

**MINUTES OF THE
FINANCE COMMITTEE
TUESDAY, OCTOBER 18, 2011**

At a meeting of the **Finance Committee**, held Tuesday, October 18, 2011, in the Board Room, on the 9th Floor of the Administration Building, Mount Clemens, the following members were present:

Brown-Chair, Carabelli, DiMaria, Flynn, Frascchetti, Gralewski, Miller,
Sabatini, Sauger, Smith, Tocco and Vosburg.

Absent and excused was Mocerri.

There being a quorum of the committee present, Chair Brown called the meeting to order at 9:01 a.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

AGENDA

MOTION

A motion was made by Sauger, supported by Flynn, to adopt the agenda, as presented.
The Motion Carried.

MINUTES

MOTION

A motion was made by Carabelli, supported by Frascchetti, to approve the August 23, September 13 and September 27 (special), 2011 minutes of this committee, as written.
The Motion Carried.

EXECUTIVE SESSION TO DISCUSS LABOR NEGOTIATIONS

MOTION

A motion was made by Smith, supported by Frascchetti, to enter into Executive Session for the purpose of discussing labor negotiations. **The Motion Carried.**

In accordance with the motion, committee entered Executive Session at 9:04 a.m., with it concluding at 9:58 a.m.

THIRD QUARTER REVENUE AND EXPENSE REPORTS

Updated reports were distributed.

MOTION

A motion was made by Carabelli, supported by Sabatini, to receive and file the Third Quarter Revenue and Expense Reports submitted by the County Executive's Office.

Pete Provenzano summarized the reports.

The following commissioners spoke: Carabelli and Tocco.

Chair Brown called for a vote on the motion and **The Motion Carried.**

REVIEW ORDINANCE (#8) RE: COMPREHENSIVE BUDGET FOR THE GENERAL, SPECIAL REVENUE AND ENTERPRISE FUNDS FOR FISCAL YEARS ENDING 12-31-12 AND 12-31-13

Pete Provenzano provided an overview of the comprehensive budget and described the process and timeline.

The following commissioners spoke: Tocco, Flynn, Carabelli, Miller, Vosburg, Fraschetti, Smith and Sauger.

MOTION

A motion was made by Fraschetti, supported by DiMaria, to receive and file the information provided on the ordinance (#8) regarding Comprehensive Budget for the General, Special Revenue and Enterprise Funds for Fiscal Years ending December 31, 2012 and December 31, 2013. **The Motion Carried.**

REVIEW OF DRAFT PURCHASING ORDINANCE

Assistant County Executive Mark Deldin read a statement from County Executive Mark Hackel (copy attached).

Board Chair Vosburg referred to the Charter, Section 4.4., D, Powers and Duties, and noted that one of the duties listed is that this committee may approve contracts of the County.

The following commissioners spoke: Tocco, Miller, Fraschetti, Flynn and DiMaria.

Chair Brown suggested receiving and filing the draft until a meeting has occurred with the Office of County Executive as suggested in the statement read by Mr. Deldin.

MOTION

A motion was made by Carabelli, supported by Sabatini, to receive and file the comments provided by the County Executive's Office. **The Motion Carried.**

Commissioner Flynn requested that a copy of all contracts signed by the County Executive since January 1, 2011 be provided to the Board for review. Chair Brown said he would submit a request to Corporation Counsel.

REQUEST FOR SPECIAL APPROPRIATION FOR DRINKING WATER MONITORING SYSTEM

Steve Gold provided an overview.

Chair Brown asked where the funds would come from and Mr. Provenzano replied that funding is available in the General Fund.

COMMITTEE RECOMMENDATION – MOTION

A MOTION WAS MADE BY CARABELLI, SUPPORTED BY MILLER, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS CONCUR IN THE REQUEST OF THE COUNTY EXECUTIVE AND APPROVE A SPECIAL ONE-TIME APPROPRIATION OF \$50,000 FOR THE DRINKING WATER MONITORING SYSTEM WITH FUNDING TO COME FROM THE GENERAL FUND; FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE.

The following commissioners spoke: Carabelli and Brown.

AMENDMENT

A motion was made by Miller, supported by Flynn, to amend the motion that funding is to come from the Capital Improvement Fund.

The following commissioners spoke: Miller, Brown and Vosburg.

Commissioners Miller and Flynn withdrew their amendment.

