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CITY OF FLINT

RECEIVERSHIP TRANSITION ADVISORY BOARD MEETING

FRIDAY, JULY 22, 2016

9:00 A.M.

A Special Meeting before the RTAB Board
at 430 West Allegan Street, State Treasurer Board Room,
1st Floor, Lansing, Michigan, on Friday, July 22, 2016.

BOARD MEMBERS:

Frederick Headen, Chairperson
Joel Ferguson
Michael Finney (via teleconference)

ALSO PRESENT:

Sylvester Jones, City Administrator
Stacy Erwin Oakes, Chief Legal Officer
David Sabuda, Interim Chief Financial Officer

MEMBERS OF THE PUBLIC ADDRESSING THE BOARD:

Monica Galloway, Councilwoman
Scott Kincaid, Councilman
Kay Muhammad
Chuck Rizzo, CEO, Rizzo Services
Kate Fields, Councilwoman
Donna Poplar
Steve Sielatycki, Legal Counsel For Republic Services
Wantwaz Davis, Councilman

REPORTED BY:

Suzanne Duda, CSR-3199, RPR, CRR

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Friday, July 22, 2016
Lansing, Michigan
9:10 a.m.

CHAIRPERSON HEADEN: The meeting will come to order. It is 9:10.

Let the record reflect that we do have a quorum present, including Mr. Finney who is participating by phone. I will ask that if there's no objection, that Mr. Townsend, who is unable to attend this morning on short notice, receive an excused absence if there's no objection.

We will move past the approval of the agenda for a moment until we receive copies of these additional items.

There's no unfinished business.

Under new business there is presently at least one item that has to do with consideration of the city administration's option or resolution for trash collection. I'm going to call upon Mr. Jones or someone else representing the city administration to walk us through what is being proposed.

Mr. Jones?

MR. FINNEY: Before we get started, there's just one comment that I wanted to make.

CHAIRPERSON HEADEN: Certainly.

1 MR. FINNEY: In reading the memo that came over,
2 there is a typo in it, and so look at the first page --
3 I'm sorry, the second page where it starts to outline the
4 three different options.

5 CHAIRPERSON HEADEN: Yes.

6 MR. FINNEY: Option 3 on the copy that I have is
7 cut off. It just ends with the words "with three," and it
8 doesn't explain the balance of it. I just wanted to make
9 sure that was noted. And then when I looked at the -- I
10 looked at the email that came over with the Word document
11 it explained the balance of it. It says there should be
12 guaranteed in two one-year option for renewal by the
13 administration. That part of it got dropped off.

14 CHAIRPERSON HEADEN: Okay.

15 MR. FINNEY: Compare the Word document against
16 the agenda item that came over.

17 CHAIRPERSON HEADEN: Okay. Understood.

18 Mr. Jones?

19 MR. JONES: Sit here, or where would you like
20 me?

21 CHAIRPERSON HEADEN: That would be fine, please.

22 MR. JONES: Good morning.

23 So as the memo that was presented to you
24 yesterday states that the administration did release a bid
25 for the garbage collection contracts. Those bids were

1 returned to the City of Flint Purchasing Department on
2 May 12th, 2016, and on May -- I'm sorry -- and on June
3 27th it was presented to the administration by the
4 committee that reviews that is that there were -- for the
5 three-year contract -- I'm sorry, for the five-year
6 contract there were three bids that were being seriously
7 considered. One for Emterra that indicated that they did
8 not have the capacity to provide the services in the time
9 frame that was asked; Republic, their five-year bid was
10 for \$19,518,436; and then for Rizzo, their five-year bid
11 was \$17,418 and 644 -- I'm sorry -- 17,418,644.

12 And so the administration maintains that by
13 accepting Rizzo's bid will allow the taxpayers of the city
14 of Flint to realize a savings of \$2,999,792.

15 It goes on -- we also maintain that this
16 position is supported by the ordinance that states that
17 the City of Flint, its administration and council, are
18 expected to accept the lowest responsible bidder. And so
19 in our efforts to pass on the savings to the residents of
20 the city of Flint --

21 CHAIRPERSON HEADEN: I'm sorry. So we're
22 referring to purchasing ordinance 3865 that requires the
23 lowest responsible bidder? Is that the document you're
24 referring to?

25 MR. JONES: 18 dash -- well, if we go to the

1 charter, and I'll go to the charter at this point, so it
2 says, The City shall, by ordinance, establish procedures
3 to protect the interests of the city and to assure
4 fairness in procuring property and services. The
5 ordinance shall require competitive bidding for purchases
6 and contracts, but there may be cases clearly defined in
7 the ordinance in which competitive bidding is not
8 required. The ordinance shall define lowest responsible
9 bidder.

10 So according to the charter, the
11 administration --

12 CHAIRPERSON HEADEN: And my question is if the
13 ordinance to which we're referring I believe is Ordinance
14 3865, the purchasing ordinance. Is that correct?

15 MR. JONES: Yes.

16 CHAIRPERSON HEADEN: Okay. Thank you. That was
17 just my question.

18 MR. JONES: So the administration maintains that
19 our position of presenting and recommending Rizzo both
20 supports the charter as well as City of Flint ordinance,
21 and so, as a result, that is our recommendation.

22 That recommendation was presented to the Flint
23 City Council on June 27th. That resolution at that time
24 was voted down. It went back to the Flint City Council
25 this past Monday, which was July 18th, and once again that

1 resolution was defeated, and the council in turn presented
2 an alternative resolution that stated that they would
3 approve a three-year contract to Republic, and that amount
4 we believe exceeds the amount that is presented by Rizzo.
5 That three-year contract to Republic would have been for
6 \$11,586,552. And the administration maintains that the
7 five-year resolution is a cost savings to the residents
8 but also that is a -- it's aligned with the charter and
9 the ordinances.

10 CHAIRPERSON HEADEN: And explain to us, if you
11 will, or if the city attorney can, this matter is before
12 the RTAB why?

13 MR. JONES: It's before the RTAB -- we've had a
14 number of conversations related to this. A couple of days
15 ago there was a conversation with Councilperson Scott
16 Kincaid, for the last two days there has been conference
17 calls to resolve this matter, and the administration and
18 the council are simply at an impasse at this time.

19 CHAIRPERSON HEADEN: And if I understand
20 specifically, and the city attorney may address this issue
21 later in our meeting, the administration is essentially
22 relying upon a provision in former Emergency Manager Order
23 Number 3 which says that in the event that the -- either
24 the mayor or the council fails to perform any duty or take
25 any required action, that under that circumstance the city

1 administrator may perform that duty or take that action
2 by, in effect, getting the approval of the RTAB?

3 MR. JONES: That is correct. And I would defer
4 to the city attorney to confirm that.

5 CHAIRPERSON HEADEN: And the failure to perform
6 any duty in this particular instance would be the
7 assertion that the council failed to adopt the
8 administration's proposal with regard to a five-year
9 contract?

10 MR. JONES: That is correct.

11 CHAIRPERSON HEADEN: In essence?

12 MR. JONES: That is correct.

13 CHAIRPERSON HEADEN: Since we do have two
14 proposals and at least some status that have been
15 discussed within the city, and I would like to provide an
16 opportunity to either Council President Nelson or Council
17 Member Kincaid to speak upon this issue as well so we can
18 get as full an understanding as possible to what's before
19 us.

20 MR. NELSON: Thank you. Good morning and to the
21 RTAB.

22 First of all let me say I really don't know why
23 I'm in Lansing this morning standing before you because,
24 again, democracy is not being honored here.

25 There was a resolution brought the council has

1 voted down twice and an alternate one given that we have
2 the authority to do and supported. The mayor had a right
3 to veto, which she did. It was not a courtesy that she
4 vetoed it, that's something that she had to take serious,
5 and she did it because it was an action that she needed
6 to. On Monday, coming this Monday, we will take action.

7 I would like to say because of the critical --
8 this issue being so critical, that if you will allow
9 Ms. Kay Muhammad to speak, which is a part of this
10 committee, and I think it's detrimental that you let her
11 speak, and Mr. Kincaid, if you would, please, because of
12 the critical information that they have. And this RTAB
13 needs to hear it before they make a move on making a
14 decision anyway. Ms. Muhammad was a part of this
15 committee, and I think you need to hear what she needs to
16 say.

17 CHAIRPERSON HEADEN: And can you specify which
18 committee you're referring to?

19 MR. NELSON: The committee to do the source
20 outbidding, the bidding process.

21 CHAIRPERSON HEADEN: The evaluation of the bids?

22 MR. NELSON: The evaluation process.

23 And Ms. Muhammad was a part of it, and I think
24 you guys need to hear from her before you take action, her
25 and Mr. Kincaid, if you would.

