

Macomb County Charter Commission

Committee Work Product covering the:

Departmental Committee

Ethics Committee

Executive/Commissioner Committee

Finance and Budget Committee

Sent to legal for drafting on 4-29-09
for Commission review beginning on 5-20-09

MEMORANDUM

FROM: Charter Commissioner James Maceroni,
Departmental Committee Chairperson

TO: Members of the Macomb County Charter Commission

RE: Report of the Departmental Committee

DATE: April 29, 2009

Attached please find the final report of the Departmental Committee. Over the last several weeks our Committee worked to propose a basic framework for the County under an executive form of government. The following report reflects that work.

I would like to sincerely thank my fellow committee members, as well as fellow Commissioners who attended many of the meetings, for their diligence and hard work. Finally, I would like to thank Chairman Femminineo and the Commission for giving me the opportunity to serve as Chairman of the Committee.

Report of the Departmental Committee
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Concepts Approved on April 22 and 27, 2009
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Section 6.1 Sheriff

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

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

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

Section 6.2 Prosecuting Attorney

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

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

6.2.2 Additional powers and duties may be assigned to the department by a county government organization plan adopted in accordance with this Charter.

Section 6.3 County Clerk

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

6.3.1 The department of County Clerk and Register of Deeds is combined as existed at the time of adoption of this Charter.

6.3.2 The powers and duties of the department are those provided by law for county clerks and registers of deeds unless provided otherwise in this Charter. Additional powers and duties may be assigned to the department by a county government organization plan adopted in accordance with this Charter.

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

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Section 6.4 County Treasurer

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

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

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

Section 6.5 Public Works Commissioner

The department of Public Works Commissioner is created. The head of the department is the elected Public Works Commissioner.

6.5.1 The department of Public Works Commissioner is combined with the powers, duties, and functions of the Drain Commissioner as existed at the time of adoption of this Charter.

6.5.2 The powers and duties of the department are those provided by law, including but not limited to Public Act 40 of 1956 (the Drain Code of 1956); Public Act 185 of 1957 (County Department and Board of Public Works Act); and Public Act 342 of 1939 (the County Public Improvement Act of 1939). Unless modified pursuant to state law, the Public Works Commissioner shall be elected in the same manner and for the same term as a drain commissioner and shall carry out the powers and duties of a drain commissioner as permitted by law. Additional powers and duties may be assigned to the department by a county government organization plan adopted in accordance with this Charter.

Section 6.6 General Provisions

6.6.1 The elected officers provided for in this Article shall be home rule officers and shall be elected on a partisan basis. The powers and duties specifically delegated by this Charter to departments headed by elected officers shall not be reassigned by a county government organization plan adopted in accordance with this Charter.

6.6.2 The elected officers shall manage their departments and exercise their powers and duties within authorized and allotted budget appropriations.

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6.6.3 Compensation

(See the Executive/Commissioners Committee Final Report)

6.6.4 A vacancy in an office created under this Article occurs as provided by law. Such vacancies shall be filled within 90 days in the manner provided by law.

6.6.5 If a vacancy occurs within the last two years of the office's remaining term of the office an appointee shall serve until a successor is elected. If a vacancy occurs with more than two years of the term of the office remaining, the County Commission shall call a special election to fill the vacant office for the remainder of the term at the next primary and general elections.

6.6.6 Powers and Duties

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

- (a) The Michigan Constitution and state law, unless this Charter specifically provides otherwise;
- (b) All Charter provisions of general or specific applicability;
- (c) All ordinances adopted by the County Commission or initiatives adopted by the voters; and
- (d) All personnel, budgeting, expenditure, and any other policies of general application recommended by the County Executive and adopted by the County Commission.

Section 7.1 Planning and Economic Development

7.1.1 The department of Planning and Economic Development is created. The department shall assist the County Executive with planning related to economic development and properties owned by the County, including the capital budget and capital improvement programs and other planning functions undertaken by the County Executive.

7.1.2 The department of Planning and Economic Development shall make available to cities, townships, and villages in Macomb County, at their request, advice and assistance on

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matters related to planning functions of the County. The department shall also assist all interested individuals with matters related to the planning functions of the County.

7.1.3 The department of Planning and Economic Development shall promote, coordinate, and oversee economic development initiatives within the County, including but not limited to those that receive public funds and those that will generate public funds.

7.1.4 The department of Planning and Economic Development shall prepare comprehensive plans for the overall economic development of the County and represent the County in joint economic development planning activities with other jurisdictions.

7.1.5 The director of the department of Planning and Economic Development shall supervise and assist with the functions of this department as required by this Charter and any county government organization plan proposed by the County Executive approved by the County Commission. The director shall also supervise the preparation of all planning reports and perform such other and related duties as shall be required or delegated by the County Executive.

