

**PROPOSED MINUTES OF THE IN-PERSON & VIRTUAL
SPECIAL MEETING AND CLOSED SESSION OF THE HIGHLAND PARK CITY COUNCIL**

October 18, 2023

Council convened at 6:00 p.m. with Council President Thomas presiding.

Present: Council President Thomas, Council Pro Tem Robinson, Councilwoman Manica, Councilwoman Martin, and Councilman Ash-Shafii (5).

Absent: (0).

A quorum being present, Council was declared in session.

The following letter from Mayor McDonald was posted.

Council President Jamal Thomas
Highland Park City Council
12050 Woodward Avenue
Highland Park, Michigan 48203

RE: City of Detroit and Detroit Water and Sewerage Department V. City of Highland Park Case numbers: SC 164991; COA357040; WCCC 14-001974

Dear Council President:

Pursuant to Sec 5-3 (b) of the City Charter, I, Mayor Glenda McDonald, am requesting the City Council schedule a **Special Meeting/Closed Session on Wednesday, October 18, 2023, at 6:00 pm.**

On April 4, 2023, the Michigan Supreme Court entered an Order Denying appeal of the Court of Appeals reversal of the Trial Court Order in favor of Highland Park because they were not persuaded that the questions presented should be reviewed by the Court. On May 8, 2023, the City, Great Lakes Water Authority (GLWA), as parties, and the State of Michigan (SOM) as a non-party participant, entered into a confidential mediation with Retired Judge James J. Rashid, Judicial Resource Services PC.

Representatives of Highland Park, GLWA and SOM have reached a tentative Settlement Proposal that is subject to approval of the City Council, the GLWA Board of Directors and the Governor, subject to legislative approvals and appropriations. This Special Meeting is called to present the Settlement Proposal to the City Council for consideration in Closed Session. Following that Closed Session, the council will reconvene in a public meeting to take any actions that may come out of the Closed Session.

Thank you for your attention in this matter. Should you have any questions, please feel free to contact my office.

Moved by Councilwoman Martin
Supported by Councilman Ash-Shafii

To recess into Closed Session. Yeas (5), Nays (0), Absent (0).

Special Meeting recessed at 6:02 p.m.

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Moved by Councilman Ash-Shafii
Supported by Councilwoman Manica

To reconvene Special Meeting. Yeas (5), Nays (0), Absent (0). Meeting reconvened at 7:00 p.m.

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The following agreement was submitted for approval.

- 1) The Great Lakes Water Authority (GLWA), the City of Highland Park (HP), and the State of Michigan (SOM) shall enter into a settlement agreement by January 15, 2024, that incorporates the basic terms set forth below including mutually agreeable release language. The various documents referenced and necessary to effectuate this term sheet shall be attached, signed, and incorporated as a part of that agreement by that date. In addition, the Department of Environment, Great Lakes and Energy (EGLE) will either amend or replace its July 28, 2017, Administrative Consent Order (ACO) by January 15, 2024, to incorporate the terms set forth below that are specific to HP.
- 2) The SOM shall:
 - a. Pay for the reasonable and necessary cost to install water master meter(s) on water lines and sufficient temporary meters to estimate the sewage flow produced by HP. Metro Consulting (Metro) will be responsible for conducting the necessary work to install the meters. EGLE shall oversee that work pursuant to its regulatory authority. Metro will submit a proposal(s) to EGLE for this work, which will include the number and placement location of those meters in accordance with the provisions below. Metro will consult with GLWA in preparing the proposal(s). EGLE must approve in writing any proposal before installation of meters or implementation begins. In addition:
 - i. The water master meter(s) and temporary sewage metering devices will be installed subject to GLWA's specifications.
 - ii. The water master meter(s) shall be installed at all open points of connection between HP and GLWA.
 - iii. Upon transfer, GLWA will own, operate, and maintain the water master meter(s). HP shall be responsible for the cost of maintaining and operating the sewer meters.
 - iv. HP and GLWA shall agree to a third party and procedures to maintain and operate the sewer meters including the sharing of data produced by the meters. If the parties cannot agree to a third party or the procedures associated with operation, SOM shall identify the third party and prescribe the procedures.
 - v. HP shall have the same access to the Wholesale Automated Meter Reading (WAMR) system and Greater Detroit Regional Sewer System (GDRSS) data for the installed HP water and sewer meters as all other customer communities served by GLWA.
 - vi. HP shall have the right to annually inspect the water master meter(s) and sewer meters upon request.
 - vii. Unless otherwise agreed by the parties, the water master meter(s) and sewage metering devices for HP shall be installed within one year of the execution of the settlement agreement and accompanying documents. HP shall provide full access to meter locations to complete the work timely.