1 CHAIRPERSON HEADEN: Certainly. Mr. Kincaid
2 first.

3 MR. NELSON: Ms. Muhammad?

4 CHAIRPERSON HEADEN: I'm sorry, Council Member
5 Kincaid?

6 MR. FINNEY: I had a couple questions for the
7 council president before someone else speaks.

8 CHAIRPERSON HEADEN: Certainly.

9 MR. FINNEY: Yeah, I would just like to get the
10 basic logic as to why the financial -- if both companies
11 are viewed as being qualified to do this work, why would
12 not the basic economics of it prevail?

13 In other words, in both cases, either the
14 three-year and the five-year contract, as I see it in the
15 communication we have, in both cases Rizzo's bid is lower,
16 and I'm just trying to understand what the logic would be
17 for approving a higher-cost contract.

18 MR. NELSON: Let me say this. If you would
19 allow Ms. Muhammad and Mr. Kincaid to speak, I think you
20 would get your answer. But, on the other hand, the public
21 is speaking very loudly, and they're very upset that we're
22 here this morning again. We have spoken before and you --
23 and this government has ignored us and we got bad water.
24 Now you're ignoring us again, and so there's a problem
25 here.

1 MR. FERGUSON: We shouldn't commingle the
2 water --

3 MR. NELSON: No, no. No, no.

4 MR. FERGUSON: -- with this question.

5 MR. NELSON: No, I'm just telling you --

6 MR. FINNEY: I think what you're saying too --

7 MR. NELSON: -- the truth. The people are
8 speaking.

9 MR. FINNEY: -- is you got a mayor and an
10 administration --

11 MR. NELSON: Right.

12 MR. FINNEY: -- that is not in the same position
13 as the council. So making those kind of comments is doing
14 nothing but throwing fuel on the fire. It doesn't --

15 MR. NELSON: I'm just telling you what the
16 people that elected me are saying, that's all.

17 CHAIRPERSON HEADEN: We understand.

18 MR. DAVIS: Mr. Headen, can I say something?

19 CHAIRPERSON HEADEN: No, I'm sorry.

20 Mr. Kincaid?

21 We will have public comment later.

22 MR. KINCAID: Thank you, Mr. Chairman and
23 members of the RTAB.

24 First let me say that we have not completed this
25 process. When you look at Emergency Manager Order Number

1 3, it says that the process should be completed, and once
2 there's an impasse, then there should then be the
3 opportunity for the RTAB to review what is then being
4 presented to them on the RTAB.

5 City council has not had the opportunity, one,
6 to complete the process of either overriding the veto or
7 letting the veto continue and stay, and, two, what I'm
8 hearing is that there's an alternative contract that's
9 being presented to the RTAB that the city council has
10 never had the opportunity to act on or review.

11 And -- just let me finish, Mr. Ferguson. As
12 we've gone through this process, there is more than just
13 sheer bottom-line numbers on when you look at what type of
14 services are being provided, and there are some
15 differences of what the services are that are in the bid
16 or not calculated in the bid that was done during the
17 evaluation process. And when you look at the evaluation
18 process that was done by the purchasing director, the
19 transportation director at the time and the person that
20 was overseeing waste, they rated Republic in their
21 evaluation at a higher level than they did the other two
22 companies.

23 And so my question to the RTAB is, one, I met
24 with the administration because they always seem to wait
25 till the deadline to get things done and then ask the RTAB

1 for special meetings and emergency meetings to act on
2 stuff. Case in point: Again, just today resolutions for
3 pipe and weed cutting. And I can go back to how many
4 emergency or special meetings the RTAB has had.

5 I offered to this administration a 60- or 90-day
6 extension of the current contract, which is allowable in
7 the current contract that we're in today with Republic, so
8 we can go through this process.

9 And my position is this: If the RTAB is going to
10 take and approve contracts for the city of Flint or any
11 other community, which I don't believe is your role, then
12 you need to play a process of being in that vetting
13 process of the bids, and you've not done that. You're
14 relying on sheer numbers that have been presented to you
15 by the administration and nothing else. And there is more
16 than just sheer numbers when you're looking at providing a
17 service to the residents of the city of Flint.

18 And when you look at the difference in the bids,
19 on just a three-year contract it's less than \$3 a year per
20 household that we're arguing over. Per year. \$3 a
21 household per year that we're fighting over and we can't
22 get an agreement. And the residents are saying because
23 this is a special assessment, they don't mind paying the
24 extra \$3. They want to continue with the service that
25 they've had for the past few years and they want to

1 continue that service. And now the administration,
2 because, apparently, and it's clear that they can't work
3 with the city council, they're relying on the RTAB.

4 The mayor has argued with the governor to get
5 her power back, the city council wants its power back and
6 was granted it, but yet whenever there seems to be a
7 difference, the first thing the administration wants to do
8 is rely on the RTAB. And I don't think that's the role of
9 the RTAB. This --

10 MR. FINNEY: Mr. Chairman?

11 MR. KINCAID: This --

12 MR. FINNEY: Mr. Chairman?

13 CHAIRPERSON HEADEN: Pardon me.

14 Mr. Finney?

15 MR. FINNEY: Yeah, with due respect, I mean,
16 what I'm interested in now are the specifics of this
17 contract. Mr. -- Mr. -- my apologies -- Councilman made
18 the reference to there being some specific differences in
19 terms of the services that were being provided between the
20 two contracts when they were vetted. Could you be
21 specific about what those differences are so we can
22 understand them?

23 MR. KINCAID: I can.

24 CHAIRPERSON HEADEN: Councilman?

25 MR. KINCAID: I can.

1 In the three-year bid by Republic, they included
2 a blight truck, and in the three-year bid -- when I'm
3 talking about other services that would be provided,
4 Republic included a blight truck and additional dumpsters,
5 and Rizzo put "Not Available" or NA in the original bid
6 specifications. And during the evaluation is my
7 understanding in talking to both companies that Rizzo is
8 now willing to add a -- what they call a clam truck that
9 was not a part of the original bid specifications and was
10 not a part of their response in the original bid.

11 So, I mean -- and this is where I think there
12 has not been a lot of discussion both with the city
13 council nor the administration. And I think the
14 administration is relying on the RTAB based on the sheer
15 numbers to make a decision for the administration instead
16 of working through the process and allowing the mayor and
17 the city council to at least complete the process and look
18 at an alternative contract that I understand that they're
19 presenting to the RTAB, which I have not seen.

20 MR. FERGUSON: The other contract's off the
21 table.

22 MR. KINCAID: The what?

23 MR. FERGUSON: The contract that -- what we're
24 really talking about is the three-year contract, okay?

25 MR. KINCAID: No, I'm talking about the

1 five-year contract.

2 MR. FERGUSON: That's off the table.

3 MR. KINCAID: That's off the table?

4 MR. FERGUSON: That's not here.

5 MR. KINCAID: Oh.

6 MR. FERGUSON: So we don't even need to discuss
7 that. We're just talking three years, so we don't need to
8 even go there with that.

9 CHAIRPERSON HEADEN: Well, let me --

10 MR. KINCAID: Oh, it was my understanding that
11 the --

12 CHAIRPERSON HEADEN: I'm sorry.

13 MR. KINCAID: Okay.

14 CHAIRPERSON HEADEN: Let me ask Mr. Jones,
15 exactly which proposal are you presenting to the RTAB this
16 morning?

17 MR. JONES: The proposal that was submitted to
18 the city council was for a five-year contract with Rizzo
19 that would, in fact, realize a \$2 million savings for
20 residents of Flint over the five-year period, and that's
21 the contract --

22 MR. FERGUSON: That's the three-year with the
23 two-year option?

24 MR. JONES: And that's -- and what we're hoping
25 that we would be able to structure that as a way of

1 compromise with the council is the three-year contract
2 with two one-year options.

3 MR. FERGUSON: That's what's in front of us.

4 MR. KINCAID: That's the first time that we've
5 heard of it.

6 MR. JONES: The finance director talked about
7 this one yesterday.

8 MR. FERGUSON: Let's deal with -- let's deal
9 with what's in front of us, okay?

10 MS. OAKES: Mr. Chair --

11 MR. KINCAID: So this -- so --

12 MR. FERGUSON: What options we got here.

13 CHAIRPERSON HEADEN: Gentlemen, one at a time.
14 So that I'm clear, the proposal that was
15 submitted last evening about 3:30 was for a three-year
16 contract with the option of two one-year extensions.