Section 7.2 Health and Community Services

7.2.1 The department of Health and Community Services is created. The department shall:

(a) Oversee and ensure the performance and maintenance of all County public health services and all County public health programs;

(b) Oversee and ensure the performance and maintenance of public and community service programs of the County, including but not limited to environmental protection programs, and such other programs as may be provided by ordinance; and

(c) Perform such other and related duties as shall be required by this Charter, law, ordinance or county government organization adopted pursuant to this Charter.

7.2.2 The office for the Aging and Senior Services is created. The office shall coordinate the operations of the County that provide services for seniors and the aging, and shall serve as the advocate for senior citizens in County operations. The office shall be supervised by an appointee of the County Executive subject to the approval of the County Commission as provided in this Article. The coordination of services for seniors and the aging and the advocacy for senior citizens as provided for in this paragraph may not be removed from this office by a county governmental organization plan adopted pursuant to this Charter.

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Section 7.3 Human Resources and Labor Relations

The department of Human Resources and Labor Relations is created. The department of Human Resources and Labor Relations shall:

- (a) Formulate and direct the County's overall human resource program;
- (b) Perform the following duties:
 - (1) Negotiate on behalf of the County all labor and employee relations matters;
 - (2) Administer and implement the collective bargaining agreements of the County;
 - (3) Establish employment specifications and protocols for all County employees not covered by civil service;
 - (4) Such other duties as may be assigned by the County Executive;
and
 - (5) Such other duties provided by this Charter, delegated by the County Executive, or required in a county government organization plan adopted in accordance with this Charter.

Section 7.4 Finance

The department of Finance is created. The department of Finance shall perform such duties as are necessary to:

- (a) Effectuate the provisions of Article VIII of this Charter;
- (b) Implement administrative procedures and practices required by the County Executive;
- (c) Administer all financial affairs of the County not administered by the County Treasurer; and
- (d) Perform such other duties provided by this Charter, delegated by the County Executive, or required in a county government organization plan adopted in accordance with this Charter.

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Section 7.5 Corporation Counsel

7.5.1 The office of Corporation Counsel is created.

7.5.2 Corporation Counsel shall be the chief legal counsel to the County and direct and supervise the office of Corporation Counsel. The Corporation Counsel shall represent the County, the County Executive, the department heads, all departments and divisions of the County, and all boards, committees, agencies, and authorities in all legal matters affecting the County, unless otherwise provided for in the Charter or by ordinance. Upon request, the Corporation Counsel may represent the Officers referred to in Article VI.

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

7.5.3 Corporation Counsel may hire assistant attorneys. Corporation Counsel may appoint special counsel, as may be required, upon approval of the County Commission.

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

7.5.5 Corporation Counsel shall keep the County Executive and the County Commission advised on pending litigation matters on a periodic basis.

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

Section 7.6 Compensation

(See Executive/Commissioners Committee Final Report)

Section 7.7 General Provisions Governing Departments

7.7.1 Other agencies, departments, instrumentalities, and boards and commissions of the County may be created only by ordinance or a county government organization plan adopted in accordance with this Charter.

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Section 7.8 Directors

Unless otherwise specified by this Charter or by law, each department shall be headed by a director who shall report to the County Executive. The director shall, upon approval of the County Executive, hire all employees for his or her department in accordance with the rules and policies of the Human Resources and Labor Relations department. Department directors are exempt from civil service.

Section 7.9 Vacancies

A vacancy in a department or office created under this article occurs if the holder of the department or office dies, resigns, retires, or is removed from the department or office.

Section 9.1 Retirement System

The Macomb County Retirement System created by ordinance in effect at the time of adoption of this Charter shall continue. The accrued rights and benefits of the officers and employees of the County are recognized and this Charter shall not infringe upon or be in derogation of those accrued rights and benefits. The County Commission may amend the ordinance creating the County Retirement System, provided that an amendment shall not decrease any benefit that has been earned or which has vested.

Section 9.2 Retirement Commission

The Retirement Commission is composed of 8 members: The County Executive or the designee of the County Executive; the County Treasurer; the Chair of the County Commission or the designee of the Chair of the County Commission; the Chair of the Macomb County Road Commission; and 4 elected members. The members must be residents of Macomb County. Three members shall be active employees elected by active employees of the County in the manner provided by ordinance. One member shall be a non-voting member elected by retired Macomb County employees in the manner provided by ordinance. The term of an elected member is 4 years. Such terms shall be staggered as provided by ordinance. The Retirement Commission shall administer and manage the Retirement System. The costs of administration and management of the Retirement System shall be paid from the investment earnings of the Retirement System.