Chair Brown called for a vote on the motion and **THE MOTION CARRIED.**

ADOPT COUNTY DRAIN DEBT MILLAGE LEVY

COMMITTEE RECOMMENDATION – MOTION

A MOTION WAS MADE BY FLYNN, SUPPORTED BY CARABELLI, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS ADOPT A COUNTY DRAIN DEBT REQUIREMENT OF .0050 MILL FOR INCLUSION ON THE DECEMBER, 2011

MILLAGE LEVY; FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE. **THE MOTION CARRIED.**

ADOPT VETERANS' SERVICES MILLAGE LEVY

COMMITTEE RECOMMENDATION – MOTION

A MOTION WAS MADE BY CARABELLI, SUPPORTED BY DIMARIA, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS ADOPT A VETERANS' SERVICE MILLAGE RATE OF .0400 MILL, LESS ANY MILLAGE REDUCTION REQUIRED BY THE HEADLEE ROLL BACK FACTOR, FOR INCLUSION ON THE DECEMBER, 2011 MILLAGE LEVY; FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE. **THE MOTION CARRIED.**

2011 APPORTIONMENT REPORT

COMMITTEE RECOMMENDATION – MOTION

A MOTION WAS MADE BY DIMARIA, SUPPORTED BY SMITH, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS APPROVE THE 2011 APPORTIONMENT REPORT; FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE.

The following commissioner spoke: Fraschetti.

Chair Brown called for a vote on the motion and **THE MOTION CARRIED.**

APPROVE COUNTY CLERK'S PLAN TO OFFER VETERANS PHOTO ID CARD FOR A FEE (RECOMMENDED BY JUSTICE & PUBLIC SAFETY COMMITTEE ON 10-11-11)

COMMITTEE RECOMMENDATION – MOTION

A MOTION WAS MADE BY DIMARIA, SUPPORTED BY CARABELLI, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS AUTHORIZE THE CLERK/REGISTER OF DEEDS TO HELP VETERANS RECEIVE THE RECOGNITION FROM AREA BUSINESSES THAT THEY DESERVE BY OFFERING VETERAN PHOTO ID CARDS AND CHARGE A FEE NOT TO EXCEED \$10 PER CARD FOR THE SERVICE; THE REVENUE SHALL BE CREDITED TO THE COUNTY CLERK WHEN CONSIDERING BUDGET CUTS; FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE. **THE MOTION CARRIED.**

**APPROVE COUNTY CLERK'S IMPLEMENTATION OF ENHANCED SEARCH
REAL ESTATE "SUPER INDEX" CONSUMER PROTECTION SYSTEM
(RECOMMENDED BY JUSTICE & PUBLIC SAFETY COMMITTEE ON 10-11-11)**

COMMITTEE RECOMMENDATION – MOTION

A MOTION WAS MADE BY DIMARIA, SUPPORTED BY FRASCHETTI, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS CONCUR IN THE CLERK/REGISTER OF DEEDS RECOMMENDATION TO IMPLEMENT AN ENHANCED SEARCH REAL ESTATE "SUPER INDEX" CONSUMER PROTECTION SYSTEM THAT WILL IMPROVE THE WAY PUBLIC REAL ESTATE RECORDS MAY BE ACCESSED AND INCREASE THE ABILITY TO DETECT FRAUD, AT A ONE-TIME COST NOT TO EXCEED \$330,006.72 AND AN ANNUAL COST NOT TO EXCEED \$37,000, OR \$0.08 PER DOCUMENT PLUS \$25,000; FUNDING IS AVAILABLE IN THE REGISTER OF DEEDS AUTOMATION FUND; FURTHER, A COPY OF THIS BOARD OF COMMISSIONERS' ACTION IS DIRECTED TO BE DELIVERED FORTHWITH TO THE OFFICE OF THE COUNTY EXECUTIVE.

Commissioner Carabelli stated for the record that following a discussion with the Clerk, he believes the intent is genuine, but the expense versus the benefit realized is not clear.

Chair Brown called for a vote on the motion and **THE MOTION CARRIED WITH BROWN, CARABELLI AND VOSBURG VOTING "NO."**

APPOINTMENTS OF LAW FIRMS

MOTION

A motion was made by Frascchetti, supported by DiMaria, to concur in the appointment of the following law firms:

Cummings McClorey to represent Macomb County in the litigation entitled Michael George vs. Macomb County, et al, which is pending in the Macomb County Circuit Court;

Cummings McClorey to represent Macomb County in the litigation entitled Robert Turner, II, vs. Macomb County Sheriff Deputies, et al, which is pending in the United States District Court;

Johnson Rosati LaBarge Aseltyne & Field, PC to represent Macomb County in the litigation entitled Michael Bird Adams vs. Macomb County Sheriff Department, et al, which is pending in Wayne County Circuit Court and

Kitch, Drutchas, Wagner, Valitutti & Sherbrook to represent the County defendants in the litigation entitled Mohsen Ghaleb, personal representative of the estate of Marguerite Ghaleb, deceased v Macomb County, et al, which is pending in Macomb County Circuit Court.

