packet and to amend Section 7.3(b) to add, prior to the word negotiate, “*under the County Executive*,” supported by Charter Commissioner Konal.

MOTION TO POSTPONE

A motion was made by Charter Commissioner Awdey, to postpone any action regarding Section 3.9 and 7.3(b) until the next meeting, supported by Charter Commissioner Lane. **THE MOTION CARRIED.**

CHARTER AMENDMENTS PROPOSED FOR SECTION 4.1

MOTION

A motion was made by Charter Commissioner Kelly, to amend the language in Section 4.1 as follows, supported by Charter Commissioner Anthony.

Section 4.1 Commission

The County Commission is created. The County Commission is vested with all legislative authority. The County Commission shall consist of 15 members, and they shall be known as County Commissioners. All references to a county board of commissioners and county board of supervisors whether in state law or otherwise, shall be deemed to refer to the County Commission.

MOTION TO CALL THE QUESTION

A motion was made by Charter Commissioner Gielniak, to call the question, supported by Charter Commissioner Wroblewski.

A roll call vote was taken.

Voting Yes were: Anthony, Cangemi, Fuca, Gielniak, Haggerty, Hartwell, Konal, LaRosa, Lane, Leasure, Maceroni, Medley, Olekszyk, Rombach, Sierawski, Slavko, Smith, Viviano, Willis, Wroblewski and Femminineo. There were 21 Yes votes.

Voting No were: Awdey, Burdi, Ciaramitaro, Flynn and Kelly. There were 5 No votes.

THE MOTION TO CALL THE QUESTION PASSED.

A roll call vote was taken on the Original Motion.

Voting Yes were: Anthony, Awdey, Burdi, Cangemi, Ciaramitaro, Haggerty, Kelly, Konal, LaRosa, Maceroni and Slavko. There were **11 yes votes**.

Voting No were: Flynn, Fuca, Gielniak, Hartwell, Lane, Leasure, Medley, Olekszyk, Rombach, Sierawski, Smith, Viviano, Willis, Wroblewski and Femminineo. There were **15 No votes**

THE MOTION FAILED.

MOTION

A motion was made by Charter Commissioner Awdey, to change the number of commissioners in Section 4.1 to 13, supported by Charter Commissioner Slavko.

MOTION TO CALL THE QUESTION

A motion was made by Charter Commissioner Smith, to call the question, supported by Charter Commissioner Maceroni. **THE MOTION TO CALL THE QUESTION PASSED.**

A roll call vote was taken.

Voting Yes were: Anthony, Awdey, Burdi, Cangemi, Ciaramitaro, Flynn, Fuca, Gielniak, Haggerty, Hartwell, Kelly, Konal, LaRosa, Lane, Maceroni, Olekszyk, Rombach, Sierawski, Slavko, Viviano, Willis and Wroblewski.

There were **22 yes votes**.

Voting No were: Leasure, Medley, Smith and Femminineo. There were **4 No votes**

MACOMB COUNTY CHARTER COMMISSION – REGULAR MEETING
OFFICIAL MINUTES – May 27, 2009
THE MOTION CARRIED.

CHARTER AMENDMENTS PROPOSED FOR SECTION 10.5.1

MOTION

A motion was made by Charter Commissioner Anthony, that the 20 percent in Section 10.5.1 be changed to 5 percent, supported by Charter Commissioner Leasure.

Charter Commissioner Anthony **WITHDREW HIS MOTION.**

MOTION

A motion was made by Charter Commissioner Anthony, that the 20 percent in Section 10.5.1 be changed to 10 percent, supported by Charter Commissioner Leasure.

MOTION TO CALL THE QUESTION

A motion was made by Charter Commissioner LaRosa, to call the question, supported by Charter Commissioner Willis. **THE MOTION TO CALL THE QUESTION PASSED.**

THE MOTION CARRIED.

NEW BUSINESS

None

PUBLIC PARTICIPATION

None

EXECUTIVE DIRECTOR'S REPORT

Executive Director indicated that the Charter Commissioners did a good job tonight.

ROLL CALL

MACOMB COUNTY CHARTER COMMISSION – REGULAR MEETING
OFFICIAL MINUTES – May 27, 2009

NAME	DISTRICT	PRESENT	NOT PRESENT
Matthew J. Wroblewski	1	X	
David A. Willis	2	X	
James F. Kelly	3	X	
Louis J. Burdi	4	X	
Robert W. Slavko	5	X	
John Olekszyk	6	X	
Elisabeth Sierawski	7	X	
Donna S. Cangemi	8	X	
Michael G. Gielniak	9	X	
Rick Flynn	10	X	
Dominic J. La Rosa	11	X	
Vince Viviano	12	X	
Gary S. Anthony	13	X	
James Haggerty	14	X	
Harry Awdey	15	X	
Tom Rombach	16	X	
Jacob Michael Femminineo Jr.	17	X	
Carrie Lynn Fuca	18	X	
Bob Smith Jr.	19	X	
Marilyn Lane	20	X	
Nick Ciaramitaro	21	X	
Judy Hartwell	22	X	
James Maceroni	23	X	
Cynthia Konal	24	X	
Charles Medley	25	X	
Monika Kreft Leasure	26	X	

ADJOURNMENT

MOTION

A motion was made by Charter Commissioner Haggerty, to adjourn the meeting, supported by Charter Commissioner Wroblewski. **THE MOTION CARRIED.**

Chair Femminineo adjourned the meeting at 10:04 p.m., until the call of the Chair.

Jacob Michael Femminineo, Jr., Chair

Todd Schmitz, Chief Deputy Clerk

MACOMB COUNTY, MICHIGAN

2023 ORGANIZATION PLAN

Adopted by:
Board of Commissioners
April 20, 2023

Effective April 20, 2023

I. INTRODUCTION

The Home Rule Charter of Macomb County, Michigan (the “Charter”), adopted on June 17, 2009, and effective January 1, 2011, in accordance with the Michigan Constitution of 1963 and Section 16 of the Charter County Act, 1966 PA 293, MCL 45.501 *et seq.*, mandates that the Macomb County Executive (the “County Executive”) submit a proposed Organization Plan to the Macomb County Board of Commissioners (the “Commission”) within 90 days after the start of a new term of office. Organization Plan is defined in Article I, Section 1.4(o) as “a plan of organization or reorganization proposed and approved as provided in this Charter.”

Article III, Section 3.6 of the Charter governs the procedure for proposing and approving an organization plan, and states as follows:

3.6.1 Except as provided in Article XI, within 90 days after the start of a new term of office the Executive shall submit a proposed Organization Plan to the Commission which includes an explanation of the reasons for the plan and an evaluation of its financial impact.

3.6.2 The Organization Plan may provide for the creation or abolition of any Agency except for the departments and offices created by Article VII of this Charter and any others expressly exempted by this Charter or prohibited from being created or abolished by law. The Organization Plan may also transfer powers, duties, and functions of the County among the Agencies, including those created by Article VII of this Charter, if not prohibited by this Charter or law. The Executive may submit proposed amendments to the Organization Plan to the Commission at any time.

3.6.3 The Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner.

3.6.4 The Commission shall hold a public hearing on the proposed Organization Plan or any proposed amendment within 50 days after its submission and must either approve, with or without amendment, or reject the proposed Organization Plan or any proposed amendment within 75 days after its submission.

The Commission understands these provisions to require the County Executive to submit an Organization Plan regardless of whether the County Executive wishes to make any changes in the previous Organization Plan. Similarly, regardless of whether the Organization Plan proposed by the County Executive includes any changes and regardless of whether the Commission wishes to make any amendments, the Commission must hold a public hearing on the Organization Plan proposed by the County Executive within 50 days after the County

Executive submits it to the Commission. The Commission has 3 options after holding a public hearing on a proposed Organization Plan. The Commission may: (1) approve the proposed Organization Plan by resolution, without amendment; (2) approve the proposed Organization Plan by resolution, with amendment(s); or (3) reject the proposed Organization Plan. The Commission is permitted to take (and must take) one of the three actions regardless of whether the County Executive proposes any changes to the previous Organization Plan.

A number of other Charter provisions include guidance regarding the Organization Plan.

Article III, Section 3.16 provides that “[a]ll property, records, and equipment of any Agency affected by this Charter or an Organization Plan shall be transferred to the appropriate Agency as directed by the Executive.”

Article VI, Section 6.6.1 states, in relevant part, that “[t]he powers and duties specifically delegated by this Charter to departments created by this Article shall not be reassigned by an Organization Plan, but additional powers and duties may be assigned by an Organization Plan to any department.” The Countywide Elected Officials in Article VI are the Sheriff (Section 6.1), Prosecuting Attorney (Section 6.2), County Clerk and Register of Deeds (Section 6.3), County Treasurer (Section 6.4), and Public Works (Section 6.5).

Article VII, Section 7.6 states that “[a]gencies of the County may be created only by ordinance or an Organization Plan or as otherwise provided by law. All departments created by this Article shall perform such other duties as required by this Charter, Organization Plan, or the Executive.” “Agency” is defined in Article I, Section 1.4(b) as “a department, office, board, commission, or other administrative unit of County government, whether created by Charter, ordinance, or law.”

Article XI, Section 11.4 states, in relevant part that “[e]xcept as provided in this Charter, all existing County offices, boards, commissions, and departments existing on the date this Charter becomes effective shall continue and perform their duties unless reorganized or discontinued by an Organization Plan.”

Article XI, Section 11.7.4 states:

The Organization Plan shall include the initial compensation for the directors of the departments established in Article VII and any other departments included in the Organization Plan. The compensation for all Appointees and Employees of the County at the effective date of this Charter shall be continued until modified as permitted by this Charter or law.

Pursuant to Article III, Section 3.6.4 of the Charter, the Commission approves this amended 2023 Organization Plan, and restates and incorporates the 2011 Organization Plan, the 2015 Organization Plan, and the 2019 Organization Plan as approved by the Commission.

II. RESTATEMENT OF THE 2011, 2015, AND 2019 ORGANIZATION PLANS ADOPTED BY THE COMMISSION

A. 2011 Organization Plan

On May 15, 2011, the County Executive submitted a proposed 2011 Organization Plan to the Commission, and the Commission voted to approve an amended 2011 Organization Plan.

The 2011 Organization Plan approved by the Commission is incorporated below.

The following Organization Plan has been developed to conform to the requirements of the Charter and the expectations outlined above. It sets forth the changes currently being proposed for existing Agencies of County government, the reasons for those changes, and the accompanying financial impact. Since this is the first Organization Plan, it benchmarks change against the structure of County government that existed on the effective date of the Charter, January 1, 2011.

By design, this Plan only addresses changes to those administrative Agencies falling under the Executive's jurisdiction. *No recommendations for change are being made for administrative functions that are under the jurisdiction of Countywide Elected Officials.* Any changes proposed for those Agencies will be presented as a future amendment to this Organization Plan. As a result, this submission can be seen as creating the foundation for the Executive Branch of County government.

Since they are "Agencies" of county government under the Charter, changes are also being proposed for certain boards and commissions. These changes primarily relate to those boards and commissions that have been relatively inactive or whose functions and bylaws are now inconsistent with the Charter and the new form of County government.

The County Executive has concluded that the following changes to County Agencies are in the best long-term interest of the citizens of Macomb County and now seeks the approval of the Macomb County Commission. Questions and comments about this Organization Plan are welcome at any time and should be addressed to the Office of the County Executive.

Financial Impact

Section 3.6.1 requires an explanation of the reasons for the Plan and an evaluation of its financial impact. The Charter allows the Executive 180 days to prepare and submit the initial Organization Plan. Once submitted, the Commission has 50 days to hold a public hearing on the Plan and a total of 75 days to approve the Plan. It will then take some time following final Commission approval to implement the Plan. As a consequence of this long timeline, there will only be a minimal opportunity to achieve financial savings from the Plan during the 2011 budget year. The Plan, however, should be finalized during the budget development process, so it will create a foundation for savings in the 2012 budget year, since all changes proposed in this Plan are intended to be implemented no later than December 31,

2011. **Once fully implemented, the changes outlined in this Organization Plan should reduce County expenditures by approximately \$2.5 million annually.**

Public Access to Expenditure Records

According to Section 3.6.3 of the Charter, the Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner. Fortunately, the County already maintains an excellent vehicle for providing the public with such information under the Financial Transparency section of the County's web site. **The County Executive intends to continue utilizing this web based process to provide the public with access to expenditure records.**

Changes to County Agencies

At this time, changes are being proposed to just two administrative Agencies of County government; the **Macomb County Library** and the **Risk Management and Safety** unit.