Section 10.7 Return After Departure

(a) No person who has been removed from office pursuant to this Charter or state law, or who has resigned from office after a petition for recall has been filed with the clerk, or in anticipation of disciplinary action, or after a complaint or investigation has

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been received or undertaken by the Board of Ethics, shall be eligible to be elected or appointed to any County home rule office within two (2) years after such removal or resignation.

(b) No full-time employee who has retired from County service shall be re-employed, whether by contract or otherwise, within 1 year after the person's retirement benefit commences, unless:

(1) An applicable collective bargaining agreement specifically allows for such return;

(2) The individual returns pursuant to a deferred retirement option program contract; or

(3) The County Executive recommends, and the County Commission approves, the re-employment.

Section 10.8 Public Defender

A county government organization plan adopted pursuant to this Charter may create an office of Public Defender.

Section 11.9 Veterans' Affairs

The existence, organization, functions, and funding of the Department of Veterans' Affairs at the time this Charter becomes effective shall continue subject to this Charter and law.

Section 11.10 Community Mental Health

The existence, organization, functions, and funding of the Community Mental Health Agency at the time this Charter becomes effective shall continue subject to this Charter and law.

MEMORANDUM

FROM: Charter Commissioner Carrie L. Fuca,
Ethics Committee Chairperson

TO: Members of the Macomb County Charter Commission

RE: Report of the Ethics Committee

DATE: April 29, 2009

Please find attached the Report of the Ethics Committee. The Report was adopted at our meeting on April 21, 2009. The Report contains the consensus concepts adopted by the Ethics Committee. These concepts remain subject to legal review and revision.

I want to express my appreciation to Chairman Femminineo and the members of the Commission for giving me the opportunity to serve as Chairperson of the Committee. I also want to thank the members of the Committee for their diligence and hard work. Finally, I want to thank the Commission staff and attorneys, including our guest speakers, for all of their assistance in developing this report.

Report of the Ethics Committee
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Section 2.1 Standards

The highest standards of ethical conduct shall govern all public officials and employees of Macomb County. Fair, ethical, and accountable county government which has earned the public's full confidence for integrity is the entitlement of the public. Such a government, in order to encourage public confidence, requires that all public officials and employees:

- (a) Comply with both the letter and the spirit of the laws and policies involving the operation of county government;
- (b) Be independent, impartial, and fair in their judgment and actions;
- (c) Use their public office for the public good, not for personal gain; and
- (d) Conduct public deliberations and processes openly, as provided by law, in an atmosphere of respect and civility.

Section 2.2 Ethics Ordinance Mandated

Within one year after the effective date of this Charter, the County Commission shall adopt by ordinance a code of ethics by which all persons in the service of the County shall abide, whether compensated or voluntary and whether elected, appointed, or hired. The ordinance providing for such code of ethics shall, when adopted, replace any existing ethics ordinances, resolutions, or policies.

Section 2.3 Ethics Ordinance Provisions

At a minimum, the ethics ordinance required by this Charter shall identify and address the following:

- (a) Detailed provisions governing real and perceived conflicts of interest. The duty of a public servant is to represent the best interests of the public entity, and to serve the entity with the highest degree of loyalty. A public official is not to exploit his or her position of power in unjust or inappropriate ways.
- (b) The disclosure that shall be required of all elected officials relating to interests in contracts, relationships with vendors, the receipt of gifts, and all other relationships or interests that can reasonably be expected to create a real or perceived conflict of interest. If a government is to be both transparent and accountable, the public must know of real and potential conflicts of interest. Public disclosure makes it possible to evaluate the potential effects of relationships and circumstances which might influence

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a public servant's performance of duty, and which might diminish an official's independence and objectivity.

(c) A mandate that County officials shall not use their official position to secure, request, or grant any privileges, exemptions, advantages, contracts, or preferential treatment for anyone in a manner that does not further the public good. Except for publicly approved pay and related benefits, public officials should take measures to assure the public that they receive no significant benefits or services that are not available to any member of the public.

(d) Rules designed to ensure that a public official will use the position and power of public office for the benefit of the community as a whole and not for private gain.

(e) A prohibition against public servants engaging in or accepting employment, or rendering services, for a private or public interest where such employment or service is incompatible with the discharge of the public servant's official duties for the County.

(f) The extent to which immediate family members of elected County officials shall be disqualified from holding any appointive office, and the extent to which they shall also be qualified or disqualified from holding full or part-time employment, during the term of the elected official.