17 MR. FERGUSON: Yes.

18 CHAIRPERSON HEADEN: That proposal was not what
19 was presented to the city council previously.

20 Is that the proposal that is before us this
21 morning, or is the proposal the one that was presented to
22 city council previously which was a five-year contract?

23 MR. JONES: I would defer to the city attorney
24 on this.

25 MS. OAKES: What's before the RTAB today is what

1 was presented to council and council is aware of, which
2 would be the five-year contract. What was discussed
3 yesterday on the conference call with two council members
4 and the city administrator and the chief of staff and
5 yourself, Mr. Chair, would be the compromise of a total of
6 five years with three years being guaranteed and two
7 one-year options.

8 CHAIRPERSON HEADEN: And so that's not being
9 presented this morning?

10 MR. FERGUSON: That's what's being proposed, the
11 five-year -- the three years -- it's five years, but it's
12 three years for the contract.

13 Is that what you're saying, City Attorney?

14 MS. OAKES: I'm saying that in the interest of
15 transparency, and because council was presented with a
16 five-year contract and voted down the five-year contract
17 indicating that they did not want to do a five-year
18 contract, the compromise was presented as a five-year -- a
19 five-year contract with three years to be negotiated as
20 guaranteed and two one-year options. That is what's
21 before the RTAB today.

22 And, Mr. Chair --

23 CHAIRPERSON HEADEN: I will ask the question a
24 different way.

25 A proposal was presented to city council on

1 June 27th?

2 MR. KINCAID: Yes. Yes.

3 CHAIRPERSON HEADEN: Is that the proposal that's
4 before us this morning? Yes or no.

5 MS. OAKES: Yes.

6 MR. DAVIS: We never got it. The council never
7 got it.

8 MR. KINCAID: No, that's not what he's talking
9 about.

10 MR. DAVIS: No.

11 CHAIRPERSON HEADEN: The answer was yes to the
12 question.

13 Is the proposal before us this morning the
14 proposal that was presented to city council on June 27th?

15 MR. DAVIS: That's correct.

16 MS. OAKES: Yes.

17 MR. NELSON: Yes.

18 CHAIRPERSON HEADEN: Okay.

19 MR. DAVIS: And we voted it down.

20 CHAIRPERSON HEADEN: So we're at least clear on
21 what is before us this morning, that it's a five-year
22 contract in the amount of, I believe, \$17.4 million.

23 MR. JONES: That's correct.

24 MR. KINCAID: But, Mr. Headen, that's not what I
25 heard the attorney saying. She's saying that they're

1 offering an alternative --

2 CHAIRPERSON HEADEN: That is what is before us
3 now based upon the last question that I asked.

4 MR. KINCAID: Okay.

5 MR. DAVIS: We need a clarification.

6 CHAIRPERSON HEADEN: So the proposal before us
7 is the proposal that was before city council previously
8 and voted down I believe on two occasions.

9 MR. DAVIS: Right. Right.

10 MR. FINNEY: Unless I'm -- unless -- Mr. Chair,
11 unless I'm misunderstanding something --

12 CHAIRPERSON HEADEN: Mr. Finney?

13 MR. FINNEY: Yeah, unless I'm misunderstanding
14 things, there is a proposal that would be a five-year
15 contract that would be three years firm, and then the
16 final two years there would be some out that the city
17 would have if they chose to terminate the contract at that
18 point, but essentially it's still a five-year contract,
19 unless I'm missing something.

20 MS. OAKES: I don't think --

21 CHAIRPERSON HEADEN: No, I believe that the -- I
22 believe the proposal before us does not have the option of
23 extensions, it's simply a five-year contract. In other
24 words, we're trying to settle the issue of whether or not
25 the proposal before us is the exact proposal that had been

1 presented previously to city council or if it was a
2 variation. If it's the latter, that poses certain issues,
3 because we're being asked to consider a proposal never
4 presented to city council.

5 MR. DAVIS: That's right.

6 CHAIRPERSON HEADEN: And if it's the former,
7 then we are considering the identical proposal submitted
8 to council on two occasions and turned down.

9 So having made that as clear as mud, Ms. Oakes,
10 you had an observation you wanted to make?

11 MS. OAKES: Just for the sake of --

12 MR. FINNEY: Mr. Chair -- I'm sorry, I had one
13 other question.

14 CHAIRPERSON HEADEN: Mr. Finney?

15 MR. FINNEY: Yeah. So when I look at the memo
16 that was sent over to us, that -- what you just described
17 is not included as one of the three options. The three
18 options that we have are something other than
19 consideration of a straight-up five-year contract.

20 MR. DAVIS: That's right.

21 CHAIRPERSON HEADEN: That's correct. I believe
22 in the interim, the city administration has changed its
23 position.

24 MR. DAVIS: That's right.

25 MR. FINNEY: You mean in the last -- in the last

1 24 hours?

2 MR. DAVIS: Yes.

3 CHAIRPERSON HEADEN: Yes.

4 MS. OAKES: And to add clarification to that
5 change of position, ultimately, what counsel was presented
6 with on Monday is what they know about and are aware of.

7 In the interest of transparency and fairness,
8 there was a discussion yesterday where a three-year
9 option -- where a three-year guaranteed contract with two
10 one-year options was presented by the administration, and
11 the administration is willing to move forward with that;
12 however, since all council members were not present on
13 that call, I feel it would not be in the best interests to
14 move forward with an option that they were not presented
15 with.

16 In moving forward with the five-year option,
17 which Rizzo has accepted pursuant to the ordinance, there
18 is still a contract that must be negotiated, and in that
19 negotiation the city administration will call for a
20 three-year guaranteed contract with the two one-year
21 options, just to be clear.

22 MR. DAVIS: Can't mix apples and oranges.

23 CHAIRPERSON HEADEN: I had promised to allow
24 Ms. Muhammad to address the RTAB.

25 Ma'am?

1 MS. OAKES: And, Mr. Chair, the point that I
2 wanted to make was that the court reporter is recording
3 this, and with individuals talking over each other, it is
4 not making for a clear record. So if you could address
5 that issue, it would be appreciated.

6 CHAIRPERSON HEADEN: I don't expect that will be
7 an issue going forward.

8 MS. OAKES: Okay. All right.

9 CHAIRPERSON HEADEN: Ms. Muhammad?

10 MS. MUHAMMAD: Good morning.

11 First I want to clarify. I am not here in
12 support of Republic or Rizzo, I am here to give you
13 information that I feel is not being disclosed so that you
14 can in your involvement make a fair and impartial
15 decision.

16 Right now I feel that there are particular
17 instances of different events, circumstances that would
18 kind of change the perception of why we are here and how
19 we got here.

20 I am here as a public servant. I am the former
21 transportation director, of which I just retired effective
22 June 30th, and part of my decision was based on what
23 occurred with this particular bid process and the
24 involvement with myself and the administration. I'm here
25 to lay the facts out.

1 Number one, we have been working on this bid
2 process for over a year. The public perception is this
3 process just began when a bid was released in April.

4 We have within the city of Flint a waste
5 services coordinator who is responsible for the day-to-day
6 interaction with our waste contractor. Over a year ago we
7 started preparing to, number one, determine if the city
8 was going to release a new bid for the services or if we
9 would look at giving the city of Flint an opportunity to
10 determine what would a sustainable waste system look like.
11 What is it that we want.

12 Throughout the past several years there have
13 been some complaints about the services that have been
14 provided where it was said, They're not picking up this,
15 or, They're not picking up that. The reason is they were
16 never required to do so. So as we looked at what needed
17 to be done, we had been talking with the administration at
18 that time -- it was not the Weaver Administration -- and
19 we said when the city of Flint first started this venture
20 with a vendor providing services that it was imposed upon
21 them by the emergency manager. The public had no input
22 whatsoever. It was the emergency manager and others
23 involved in the evaluation committee who determined what
24 that fate and what that emergency manager being the one
25 with the final say.

1 When we looked at all of the complaints and what
2 it is we need to do now that the services will be
3 contracted out, there was a booklet that was put together
4 that said we think the best option is to allow the public
5 to speak through a committee. We had proposed that a
6 committee be convened, and that committee, we had laid out
7 a timeline, we had laid out a monthly agenda for them to
8 look at any and every waste-related activity that takes
9 place in the city of Flint.

10 I became ill back in December. Right before I
11 went out on short-term the decision was made by the city
12 administrator at that point in time. She was hesitant
13 about thinking about extending the current contract to
14 allow us to determine how we would create the sustainable
15 system, but after we had our meeting with her and the
16 finance director at that time, Jody Lundquist, it was
17 determined, you know, this may be in the best interests of
18 the city. So when I went out, what I was told is that
19 they would be working on doing an extension of the current
20 contract.