County Library. The County entered into a lease agreement with Wayne State University in January of 2009 that effectively closed what was previously known as the County Library. What remains in the Macomb County Library Fund are three separate and distinct program areas: The Macomb Literacy Partners (MLP), the Library for the Blind and Physically Handicapped (LBPH), and the Reference and Research Center (RRC). Although the University subsequently converted some 20,000 square feet in the Hall Road building into classroom and instructional space, approximately 2,800 square feet was retained by the County to operate an "Electronic Reference and Research Center," 2,400 square feet was allocated to the LBPH, and 1,200 square feet was provided to the MLP. The County continues to provide the staffing for these programs as well as up to \$365,000 each year of the 25 year agreement (\$9,125,000 in total) for the purchase of reference materials. The current annual budget for the "Library Fund" exceeds \$1 million.

In September 2010, the three programs became part of the Department of Planning and Economic Development. Since that time, through continued monitoring and review, it has become increasingly apparent that the closure of the larger County Library has adversely impacted the remaining programs, especially the Reference and Research Center. The RRC is no longer well utilized or cost effective, and greater efficiencies could be achieved for the other two programs through collaboration with local partners.

The **Macomb Literacy Partners** is a non-profit organization charged with helping adults who have difficulties reading, writing or speaking English. While most of the funding to support MLP is generated through grants and donations, the county does provide an annual subsidy of \$33,950, which is used to supplement the director's salary. Since the County gives minimal financial support to an organization that provides such essential literacy services for nearly a thousand residents, it is recommended that funding be continued, although a more suitable location for the program will be explored.

The **Library for the Blind and Physically Handicapped** serves qualifying County residents by providing books on tape, large print books, equipment that enlarges text, and

equipment for printing Braille materials. The county's 2011 budget appropriation for the LBPH, which includes four staff positions, is:

Salaries and Benefits	\$266,468
Operations	22,150
Total	<u>\$288,618</u>

The LBPH provides an essential service for residents. It was reported that as of January 2011, their total patron count exceeded 900. Based upon this demand, it is important to continue the services of the LBPH. There is, however, an option that would continue to provide the service, allow for a cost savings to the county, and create greater efficiencies of scale. The recommendation is to transfer their functions, services, and holdings to the Clinton - Macomb District Library. Preliminary talks have taken place with the Clinton - Macomb Library Director, Mr. Larry Neal, and members of his Board of Directors. While formal approval has not yet been obtained, it is anticipated that they would agree to a transfer, contingent upon an estimated annual subsidy of \$100,000. This type of transfer/ collaboration is not without precedent. In January 2009, the Ann Arbor District Library officially took ownership of the Washtenaw County LBPH. Mr. Neal has been diligent in examining the Ann Arbor model. Successfully implementing this transfer would generate savings to the County of nearly \$200,000 annually.

The **Reference and Research Center's** charge is to provide Macomb County residents with access to reference books, print magazines, newspapers, and a variety of online databases. The county's 2011 budget appropriation for the RRC, which includes four staff positions, is:

Salaries and Benefits	\$374,004
Books	52,050
Online Services	214,450
Operations	76,350
Total	<u>\$716,854</u>

The RRC has to compete with the constantly changing technology and communication needs and the shifting research habits of today's society. The valuable research information that libraries once provided almost exclusively is now more easily obtained on a 24/7 basis through a variety of internet sources. This has created a situation where the RRC can no longer be considered well utilized or cost effective.

During the preceding 12 month period ending 2/28/11, the RRC was open for 1,955 hours, with a total of 7,077 staff hours worked. During this same period, there was a total of 2,157 in-person visits and 2,652 reference calls. This equates to approximately one in-person visit per hour of operation and just over one contact of any kind for every two staff hours worked.

In order to operate, the RRC must subscribe to a number of research databases. The county has budgeted \$214,450 for these subscriptions. During the same 12 month period, there were 9,324 accesses or "hits" on the databases. In the aggregate, this equates to \$23 per database hit. Some databases exceed \$200 per hit. The Clinton Macomb Library Director indicated that they will typically not renew a database when the cost exceeds \$1.50 per hit. None of the RRC's

databases come close to that level of cost effectiveness and overall utilization would have to increase more than 15-fold to achieve that minimum threshold.

The previous Board of Commissioners appropriately tried to preserve some basic services when it was forced to close the bulk of the County Library in 2009, and it found a valuable use for the vacated space. But time has continued to show a lack of demand for reference and research services. Because of its low utilization and high transaction costs, the County Reference and Research will be phased out no later than December 31, 2011. The savings for 2012 and beyond will exceed \$700,000 annually. The County will continue to support the Library for the Blind and Physically Handicapped either directly or through a partnership with another County library, which could save an additional \$190,000. The Macomb Literacy Partners program will continue to be supported financially and housed in its current location or in another facility if more suitable space can be obtained.

Risk Management and Safety. The County's 2011 Adopted Budget states that the Risk Management and Safety unit is proactively responsible for safety conditions in the work place, as well as protection for the County against loss under insurance coverage. The Unit is responsible for evaluating and obtaining the necessary insurance coverage in order to limit insurance risks against the County. The safety program requires that all loss control, accident prevention and safety engineering practices within the County be evaluated periodically. The results of the evaluations and accompanying recommendations are then distributed to the County government leadership and interested departments for implementation.

Even though the unit is operating effectively, savings can be achieved and efficiencies can be gained by merging the functions of that department within other units. In many organizations the insurance function is managed by the Finance Department and employee health and workplace safety is overseen by the Human Resources Department. This Organization Plan proposes that the County adopt a similar structure. As a result, the Risk Management and Safety administrative unit will be phased out no later than December 31, 2011. Existing personnel will be reassigned to either the Department of Human Resources and Labor Relations or the Finance Department depending on their primary function. Opportunities for position consolidation will be evaluated during the 2012 budget preparation cycle. Estimated savings are expected to exceed \$100,000 annually once the consolidation has been implemented.

Changes to Boards and Commissions

Changes are being proposed for seven County Boards and Commissions and a clarification of authority and responsibility is being highlighted for three others.

Macomb County's website contains a listing of 38 boards and commissions that require formal appointments by County government. All of these bodies have been established by federal, state or local laws or by resolutions of the former Board of Commissioners. Appointing authority varies and is sometimes shared between the County Executive and the Commission.

Ten of these organizations, such as the Cobo Authority, SEMCOG, and the Huron-Clinton Metropolitan Authority, are external bodies and are not considered "Agencies" of County government as defined by the Charter. As such, their status cannot be determined or altered by an

Organization Plan.

The majority of the remaining 28 boards and commissions are either required by statute or become required when the County decides to establish a specific type of program governed by statute. The Board of Canvassers is an example of the former and the Brownfield Redevelopment Authority Board is an example of the latter. In most cases, the enabling or authorizing legislation outlines specific responsibilities of the board or commission and often prescribes the manner in which appointments to the body are to be made. While boards and commissions operating under statute do fit the Charter's definition of an "Agency," the fact that some of them are required by law exempts them from modification by an Organization Plan.

In light of the foregoing circumstances and limitations, the following changes are proposed for County Boards and Commissions:

Along with approving the new Charter, County residents voted to eliminate the former Road Commission and to create a Department of Roads in its place. Therefore, the Road Commission will be removed from the list of County Agencies. This voter approved transition also provided the County Executive with the opportunity to achieve considerable savings by restructuring the top administrative levels within that new Department of Roads. The three former Road Commissioners, the administrative director, their County-provided vehicles, their support staff, and all related operating expenses were replaced by a single department director. The Executive Office then assumed supervisory responsibility for the new department utilizing existing staff. This restructuring has now been fully implemented and expenses for the new department have been reduced by a total of \$407,000 annually.

Although the Charter has retained the former Retirement Commission, the appointments to that seven member body are now fixed by Charter. As a result, **the Retirement Commission will be removed from the list of County Agencies requiring governance appointments.**

The **Partnership for Sustainability** was initially created by resolution of the former Board of Commissioners in October of 2008. Its stated goal was to produce a plan for the creation of a Regional Partnership for Sustainability. Such a partnership was to be a framework for dealing with the wide range of environmental and economic challenges the southeast Michigan region faced. The Partnership was to be a substantive product of the Tri-County Summit and was to be an entity through which local governments, business, and institutions of the region could reach consensus and work together to craft agreements resulting in solutions for a sustainable future. Under this definition of purpose, it is doubtful that this body meets the definition of an Agency under the Charter. Moreover, this group has had virtually no activity over the past year or so. As a result, **the Partnership for Sustainability will be eliminated as an Agency of County government.**

There are currently three non-statutory boards or commissions (**Historical Commission, Juvenile Justice Advisory Board, and the Commission on Women**) that were created by resolution of former Boards of Commissioners, but whose construct and functions are now inconsistent with the new form of County government. None of these Agencies are required by statute. As such, they are purely voluntary in nature. Since these boards and commissions were created under the prior form of County government, their core elements, such as functional

responsibilities, bylaws and appointment processes, are now incompatible with the provisions of the Charter and the new form of County government. The following are some examples.

Since all three are unpaid advisory bodies, the Executive is now the sole appointing authority, and all of these groups are supported by or linked to departments that now report to the Executive rather than committees of the Commission. Yet each of their authorizing resolutions as well as their bylaws call for these bodies to serve as advisors to the Commission and to report to the Commission or one of its committees rather than the Executive. It simply makes no sense for the Executive to have exclusive appointment authority for a board or commission that reports exclusively to the Commission or one of its committees.

More specifically, the Historic Commission is charged with serving “as a liaison between the Board of Commissioners and other organizations interested in the history of Macomb County” and it is “subject to the instructions of the Board of Commissioners.” The Water Quality Board is also charged with advising the Board of Commissioners and is supposed to make a monthly report and give recommendations to a Commission committee that no longer exists. Under its bylaws, the Commission on Women “shall consist of 26 representatives appointed by their County Commissioner.” All of their terms expired when the appointing Commissioner’s terms expired on December 31, 2010. At best, the 13 remaining Commissioners could each appoint a new member (which would be contrary to the Charter appointment process), but even then the Women’s Commission bylaws call for 14 members to be present for a quorum to exist, which is now a physical impossibility.

Even though these three advisory bodies were created to serve useful and laudable purposes, these boards and commissions are no longer compatible with the provisions of the new Charter and can no longer function in their current form under the new structure of County government. As a result, **the Historic Commission, the Juvenile Justice Advisory Board, and the Commission on Women will be discontinued as Agencies of County government.** If there is a desire to establish any successor organization with similar purposes, they must be created in a manner that is consistent with the provisions and appointment authorities set forth in the Charter, and be fully aligned with the new structure of County government.

The Macomb County **Economic Development Corporation** was established in 2001 in order to stimulate business capital investment. The principal authority held by the EDC is the ability to issue tax exempt revenue bonds. Industrial Development Revenue Bonds, or IRBs, can be issued by the EDC to finance the acquisition of land, new construction, new equipment or rehabilitation of manufacturing facilities, and are limited obligations payable solely from the revenues of the benefitting company. The interest paid on the bonds is tax exempt because the EDC is a governmental entity. Although the bonds are issued by the EDC, only the benefitting company is responsible for their eventual repayment. The full-faith-and-credit of the county is not involved in any way. The EDC of Macomb County has issued two Variable Rate Demand Limited Obligation Revenue Bonds: AIM Plastics Inc. (of Clinton Township), on June 28, 2007 for \$3,485,000, and TPA, Inc. (of Warren), on December 27, 2007 for \$2,555,000.

The EDC has not met for a couple of years, due in part to the economic slowdown. Moreover, the services provided by the County’s Economic Development Corporation are not required by other local units of government and are now duplicated by those that are offered

through the Michigan Economic Development Corporation. Because of its inactivity and the duplication of services, **the Macomb Economic Development Corporation will be eliminated as an Agency of County government as soon as all legal obligations under previous bond issues are satisfied.** Any successor body with similar purposes will be created in a manner consistent with the provisions and appointment authorities of the Charter.

