

CITY OF FLINT  
RECEIVERSHIP TRANSITION ADVISORY BOARD MEETING

Proceedings had in the above-entitled matter,  
taken by Claudia M. Weekly, CSR-2963, and Notary Public, on  
Wednesday, October 26, 2016, at 1101 South Saginaw Street,  
Flint, Michigan, commencing at or about 2:09 P.M.

APPEARANCES:

FREDERICK HEADEN, Chairperson

MICHAEL FINNEY, Member, Telephonically

JOEL FERGUSON, Member, Telephonically

ALSO PRESENT:

R. ERIC CLINE

Wednesday, October 26, 2016

Flint, Michigan

2:09 P.M.

CHAIRPERSON HEADEN: The meeting will be in order, please. The meeting will be in order, please. Let the record reflect that we do have a quorum. In addition to me we have Mr. Ferguson and Mr. Finney both on the line. If there's no objection I'm going to ask that Mr. Townsend, who is unable to attend today have an excused absence. So, without objection we do have a quorum.

I don't believe there are any items to add to the agenda this afternoon, so we'll consider the agenda to be approved as is. There's no unfinished business.

Under new business we have three items. We'll begin with City Council's Resolution 481 from their meeting of Monday evening. It concerns an order of dismissal of litigation between the two branches of City government that has been signed off on I believe by both parties as well as the Genesee County Judge, Judge Farah, who presided over the issue. It requires approval of the RTAB.

I am going to, in the interest of expediting business this afternoon, move the approval of Resolution 481. Is there support?

MEMBER FERGUSON: Support.

CHAIRPERSON HEADEN: The motion's been made and supported. Discussion. Mr. Finney.

MEMBER FINNEY: Just one question, and that is the resolution has not been signed off with the exception of Council President Nelson. I am assuming that there are no other parties to sign off that are listed.

CHAIRPERSON HEADEN: That's my understanding, given the fact that all the necessary parties have signed the stipulated order of dismissal. So, that is my understanding, correct.

MEMBER FINNEY: I don't have any other questions.

CHAIRPERSON HEADEN: Motion's been made and seconded. If there's no further discussion those in favor of the motion please say aye.

MEMBER FERGUSON: Aye.

MEMBER FINNEY: Aye.

CHAIRPERSON HEADEN: Opposed, no. The motion is adopted.

The second item of business is Council Resolution 482, which is a resolution to authorize a one-year contract for waste collection services with Republic Company. As I understand it, that contract, if approved, would begin on November 12th and extend through

November 12th, 2017, with an option on the part of the Mayor to extend the contract for an additional year, and other particulars of the contract that will be worked out I believe through the purchasing office consistent with the order of stipulation.

I will move approval of Resolution 482. Is there support?

MEMBER FERGUSON: Support.

CHAIRPERSON HEADEN: Motion made and seconded. Is there any discussion?

CITY ATTORNEY: Yes.

CHAIRPERSON HEADEN: I was referring to the RTAB members.

Did you have a point of order?

CITY ATTORNEY: Yes, Mr. Headen.

CHAIRPERSON HEADEN: Please.

CITY ATTORNEY: In regards to -- thank you. In regards to the Resolution to move forward with --

MEMBER FINNEY: I can't hear whoever that is that is speaking.

CHAIRPERSON HEADEN: It is the City attorney.

CITY ATTORNEY: And I will attempt to speak louder, Mr. Finney. Ultimately as it relates to the Resolution to move forward with waste collection services with Republic as of November 12th, I would like to advise

the RTAB that we are currently still engaged in litigation outside of the lawsuit involving the City Council and the City and the Mayor, which you've just said has been stipulated to a dismissal. However, we are still involved with litigation with Republic where they are suing with regards to the FOIA request where we have supplied them with the requested information and requested that they stipulate to dismissal. That has not happened.

Additionally, Republic filed a lawsuit in regards to the contract that was entered into with Rizzo, subsequent to which we requested a dismissal based on the fact that the parties have stipulated to dismiss the case involving City Council versus the City and the Mayor. However, we have yet to hear from Republic as relates to the dismissing the other cause of action against the City.

Being that there is an RTAB meeting scheduled for November the 9th, we would respectfully request that we have the opportunity to hear from Republic's counsel if they're going to stipulate to the dismissal of these other actions before moving forward with this contract.

CHAIRPERSON HEADEN: We intend, I believe, to dispose of this issue this afternoon, which is one of the main reasons for calling the meeting in the first place.

Since the City Council's already adopted the Resolution the issue before us is as to whether or not to approve the Resolution that's been adopted.