21 Then around April I was still talking to people.
22 I got a call and they said, Well, they're not going to
23 extend that contract. And I said, They're not going to
24 extend? What are we going to do? You're going to send a
25 bid out this late? And I was told yes. I said, Well, how

1 is that possible that that bid could be fair, open and
2 impartial because of the time constraint? The number one
3 problem with this process was time constraints. You have
4 to look at it -- to me it was unfair to the city, it was
5 unfair to all of the proposed bidders, and now it is
6 unfair to the public, and it's unfair to you as you are
7 being asked to make a decision based on limited
8 information.

9 The reason why it's unfair: Number one, any
10 bidder would have to have an opportunity to, number one,
11 to review what it was the city was looking to achieve and
12 then providing that service.

13 Number two, the city would have to know what it
14 was they wanted when they put that RFP out. And I was
15 told if you look at this bid and RFP that went out, there
16 are mistakes in that bid, and those mistakes were caused
17 by limited time. Those mistakes -- the mistakes began
18 with even the first paragraph in the scope of the
19 services. What happened is the bid document from -- that
20 was previously used was used this time. There were some
21 additions made to it, but because of that push on time,
22 there were mistakes made. But this bid was released.

23 In regard to that bid being released, that bid
24 document, it identified what the city wanted based on what
25 was in that bid and how it would be evaluated. Within

1 that bid there was a bid document and evaluation form.
2 That evaluation form, it was to let those particular
3 bidders know, so that they all were on a level playing
4 field, this is how we're going to evaluate what you submit
5 to us. It included four different criterias, and it
6 included price. Price was to be a separate component.
7 And so it laid out -- those four criterias was overall
8 qualifications of the company, cost to provide the
9 service, capacity to perform service, and overall content.
10 And we talk about cost to provide services when we're
11 going to compare. In the bid analysis we would already
12 know what the bidder -- bids were for your common everyday
13 activities. That's household, compost and recycling.

14 But another issue that was very important to the
15 city that you do not see represented in the financial
16 analysis is blight. The city over the past year, year and
17 a half, has developed a blight framework. Within that
18 blight framework they have committed to eradicate blight
19 in Flint within a five-year period. A year has already
20 gone. And in order to do that we would need the services
21 of anyone providing waste collection services to have that
22 as a part of their offering.

23 And so within the bid that went out, that RFP,
24 it stated we are looking for various activities for you to
25 say how would you provide that, and included in that there

1 were two different things that were called out above and
2 beyond just your everyday recycling, compost and your
3 household waste. That was an enhanced recycling program
4 and a blight plan.

5 So all of our bidders, they did submit their
6 bids. They submitted them on time. But when I came back
7 to work it was May the 30th. Those bids came back in May
8 the 12th. On May the 13th there was a memo that was
9 prepared by the purchasing department. This memo
10 forwarded those bids to the Department of Public Works.
11 It was forwarded to the Department of Public Works
12 because, technically, within the city the practice has
13 been whoever is asking for services or is overseeing the
14 services would be the people responsible for evaluating
15 the bids and making a recommendation to the
16 administration, at which point in time the administration
17 being the administration would have the option of moving
18 that recommendation forward or not moving it forward.

19 CHAIRPERSON HEADEN: May I interrupt you?

20 Do I understand correctly that both the charter
21 and the purchasing ordinance require the city to make some
22 determination as to whether or not a bidder is a
23 responsible bidder?

24 MS. MUHAMMAD: Yes, responsive, responsible or
25 low. All three of those are mentioned.

1 CHAIRPERSON HEADEN: And among the category of
2 responsible bidders, is it my understanding that the city
3 then has to select the lowest of the responsible bidders?

4 MS. MUHAMMAD: It is the lowest of responsible,
5 responsive. And that is the question --

6 CHAIRPERSON HEADEN: Are those two terms
7 interchangeable or are they different?

8 MS. MUHAMMAD: They are different.

9 CHAIRPERSON HEADEN: And can you explain how
10 they're different?

11 MS. MUHAMMAD: Responsive. Responsive is you
12 would look at any of the criteria laid out in the bid
13 proposal. If -- say, for instance, the blight. Did they
14 respond and give us something that we could use to
15 actually say that we are going to initiate and provide
16 this service were responses.

17 CHAIRPERSON HEADEN: Okay. And --

18 MS. MUHAMMAD: Responsible, you can look at do
19 they have the ability and the capacity to carry out this
20 particular -- whatever it is they are submitting as their
21 proposal.

22 And so in looking at this particular instance,
23 we laid out that we would not look at only price. It was
24 clear, it was clear to everyone, it was laid out what it
25 was, what the criteria was.

1 CHAIRPERSON HEADEN: Were both Republic and
2 Rizzo considered to be responsive?

3 MS. MUHAMMAD: To an extent. And the reason why
4 I say that --

5 CHAIRPERSON HEADEN: With respect to both or
6 with respect to one or the other?

7 MS. MUHAMMAD: With respect to both. I'm here
8 to tell you the truth.

9 CHAIRPERSON HEADEN: And how about with respect
10 to were they both responsible?

11 MS. MUHAMMAD: Okay, now, in being -- let's deal
12 with responsible because that -- I can just answer that.

13 They both -- they both stated that -- number
14 one, with Republic, they had the equipment. They had the
15 people. We know that because they've been performing the
16 service, and they did say it within their interview. We
17 conducted interviews with all of the bidders, and we
18 conducted a second interview with Rizzo. Within those
19 interviews we talked to them about various issues that
20 would let us make a determination as to whether or not
21 they are responsive, responsible.

22 We had a whole sheet of subcategories to these
23 four that I talked about that would allow us to identify
24 and to be able to document our thought process, what was
25 used to make that determination. And when we did that, we

1 scored them.

2 When we did the interviews for Republic -- let
3 me go -- Emterra. Emterra was the lowest financially
4 responsible bidder. They were the lowest, Emterra.
5 However, when we looked at them --

6 CHAIRPERSON HEADEN: And may I ask, upon a
7 three-year or a five-year?

8 MS. MUHAMMAD: That was a three-year, on the
9 three-year analysis. And that bid, the way it was put, it
10 could be three or five. We asked for both. And in there
11 the city did do a disclaimer saying that we could
12 eliminate, reject, accept any item or any component of
13 that bid. It was made clear that there was no guarantee
14 we were going to offer a three- or a five-year term.

15 CHAIRPERSON HEADEN: And in the essence of time,
16 I believe that the administration's position would be that
17 the purchasing ordinance would require the selection of
18 the lowest responsible bidder. Is that your assessment?

19 MS. MUHAMMAD: No. The lowest responsible,
20 responsive. And it gives you leeway with that responsible
21 because it has to be determined, number one, how
22 responsible are they, how responsive are they.

23 CHAIRPERSON HEADEN: But if I understand, both
24 bidders -- and we'll limit this to Republic and Rizzo --
25 both were found to be responsible bidders.

1 MS. MUHAMMAD: They were found to be
2 responsible. Responsive, there were different degrees.

3 CHAIRPERSON HEADEN: So going to Mr. Finney's
4 question of a short while ago, why would it not be a
5 simple matter as selecting a lowest bidder among the two
6 that were both responsible?

7 MS. MUHAMMAD: Okay, because within that bid
8 document, we said that financial -- the financial status
9 would not be the only criteria used to determine
10 responsible or responsiveness.

11 CHAIRPERSON HEADEN: Mr. Ferguson?

12 MR. FERGUSON: You know, in the end, it's the
13 mayor and the city council who makes the decision, okay?
14 And there are committees that make recommendations, but
15 that should not be as an absolute.

16 For example, at Michigan State, if we're going
17 to pick a new president, we probably won't have a
18 selection committee, we'll have just the board make the
19 decision, because what happens is the selection
20 committee -- I mean, the first committee ends up being the
21 selection committee making the selection because they end
22 up giving the board four names, and out of those names who
23 you pick as opposed to us going from scratch.

24 So you're putting a lot of weight on the
25 committee because you're making the committee sound like

1 it's an absolute end-all.

2 And the way I see it is -- we're talking about
3 numbers now -- that if someone bids, and one group is,
4 say, a million dollars less than the other, but in that
5 bid, if we're still trying to be responsible, and people
6 say, well, in the bid they should have this and that added
7 to it, and you go back as you're negotiating after you got
8 the low number and say that X -- can you add that service
9 here and that service here, and if you can't add that
10 service there within the dollars of the bid, then we feel
11 that your bid is not adequate, because we're still looking
12 at numbers.