Finally, there are three boards or commissions (**the Human Services Board, the Community Mental Health Board, and the Veterans Affairs Commission**) that are granted specific duties, responsibilities, and authorities by statute. Each of these bodies, for example, has the authority to hire the Agency's director. While preserving the authority granted to the Executive and Legislative branches by both Charter and law, **this Organization Plan acknowledges and authorizes each of these Agencies to exercise and perform their full authorities, duties and responsibilities granted to them by statute.** In doing this, it is also understood that further legal review will be required to identify specific roles and the scope of authority for each of these three boards and commissions vis-a-vis the Commission and the Executive Office. For example, the Commission still possesses certain Ordinance and budgetary authority for the County and the Executive has overarching responsibility for such things as facilities, personnel policies, and emergency management. The goal is to have this review completed by the end of the calendar year. In addition, the goal is to have the expressed intentions of the Joint Operating Agreement between the Board of Commissioners and the Human Services Board, which terminated on December 31, 2010, fully implemented by the end of the calendar year. Once this transition is complete, the HS Board will exercise its full statutory operating authority over the facility. Finally, since each of these three Agencies depends on the County for various financial, human resource and facilities services, it will also be necessary to conduct a financial review to be sure that the actual amount of County costs being incurred are properly charged back to these three units.

The direct costs associated with the boards and commissions eliminated in this section of the Plan are estimated to be less than \$100,000 annually, and primarily relate to reductions of support staffing and related board and commission expenses. The financial impact in fully transitioning operational control of the Martha T. Berry Medical Care Facility to the Human Services Board, however, is significant. Once this transition is completed, it is expected that the Human Services Board and the new Director will be able to operate the Facility fully within available revenue, thus eliminating the need for the \$1 million annual general fund subsidy currently in place. This level of operating autonomy will be reevaluated should the Facility return to a deficit situation.

Initial Compensation for Article VII Directors.

Section 11.7.4 of the Charter states that the Plan shall include the initial compensation for the directors of the departments established in Article VII and any other departments included in the Organization Plan. The initial compensation for the directors of the four departments established in Article VII is:

Planning and Economic Development	\$125,233
Health and Community Services	124,950
Human Resources and Labor Relations	124,950
Finance	124,950

Since no other departments were created through this Organization Plan, no other compensation information is provided.

Consolidations

Although not a part of this Organization Plan, there are a few consolidations of activities which will be implemented during the upcoming budget process that are being highlighted for informational purposes only.

The “Macomb County Organization Chart” which appears on page 11 of the 2011 Adopted Budget document (Exhibit I) depicts a mixture of Agencies, activities, and budgetary cost centers. Five of the “boxes” on the Chart are actually sub-activities of a parent Agency rather than Agencies in themselves. In the future, these subsets will be consolidated within their parent Agencies. Since no transfers of powers, duties or functions among Agencies are involved, there are no changes being recommended or required under this Organization Plan. The five areas of consolidation are:

Protective Services will be consolidated within the Sheriff’s Department
The Animal Shelter will be consolidated within the Health Department
Security will be consolidated within Facilities and Operations
Telecommunications will be consolidated within Information Technology
Technical Services will be consolidated within Emergency Management

The Social Services Board will also be removed from the Chart since it is not an operating unit of County government and has no direct budgetary allocation. It will appear under its statutory name (Human Services Board) along with the other boards and commissions listed on the County’s website.

SUMMARY

This initial Organization Plan submitted by the County Executive proposes the elimination of two administrative Agencies of County government:

- The Reference and Research Center
- The Risk Management and Safety unit.

The services provided by the Reference and Research Center will be phased out by the end of the calendar year. The Library for the Blind and Physically Handicapped and the Macomb Literacy Partners programs will be continued either in their current form or in partnership with other County organizations. The insurance functions of the Risk Management and Safety unit will be transferred to the Finance Department and the health and safety functions will be transferred to the Human Resources and Labor Relations Department. These changes are to be fully implemented by the end of the calendar year. When combined with the savings from the restructuring of the Department of Roads, these modifications will produce an estimated annual savings of \$1.4 million beginning in the 2012 Fiscal Year.

This Organization Plan also proposes and/or acknowledges the elimination of seven Boards

and Commissions as Agencies of County Government:

- The Road Commission (eliminated per Section 11.5.2 of the Charter)
- The Partnership for Sustainability
- The Historical Commission
- The Juvenile Justice Advisory Board
- The Commission on Women
- The Economic Development Corporation.

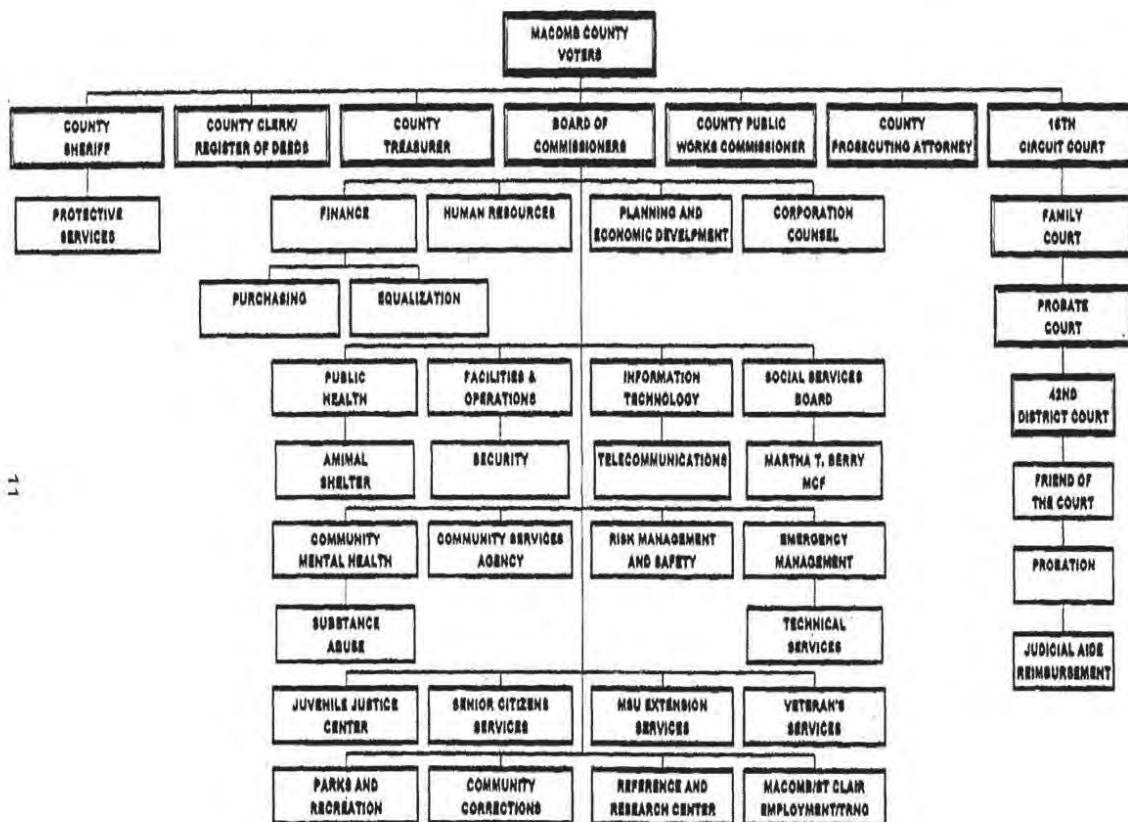
The Road Commission was eliminated by voter preference on November 3, 2009. The Partnership for Sustainability has been inactive and does not meet the definition of an Agency under the Charter. The Historical Commission, the Juvenile Justice Advisory Board, the Water Quality Board, and the Commission on Women were created under the prior form of government and are no longer compatible with the new structure of County government and the appointment provisions created by the new Charter. The Economic Development Corporation has been inactive and now duplicates programs available through the State. These boards and commissions will be eliminated upon approval of the plan or as required by law. The financial impact of eliminating these seven Agencies of County government will approximate \$100,000 annually.

Finally, while preserving the authority granted to the Executive and Legislative branches by both Charter and law, this Organization Plan acknowledges and authorizes the Human Services Board, the Community Mental Health Board, and the Veterans Commission to exercise and perform their full authorities, duties and responsibilities granted to them by statute. Further legal and financial reviews will be conducted by the end of the calendar year to delineate more specifically the statutory authority of these Agencies and the appropriate chargebacks for services being provided by County government. Turning full operational authority for the Martha T. Berry facility over to the Human Services Board is expected to eliminate the need for a \$1 million annual general fund subsidy for that Agency.

Since all of the changes proposed in this Plan will be implemented by the end of the calendar year, the savings beginning in FY 2012 will approximate \$2.5 million annually.

Exhibit I

Previous Organization Chart from the 2011 Adopted Budget



11

Exhibit II**BOARDS AND COMMISSIONS****Boards and Commissions**

Macomb County encourages community involvement. The county maintains several boards and commissions which have been established by federal, state and local laws and Board of Commissioners' resolutions. Appointing authority is shared between the Office of the County Executive and the Board of Commissioners. Specific details for each board or commission is available by visiting the links below.

[Click here](#) for current and upcoming vacancies

Click the following links to access the two required application documents:
[Application for Appointment](#) & [Consent for Background Check](#).

Select a board or commission below for a description:

- [Area Agency on Aging](#)
- [Board of Canvassers](#)
- [Brownfield Redevelopment Authority](#)
- [Building Authority Commission](#)
- [Civil Service Commission](#)
- [Cobo Authority](#)
- [Citizens Advisory Council](#)
- [Commission on Women](#)
- [Community Action Advisory Board](#)
- [Community Corrections Advisory Board](#)
- [Community Mental Health Services Board](#)
- [Criminal Justice Building Authority](#)
- [Economic Development Corporation](#)
- [Friend of Court Citizen Advisory Committee](#)
- [Health Department Hearing Board](#)
- [Historical Commission](#)
- [Hospital Finance Authority Board](#)
- [Huron-Clinton Metropolitan Authority](#)
- [Jury Commission](#)
- [Juvenile Justice Advisory Board](#)
- [Local Emergency Planning Commission](#)
- [Macomb Orchard Trail Commission](#)
- [Macomb / St. Clair Workforce Development](#)
- [Parks & Recreation Commission](#)
- [Partnership for Sustainability](#)
- [Retiree Health Care Board](#)
- [Retirement Commission](#)
- [Road Commission](#)
- [SEMCOG \(Southeast Michigan Council of Governments\)](#)
- [SMART Board](#)
- [Social Services Board](#)
- [Solid Waste Planning Committee](#)
- [Substance Abuse Advisory Council](#)

- [Traffic Safety Association](#)
- [United Way FEMA Board](#)
- [Veterans Affairs Commission](#)
- [Water Quality Board](#)
- [Zoological Authority](#)

B. 2015 Organization Plan

On January 28, 2015, the County Executive submitted a perfunctory memorandum regarding the proposed 2015 Organization Plan to the Commission. On January 29, 2015, the Commission received another submission serving as the proposed 2015 Organization Plan from the County Executive. The Commission voted to approve an amended 2015 Organization Plan.

The 2015 Organization Plan approved by the Commission is incorporated below.

Introduction

The County Executive submitted the following to the Board of Commissioners (the “Commission”) as the proposed 2015 County Organization Plan:

Organization Plan

Submitted by Mark A. Hackel, County Executive
January 29, 2015

This Plan is being submitted as required by the Macomb County Home Rule Charter. I am not proposing any changes to the organization of County government at this time for the simple reason that I don’t believe any changes are necessary at this time. Since no changes are being proposed, there is no financial impact on the County. Public access to the expenditure records of the County will continue to be provided in the same manner as outlined in the Organizational Plan approved by the Commission in 2011.

On March 19, 2015, the Commission voted to amend the proposed County Organization Plan so that it consists of this document.

The Executive’s proposal seems to stem from a view that the Home Rule Charter of the County of Macomb (the “Charter”) requires the Executive only submit proposed changes in the County government organization. Therefore, according to this view, if the Executive proposes no changes in County government organization, the Executive may propose an organization plan without substance.