The following commissioners spoke: Tocco and Flynn.

Chair Brown called for a vote on the motion and **The Motion Carried with Flynn and Tocco voting "No."**

ADJOURNMENT

MOTION

A motion was made by DiMaria, supported by Smith, to adjourn the meeting at 12:34 p.m. **The Motion Carried.**

Corinne Bedard
Committee Reporter

**A Statement from Macomb County Executive Mark Hackel
Regarding the Current Purchasing Policy Draft
October 18, 2011**

Thank you for the opportunity to provide feedback regarding the draft of a County Purchasing Policy currently under consideration. Members of the Executive staff have had conversations with some Commissioners during the past few weeks and have found common ground on some of the technical and procedural issues involved. Hopefully, that collaborative effort will result in a better policy for the County. But what haven't been discussed are Executive Office concerns for several Charter-related issues, and that is the purpose of this statement.

The drafters of the Charter recognized that the existing Purchasing Policy would be incompatible with the new executive form of government. As a result, Section 8.10 of the Charter was inserted requiring the Commission to develop a new way of handling purchasing. That Charter section is clear on what had to be done – the Commission will *adopt* a purchasing policy, the Executive will then *implement* the policy, and the policy must be consistent with the provisions of the Charter. Unfortunately, the proposed purchasing policy before you is not consistent with this new form of government and if enacted would violate the Charter in several ways.

First, in many instances it interferes with or abridges the Executive's Charter-granted authority. The Charter states that the Executive has the authority to supervise, coordinate, direct and control all County Departments except for those headed by countywide elected officials. The Charter also gives the Executive the authority to prepare and administer the budget. As a result, the Commission has no policy or ordinance authority to direct the purchasing manager, the finance director, or the director of the Department of Roads, or to administer the appropriations it has approved. These types of provisions are remnants of pre-Charter governance. In addition, the imposition of operational protocols such as the IFAS requisition process is not policy, but rather an implementation directive. The Executive is given the authority and responsibility under the Charter to determine how the policy will be implemented, and is free to select any method that fulfills that responsibility.

The proposed purchasing ordinance also violates the Charter and exceeds the authority of the legislative branch of County government when it imposes or assigns administrative and implementation functions to itself or its members. For example, inclusion of the Chair of the Commission in the "sole source procurement" process would exceed the Commission's legislative authority. Similarly, permitting committees of the Commission to make purchasing decisions, to consider deviations from the purchasing process, or to grant appeals would also infringe on the Executive's administrative authority and sole responsibility to implement the Commission's policy. Requiring such things as submitting a "confirming resolution" to the Commission is not a lawful exercise of the Commission's policy-making authority, because these types of requirements impose duties that go beyond the role of adopting policy and cross over into the role of implementing policy.

The separation of powers doctrine is perhaps the most fundamental principle in American political and constitutional thought. It is enshrined in the federal and state constitutions, as well

as in the Macomb County Charter. Under this doctrine, the branches of government are separate but equal and one branch cannot direct the actions or perform the functions of the other. That is what creates the system of checks and balances the people expect.

Under the prior form of government there were no checks and balances. The Commission set the policies and then administered the policies it created. The Commission authorized how much money could be spent and then decided who would receive it. Under the prior form of government the Commission was "in charge" of all county departments. Today it is not. Under the new Charter the Commission can no longer create policy and then administer the policy it creates. It cannot appropriate money and then decide who will receive it. And maybe most important, it can no longer direct the actions of the departments within the executive branch of government.

Simply stated, a fundamental element of the voter-approved Charter was the transfer of all administrative functions from the Commission to the County Executive. The policy under consideration fails to recognize this change.

Finally, Article 10 of the proposed ordinance has no place in the purchasing ordinance. The Commission's charge under the Charter is to establish policy for procurement. Article 10 goes well beyond that responsibility by attempting to delineate ethical responsibilities. Such responsibilities are best dealt with in the Ethics Ordinance.

Just as was done for the technical aspects of this proposed policy, the Executive Office suggests that further collaborative discussion should occur before the proposed policy is adopted. By working through our respective legal counsel, we should be able to resolve any Charter-related issues before formal Commission action is taken. Your consideration of this request is appreciated.