If there are changes in circumstance between now and November 9th, when our next meeting is, I assume those will be run through the City Council, to notify them. And if it's necessary for the RTAB to take any additional action at that time we can certainly consider that. But I believe we want to, given the fact this issue has been under various degrees of discussion and negotiation and litigation for three and-a-half months now, we intend to dispose of this issue at least at the RTAB level this afternoon and move on.

CITY ATTORNEY: And that is appreciated. I just wanted it to be on the record that we are still involved in litigation with Republic, which pursuant to the ordinance and their original contract --

CHAIRPERSON HEADEN: We understand.

CITY ATTORNEY: So, I just wanted to make the record. Thank you.

CHAIRPERSON HEADEN: Thank you. The question is on the adoption of the motion. The motion has been made and seconded. Is there any further discussion?

MR. MAYS: Can I raise a point of order, Mr. Headen?

CHAIRPERSON HEADEN: During public comment. We have a motion pending.

MR. MAYS: You already said --

CHAIRPERSON HEADEN: I'm sorry. We have a motion pending.

MR. MAYS: You wouldn't move, and you disrespected them even though they passed it. Still that goes against --

CHAIRPERSON HEADEN: Is there -- is there a discussion on the part of the RTAB? If not, those in favor of the motion please say aye.

MEMBER FERGUSON: Aye.

MEMBER FINNEY: Aye.

CHAIRPERSON HEADEN: The motion is adopted.

The last item that we have is a proposed RTAB Resolution 2016-5, which will amend EM Order Number 3. In March of this year the RTAB adopted a resolution to reallocate authority from the City Administrator to either initiate or to settle litigation or to dissolve labor disputes. That authority was allocated from the City Administrator to primarily the City Council.

There's a provision in the charter which requires City Council approval before any civil litigation can be settled, which is Section 4-604 of the charter. The order of the Emergency Manager before we

amended it in March provided what was referred to as complete decision-making authority on behalf of the City Administrator on all matters of litigation and labor disputes, including, we said, the ability to settle or initiate lawsuits and resolve labor disputes.

We said on the record back in March that we felt this plenary authority in the hands of the City Administrator position was inconsistent with our attempt to gradually restore the authority of both the Mayor and the Council, so we amended the order accordingly. Unfortunately, since that time, and specifically over the last month or so, confusion has arisen on the part of many as to what that amendment by the RTAB was intended to do. It was not intended to prohibit the City from suing anyone, including the State of Michigan.

So, to avoid further confusion and to resolve that particular issue we have proposed the Resolution 2016-5 to make clear that the City officials have the authority unfettered to sue any party, including the State, without any approval by the RTAB. I am, as with the other two items, going to move support and approval of this particular Resolution and will ask for a second.

MEMBER FINNEY: Second.

CHAIRPERSON HEADEN: The motion is made and seconded.



MAYOR WEAVER: Is there any discussion?

MEMBER FINNEY: Just one clarification.

CHAIRPERSON HEADEN: Mr. Finney.

MEMBER FINNEY: So, if the City were to move forward with any kind of legal action or litigation or settlement of any item, would those items then need to come back to the RTAB for approval or does this Resolution authorize them to move forward unfettered without RTAB involvement?

CHAIRPERSON HEADEN: In an unfettered way with respect to the negotiation of litigation, which has been, I believe, the primary cause of concern over the last month or so. Resolution of labor disputes or the settlement of litigation would still come before the RTAB. And you'll recall that we have had this year half a dozen instances of proposed settlements submitted to the RTAB, so that's not been controversial at all, but this would make clear the City's ability to initiate litigation against any party without our approval.

MEMBER FINNEY: Okay. Thank you.

CHAIRPERSON HEADEN: Any further discussion?  
Given the fact that this is an RTAB Resolution, under our rules a record roll call vote is required.

Mr. Ferguson, how do you vote?

MEMBER FERGUSON: Yes.

CHAIRPERSON HEADEN: Mr. Ferguson votes yes.  
Mr. Finney?

MEMBER FINNEY: Yes.

CHAIRPERSON HEADEN: Mr. Finney votes yes.  
Chair votes yes. There are three yeses, no nos. The  
Resolution 2016-5 is approved.

That is all new business. Both you gentlemen  
on the phone I know are under scheduling constraints, so  
if you need to at any point sign off please feel free to  
do so. We have next public comment, of course. I have  
the authority to adjourn the meeting without a quorum.  
So, you gentlemen are free to stay on the line if you  
wish.

I'll call on Mr. Cline now to let me know if  
there are any individuals who have signed for public  
comment.

MEMBER FINNEY: I am signing off.

CHAIRPERSON HEADEN: Thank you Mr. Finney.

MR. CLINE: Good afternoon, sir. We have four  
individuals signed up for public comment. We'll begin  
with Arthur Woodson.

MR. WOODSON: How you doing, Mr. Headen?

CHAIRPERSON HEADEN: Good afternoon.