The Commission reads the Charter differently. Section 3.6 of the Charter governs the process for proposing and approving the County organization plan:

Section 3.6 Organization Plan

3.6.1 Except as provided in Article XI, within 90 days after the start of a new term of office the Executive shall submit a proposed Organization Plan to the Commission which includes an explanation of the reasons for the plan and an evaluation of its financial impact.

3.6.2 The Organization Plan may provide for the creation or abolition of any Agency except for the departments and offices created by Article VII of this Charter and any

others expressly exempted by this Charter or prohibited from being created or abolished by law. The Organization Plan may also transfer powers, duties, and functions of the County among the Agencies, including those created by Article VII of this Charter, if not prohibited by this Charter or law. The Executive may submit proposed amendments to the Organization Plan to the Commission at any time.

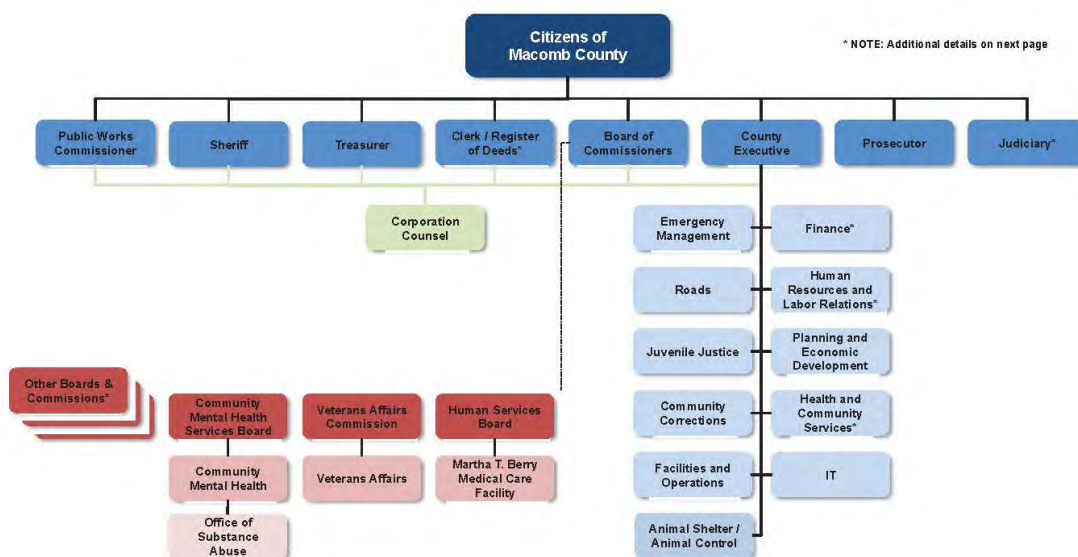
3.6.3 The Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner.

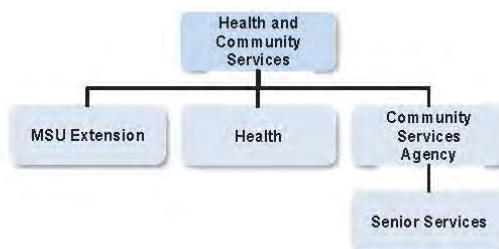
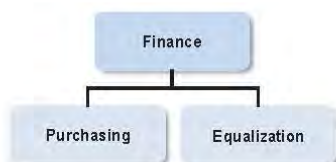
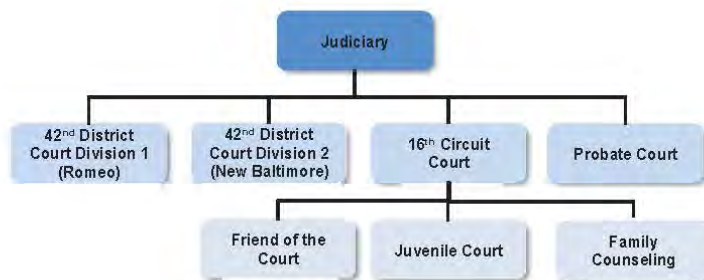
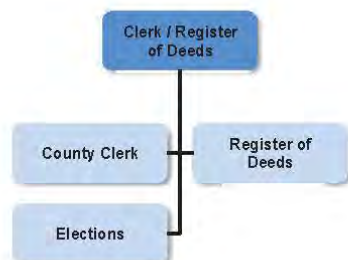
3.6.4 The Commission shall hold a public hearing on the proposed Organization Plan or any proposed amendment within 50 days after its submission and must either approve, with or without amendment, or reject the proposed Organization Plan or any proposed amendment within 75 days after its submission.

The Commission understands these provisions to require the Executive to submit an organization plan, regardless of whether or not that Executive wishes to make any changes in the previous organization plan. Similarly, regardless of whether or not the organization plan proposed by the Executive includes any changes and regardless of whether or not the Commission wishes to see any changes in it, the Commission must hold a public hearing on the organization plan proposed by the Executive within 50 days after the Executive submits it to the Commission. Following the public hearing, the Commission has 3 alternatives. It may by resolution (1) approve the proposed organization plan without amendments, (2) approve the proposed organization plan with amendments, or (3) reject the proposed organization plan.

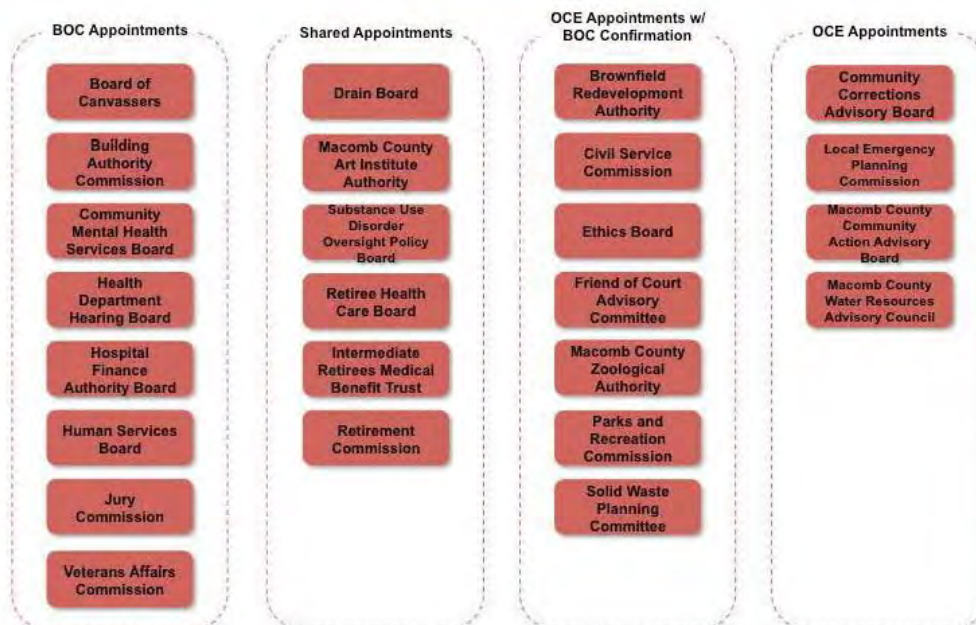
Organizational Chart

An organization chart of Macomb County government is included below. That chart is meant to depict the general organization of County government. It does not depict every department, office or agency. To the extent a department, office or agency is not depicted, its organization and relationship with other departments, offices and agency remains the same as on December 31, 2014.





Other Boards and Commissions



Plan Continuity

As represented in the 2011 Organization Plan, this Plan only addresses those Agencies falling under the Executive or the Commission. *No recommendations for change are being made for administrative functions that are under the jurisdiction of Countywide Elected Officials or for the courts.* The courts are not addressed by this Organization Plan because they are at least partially within the purview of the elected judges who are state, rather than County officers.

This 2015 Organization Plan basically continues the organization of County government as it existed on December 31, 2014. Clarifications are made with respect to the organization chart and the Martha T. Berry Medical Care Facility and Human Services Board so this plan reflects legal and organizational realities.

As indicated on the Organization Chart, each Countywide Elected Official has roles, responsibilities, deputies and other subordinates as provided in the Charter and corresponding state law. The Charter lays out their responsibilities as follows:

ARTICLE VI DEPARTMENTS HEADED BY COUNTYWIDE ELECTED OFFICIALS

Section 6.1 Sheriff

The department of sheriff is created. The head of the department is the elected sheriff.

6.1.1 The powers and duties of the department are those provided by law for a county sheriff.

6.1.2 The department may contract with units of government within the County to provide services to such units upon approval of the Executive and the Commission.

Section 6.2 Prosecuting Attorney

The department of prosecuting attorney is created. The head of the department is the elected prosecuting attorney.

6.2.1 The powers and duties of the department are those provided by law for a prosecuting attorney.

Section 6.3 County Clerk and Register of Deeds

The departments of county clerk and register of deeds are created and shall remain combined as they existed at the effective date of this Charter. The head of the combined departments is the elected county clerk.

6.3.1 The powers and duties of the department are those provided by law for county clerks and registers of deeds.

6.3.2 The department shall maintain central records of the County as provided by law or ordinance. The county clerk, with the assistance of the Executive, shall preserve and keep all records and materials of the first and any future Charter Commission, including but not limited to, all audio and video recordings of the Charter Commission and its committees.

Section 6.4 County Treasurer

The department of county treasurer is created. The head of the department is the elected treasurer.

6.4.1 The powers and duties of the department are those provided by law for a county treasurer, including the receipt, deposit, and investment of funds belonging to and under the control of the County.

Section 6.5 Public Works

The department of public works is created. The head of the department is the elected public works commissioner.

6.5.1 The powers, duties, and functions of the department are the powers, duties, and functions of the public works commissioner combined with the powers, duties, and functions of the drain commissioner as existed at the effective date of this Charter.

6.5.2 The public works commissioner shall be elected in the same manner and for the same term as a county drain commissioner as provided by law.

Section 6.6 General Provisions

6.6.1 The Countywide Elected Officials provided for in this Article shall be elected on a partisan basis. The powers and duties specifically delegated by this Charter to departments created by this Article shall not be reassigned by an Organization Plan, but additional powers and duties may be assigned by an Organization Plan to any department.

6.6.2 The Countywide Elected Officials provided for in this Article shall manage their departments and exercise their powers and duties within authorized budget appropriations. These departments are part of County government and do not exist as separate or independent entities except as provided by law.

6.6.3 A vacancy in an office created under this Article occurs, and shall be filled within 90 days, in the manner provided by law. If the next general November election is to be held more than 182 days after the vacancy occurs, and is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

6.6.4 The existence, organization, qualifications, powers, and duties of the Countywide Elected Officials and departments created by this Article shall continue as they existed upon the effective date of this Charter, but shall be subject to the following:

- (a) The Michigan Constitution and state law;
- (b) All Charter provisions of general or specific applicability; and
- (c) All personnel, budgeting, and expenditure recommendations of the Executive as approved by the Commission.

6.6.5 The Countywide Elected Officials provided for in this Article shall not cause the expenditure of taxpayer funds or public monies for legal counsel unless permitted by law, but may seek advice and counsel from Corporation Counsel upon request. If a Countywide Elected Official provided for in this Article desires to protect or seek authority to implement the rights, powers, and duties of the office, the Executive may authorize the use of Corporation Counsel, or the Commission may authorize the use of independent legal counsel, to seek injunctive, mandamus, or declaratory relief from a court of competent jurisdiction to clarify or enforce the rights, powers, and duties of the office. Individual departments shall not file suit against each other, and any action against the County shall name the County as a party. All actions relating to the rights,

powers, or duties of a Countywide Elected Official provided for in this Article shall be solely for injunctive, mandamus, or declaratory relief against the County.

As is apparent from the quoted provisions, the Charter largely defers to state law with respect to the offices, duties and authority of Countywide Elected Officials. This Organization Plan recognizes the Charter and state law with respect to such officials and proposes no changes to the organization of their offices.