- b. Pay for work necessary to complete water main and service line replacement efforts within the boundaries of HP. EGLE shall have responsibility for determining the necessary work, including conducting or supervising this work.
 - c. Release the \$25M sewer infrastructure grant funds previously allocated in the FY 2023 budget to GLWA on or before December 31, 2023, and appropriate a \$5M grant for work to be conducted by GLWA on drinking water infrastructure.
- 3) HP shall continue to retain Metro to operate HP's water and sewer operations, which includes all billing, collections, maintenance, and improvements. If for any reason, Metro ceases to be HP's operator, then subject to SOM's approval, HP will retain another entity to conduct these operations. Subject to all terms and conditions of the settlement agreement and the contract between GLWA and HP, beginning January 1, 2024, and on a going forward basis, HP shall pay the full amount of GLWA's monthly charges pursuant to the terms of any contract between GLWA and HP.
- 4) HP will enter into contracts based on GLWA's model contract by January 15, 2024, covering the period of January 1, 2014, to December 31, 2044, for water and sewer services.
 - a. The settlement agreement and contracts shall require all amounts paid for HP water, sewer (including industrial waste control) and stormwater services be placed into a trust in which the trustee pays GLWA and any remaining amounts to HP on the same date. Any grants or loans from SOM to HP for infrastructure projects shall not be part of or included in the trust.
 - b. Except to enforce the conditions of this term sheet and the settlement agreement, to the extent that any future disputes arise between HP and GLWA over water and sewer services, which the parties are unable to resolve within 30-days' notice of that dispute, HP and GLWA agree to resolve such disputes through expedited mandatory arbitration pursuant to Michigan statute and court rule that shall be binding upon them. For a charge or billing dispute, the trustee must place in escrow the amount in dispute.
 - c. Once the master water meter(s) is installed, HP shall be treated as part of the master metered customer class.
 - d. For five years commencing on the date of this agreement, the model water contract will allow for Highland Park's max day and peak hour water volume demand to be updated annually as Highland Park continues to "dry up" its system by replacing water mains and lead service lines, or completing other infrastructure improvements that would impact Highland Park's water demand requirements.
- 5) HP and EGLE will either revise the current ACO or replace it with a new one to incorporate the terms set forth in this term sheet that are specific to HP. That ACO shall remain effective and in effect until January 1, 2044, after which it may be terminated if HP has met all of its terms.
- 6) Until metering data can be used to project water and sewer charges:
 - a. For services provided until December 31, 2023, HP will continue to pay, or the