MR. WOODSON: I come to you today to ask -- I  
asked you last week about who pays Rizzo because the

Court signed a 90-day contract with Republic for the City, all of them signed a contract, and it's now over to the 11th of next month. Now, there was an emergency contract signed with Rizzo two weeks, four weeks, I don't know. But they're still out there on the streets and somebody has to pay them.

Now, Mr. Ferguson said that we will not have to pay them as taxpayers, but how will they be paid if the City residents, the taxpayers don't have to pay them? And I don't understand why they are still out here working when they know there's going to be a contract signed. It's signed now. It was done Monday. And I don't understand why they are still here.

Everyone else, Detroit, Sterling Heights, Macomb, Huron Township, everyone that had any connections with them, even Green For Life, who bought their company, even they said if we would have known what was going on we would have never done business with them because Chuck Rizzo did not inform them that they were under investigation. We don't even know if anybody here was informed that they were under investigation.

So, the problem that I'm having is why is our city still doing business with a company that we know is corrupt and that they try to bribe people? Why are we still doing business with them? And I don't understand.

So, we're going to have to pay 100 some thousand dollars for something we shouldn't even have. Thank you.

CHAIRPERSON HEADEN: Thank you. Mr. Woodson, it's my understanding, and this is based partly on I think your comments at a meeting a week or so ago, that the concern was that both companies not be paid for essentially doing duplicative work. And that was a question I think to which Mr. Ferguson responded, that if you have one company's truck going up one side of the street and the other company's truck coming down the other side of the street will they both be paid for the same work due to the fact that they both can't be picking up the same garbage. And on that point Mr. Ferguson indicated that his expectation was that that would not occur. That if they're paid they would be paid proportionately for the work that they did.

I don't know that to be the case. Mr. Sabuda or somebody else in the administration may be able to clarify that point.

As to why Rizzo is still performing services, it's my understanding, and again, Mr. Sabuda or somebody else can perhaps clarify, that they were given a contract on an emergency purchase basis for a period of time, which is why they're doing so. But that was the point that was made to us last week and the point to which

Mr. Ferguson responded.

Did you have a clarification on that point for Mr. Woodson?

MR. SABUDA: Your Honor, yes. What will happen is the invoices will be brought to the transportation department. They will sort through those invoices and we will pay for the fair work that has been performed to each of the two vendors. So, a portion, as you've pointed out, will be paid to one vendor and the other vendor. That's what we're anticipating.

CHAIRPERSON HEADEN: Thank you.

MR. SABUDA: You're welcome.

CHAIRPERSON HEADEN: Mr. Cline?

MR. CLINE: Yes. The next person is Pastor Gilbert.

PASTOR GILBERT: How you doing Brother Headen?

CHAIRPERSON HEADEN: Pastor.

THE WITNESS: You kind of touched on it earlier about how they will get paid, the two contractors to pick up going down the same street. But I will ask Mr. Sabuda, if he could, to give us a date so the taxpayers and citizens would know when this stops for Rizzo because there's been an agreement between the administration and the Council, which means there's been an agreement between the Mayor and her administration and

the people of the City of Flint. That's really what that means.

So, the people want to know when is that going to stop as far as being paid? Because as long as they're out on the street -- at least if I was working for Rizzo I would want to get paid. So, that would be the question for Mr. Sabuda. We're looking for the date when Rizzo will no longer be paid.

The other question I wanted to present to the RTAB is how do we clarify, as far as the taxpayers are concerned, in reporting on how the lawyers that represented the City or the Mayor in the litigation because the taxpayers paid for this litigation. And I'm requesting that the RTAB in some form under your authority to be able -- I ordinarily wouldn't do this, Mr. Headen, but because there will be transparency that's all I'm asking for. I'm not asking for this information to try to destroy Mayor Weaver. That's not what I want, but I do want some transparency.

And I want to know exactly, and I think many of our citizens want to know, how much will these lawyers, these professional lawyers get paid, and who were they connected to and then they're representing the City of Flint against the people, but we're paying them to hurt us on the behalf of the administration. So, I don't know

if it's a conflict, but in my mind, not being a lawyer, it's a conflict. And that's all I'm looking for is some openness and some transparency. I'm asking. And if something else happened then I'm going to demand it. Thank very much.

CHAIRPERSON HEADEN: Thank you. Those are questions you may have to direct more specifically to the finance department. It's my understanding that the stipulated order of dismissal does not specifically address the issue of attorneys' fees. That issue's reserved. And I think that issue is still being discussed as to the specific amounts involved, I would counsel for the City Council or the counsel for the Mayor. I'm not currently aware of what those numbers even are, but I would suspect that the finance department would have that information. I would think it would be public information.

Mr. Cline?

MR. CLINE: Nancy Burgher.