In addition to departments headed by Countywide Elected Officials, the Charter requires certain other offices and departments. The Charter lays this out as follows:

ARTICLE VII ADDITIONAL DEPARTMENTS AND OFFICES

Section 7.1 Planning and Economic Development

7.1.1 The department of Planning and Economic Development is created. The department shall:

- (a) Promote, coordinate, and oversee economic development initiatives within the County, including those that receive or will generate public funds;
- (b) Prepare comprehensive plans for economic development and represent the County in economic development planning activities with other jurisdictions;
- (c) Assist the Executive in planning related to the properties owned by the County, and undertake planning for the development of those properties;
- (d) Make available to cities, townships, and villages in the County, at their request, advice and assistance on matters related to planning functions of the County; and
- (e) Address matters related to the planning functions of the County. Approved by the Macomb

Section 7.2 Health and Community Services

7.2.1 The department of Health and Community Services is created. The department shall:

- (a) Supervise and carry out the performance of County public health and community service programs; and
- (b) Supervise and carry out environmental protection programs.

7.2.2 The office of senior services is created. The office shall coordinate the operations of the County that provide services for the aging and senior citizens, and shall serve within County government as the advocate for senior citizens. The office shall be supervised by an Appointee of the Executive subject to confirmation by the Commission. The coordination of services for the aging and for seniors and the advocacy for senior citizens may not be removed from this office by an Organization Plan.

Section 7.3 Human Resources and Labor Relations

7.3.1 The department of Human Resources and Labor Relations is created. The department of Human Resources and Labor Relations shall:

- (a) Formulate and direct the County's overall human resource program;
- (b) Negotiate all labor and employee relations matters on behalf of the County;
- (c) Administer collective bargaining agreements of the County;

(d) Establish employment specifications and protocols for County Employees not covered by civil service; and

(e) Assist the civil service commission.

7.3.2 Notwithstanding the requirements set forth in Section 7.3.1, the Executive shall submit all collective bargaining agreements to the Commission for final ratification or rejection.

Section 7.4 Finance

The department of Finance is created. The department of Finance shall:

(a) Effectuate the provisions of Article VIII of this Charter; and

(b) Administer financial affairs of the County in accordance with law.

Section 7.5 Corporation Counsel

7.5.1 The office of Corporation Counsel is created. Corporation Counsel shall be the chief legal counsel to the County and:

(a) Direct and supervise the office of Corporation Counsel;

(b) Represent the County, the Executive, the Commission, the department heads, and Agencies in civil legal matters affecting the County, except as provided by Charter, law, or ordinance; and

(c) Represent the Countywide Elected Officials created by Article VI in the manner provided in Article VI of this Charter.

7.5.2 Corporation Counsel shall be appointed by the Executive and confirmed by the Commission.

7.5.3 Corporation Counsel may:

(a) Hire assistant attorneys within budgetary appropriations in accordance with the policies of the County;

(b) Appoint special counsel upon approval of the Commission; and

(c) Keep the Executive and the Commission advised on pending litigation matters on a periodic basis.

7.5.1 Corporation Counsel and all assistant attorneys shall be licensed to practice law in the State of Michigan.

7.5.2 The Executive and the Commission shall include in the general fund of the annual budget for each fiscal year, such sums as the Executive and the Commission deem necessary for the Corporation Counsel to carry out its duties.

Section 7.6 General Provisions Governing Departments and Agencies

Agencies of the County may be created only by ordinance or an Organization Plan or as otherwise provided by law. All departments created by this Article shall perform such other duties as required by this Charter, law, Organization Plan, or the Executive.

Section 7.7 Directors

Each department created in this Article shall be headed by an at will director. With the approval of the Executive, a director may hire employees within budgetary appropriations in accordance with the policies of the County.

The Charter therefore creates these offices, prescribes the duties and authority of the offices and departments and limits the ability of the Executive and the Commission to alter them.

Of the offices created by the Charter, the office of Corporation Counsel is unique. Corporation Counsel is to serve as legal counsel to the County, the Executive, the Commission, County officials, and Agencies in civil legal matters and is to provide advice and counsel to Countywide Elected Officials. Therefore, all of those officers and Agencies are clients of Corporation Counsel. The Organization Chart reflects that working relationship.

The Charter also expressly sets aside certain agencies from any modification. Those provisions state as follows:

Section 10.13 Veterans' Affairs

The Department of Veterans' Affairs existing at the time this Charter becomes effective shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of available millage funding for veterans' affairs.

Section 10.14 Community Mental Health

The Community Mental Health Agency existing at the time this Charter becomes effective, including its administration of substance abuse services, shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of state and federal funding for community mental health.

The organization chart also reflects the relationship of these agencies and the bodies that oversee them.

As noted in the 2011 Organization Plan, the former County Road Commission was reorganized into the Department of Roads in accordance with a voter approved ballot proposal. There are also some departments in County government that are neither specified by state law or the Charter. The Office of Emergency Management is an inter-disciplinary organization of emergency responders, community leaders, planners and volunteer organizations to provide strategic management processes to prepare and defend critical County assets from natural and other threats and to ensure the continuity of County governance. The Juvenile Justice Center is a childcare institution under the Executive's administration to provide a safe, secure, and caring environment to youth remanded to custody by the family court. Macomb County Community Corrections is a community-based sanction and rehabilitative program to at relieve prison and jail overcrowding through court-approved sentencing alternatives. The offices of Information and Technology and of Facilities and Operations provide needed facilities and technology operations and oversight.

As indicated on the Organization Chart, other County boards and commissions will continue as currently provided. The following are County created or are otherwise Macomb County bodies:

Members of the following County bodies are appointed by the Commission:

- Board of Canvassers – a Macomb County body.
- Building Authority Commission – a public body corporate created by Macomb County.
- Community Mental Health Services Board – a Macomb County body.
- Health Department Hearing Board – a Macomb County agency.
- Hospital Finance Authority Board – a public body corporate created by Macomb County.

- Human (f/k/a Social) Services Board – a public body corporate created by state law.
- Jury Commission – a Macomb County body.
- Veterans Affairs Commission – oversees a Macomb County department created by state law and recognized by the Charter.

Members of the following County bodies have members that are appointed by the Commission and members that are appointed by the Executive:

- Drain Board – a Macomb County body.
- Macomb County Art Institute Authority – a public body corporate created by Macomb County.
- Substance Use Disorder Oversight Policy Board – a body required by state law.
- Retiree Health Care Board – a Macomb County body.
- Intermediate Retirees Medical Benefit Trust – a Macomb County body.
- Retirement Commission – a Macomb County body.

Members of the following County bodies are appointed by the Executive with confirmation of the Commission:

- Brownfield Redevelopment Authority – a public body corporate created by Macomb County.
- Civil Service Commission – a Macomb County agency.
- Ethics Board – a Macomb County body required by Charter.
- Friend of Court Citizen Advisory Committee – a Macomb County body.
- Macomb County Zoological Authority - a public body corporate created by Macomb County.
- Parks and Recreation Committee – a Macomb County body.
- Solid Waste Planning Committee – a Macomb County body.

Members of the following are appointed by the Executive:

- Community Corrections Advisory Board – a Macomb County body.
- Local Emergency Planning Commission – a Macomb County body.
- Macomb County Community Actions Advisory Board – a Macomb County body now within the Macomb County Community Services Agency (MCCSA).
- Macomb County Water Resource Advisory Council

The Economic Development Corporation is not active, but cannot yet be eliminated because there are outstanding bonds. When those bonds are fully paid, the Economic Development Corporation can be dissolved.

This 2015 Organization Plan basically continues the organization of County government as it existed on December 31, 2014. Clarifications are made with respect to the organization chart and the Martha T. Berry Medical Care Facility and Human Services Board so this plan reflects legal and organizational realities. Aside from the financial impact explained below with respect to the Human Services Board, there are no financial impacts expected to result from this plan.

Martha T. Berry Medical Care Facility

The 2011 Organization Plan provided a direction for the Human Services Board (“HSB”) and the Martha T. Berry Medical Care Facility (the “MTBMCF”). Differences in understandings of the applicable law between the OCE and the HSB in 2013 and 2014 resulted in a lawsuit seeking a court’s determination and an opinion and order issued by Macomb County Circuit Judge Biernat in that clarified the relationship of the HSB and the MTBMCF with the County.¹ As some differences of understanding continued to be expressed following the conclusion of that lawsuit, on October 16, 2014, the Commission adopted a resolution stating its position concerning the relationship of the HSB and the MTBMCF with the County.

Subsequent action by the County’s Retirement Commission and a 2014 amendment to the Macomb County Employees Retirement System Ordinance make it clear that employees at the MTBMCF will continue to be eligible to participate in the County Employees Retirement System. The Macomb County Retiree Health Care Board of Trustees took a similar position with respect to MTBMCF employees who were eligible for retiree health care benefits.

Some aspects of relationship of the HSB and the MTBMCF with the County are clearly set out in applicable state law. Others are provided by the Joint Operating Agreement, dated January 22, 2009, among the Commission, the HSB, and four labor unions – the AFSCME, the SEIU, the MNA, and the UAW (the “JOA”).

The HSB was created pursuant to state law. The state Social Welfare Act provides for the creation of county social welfare boards (later referred to as county family independence agency board boards and, now, as county human services boards).² The HSB is a public body corporate³ the 3-member board of which consists of two County residents appointed by the Commission and one County resident appointed by the state.⁴ The hybrid state-county nature of the HSB is not dissimilar to that of other county agencies.⁵

The MTBMCF is and must continue to be County-owned⁶ and a county board of commissioners may levy a tax to construct or extend a medical care facility.⁷ A county board of commissioners (and only a board of commissioners) may delegate the supervision (oversight) and operation of a medical care facility to its HSB.⁸

Prior to the JOA, all MTBMCF employees were County employees. The JOA did not change their status as County employees⁹ and *HSB v Hackel* did not reflect any change in their

¹ *Macomb County Human Services Board v Hackel*, Case No. 2013-3032-CZ, decided August 28, 2014 (cited *HSB v Hackel*).

² MCL 400.45 and 400.46.

³ MCL 400.81.

⁴ MCL 400.46(1).

⁵ E.g., the state and the county are co-employers of court employees. County drains are county agencies but are separate entities. MCL 280.5. Other bodies listed above are also created by state law and some even serve state bodies (e.g., the Jury Commission). 6 MCL 400.58.

⁶ MCL 400.58b.

⁷ MCL 400.58b.

⁸ MCL 400.58(1). The Social Welfare Act authorizes a county commission to grant to a human services board supervision and oversight of a medical care facility. *HSB v Hackel*, at 10 and 12.

⁹ The JOA assigned human resources and other responsibilities to the HSB and the unions recognized the HSB as the

employment or the benefits to which they are entitled. However, under the JOA, MTBMCF employees are under the supervision and control solely of the HSB. Under the JOA, the HSB also serves as the County's collective bargaining representative and human resources agent with respect to MTBMCF employees.

The JOA requires Board of Commissioners' approval of the HSB annual budget.¹⁰ Furthermore, state law requires a county HSB to be responsible for collecting funds "for the cost of care given in the [county medical care] facility" which then need to be deposited in the social welfare fund which is maintained by the County Treasurer.¹¹ Even any "grant, devise, bequest, donation, gift," etc. an HSB's receives is "on behalf of the county."¹²

The HSB recently obtained its own federal employer identification number. As state and federal agencies adjust to this change, some delays in Medicaid payments may occur, perhaps interrupting HSB and MTBMCF cash flows.

Other County offices, departments and agencies will discontinue providing internal services to the HSB and the MTBMCF. This will result in the reduction of \$791,586 in payments from the HSB to the County for internal services. Because the County is unlikely to reduce its workforce in other offices, departments and agencies providing those internal services, that reduction of revenues will need to be addressed in other ways and may have a financial impact on the County. The financial impact upon the MTBMCF may be beneficial as the HSB initially reports it has been able to contract with service providers or to undertake such services "in-house" for lower costs than the budgeted internal services payments. The HSB will continue to be obligated to pay the County amounts sufficient to make the County's periodic payments on its outstanding debt for the MTBMCF.

Conclusion

This plan is intended to depict and describe organizational realities in accordance with the Charter and other applicable law.

C. 2019 Organization Plan

On March 21, 2019, the County Executive submitted a proposed 2019 Organization Plan to the Commission. The Commission voted to approve an amended 2019 Organization Plan.

The 2019 Organization Plan approved by the Commission is incorporated below.