(g) Rules determining when a personal business interest of a County official in connection with County business is unethical and rules related to the disclosure by a County official of all such business relationships by a County official. The existence of a personal business interest by a public official with the County presents the opportunity for real or perceived abuse of public office.

(h) Detail the political activity by County officials and employees which is deemed to be unethical, including but not limited to the use of County time or property for political purposes. Some political activity by public officials and employees can jeopardize the goal that the government will be objective and fair, and treat all equally. Local government assets such as employees' time, materials, and other resources belong to the public and should not be used for political purposes.

(i) Rules establishing the unethical use of confidential public information for personal gain, benefit or advancement. Confidential information acquired by County officials and employees must be used only as authorized, and not for private gain, personal benefit, or advancement.

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(j) Establish standards for when the use of public resources and assets shall be deemed unethical. Public resources and assets that are not offered to the general public, including but not limited to County-owned real or personal property, County funds, County personnel, or any other tangible County resources, should not be used by a County official or employee for private purposes or commercial gain because doing so subsidizes private activities with public dollars.

(k) Standards defining when soliciting, accepting, or receiving any gift, loan, gratuity, favor, or service by a County official or employee that might reasonably be expected to influence one in his or her position in the discharge of his or her official duties is deemed to be unethical. Standards defining when gifts, gratuities, favors, and services that are accepted by County officials and employees result in a perception of impropriety and is contrary to the public policy established in this Charter.

Section 2.4 Board of Ethics

2.4.1 A Board of Ethics is created.

2.4.2 The Board of Ethics shall consist of five members who shall be nominated by the County Executive and approved by the County Commission. The County Commission shall vote on confirmation within 60 days of receipt of nominations from the County Executive. If the County Commission does not vote on confirmation within that time, the County Executive's nomination(s) shall be deemed confirmed and the member(s) shall be appointed.

2.4.3 Board of Ethics Members shall serve without compensation.

2.4.4 Board of Ethics Members shall be appointed for 5-year staggered terms, with not more than two members' terms expiring in any one year.

2.4.5 Board of Ethics Members shall be and remain qualified electors in the County of Macomb during their service on the Board of Ethics.

2.4.6 Current County officials and employees, or any person who has been a County officer or employee during the preceding 2 years, and their immediate family members, and any other individuals provided by ordinance, shall not be eligible to serve on the Board of Ethics.

2.4.7 Board of Ethics Members shall not be an officer in any political party.

2.4.8 A Member of the Board of Ethics may be removed by the County Executive for cause with the approval of the County Commission.

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Section 2.5 Powers and Duties of the Board of Ethics

2.5.1 The Board shall promulgate written rules and regulations, within 180 days following the appointment and confirmation of its 5 initial members, as are necessary to implement and interpret the provisions of this Article consistent with the goal of providing clear guidance regarding ethic standards. The proposed rules and regulations shall be submitted to the County Commission for approval, subject to review and veto by the County Executive in the manner provided by this Charter. A copy of the adopted rules and regulations shall be filed with the County Clerk. The Board of Ethics shall give prompt notice of the contents of its rules and regulations to all officials and employees.

2.5.2 The Board of Ethics may prepare and disseminate educational materials regarding the provisions contained within this Charter and the ethics ordinance, and may develop and conduct routine and mandatory educational and training programs for all County officials, employees, and volunteers. The Board of Ethics shall consult with County departments and agencies in developing and conducting routine and mandatory educational and training programs.

2.5.3 The Board of Ethics shall develop procedures for all County officials and employees to obtain informal guidance and assistance in understanding and maintaining compliance with the County's standards of conduct and ethics.

2.5.4 The Board of Ethics shall render advisory opinions with respect to all matters pertaining to ethic standards in accordance with its adopted rules, regulations, and procedures.

2.5.5

(a) The Board shall receive written complaints alleging violations of the ethics ordinance established pursuant to this Charter. All such complaints must be signed by the complainant and the Board of Ethics shall, to the extent permitted by law, preserve the confidentiality of the complainant and keep information, records, and proceedings relating to an investigation confidential at all times during the investigation of the complaint.

(b) Whenever a written complaint is received by the Board, it shall:

(1) Dismiss the complaint if it determines that no further action is required by the Board of Ethics;

(2) Investigate internally;

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(3) Make an initial determination as to whether there is probable cause to believe that a County official or employee has violated a provision of the ethics ordinance and, if so, proceed to adjudicate the matter in accordance with the regulations promulgated by the Board of Ethics for adjudicating complaints;

(4) Refer the alleged violation to the head of the County department or agency in which the County official or employee serves if the Board of Ethics deems the violation to be minor or if related disciplinary charges are pending against the County officer or employee; or

(5) Refer the alleged violation to appropriate enforcement authorities.