13 So if you're saying the person has -- don't have
14 something that someone else has, but that item -- if it's
15 a million-dollar contract and there's a difference between
16 them, and this item only costs 50,000, it seems to me that
17 you wouldn't say, I'm going to rule them out because they
18 don't have that, but you would ask the person who has a
19 low number if we can finally get the right number and say
20 add this and add that as opposed to just ruling them out
21 on that technicality, because it still becomes -- and the
22 reason I'm saying this is this. We got Flint that needs a
23 lot of help from outside. We need the federal and the
24 state government and we need the legislature to give Flint
25 the monies they need to move forward. And if it comes

1 across that Flint is making decisions to where they're
2 leaving money on the table, it's awfully difficult when
3 the mayor and the city council go to the legislature and
4 try to ask for money from -- especially from some of those
5 folks in the legislature, because they say, Well, Flint's
6 not very responsible because they're passing over and
7 leaving money on the table because they have a lower bid
8 on something major that adds up to quite a bit of money,
9 and they pass over that and not even say we can amend that
10 if there's an additional service they want. And I say
11 that's what this discussion's about.

12 And I'm going to say this while I'm here also.
13 You know, I've heard a lot about, you know, personalities
14 in this, you know, and they say, Well -- and we got the
15 former mayor here -- and they say, Well, we can't go for
16 this. People don't like this because Woodrow's supporting
17 this here, you know. And I look at the government -- and
18 I'm just talking about relevant things in discussions --
19 and I look at the federal government, the state
20 government, the people who have been in responsible
21 positions, and people turn around when they leave that
22 position and they hire them because they have a rapport
23 with a different body, that has to me zero to do with the
24 bottom line and the numbers of the thing about who the
25 messengers are. And I think that -- and that's really

1 tainted this entire discussion because we just haven't
2 stayed right on the point that there's a certain dollar
3 amount on a bid, and if there's a technicality that
4 someone thinks that someone didn't have in their bid where
5 it's an apple as opposed to an orange, that can you make
6 the apple -- you know, can we add something to it to make
7 it work. That's really the question that's in front of us
8 as opposed to some of this other stuff.

9 MS. MUHAMMAD: Can I respond?

10 MR. FINNEY: Mr. Chair, I have a question also.

11 CHAIRPERSON HEADEN: Mr. Finney?

12 MR. FINNEY: And this is just to get
13 clarification around the ordinance, because this is the
14 first I've heard this concept of responsible and
15 responsive.

16 What does the ordinance actually say? I don't
17 have it in front of me.

18 CHAIRPERSON HEADEN: Does not the ordinance make
19 reference only to responsible?

20 MS. OAKES: That's correct. If there is
21 something in the ordinance that says responsive, someone
22 else would have to point it out to me. I'm not
23 suggesting --

24 CHAIRPERSON HEADEN: And is it not also the case
25 with regard to Mr. Finney's question that the charter

1 requires the ordinance to define the term lowest
2 responsible bidder?

3 MS. OAKES: It does, Mr. Chair.

4 MR. FINNEY: And so, I mean -- and then I guess
5 my follow-up question would be so if these two bidders
6 were both viewed as responsible, and then after they're
7 both viewed as responsible, then really shouldn't the
8 question be which one provided the lowest bid, because
9 you've already jumped the hurdle of being responsible?

10 So I'm trying to understand why there is this
11 concern other than perhaps the three-year versus
12 five-year. But even in the case of the three-year there
13 is still a lowest bidder. If the option was to go with a
14 three-year contract instead of a five-year, you would
15 still just default to the lowest three-year option that
16 you have in front of you. So unless I'm missing
17 something.

18 Again, among the responsible bidders. So let's
19 just set aside whether they're responsible or not, unless
20 there's still some concerns about that. And that's what I
21 thought I heard Mr. Kincaid referencing and the council
22 president referencing with some potential concerns about
23 them being responsible. And I haven't heard anything that
24 would suggest they weren't responsible at this point. And
25 I'm speaking -- when I say they weren't, I'm speaking of

1 Rizzo as the lowest economic bidder.

2 MS. MUHAMMAD: Can I respond?

3 Number one, when you talked about the committee,
4 it is not to say that the committee should have more
5 weight than the administration.

6 CHAIRPERSON HEADEN: I'm sorry, could you first
7 refer to Mr. Finney's question about whether or not both
8 bidders were deemed to be responsible?

9 MS. MUHAMMAD: Now, first thing, the purchasing
10 ordinance, does it say responsible slash responsive? Is
11 there responsive anywhere within that ordinance?

12 MS. OAKES: That would be the old ordinance.
13 The new ordinance just says lowest responsible bidder,
14 which is --

15 CHAIRPERSON HEADEN: But I think Mr. Finney's
16 question was were not both bidders deemed to be
17 responsive.

18 MS. MUHAMMAD: We had not even completed our
19 evaluation in order for me to make that determination or
20 to tell you yes or no.

21 CHAIRPERSON HEADEN: So no determination was --

22 MS. MUHAMMAD: And then as we look at the
23 final --

24 CHAIRPERSON HEADEN: -- no determination was
25 made as to --

1 MS. MUHAMMAD: We had -- we had not finalized.
2 There was nothing --

3 MR. FERGUSON: How did the city council vote
4 then?

5 MS. MUHAMMAD: There was nothing -- yes, and I'm
6 going to answer that. We were in the process -- let me
7 tell you. That's a good question.

8 MR. FERGUSON: Yeah, it is.

9 MS. MUHAMMAD: We were in the process of
10 completing the evaluation, the committee, and then the
11 finance department was doing the financial analysis. The
12 day that we were in the office -- it was myself and
13 Derrick Jones with the finance director -- there was a
14 text that came to Derrick Jones that said we needed to get
15 the information downstairs now.

16 We took that information down to them at which
17 time the only items we could give them was the evaluation
18 as it related to the value added, and it was stated to
19 Mr. Jones this is not complete, here is -- there was a
20 draft with some notes on it from the financial analysis
21 that was being prepared, and I told them it is not
22 complete. There was discussion between him and the chief
23 of staff about giving it to the mayor, and it came up
24 again, that point, from the committee's standpoint, it was
25 not complete.

1 MR. FERGUSON: I asked the question how --

2 MS. MUHAMMAD: We had not, but --

3 MR. FERGUSON: -- the council voted --

4 MS. MUHAMMAD: -- but -- but --

5 MR. FERGUSON: -- not the administration.

6 MS. MUHAMMAD: -- but they had to move it

7 forward.

8 There was a meeting subsequently that -- I had
9 an email that came through the next day saying that they
10 had come -- had met with the finance director, and she
11 agreed she would sign the resolution now and that I needed
12 to prepare a staff review.

13 And so when you look at this -- I don't know if
14 you've seen this -- there are two different versions of
15 this financial evaluation. One of them --

16 CHAIRPERSON HEADEN: Just -- just -- I'm sorry,
17 just for my own edification, and I'll ask a series of
18 yes-or-no questions.

19 MS. MUHAMMAD: Uh-huh.

20 CHAIRPERSON HEADEN: Was a determination made
21 that Republic was a responsible bidder? Yes or no.

22 MS. MUHAMMAD: Yes.

23 CHAIRPERSON HEADEN: Was a determination made
24 that Rizzo was a responsible bidder? Yes or no.

25 MS. MUHAMMAD: There were questions. No.

1 CHAIRPERSON HEADEN: So there was no
2 determination made that they were a responsible bidder?

3 MS. MUHAMMAD: Not by the committee. We had not
4 made that determination.

5 MS. OAKES: Mr. Chair?

6 CHAIRPERSON HEADEN: How did this process make
7 its way then to the administration?

8 MS. MUHAMMAD: We had not completed it, but when
9 the text came through saying get the information down
10 there, we gave them what we had. The next day I was told
11 the resolution was moving forward.

12 CHAIRPERSON HEADEN: Let me ask that question to
13 Mr. Jones then.

14 Same questions. Was a determination made that
15 Republic was a responsible bidder?

16 MR. JONES: It was our determination --

17 CHAIRPERSON HEADEN: Yes or no, please.

18 MR. JONES: Yes, that -- yes, that Republic was,
19 yes.

20 CHAIRPERSON HEADEN: Was a determination made
21 that Rizzo was a responsible bidder?

22 MR. JONES: Yes.

23 CHAIRPERSON HEADEN: Yes or no.

24 MR. JONES: Yes.

25 CHAIRPERSON HEADEN: So we have a factual

1 difference here as to whether or not that determination
2 was made.

3 MS. OAKES: Mr. Chair, when you initially asked
4 the question if both were determined to be responsible
5 bidders, Ms. Muhammad indicated -- and I don't want to
6 quote, but we have the court reporter here -- she
7 indicated, to be honest, yes, both were determined to be
8 responsible bidders.