On March 21, 2019, the County Executive submitted a proposed 2019 Organization Plan to the Commission. The County Executive's proposed 2019 Organization Plan proposed only one change to the Organization Plan related to implementing the provisions of the Michigan Indigent Defense Commission Act, Public Act 93 of 2013, MCL 780.981 *et seq.*

County's "sole and exclusive representative" for collective bargaining, JOA, §§ IV and V.A.1.

¹⁰ JOA § VI.A.

¹¹ MCL 400.58(1); 400.73a.

¹² MCL 400.78.

The County Executive's proposed 2019 organization plan stated:

this plan acknowledges the creation of an administrative unit within the Executive Branch to implement the requirements of the Michigan Indigent Defense Commission Act (Act 93 of 2013). Among other requirements, once the last four standards become effective later this year, the Act will mandate that the responsibility for administering the indigent defense functions for those judicial entities funded by the County must be transferred from the Judicial to the Executive Branch. Assuming the new standards are in place by then, a budget for Indigent defense will be included in the Executive's recommended budget for 2020.

The Michigan Indigent Defense Commission Act provides for a statewide system of delivering public defense services, and creates the Michigan Indigent Defense Commission ("MIDC"), which "shall propose minimum standards for local delivery of indigent criminal defense services providing effective assistance of counsel to adults throughout th[e] state." MCL 780.985(3). Contrary to the County Executive position, there is no specific requirement that the indigent criminal defense services be transferred from the Judicial Branch to the Executive Branch. Rather, the "delivery of indigent criminal defense services shall be independent of the judiciary but ensure that the judges of this state are permitted and encourage to contribute information and advice concerning that delivery of indigent criminal defense service." MCL 780.991(1)(a); see also MIDC draft Standard 5. The Michigan Indigent Defense Commission Act defines an "[i]ndigent criminal defense system" or "system" as "[t]he local unit of government that funds a trial court." MCL 780.983(h). There is no specific reference to the County Executive.

Financial Impact

The Michigan Indigent Defense Commission Act provides that local governments may "apply to the MIDC for grants to bring the system's delivery of indigent criminal defense services into compliance with the minimum standards established by the MIDC." MCL 780.989(g). A system may submit an estimate of the cost of developing the plan and cost analysis for implementing the plan to the MIDC for approval. MCL 780.993(2). If approved, the MIDC will award the system a grant to pay the approved costs for developing the plan and cost analysis. MCL 780.993(2). If a system expends funds in excess of its local share and the approved MIDC grant to meet unexpected needs in the delivery of indigent criminal defense services, the MIDC will recommend the inclusion of the funds in a subsequent year's grant if all of the expenditures were reasonably and directly related to indigent criminal defense functions. MCL 780.993(16).

A local unit is not required to provide funds to implement the Michigan Indigent Defense Commission Act in excess of its "local share," and the MIDC is required to provide grants to systems to assist them in complying with the minimum standards established by the MIDC. MCL 780.993(8). A "local share" is the system's average annual expenditure for indigent criminal defense services in the 3 fiscal years immediately preceding the creation of the MIDC, excluding money reimbursed to the system by individuals determined to be partially indigent. MCL 780.983(i). If the MIDC determines that funding in excess of the system's "local share" is needed to achieve compliance with the minimum approved standards, excess funding must be paid by the State of Michigan. MCL 780.993(7).

County Contracts

Article IV, Section 4.4(d) of the Charter provides that “the Commission may[] . . . [a]pprove contracts of the County[.]” As a result of a difference in understanding the Charter language and the Commission’s legislative power, in 2012, the County Executive sued the Commission to prevent the Commission from having any approval over County contracts in *Hackel v. Macomb County Com’n*, Case 2012-000916-CZ (Macomb Cir. Ct. 2012). The Michigan Court of Appeals in *Hackel v. Macomb Co Com’n*, 298 Mich. App. 311, 318-21; 826 N.W.2d 753 (2012), held that “[t]he Macomb County Charter unambiguously grants to the Commission the discretionary authority to approve contracts[.]” “there is no language . . . limiting the Commission’s approval authority[.]” and “the fact that the Commission has permission to approve or reject contracts does not mean it must exercise that authority.” The *Hackel* Court also held that the Commission “has exercised [its] discretion to confine its exercise of contract-approval authority[]” by “requir[ing] the Executive to submit only certain types of contracts for its review and approval,” including “contracts providing for the payment of \$35,000 or more in any fiscal year[.]” *Hackel*, 298 Mich. App. at 322. The Court held that not only did the plain language of the Charter give the Commission authority to approve contracts, but that the Commission could also exercise its broad legislative powers, which include “any power granted by law to charter or general law counties unless otherwise provided by this Charter[.]” to approve County contracts. *Hackel*, 298 Mich App at 320-21.

Although *Hackel v. Macomb Co Com’n* did not alter the organizational structure of County government, the decision clarified the Commission’s and the County Executive’s roles and obligations respecting County contracts.

Organizational Charts

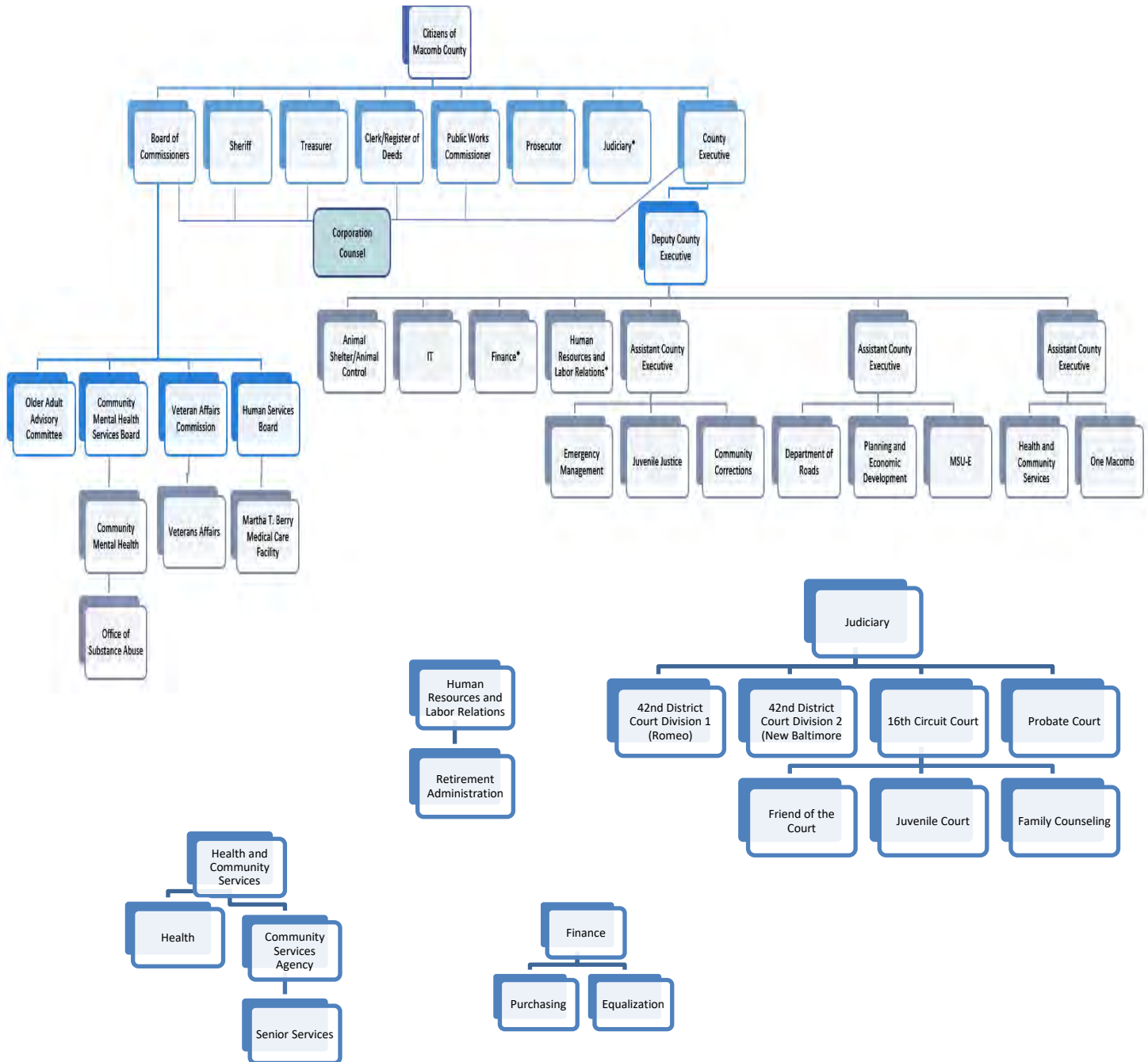
The revised 2019 organizational charts of County government are included on the following pages.

The first organizational chart is amended to include the Deputy County Executive position created by Article III, Section 3.11 of the Charter. Article III, Section 3.8 of the Charter provides that “[t]he Executive shall appoint the Deputy County Executive[.]” The Commission understands these provisions to mean that the Charter allows the County Executive to have one Deputy County Executive, and this Organization Plan and organizational chart reflect this understanding.

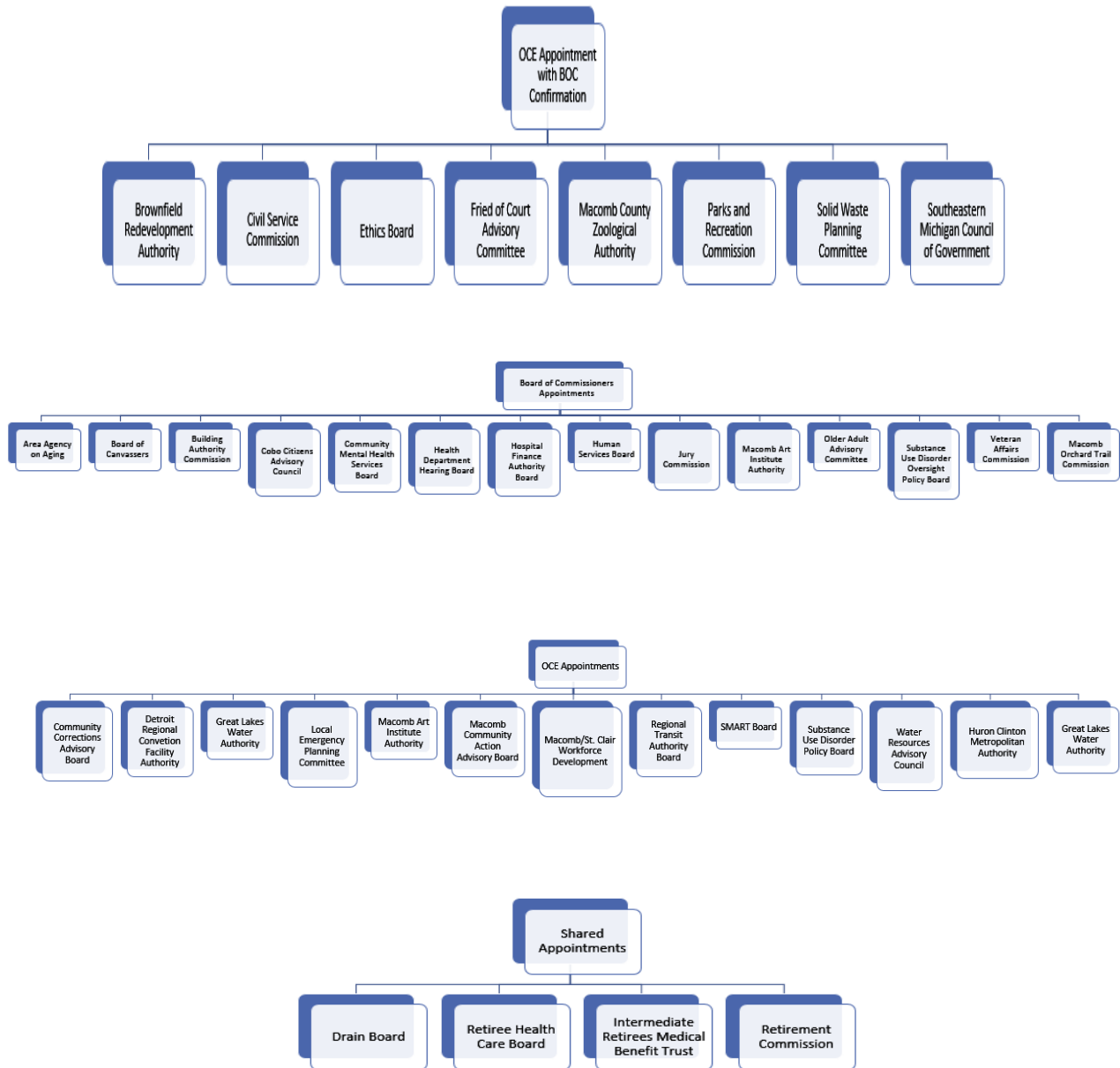
The second organizational chart depicts the boards, commissions, and committees of the Commission. The chart is amended to reflect the Commission’s establishment of the Macomb County Older Adult Advisory Committee on August 31, 2017 through Resolution No. R17-500, to assist the Commission in efficiently conducting its business by advising the Commission “about issues of interest to older adults in the County.” Established pursuant to the Commission’s Charter powers under Article IV, Sections 4.1, 4.4(b), 4.4(j), and 4.5, the Macomb County Older Adult Advisory Committee’s primary purpose is to inquire of older adults residing in Commission districts in the County and other interested persons about challenges, trends, concerns and opportunities affecting older adults in the County and to communicate with the Commission what is learned from that inquiry. The Macomb County Older Adult Advisory Committee’s responsibilities include studying and reviewing local, state, and federal agencies’ programs and documents concerning older adults, researching information regarding challenges, trends, concerns, and opportunities affecting

older adults, maintaining knowledge of pending or enacted legislation affecting older adults in the County, and reporting to the Commission on ideas or plans for changes to federal, state, and local policies.