- trustee will pay on HP's behalf 65% of any and all amounts received by HP in payment of bills for water and wastewater treatment services.
- b. Effective January 1, 2024, subject to and conditioned upon execution by all parties of the settlement agreement by January 15, 2024, GLWA will reduce HP's water charges based on reductions in usage volume due to documented repairs of leaks up to 25 percent of its current water usage.
 - c. Effective January 1, 2024, subject to and conditioned upon execution by all parties of the settlement agreement by January 15, 2024, GLWA will also provide a settlement credit of \$60,000 per month to HP on its sewage charges until June 30, 2024, subject to the following:
 - i. HP may fully participate in GLWA's share and charge process for FY 2025.
 - ii. Beginning July 1, 2024, HP shall receive the lesser of (A) the current FY 2024 sewage charges and credit or (B) the new FY 2025 share and resulting charges.
 - iii. This settlement credit will terminate no later than June 30, 2025.
- 7) Once 12 months of quality metering data is available to project estimated annual water and sewer flows, GLWA charges to HP shall be based on that data and future data.
- 8) HP shall increase its water and sewer rates by adopting an interim amended budget no later than December 2023, for the period of January 1, 2024, to June 30, 2024. For all subsequent fiscal years, Metro shall annually retain an independent rate analyst, subject to the approval of the SOM, to calculate necessary adjustments in its water and sewer rates to ensure that the budget for HP's water and sewer operations is sufficient to ensure payment of all GLWA charges and all overhead, maintenance, and operational costs associated with its water and sewer operations. The analyst will recommend necessary rates changes to HP and HP shall annually adjust its water and sewer rates in accordance with the recommendations of the rate analyst.
- 9) Upon effectuation of the settlement agreement, its attachments and related documents, including initial funding consistent with this agreement and after receipt by the trustee of one month of HP's water and sewer receipts and distribution of one month's payment of funds to GLWA under Paragraph 4.i, all litigation between GLWA, Detroit Water and Sewerage Department (DWSD), HP, or SOM shall be dismissed with prejudice according to the following:
 - a. The judgment entered in Wayne County Circuit Court Case No. 2014-001974-CK shall be released or deemed satisfied, and HP shall dismiss its pending appeal from that action (COA Case No. 367193). The court shall retain jurisdiction to enforce the terms of the settlement agreement, which will be entered by the court as a consent judgment.
 - b. HP and GLWA shall submit a proposed stipulated order of dismissal of Wayne County Circuit Court Case No. 20-011589.
 - c. HP shall dismiss its appeal (COA Case No. 362416) from Wayne County Circuit Court Case No. 22-004754-CB and shall release and waive any further challenge to GLWA's rules that were the subject of that action.
 - d. cl. GLWA and SOM shall submit a stipulated order of dismissal of Court of Claims Case No. 2021-000151.
 - e. HP and SOM will submit a proposed stipulated order of dismissal in Court of Claims Case No. 19-000129-MZ.
 - f. HP and GLWA shall submit a proposed stipulated order setting aside the Amended Consent Judgment dated June 18, 1996, in E.D. Mich. Case No. 92-CV7677-DT and 94-CV-73135-DT

- 10) The \$241,418.75 cash bond deposited by HP with the U.S. District Court Clerk shall be released to GLWA from E.D. Mich. Case No. 16-cv-13840.
- 11) Upon approval of this term sheet by HP, SOM, and GLWA, not later than October 23, 2023, GLWA and HP shall submit a signed copy of the term sheet to, and submit a request for, a stipulated Stay of the October 24, 2023, Status Conference and all further proceedings in Judge Joseph's Case No. 14-001974 and all appellate proceedings from that case Case COA Docket No. 367193, until January 15, 2024.
- 12) Upon execution and approval of this term sheet by HP, SOM, and GLWA, not later than October 27, 2023, GLWA and HP shall submit:
 - a) a signed copy of the term sheet to, and submit a request for, a stipulated Stay of the November 2, 2023, Status conference and all further proceedings in Judge Berry's Case No 20-011589 until January 15, 2024.
 - b) a signed copy of the term sheet to, and submit a request for, a stipulated Stay of Petition for Rehearing in Banc in 6th circuit case no. 22-1288, until January 15, 2024.
 - c) Stipulate to a stay of all proceedings in HP's appeal (COA Case No. 362416) from Wayne County Circuit Court Case No. 22-004754-CB.
- 13) This term sheet is conditional and dependent upon (a) final approval of terms by the Governor, (b) appropriation of funds from the legislature to the extent necessary, and (c) approval by the governing bodies of GLWA, and any other necessary party on or before October 26, 2023.

Moved by Councilman Ash-Shafii
Supported by Councilwoman Manica

To approve the term sheet agreement between the City of Highland Park, the City of Detroit, and Great Lakes Water Authority Case number SC 164991, COA 357040, WCCC 14-001974. Yeas (5), Nays (0), Absent (0).

ADJOURNMENT:

Meeting adjourned at 7:24 p.m.

CERTIFICATE

I hereby certify that the attached is a copy of the proposed minutes of the Special Meeting/Closed Session held the 18th day of October 2023 and that said minutes are available for public inspection at the address designated on the posted public notice.

A handwritten signature in black ink, appearing to read 'Cidia Wicker-Brown', with a stylized flourish at the end.

Cidia Wicker-Brown, Deputy City Clerk