9 MS. MUHAMMAD: And that statement was made based
10 on the fact --

11 MR. FINNEY: I had a conflict --

12 MS. MUHAMMAD: -- based on the fact -- and I
13 need to --

14 MR. FINNEY: -- and I'm a little bit past. The
15 meeting's already starting.

16 CHAIRPERSON HEADEN: Yeah.

17 MR. FINNEY: So I -- you know, I hate to leave
18 the situation in limbo --

19 CHAIRPERSON HEADEN: No, I understand.

20 MR. FINNEY: -- but I definitely need to sign
21 off.

22 CHAIRPERSON HEADEN: Okay. We will fill you in
23 later, Michael.

24 MR. FINNEY: Okay. So I'm assuming by my exit
25 we do not have a quorum?

1 CHAIRPERSON HEADEN: That will be correct.

2 MR. FINNEY: Okay. Then I'm going to go ahead
3 and sign off then.

4 CHAIRPERSON HEADEN: Okay, thank you.

5 (Mr. Finney ended the teleconference.)

6 MS. MUHAMMAD: In order to be responsible, I
7 talked about in the very beginning having the equipment
8 and the manpower. That was what we said are they
9 responsible and capable of performing. There were
10 questions within the committee as to whether there was the
11 ability to have the equipment and the manpower.

12 In the first and second interview that was held
13 with Rizzo they -- I have the notes where they said we
14 have -- we're bringing new equipment into the city. We're
15 ready to go. We have the equipment. And I'm looking and
16 looking at the other members, okay, so a contract has not
17 been awarded. You've invested this much capital, get 20
18 trucks. You already have that? That's what you're
19 sitting here telling me.

20 Then on the manpower --

21 CHAIRPERSON HEADEN: I'm sorry to interrupt, but
22 we're really dealing with a factual question of whether or
23 not one of the contractors was determined to be
24 responsible, and I'm hearing now, yes, they were
25 determined to be responsible, and I'm hearing no, they

1 weren't.

2 MS. MUHAMMAD: Uh-huh.

3 CHAIRPERSON HEADEN: With respect to you,
4 Mr. Jones, who made that determination that they were a
5 responsible bidder?

6 MR. JONES: It was my understanding that the
7 committee had made that determination based on the
8 information I was given.

9 And let me just say this. Much of what
10 Mrs. Muhammad has said was articulated. She did say that
11 finance was in the process of doing an evaluation on the
12 finances. What I said to Mrs. Muhammad and to Derrick
13 Jones, any additions or subtractions from the bid numbers
14 would make that subjective deemed, in my opinion, not to
15 be fair.

16 And so it was my understanding and my belief
17 that we should look at the numbers that were presented by
18 each of the vendors and not to add or take away anything.
19 And I did say that that day.

20 So I did say that for us to add or subtract
21 anything away from their numbers would be inappropriate on
22 the part of the administration. I did say that. To
23 remove -- so to remove the subjectivity from that and to
24 avoid any litigation for the city, it was my belief that
25 to add or take away anything would be inappropriate.

1 MR. FERGUSON: What this is to me is a numbers
2 thing.

3 MS. MUHAMMAD: Yes, there was --

4 MR. FERGUSON: And I'm just saying -- but the
5 different other -- both are qualified. That's -- that's
6 to me a nonissue. All three of the bidders are qualified
7 and we have them. And so going in a circle about the
8 other part that's beyond what the ordinance is, we
9 shouldn't be doing that.

10 CHAIRPERSON HEADEN: Let me ask. The current
11 contract which was a 30-day contract expires when? I've
12 been given two different dates. I've been given the
13 29th and the 31st.

14 MR. JONES: The 30-day contract does expire on
15 July 29th, and I can ask the finance director to confirm
16 that. I actually signed the contract as well as the
17 resolution. It expires on July 29th, which is a Friday,
18 and then August 1st would be that Monday.

19 MR. SABUDA: I'll be right there. Hang on.

20 CHAIRPERSON HEADEN: So the expiration date is
21 July 29th?

22 MR. JONES: July 29th.

23 CHAIRPERSON HEADEN: At what time on July 29th,
24 do we know? Midnight?

25 MR. JONES: I'm going to assume 11:59.

1 MR. FERGUSON: What happens then?

2 MR. JONES: The city of Flint will be without a
3 vendor to provide waste collection.

4 MS. MUHAMMAD: There is an option. In the
5 current contract --

6 CHAIRPERSON HEADEN: Am I correct that the
7 purchasing director is authorized under the purchasing
8 ordinance in cases of emergencies to make emergency
9 purchases of goods or services where the public health or
10 safety would be threatened?

11 MS. OAKES: That's correct.

12 MR. DAVIS: There's an extension there too.

13 MR. JONES: That is correct.

14 CHAIRPERSON HEADEN: So that would be an option?

15 MR. JONES: Yes.

16 MS. MUHAMMAD: And there is another option.
17 Your current provider, the contract that they were under,
18 there were provisions for renewals, annual, one year at a
19 time for two additional years.

20 CHAIRPERSON HEADEN: That option is not before
21 us. That option may be subject to consideration by city
22 officials, but that's not the proposal before us.

23 MS. OAKES: In an effort to add to the
24 discussion as well, I do know that the option that you're
25 speaking of in regards to the purchasing director being

1 able to in cases of emergency enact the health and safety
2 portion of the ordinance was considered in June when the
3 council voted down the lowest possible -- the lowest
4 bidder. In the interests of working with council and the
5 administration, it was advised that they enter into an
6 agreement to allow -- see if Republic would extend their
7 contract for 30 days to flesh out any of these
8 fact-finding issues. It appears that that did not occur,
9 and at this point you are correct, the ordinance is clear
10 that the purchasing director, as of July 29th, could move
11 forward and exercise that authority.

12 MR. JONES: I should mention that initially the
13 purchasing director informed the administration that
14 Republic was not in favor of a 30-day extension to hash
15 these things out, at which case we gave them until -- we
16 gave them until 3 p.m. on June 29th to let us know if, in
17 fact, they would. After 3 p.m. had passed, we had not
18 heard anything from Republic.

19 At that time I was instructed to write a letter
20 to -- and with the understanding that the city of Flint
21 would not have trash collection and we would be moving
22 forth with an emergency, and at that point we would be
23 bringing in the lowest responsible bidder to begin
24 emergency trash collection effective July 1.

25 CHAIRPERSON HEADEN: And was that for a

1 specified period of time?

2 MR. JONES: That was for a specified period of
3 time until -- and I don't have the letter before me -- but
4 I believe it was until we were able to work through things
5 with the city council.

6 When -- in our efforts to be collegial and to
7 take the time to really hash through things with the city
8 council, Rizzo agreed not to force that upon the city
9 recognizing that the administration wanted an opportunity
10 to talk with the city council about that. That letter is
11 in effect, and so it is important to note that if, in
12 fact, the RTAB is not able to resolve this issue, the
13 administration's position will be that we should proceed
14 with the temporary contract with the lowest responsible
15 bidder which would be Rizzo so that they can begin trash
16 collection effective August 1.

17 CHAIRPERSON HEADEN: I understand.

18 Here's what I would like to do, and my
19 colleagues may or may not agree with me. We will not take
20 any action this morning. I had been of the opinion
21 previously that this issue was not properly before the
22 RTAB for a variety of reasons which I won't go into now
23 because the more practical reason why we will not take any
24 action this morning is that we no longer have a quorum.
25 And so we are -- other than conducting the business of

1 adjourning the meeting, we would be in violation of the
2 Open Meetings Act were we to actually act upon this
3 matter.

4 Despite the fact I thought that wasn't properly
5 before the RTAB, I felt it was still useful to add this
6 issue to be ventilated to hear from the administration,
7 hear from the chief legal officer and members of the city
8 council to better understand the issue.

9 The RTAB has no interest in which of the two
10 firms is selected, frankly. That's a decision for city
11 officials to make. Our only interest is making sure that
12 the trash is picked up in the city without interruption,
13 because the residents deserve that.

14 If you go in the direction that it's up to city
15 officials, if you go in the direction of using the
16 emergency provision of the purchasing ordinance to provide
17 some sort of interim service until this can be worked out,
18 that's a decision for city officials to make. If at some
19 point, obviously, if this issue doesn't get resolved by
20 city officials, then the RTAB is probably going to be in
21 the unenviable position of having to make a decision on
22 behalf of the city. That's something that we prefer not
23 to do. I think city officials would prefer not to have us
24 do that.

25 So to the extent that we can, we would encourage

1 both sides, the administration and the city council, to
2 produce some consensus proposal, whether three years or
3 five years or some permutation of that, and present that
4 consensus proposal to the RTAB at a future date so that
5 this issue can be resolved.