Macomb County Organizational Chart



Board, Commissions and Committees of the Commission Organizational Charts



Public Access to Expenditure Records

Article III, Section 3.6.3 of the Charter requires that the “[t]he Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner.” In the interest of providing financial transparency to the public in an accessible manner, as required by the Charter, the County website shall provide a cumulative budget report on a monthly basis. The cumulative budget report must describe and identify the date and amount of expenditures, check and reference numbers, budget line items corresponding to the expenditures, status of the expenditures, and the vendors or payees. Compliance with this aspect of the Organization Plan requires the Finance Department to revise the check registers reports for the County, Department of Roads, and Public Works currently available on the County website. The expenditure records described in this Organization Plan must be issued no later than June 30, 2019.

Compensation for Article VII Department Directors

Article XI, Section 11.7.4 of the Charter states that “[t]he Organization Plan shall include the initial compensation for the directors of the departments and heads of offices established in Article VII and any other departments included in the Organization Plan.” The compensation for the directors of the departments and heads of offices established in Article VII as of the date of this Organization Plan is as follows:

Planning and Economic Development	\$105,286 - 131,608
Health and Community Services	\$120,592 - 133,991
Human Resources and Labor Relations	\$120,592 - 133,991
Finance	\$111,091 - 138,864
Corporation Counsel	\$111,091 - 138,864

Conclusion

This Organization Plan is intended to depict and describe organizational realities in accordance with the Charter and other applicable law.

III. ORGANIZATION PLAN CONTINUITY

Except as otherwise provided below, the 2023 Organization Plan incorporates and restates the 2011 Organization Plan, the 2015 Organization Plan, and the 2019 Organization Plan as approved by the Commission.

A. 2023 Organization Plan

On February 22, 2023, the County Executive submitted a proposed 2023 Organization Plan to the Commission. The County Executive’s proposed 2023 Organization Plan proposed no changes to the structure of county government.

This 2023 Reorganization Plan basically continues the organization of County government as it existed on December 31, 2022.

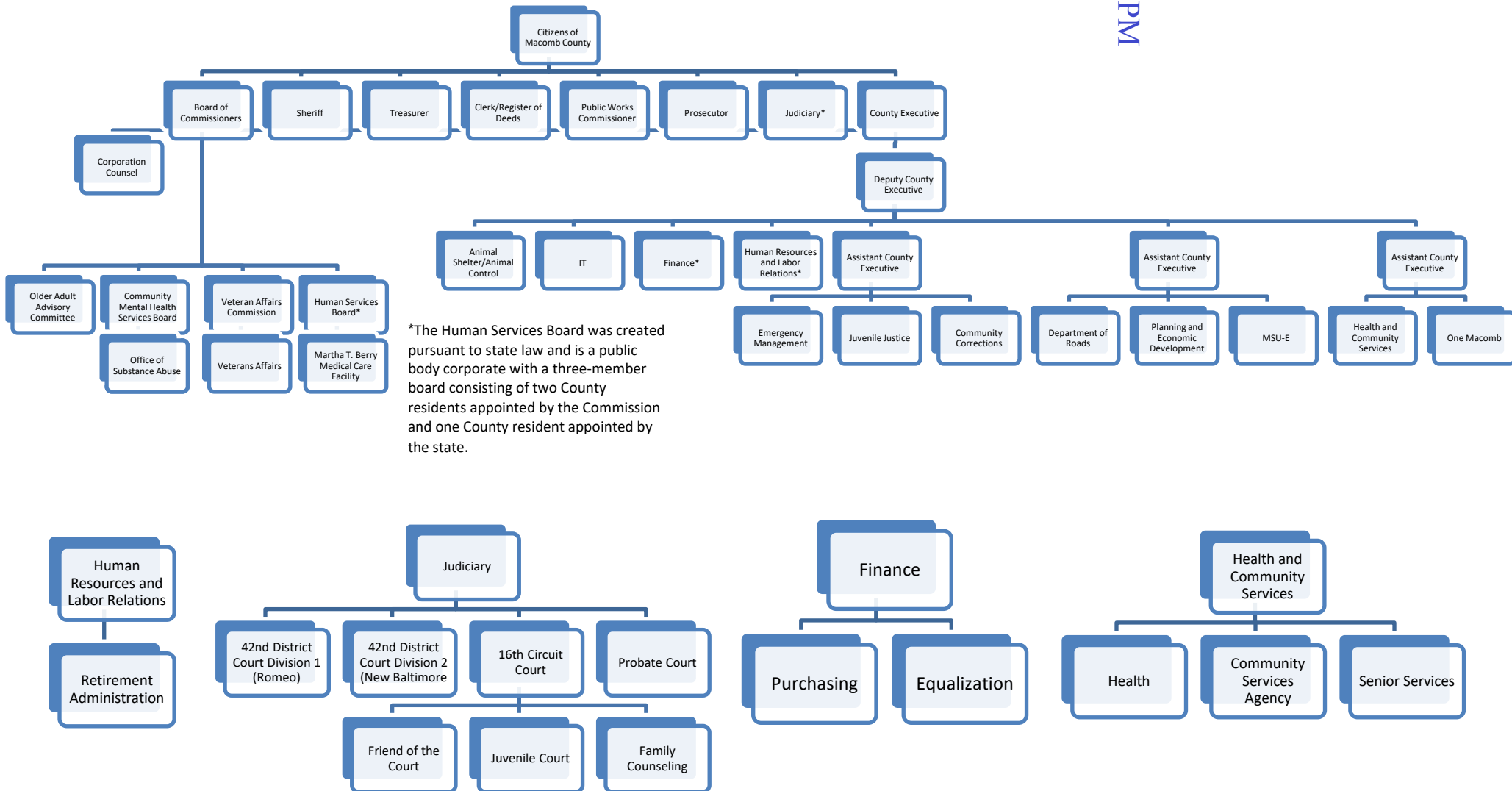
Financial Impact

Article III, Section 3.6.1 of the Charter requires an explanation of the reasons for the plan and an evaluation of its financial impact. Because there are no changes to the structure of county government, there will be no financial impact.

Organizational Charts

A revised 2023 Macomb County Organizational Chart is included on the following pages. The Macomb County Organizational Chart is amended to reflect that Senior Services is now a standalone office.

Macomb County Organizational Chart



Public Access to Expenditure Records

Article III, Section 3.6.3 of the Charter requires that the “[t]he Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner.” In the interest of providing financial transparency to the public in an accessible manner, as required by the Charter, the County website shall provide a cumulative budget report on a monthly basis. The cumulative budget report must describe and identify the date and amount of expenditures, check and reference numbers, budget line items corresponding to the expenditures, status of the expenditures, and the vendors or payees. The expenditure records described in this Organization Plan must be issued no later than June 30, 2023.

Compensation for Article VII Department Directors

Article XI, Section 11.7.4 of the Charter states that “[t]he Organization Plan shall include the initial compensation for the directors of the departments and heads of offices established in Article VII and any other departments included in the Organization Plan.” The compensation for the directors of the departments and heads of offices established in Article VII as of the date of this Organization Plan is as follows:

Planning and Economic Development	\$114,230 - 147,748
Health and Community Services	\$114,230 - 147,748
Human Resources and Labor Relations	\$114,230 - 147,748
Finance	\$114,230 - 147,748
Corporation Counsel	\$114,230 - 147,748

IV. CONCLUSION

This Organization Plan is intended to depict and describe organizational realities in accordance with the Charter and other applicable law.

Macomb County Charter Provisions Using “By Law”

ARTICLE I

HOME RULE/GENERAL PROVISIONS

Section 1.2 Home Rule Powers

The home rule County of Macomb possesses home rule power as granted by Article VII, Section 2 of the Constitution to provide for any matter of County concern together with all other powers which a county may possess under the Constitution and laws of this state. The enumeration of powers in this Charter shall not be construed to exclude or limit other powers possessed by the County by implication or operation of law.

ARTICLE II

ETHICS

Section 2.1 Standards

Public Servants of the County shall observe the highest standards of ethical conduct and are obligated to:

* * *

- (d) Conduct public business openly, as provided by law, in an atmosphere of respect and civility; and

Section 2.6 Complaints and Sanctions

2.6.5 Ethics Board determinations are final, reviewable only by a court as provided by law.

ARTICLE III EXECUTIVE

Section 3.5 Authority, Duties, and Responsibilities

The Executive has the authority, duty, and responsibility to:

- (a) Supervise, coordinate, direct, and control all County departments except for departments headed by Countywide Elected Officials other than the Executive, facilities, operations, and services except as otherwise provided by this Charter or law;
- (b) Enforce all laws in the County except as provided for by this Charter or law;

Section 3.6 Organization Plan

3.6.2 The Organization Plan may provide for the creation or abolition of any Agency except for the departments and offices created by Article VII of this Charter and any others expressly exempted by this Charter or prohibited from being created or abolished by law. The Organization Plan may also transfer powers, duties, and functions of the County among the Agencies, including those created by Article VII of this Charter, if not prohibited by this Charter or law. The Executive may submit proposed amendments to the Organization Plan to the Commission at any time.

Section 3.8 Appointments

Unless otherwise provided by this Charter or law:

- (a) The Executive shall appoint the Deputy County Executive, executive staff, department directors, members of boards and commissions, County representatives on intergovernmental bodies, and all other appointed officials or representatives;
- (b) With the exception of the Deputy County Executive, appointments by the Executive require approval by the Commission unless such appointments are exempted from approval by this Charter or law. If the Commission fails to approve or reject a proposed appointment within 75 days after its submission, the appointment becomes effective;

* * *

- (e) Appointees of the Executive shall serve at will, at the pleasure of the Executive unless otherwise provided by law or contract;

Section 3.9 Veto Authority

Unless prohibited by law, the Executive may veto an ordinance, a line item of an ordinance appropriating money, or a resolution having the effect of law or approving a contract, by transmitting to the Commission notice of the veto and reasons for the veto. . . .

Section 3.12 Removal by Governor

The Executive may be removed from office by the governor for the same reasons and with the same due process as provided by law for the sheriff, prosecuting attorney, county clerk, and county treasurer.

Section 3.14 Vacancies

3.14.1 The office of the Executive becomes vacant in the manner provided by law for the offices of sheriff, prosecuting attorney, county clerk, and county treasurer.

Section 3.15 Filling a Vacancy

A vacancy in the office of the Executive shall be filled in the following manner:

* * *

- (b) The office of the Executive shall be filled in the case of vacancy by holding a special primary election on the next August election day, in the manner provided by law, followed by a special election to be held on the next November election day for which it is possible to place the office of Executive on the ballot in the manner provided by law.