MS. BURGHER: Hello. When I was here at the last RTAB, now, I know he kind of touched base on this a little bit, Arthur did, in regards to payment now. Rizzo and Republic go down both the same street. They come down my street. They don't -- they do go down other streets and they're both down the same streets. I do not

think that it's fair that they pay one company this amount and one company this amount, you know, even it out.

My taxpayer dollars, I don't think, and I strongly do not think that they should be paid for any services. She called this an emergency and she signed the contract with Rizzo. I think they should figure out how it will be paid, not our taxpayers' dollars going to them. Okay? Republic now has the contract. It's signed and documented by you guys. They need to be off our streets.

I've watched them many times take and put land, yard waste into a garbage truck. I've watched them put bottles into a garbage truck. They don't do half their job. I've watched them sit in the truck, watched Republic go up and down our streets picking up the garbage while they're in their truck kicked back in their seats. They don't deserve to be paid, and I don't think my taxpayers dollars need to go to them.

The only question I still have is why are they still on our streets? They need to be off. I don't like the company. I never have. When I see them come down my street they never, they drive right on by on my garbage. Good thing, because I don't want them picking up my garbage and mixing it with landfill or whatever it is.



So, that's my point. I don't think my tax dollars, and I think other people will agree, they don't need to be paid, not with our tax dollars.

CHAIRPERSON HEADEN: Thank you.

MR. CLINE: The last individual, Eric Mays.

MR. MAYS: Mr. Headen and any member of the RTAB that's still on the line, to the Governor or whoever is listening, the treasurer's department, I purposely came to this RTAB meeting to see something. One, I wanted to see what the RTAB said legally about the order to dismiss. That order was a stipulated order. It was signed by the Judge, in my opinion, prematurely because in order for counsel to do something before council took action. I know you all have raised a due motion for reconsideration, but I don't think RTAB has looked at this with a magnifying glass.

It appalls me, Mr. Headen, that you can sit here as a RTAB chairperson and say in one RTAB meeting that's on the record we won't take action until the veto power or period has passed as it relates to this administration, it's democracy and the Mayor. But today when the City attorney requested you to wait until that time passed, even though she didn't speak specifically, you seem to forget what you said on the record before and denied the administration's request to hold off to

something on the 9th that don't take effect until the 12th. It's appalling.

In other words, the State has interfered with our democracy for a while, to the Mayor's election, to the now garbage, and it's starting to turn into a bunch of garbage. You change your rules arbitrarily and capriciously. You don't -- you're not consistent.

When I come to a meeting if you really want public comment, even though I'm an elected official and you have to agenda item for us to chime in and you disrespect me, but I see you treat members of the public, who you must have a relationship with Mr. Woodson, different than I, answer my question. Break away from your pattern and have somebody come up to answer my question as it relates to the law, as it relates to the resolution, the prematurity of your actions contradicted what you said about veto period as it relates to the request respectfully by the City attorney.

CHAIRPERSON HEADEN: Thank you.

THE WITNESS: I purposely went over the two minutes because I knew you would thank me differently than you do others. This is starting to be really appalling to me as you interfere with our democracy. Why don't you just get the heck out.

CHAIRPERSON HEADEN: Any further comment?

MR. CLINE: No, sir.

CHAIRPERSON HEADEN: Just for clarification purposes from a procedural standpoint, regarding our rule of not taking up items that are within the seven-day veto period, as with all rules of the RTAB or any other body, those rules can certainly be suspended when appropriate. And one of the instances in which we've done so on several occasions is when we've gotten assurances from either the Mayor or administration officials, and even though the veto period had not yet expired, that the Mayor would not, in fact, veto whatever item is in front of us. So, there have been some instances, in order to expedite their limitation, where we have, in fact, departed from the general rule, and that was the case here, given the fact that the Mayor and others already signed the order of dismissal. So, just for not by way of an answer, but for purposes of clarification of our procedures.

If there are no further individuals who have identified for public comment we are now adjourned.  
Thank you.

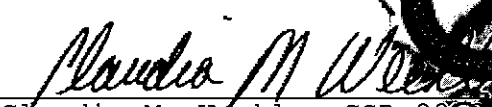

(Proceedings concluded at 2:38 PM.)

CERTIFICATE OF REPORTER

STATE OF MICHIGAN )  
SS )  
COUNTY OF GENESEE )

I hereby certify that on the date and at the place hereinbefore set forth, I reported stenographically the proceedings held in the matter hereinbefore set forth, and that the testimony so recorded was subsequently transcribed by me, and that the foregoing is a full, true and accurate transcript of my original stenotype notes.

Dated: October 28, 2016

  
Claudia M. Weekly, CSR-2968 

Notary Public:  
Genesee County, Michigan  
My Commission Expires:  
March 6, 2019

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