6 MR. FERGUSON: Would it be fair -- excuse me.
7 I'm sorry, Mr. Chairman.

8 CHAIRPERSON HEADEN: Certainly.

9 MR. FERGUSON: I think it would be fair for me
10 to say how I think.

11 CHAIRPERSON HEADEN: Absolutely.

12 MR. FERGUSON: Okay. It's all about the number.
13 And if you've got some things that you feel one person
14 doesn't have that someone says, well, they ought to have
15 this truck or that truck, and we get to the baseline
16 number and they can add that number and still be within
17 having the best bid, then all that other stuff should be
18 at the bottom line. All this little extra knickknacks,
19 things that people have to have that both companies are
20 qualified, or all three, but it comes down to who has the
21 lowest bid.

22 And if someone thinks that they want to -- if
23 it's a house, they want to have hardwood floors as opposed
24 to carpeting, and once they've picked the price of the
25 house and they say here's what this item has to have and

1 it's still the lowest number, that's what we should be
2 talking about.

3 And also who the different messengers are is the
4 most irrelevant thing I've ever heard, you know. In the
5 U.S. Congress, when someone leaves office and they have a
6 job as a lobbyist or doing something else that's not
7 illegal, it should not disqualify them, and you should not
8 even hear about that. And we should be actually talking
9 about the things that are totally relevant when it comes
10 down to this. Because in the end, as I keep saying, and
11 being a Democrat and knowing how these Republicans who
12 really don't like giving Flint and Detroit and other
13 places money, you know, when they need it, and if we look
14 like you're irresponsible and decide to waste money and
15 leave money on the table, it really compromises other
16 requests for funds that come to Flint in areas that we
17 need it, you know. And this major grant was stopped in
18 the U.S. Congress because the person said we don't feel
19 they're going to responsibly spend the money and do
20 things.

21 And this here is just an example if we can't
22 deal with money and decide of personalities and everything
23 else, then that really compromises Flint in the long run.
24 And that's what I'm saying, I'm saying what I'm looking at
25 and what's relevant to me. So please don't bring that

1 extraneous stuff in front of me and this RTAB if you guys
2 have an impasse because I'm not going to hear it.

3 CHAIRPERSON HEADEN: Were there individuals who
4 had wished to speak during public comment?

5 MR. FERGUSON: I don't mean to be rude, but I've
6 got to go to Detroit.

7 CHAIRPERSON HEADEN: We will have --

8 MS. GALLOWAY: Mr. Ferguson, can you -- before
9 Mr. Ferguson leaves, I don't have to be first, but I'd
10 like to address him for a minute.

11 CHAIRPERSON HEADEN: You have two minutes.
12 Please.

13 MS. GALLOWAY: Okay. First of all, I want to
14 thank this RTAB.

15 Mr. Ferguson, you spoke about -- oh, I'm sorry.
16 I'm Monica Galloway. I'm 7th Ward, city councilperson.

17 Thank you for taking my emails. Thank you for
18 allowing me to speak. But I wanted to say when you talk
19 about financial responsibility, we represent a group of
20 people that are speaking, and this is one of the few
21 contracts or things that they can weigh in on. Nothing
22 else that has happened to them have they had the ability
23 to weigh in on, but this is literally something that they
24 pay for as part of their property taxes in which their
25 voices are ringing out with clarity saying in this time of

1 uncertainty this is one thing that is working for us.

2 And so I'm asking that -- and I hear you say
3 it's about the numbers and irresponsibility. And it's not
4 about the players, it's about gaining the trust of the
5 community that we serve.

6 And, Mr. Ferguson, with all due respect, you
7 don't seem open to really being a mediator between the
8 executive and the legislative body. And I'll only say
9 that because even in a previous meeting you made your
10 point very clear. You said this RTAB supports the mayor.
11 So much so with your clarification that I appreciate
12 Mr. Headen calling me and to say this RTAB is not designed
13 for that and that you don't speak on behalf of the entire
14 RTAB.

15 I just ask that you would think about the voices
16 of the people that we represent. And it's not about
17 personality. We all have the opportunity to speak.

18 I'm appalled that Rizzo representatives would
19 continue to speak to the administrator as if he's -- I had
20 to ask him are you part of the administration?

21 It's just disappointing what has happened here
22 today. And I just speak on behalf of the 7th Ward,
23 nothing more. I just came to let their voice be said.

24 MR. FERGUSON: I'm going to say this to you.

25 CHAIRPERSON HEADEN: Thank you.

1 MR. FERGUSON: You know, none of us are perfect.

2 MS. GALLOWAY: Right.

3 MR. FERGUSON: Okay? And if I've ever said what
4 you said I said, which I must have said, you know, that --
5 and on the case where I said the mayor, it was an issue
6 that -- but what I'm saying to you today is that's why I
7 tried to clarify what I'm looking at when I vote. And
8 what I've tried to say very loud and clear, it still comes
9 down to the number. And if people want to add and
10 subtract different items that makes one number better than
11 the other, that's what I'm looking at.

12 And I said very clearly that I really believe
13 that all of you should look at the decisions you make
14 because of the people in Washington. And I said that very
15 clearly. And I said let's take all the personalities out.
16 And that's why I used Woodrow as an example, because I've
17 heard this from a number of sources that Woodrow's there,
18 and we don't like this and that, and that's why I said
19 that.

20 And I want to say this to you, that I want to
21 have a longer one-on-one conversation, that's why I pulled
22 my card out, and I'm going to be calling you, and we'll
23 talk some more, okay?

24 MS. GALLOWAY: I appreciate it.

25 CHAIRPERSON HEADEN: Next on the list, please?

1 MS. HUDSON: Chuck Rizzo.

2 MR. RIZZO: Yes, right here. Thank you.

3 CHAIRPERSON HEADEN: Mr. Rizzo, you have two
4 minutes.

5 MR. RIZZO: Thank you for the opportunity.
6 Chuck Rizzo. I'm the CEO of Rizzo Services.

7 We're real excited about bidding on the city of
8 Flint. We -- currently our pricing is \$2 million lower
9 than the next bidder for five years, \$4 million lower than
10 what the city's paying currently. So the city is saving
11 \$4 million dollars over five years based upon what they're
12 paying now. That comes down to \$60,000, roughly, per
13 month. So that's a huge savings. So the extent of this
14 thing one time already, that was \$60,000 extra that the
15 city had to pay by delaying the, you know, ability to pick
16 a service provider.

17 Also, we are the largest municipal waste hauler.
18 We've got over 450 trucks in our fleet. We have extra
19 trucks all the time. That's why we had the trucks
20 available to perform, and we can come into the city
21 immediately.

22 We are excited about working for the city. We
23 would hire as many people from Republic if they were out
24 of a job and provide -- you know, and make sure nobody's
25 unemployed. We do that all the time. As we take over new

1 cities, we have bid and saved 30 communities in the last
2 2 1/2 years millions of dollars and, you know, dealt with
3 going from one service provider to another.

4 There are performance bonds that are in place
5 for all these contracts, so with the performance bond the
6 city has insurance knowing that we're going to be -- we're
7 going to be responsible as far as the service, we're going
8 to make sure that the service is good, it's prompt, and we
9 hold our price. We have never gone back and raised our
10 price. The only time we ever asked for a change order to
11 raise our price is during the flood in 2014, which
12 everybody could -- you know, realizes it was an
13 extraordinary three to four weeks.

14 CHAIRPERSON HEADEN: This gentleman's time has
15 expired. Thank you.

16 MR. RIZZO: That's all I have. Thank you.

17 MS. HUDSON: Next up we have Kate Fields.

18 CHAIRPERSON HEADEN: Councilwoman, you have two
19 minutes, please.

20 MS. FIELDS: Thank you. Good morning.

21 Okay, I would like to say that the majority of
22 city council believes that this bid has been corrupted and
23 compromised from the beginning. Prior to any bid
24 evaluation in April in the first interviews that were
25 referenced by Ms. Muhammad, the Rizzo company said they

1 had already purchased a fleet, a fleet of garbage trucks,
2 20 garbage trucks. Now, what company invests that type of
3 capital until they felt assured they were getting the
4 contract? And let me point out the bids weren't even
5 evaluated at that point.

6 Secondly, only Rizzo Environmental Services was
7 allowed a second interview with the administration and the
8 evaluation committee where they were allowed to amend
9 elements of their bid, and this compromises the entire
10 process and makes it a corrupt bid.

11 The evaluation committee, I'd also like to point
12 out, wasn't even allowed to make a recommendation before
13 the administration whipped out this resolution awarding
14 the contract to Rizzo.