. . .

ARTICLE IV LEGISLATIVE

Section 4.2 Qualifications of a Commissioner

A person who is a registered and qualified elector in the Commissioner district where the person resides as of the deadline for filing to run for the office of Commissioner is qualified to serve as a Commissioner for that district, unless the person is otherwise prohibited by law from holding the office of Commissioner.

Section 4.4 Powers and Duties

In addition to other powers and duties prescribed in this Charter, the Commission may:

* * *

- (c) Appropriate funds, levy taxes, fees, and other charges, and authorize borrowing as provided by this Charter and applicable laws;

* * *

- (h) Appoint, approve, and remove members of committees, boards, and commissions as provided by this Charter or law; . . .

Section 4.6 Ordinances and Resolutions

The Commission shall act by ordinance if required by this Charter or law, otherwise by resolution. . . .

Section 4.8 Vacancies

4.8.3 If the vacancy is filled in the first year of the term, the appointee shall serve until a successor is elected in a special election called by the Commission in accordance with law. If the vacancy is filled in the second year of the term, the appointee shall serve out the unexpired term.

ARTICLE V

APPORTIONMENT AND ELECTIONS

Section 5.1 Apportionment of County Commission Districts

The County Apportionment Commission shall establish Commission districts in the manner required by law within 60 days after the most recent final decennial census figures are certified by the United States Government. . . .

Section 5.2 County Apportionment Commission

Unless otherwise required by law, the County Apportionment Commission consists of the County Clerk, the County Treasurer, the Prosecuting Attorney, and the statutory County chairperson of each of the 2 political parties whose candidates for Secretary of State received the most votes in the last election for that office. . . .

Section 5.3 Apportionment Procedure

Unless otherwise required by law, the County Apportionment Commission shall file an apportionment plan with the County Clerk, at which time the plan shall become effective. . . .

Section 5.4 Appeal of an Apportionment Plan

Unless otherwise provided by law, any registered voter of the County may, within 30 days of the filing of the plan with the County Clerk, petition the Court of Appeals to determine if the plan complies with the law and this Charter. A decision of the Court of Appeals may be appealed to the State Supreme Court as provided by law.

Section 5.6 Elections

The election of Countywide Elected Officials and Commissioners shall be conducted at the times and in the manner required by this Charter and law.

ARTICLE VI

DEPARTMENTS HEADED BY COUNTYWIDE ELECTED OFFICIALS

Section 6.1 Sheriff

The department of sheriff is created. The head of the department is the elected sheriff.

6.1.1 The powers and duties of the department are those provided by law for a county sheriff.

Section 6.2 Prosecuting Attorney

The department of prosecuting attorney is created. The head of the department is the elected prosecuting attorney.

6.2.1 The powers and duties of the department are those provided by law for a prosecuting attorney.

Section 6.3 County Clerk and Register of Deeds

The departments of county clerk and register of deeds are created and shall remain combined as they existed at the effective date of this Charter. The head of the combined departments is the elected county clerk.

6.3.1 The powers and duties of the department are those provided by law for county clerks and registers of deeds.

Section 6.4 County Treasurer

The department of county treasurer is created. The head of the department is the elected treasurer.

6.4.1 The powers and duties of the department are those provided by law for a county treasurer, including the receipt, deposit, and investment of funds belonging to and under the control of the County.

Section 6.5 Public Works

The department of public works is created. The head of the department is the elected public works commissioner.

6.5.2 The public works commissioner shall be elected in the same manner and for the same term as a county drain commissioner as provided by law.

Section 6.6 General Provisions

6.6.2 The Countywide Elected Officials provided for in this Article shall manage their departments and exercise their powers and duties within authorized budget appropriations. These departments are part of County government and do not exist as separate or independent entities except as provided by law.

6.6.3 A vacancy in an office created under this Article occurs, and shall be filled within 90 days, in the manner provided by law.

6.6.5 The Countywide Elected Officials provided for in this Article shall not cause the expenditure of taxpayer funds or public monies for legal counsel unless permitted by law, but may seek advice and counsel from Corporation Counsel upon request.

ARTICLE VIII FINANCE

Section 8.1 Financial Management Principles

The County shall employ generally accepted principles of accounting, auditing, and reporting appropriate for local government and as required by law.

Section 8.2 Fiscal Year

The fiscal year of the County shall be established by ordinance as permitted by law.

Section 8.3 Independent Audit

8.3.1 The Commission shall establish from its members an Audit Committee. The Executive, with the consent of the Audit Committee, shall hire an independent certified public accountant to conduct an annual independent audit as required by law. . . .

Section 8.5 Taxing Authority

8.5.1 The County may by ordinance levy and collect any tax, fee, rent, toll, or excise authorized by law.

Section 8.7 Adoption of Line Item Operating Budget

Before the beginning of each fiscal year of the County, the Commission shall adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of law.

Section 8.8 Budget Deficits

8.8.1 If a deficit condition exists at the end of any fiscal year, the Executive shall submit to the governor and state legislature, upon approval by the Commission, a specific 5-year plan for short-term financial recovery and long-term financial stability prior to the adoption of the next annual budget. The 5-year plan shall include those items required by law.

8.8.2 As used in this Section, and unless otherwise provided by law, the term “deficit condition” means a situation where, at the end of a fiscal year, total expenditures, including an accrued deficit, exceed total revenues for that fiscal year, including any surplus carried forward.

ARTICLE X

SPECIFIC POWERS AND PROVISIONS

Section 10.2 Initiative, Referendum, and Recall

10.2.1 The people of the County reserve the powers of initiative and referendum as provided by law. . . .

10.2.2 The people of the County reserve the power to recall Countywide Elected Officials and Commissioners as provided by law.

Section 10.4 Public Utilities

The acquisition, operation, and sale of public utility facilities by the County for furnishing light, heat, or power are subject to the restrictions imposed on cities and villages by the Constitution and applicable law.

Section 10.8 Additional Functions or Services

The County may perform any function or service, and establish or maintain any facilities, not prohibited by law which are necessary or beneficial to the public health, safety, and general welfare of the County. . . .

Section 10.9 Economic Development

The County may create and implement economic development programs, including: (1) the provision of grants for capital development, job creation, and the retention of jobs and capital; (2) the granting of tax abatements; (3) the provision of other incentives for private development; and (4) the exercise of any other power provided by law. . . .

Section 10.12 Removal from Office

In addition to other removal processes provided by law, a Public Servant or contracted employee of the County not subject to a collective bargaining agreement or civil service may be removed from office or employment by the following process

ARTICLE XI TRANSITIONAL PROVISIONS

Section 11.5 Road Commission of Macomb County

11.5.1 Subject to subsection 11.5.2, the Road Commission of Macomb County, consisting of 3 members, 1 of whom shall be a resident of a township within the County, is created pursuant to this Charter as required by law. . . .

11.5.2 If the voters of the County, pursuant to law, approve the reorganization of the board of county road commissioners, the Road Commission of Macomb County existing prior to the effective date of this Charter shall cease to exist and all duties and functions of the Road Commission of Macomb County shall be assumed by a Department of Roads, which shall be subject to an Organization Plan with its core functions remaining intact.

Section 11.7 Salaries and Benefits on Effective Date of Charter

11.7.3 The salaries and benefits for the first Countywide Elected Officials provided for in Article VI who are already serving when this Charter becomes effective shall be continued until modified as permitted by this Charter or by law.

11.7.4 The Organization Plan shall include the initial compensation for the directors of the departments established in Article VII and any other departments included in the Organization Plan. The compensation for all

Appointees and Employees of the County at the effective date of this Charter shall be continued until modified as permitted by this Charter or law.

Section 11.9 Transitional Apportionment

11.9.1 The existing County Apportionment Commission shall provide the apportionment plan as provided by law for the initial election of Commissioners under this Charter in the 2010 primary and general elections.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.1 Public Meetings

Meetings of the Commission and all other County boards, commissions, and committees shall be public as provided by law.

Section 12.2 Freedom of Information

County records are public to the extent provided by law.

Macomb County Charter Provisions Using Both “Law” and “Ordinance”

ARTICLE I HOME RULE/GENERAL PROVISIONS

Section 1.4 Definitions

As used in this Charter:

* * *

- (b) Agency means a department, office, board, commission, or other administrative unit of County government, whether created by Charter, ordinance, or law.

ARTICLE II ETHICS

Section 2.5 Powers and Duties of the Ethics Board

2.5.1 Within 180 days after approval of the 5 initial Ethics Board Members, the Ethics Board shall propose rules of procedure for the enforcement of the ethics provisions of this Charter, ordinance, and law, and submit them to the Commission for approval by resolution. . . .

Section 2.6 Complaints and Sanctions

2.6.1 A complaint alleging violation of an applicable ethics provision may be filed with the Ethics Board. The complaint must be signed by the complainant whose identity, as well as all information relating to the complaint, shall be kept confidential except as required by law or ordinance. . . .

ARTICLE III EXECUTIVE

Section 3.5 Authority, Duties, and Responsibilities

The Executive has the authority, duty, and responsibility to:

* * *

- (c) Discharge the duties granted the Executive by this Charter, law, or ordinance, and exercise all incidental powers necessary or convenient for the discharge of the duties and functions specified in this Charter or lawfully delegated to the Executive

Section 3.7 Report of County Financial Condition

The Executive shall file a report with the Commission on the financial condition of the County at least quarterly. The report shall include:

* * *

- (d) Additional information required by ordinance or law.

ARTICLE VI DEPARTMENTS HEADED BY COUNTYWIDE ELECTED OFFICIALS

Section 6.3 County Clerk and Register of Deeds

6.3.2 The department shall maintain central records of the County as provided by law or ordinance. . . .

ARTICLE VII ADDITIONAL DEPARTMENTS AND OFFICES

Section 7.5 Corporation Counsel

7.5.1(b) Represent the County, the Executive, the Commission, the department heads, and Agencies in civil legal matters affecting the County, except as provided by Charter, law, or ordinance.

ARTICLE VIII FINANCE

Section 8.3 Independent Audit

8.3.2 Financial reports and audits shall be prepared, transmitted, and filed as required by law and ordinance and shall be available for public inspection.

Section 8.6 Budget Preparation and Transmittal

8.6.1 The Executive shall prepare and administer a comprehensive balanced budget in a manner which assures coordination among Agencies. The Executive shall transmit the comprehensive balanced budget for the next fiscal year to the Commission at least 90 days before the next fiscal year begins. The comprehensive balanced budget prepared and recommended by the Executive shall contain, at a minimum, the budget message, budget document, the proposed appropriations ordinance containing the information required by law, and any information required by the Commission, law, or ordinance.

Section 8.10 Purchasing

The Commission shall adopt comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment. These policies shall be consistent with federal and state law, the Charter, and ordinances, resolutions, and policies of the Commission. The Executive shall implement the policies adopted by the Commission, including requirements for competitive bidding and the use of sealed bids for purchases and contracts specified by ordinance.

ARTICLE X SPECIFIC POWERS AND PROVISIONS

Section 10.1 Civil Service

A system of civil service in effect at the effective date of this Charter shall be continued. The rights and status of persons in the civil service system are recognized and this Charter shall not infringe upon nor be in derogation of those rights and that status. This Charter does not preclude future modification of the system of civil service in the manner provided by ordinance and as permitted by law.

Section 10.9 Economic Development

The County may create and implement economic development programs, including: (1) the provision of grants for capital development, job creation, and the retention of jobs and capital; (2) the granting of tax abatements; (3) the provision of other incentives for private development; and (4) the exercise of any other power provided by law. The County Executive shall administer economic development programs, in coordination with the Director of Planning and Economic Development, pursuant to an ordinance adopted by the Commission or as provided by law.

Section 10.12 Removal from Office

10.12(c) The Commission shall provide by ordinance for the process that will govern consideration of recommendations for removal made by the Ethics Board in accordance with this section. The standard for removal shall be, at a minimum, a preponderance of the evidence. Such process shall be modeled, to the extent practical, after the impeachment process set forth by law for removal of civil officers. The ordinance may allow for the adoption of rules and regulations to be followed by the Commission when conducting a hearing on a recommendation for removal.