15 Now, I beg to differ in many ways with
16 Mr. Ferguson. I'm going to write a letter because I don't
17 have two minutes to talk about it, but basically, if it's
18 only about the dollar amount, why bother with an RFP? Why
19 does the government require an RFP and all these documents
20 in review in order to prove that you have an open and a
21 competitive process? You know, why don't they just stand
22 out on the street and holler a number and then we make a
23 decision based on that? So his opinion is of no value
24 whatsoever on that.

25 I'd like to say, three, why is the RTAB involved

1 in this at all? Mayor Weaver can't be allowed to use the
2 RTAB as a whiney child does when one parent says no so
3 then they go work on the other parent to say yes to get
4 what they want. The RTAB needs to let democracy work.

5 The only government agencies that should be
6 involved at this point are the Attorney General's Office
7 and the FBI.

8 CHAIRPERSON HEADEN: Ms. Fields, your time has
9 expired.

10 MS. HUDSON: We have Donna Poplar.

11 MS. POPLAR: For the record, my name is Donna
12 Poplar. And, Mr. Headen, it's a pleasure to sit here in
13 front of you.

14 I had a lot I wanted to say, but I want to not
15 say those things, but I want to commend you for being a
16 chairperson of integrity. This process I thought was
17 going to work in the negative, but I commend how you have
18 taken control, recognized a problem, and feel that this is
19 a situation that local government -- that means the
20 mayor's administration and city council -- should be able
21 to work through their differences and resolve this problem
22 on behalf of the city of Flint and its residents. I also
23 want to say I thank you for not giving the appearance that
24 you would do anything other than that that is of
25 integrity. But as we move forward in setting up RTAB

1 meetings, I would ask humbly that you engage the community
2 in your meetings; in other words, have it at a venue by
3 which the public can participate. It is virtually
4 impossible for our seniors and for those with disabilities
5 to be able to find transportation to come here to Lansing
6 to partake in the RTAB meetings relative to the concerns
7 that the city of Flint residents may have.

8 And so, again, I thank you for remaining honest,
9 and I thank you for being a great man of integrity. Thank
10 you.

11 CHAIRPERSON HEADEN: Thank you.

12 I would like to point out that we've had now,
13 since I think last June when the RTAB first met, I believe
14 this is probably our eighteenth or nineteenth meeting.
15 This is the only one we've had in Lansing, and this was
16 because it was called at the last minute. They're
17 typically in -- well, all but this one has been in City
18 Hall, either in the council chambers, or I think once was
19 in the dome area. So hopefully that venue's more
20 convenient to seniors or others who -- we don't expect
21 people to typically come up here to Lansing.

22 MS. HUDSON: The next up we have Steve
23 "Sile-a-tick-ee"?

24 MR. SIELATYCKI: I'll help you with that.
25 "Sil-at-a-kee."

1 MS. HUDSON: Thank you.

2 MR. SIELATYCKI: It's a Polish name.

3 MS. HUDSON: Sorry about that.

4 MR. SIELATYCKI: Thank you, Mr. Chair. Steve
5 Sielatycki, legal counsel for Republic Services. I'll be
6 quick since I've got the two minutes.

7 The RTAB's authority is limited by Public Act
8 436. Specifically Order 3, Section 27, which gives the
9 RTAB authority to execute contracts was removed by
10 amendment on May 26th of 2016. Section 32, which was the
11 language that the mayor's office has indicated triggered
12 the authority of this board was in the event -- Section 32
13 -- that the mayor or city council fails to perform a duty.
14 We don't have that here. The city council has performed
15 its duty, has passed a resolution. That resolution was
16 vetoed. That resolution will then -- that veto will be
17 overturned on Monday, and the city administration will
18 then have the authority to execute the contract and move
19 forward. So we've not triggered the authority of RTAB
20 based on that.

21 Order 20 also requires the city council, the
22 mayor and RTAB to comply with the local ordinance, and
23 that's really where the meat of all of this is. The local
24 ordinance, Subsection 18-21.5, Subsection (e) gives the
25 city council the right to approve any contract that's

1 issued, and it defines the lowest responsible bidder to be
2 something, quote, in addition to price, and it gives 12
3 different factors, at various throughout that says that
4 that can be something other than just price.

5 The two-step process of lowest responsible -- or
6 responsible bid and then you have to take the lowest is
7 not true. I heard a lot of that earlier. It's just
8 simply not true. That's not what the ordinance requires.

9 The ordinance also has an exception for a county
10 that is -- or a company that's located --

11 CHAIRPERSON HEADEN: I'm sorry, you made
12 reference to which section of the ordinance?

13 THE WITNESS: This is 18-21.5(e). And it also
14 has an exception on lowest bid price for a company located
15 in the County of Genesee, a 3.5 reduction that is
16 permissible.

17 And year three, the three-year contract, it's
18 actually a lower price for Republic Services when you look
19 at the actual price.

20 But this is a fake emergency. There's been a
21 60- to 90-day extension granted -- or offered, a two-year
22 extension --

23 CHAIRPERSON HEADEN: The gentleman's time has
24 expired.

25 MR. SIELATYCKI: -- and the veto is going to be

1 overridden.

2 So we don't have an emergency. The mayor's
3 emergency powers are not triggered.

4 Thank you.

5 CHAIRPERSON HEADEN: Thank you.

6 MS. HUDSON: And, lastly, we have Wantwaz Davis.

7 MR. DAVIS: Thank you.

8 How are you doing, Mr. Headen?

9 First and foremost I want to object to the
10 statement that he just made that it would be overturned
11 Monday. We don't know what's going to happen Monday, so I
12 have to object to that. It's on the record. That's an
13 objection.

14 Two is you made a profound statement that the
15 RTAB really didn't want to get involved in this, and
16 that's a good thing that the RTAB is not involved in this
17 because we should do things based on local government
18 control. We was given our power back and we should
19 exercise that. In order to not exercise that is when the
20 state comes in and tells us that we have control and we
21 really don't.

22 This ordinance says authority of the director
23 and or manager, director and/or manager, should have the
24 authority to award contracts within the purview of the
25 article, comma, subject to the approval of the city

1 council.

2 City council has made their decision that day.
3 Don't know what the decision would be Monday, but our
4 decision was made that day.

5 When you look at a company like this -- I have
6 nothing against Rizzo personally, but when you look at a
7 company that is a nonunionized company, they don't have a
8 landfill and they don't have nowhere where they'll put
9 their trucks at. Maybe they may now have somewhere where
10 they'll put their trucks at, but this is a nonunionized
11 company. Well, we got people working for Republic that
12 are unionized. You put them inside of a job, 90 days from
13 what their contract stated or some statement that was in
14 some of the excerpts that I looked at, that if they're not
15 up to par in 90 days, they can remove them. Well, that's
16 being biased. It sets the grounds to be biased or
17 discriminatory.

18 Why would we want to put a company that's
19 nonunionized in our city, hire people who has left from a
20 unionized company to a nonunionized company where they
21 have no recourse?

22 Michigan was based off the unions. Right to
23 Work is in effect. We don't like Right to Work. But we
24 don't want a company to come in that actually is annexed
25 to the Right to Work or corroborates with the Right to

1 Work. I don't like that. I don't just like it but my
2 residents don't like it and my constituents don't like it.
3 But we have to be abreast to what the law states.

4 The governor has given us our power back. We
5 exercise our power. It should be respected. Allow city
6 council to do what they have to do.

7 CHAIRPERSON HEADEN: Councilman, your time has
8 expired.

9 MR. DAVIS: Thank you, sir.

10 CHAIRPERSON HEADEN: I do thank you for saying I
11 made a profound statement.

12 MR. DAVIS: You did make a profound statement
13 saying you wanted to let city council do their job.

14 CHAIRPERSON HEADEN: I try to do so -- I try to
15 do so once a year, if only by accident.

16 MR. DAVIS: Well, you did it today. You did it
17 today.

18 CHAIRPERSON HEADEN: Is there anyone else who
19 had signed up for public comments?

20 MS. HUDSON: No, that was all we had.

21 CHAIRPERSON HEADEN: That concludes public
22 comments.

23 Without objection, we are adjourned.

24 (Meeting adjourned at 10:35 a.m.)

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CERTIFICATE OF NOTARY PUBLIC

I certify that this transcript, consisting of 64 pages, is a complete, true, and correct transcript of the proceedings taken in this case on July 22, 2016.

July 27, 2016

Suzanne Duda, CSR-3199, RPR, CRR
Notary Public, Clinton County, Michigan
Acting in the County of Ingham
My commission expires: May 6, 2019