2.5.6

(a) The Board of Ethics shall have the power to conduct an investigation of any matter related to the Board's responsibilities under this Charter.

(b) Whenever a County agency receives a written complaint alleging a violation of the ethics ordinance, or a County official or employee determines that a violation may have occurred, the agency, employee, or volunteer shall refer such matter to the Board. Such referral shall be reviewed and acted upon by the Board in the same manner as a complaint received by the Board of Ethics.

(c) The Board of Ethics shall have the power to compel the attendance of individuals and the production of documents and other evidence in furtherance of its investigative duties and responsibilities.

2.5.7 The Board of Ethics may seek the assistance and opinion of Corporation Counsel in the investigation of a matter or, subject to prior approval of a written retainer agreement by the County Commission, the Board of Ethics may seek outside counsel for its investigation.

2.5.8 The Board of Ethics shall, by regulation, provide for adjudication of alleged violations of this Article and the ethics ordinance, insuring that notice and an opportunity to be heard are provided prior to any final decision by the Board of Ethics. The Board of Ethics shall refer its findings and recommendations to the appropriate officials or authorities for appropriate action. Findings and decisions of the Board of Ethics on any actions taken by the Board shall be final and there shall be no further appeal other than to court as provided by law.

2.5.9 Except as otherwise provided in this Charter, law, or a Board of Ethics regulation, the records, reports, memoranda, and files of the Board of Ethics shall be confidential and shall

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not be subject to public inspection. No person shall disclose or acknowledge to any other person any information relating to a complaint, investigation, referral, or pending adjudication, except as otherwise provided by law or Board of Ethics regulation.

2.5.10 No officer or employee shall discharge, or change the official rank, grade, or compensation, or deny a promotion or threaten to do so of any officer or employee for filing a complaint with or providing information in good faith to the Board of Ethics, or for testifying in good faith in any Board of Ethics proceeding.

2.5.11 If an officer or employee has reason to believe a complaint to the Board of Ethics is frivolous, or without merit and made primarily for a purpose other than that of reporting a violation of the ethics ordinance, or a person publicly disclosed or caused to be disclosed that a complaint against an officer or employee has been filed with the Board of Ethics, the official or employee shall notify the Board of Ethics and the Board of Ethics shall conduct an investigation.

2.5.12 The Board of Ethics shall submit an annual report and recommendations to the County Executive and County Commission in the form and manner required by the ethics ordinance.

2.5.13 All County officials and employees shall cooperate fully with any request of the Board of Ethics made pursuant to the execution of the Board of Ethics' powers and duties, subject to all constitutional and statutory rights.

2.5.14 The Board of Ethics shall be exempt from reorganization in any organization plan adopted pursuant to this Charter by the County Executive and approved by the County Commission.

2.5.15 This Article is intended to encourage and promote the highest standards of ethical conduct and behavior by County officials and employees. The County Commission shall determine, by ordinance, whether any penalties may be imposed for violating any provision of the ethics ordinance.

2.5.16 A sufficient annual appropriation and allocation of resources shall be provided by the County Commission to enable the Board of Ethics to perform its duties as set forth in this Charter.

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Section 3.20 Access to Government Financial Information

When preparing and presenting an organization plan after the beginning of a new term of office as required by this Charter, the County Executive shall include a plan, subject to confirmation by the County Commission, for providing access to the expenditures of County government to the public in the most feasible, accessible, and economical means available. The County Commission may modify the plan by ordinance at any time.

Section 10.5 Removal from Office

In addition to any constitutional and statutory process for removal from office, any home rule elected County official, any appointed County official, and any employee or contracted employee of the County not subject to a collective bargaining agreement may be removed from office or employment by the following process:

(a) The Board of Ethics shall have the authority to recommend removal for criminal or corrupt conduct arising out of or occurring in the course of the conduct of the office. If the Board of Ethics finds by a preponderance of the evidence that an elected or appointed County official or employee has committed criminal or corrupt conduct arising out of or related to the conduct of the official's or employee's office or position, the Board of Ethics shall refer the matter to the County Commission, or other appropriate official or agency, for removal from office or employment. A majority of the members serving shall be necessary to adopt a recommendation for removal.

(b) Every recommendation for removal that is adopted by the Board of Ethics shall be deliberated and decided by the County Commission. The County Commissioners shall take an oath or affirmation truly and impartially to try and determine the recommendation for removal according to the evidence. A resolution for removal from office or employment shall be approved by a vote of 2/3 of the County Commissioners serving.

(c) The County Commission shall provide by ordinance for the process that will govern its consideration of recommendations for removal made by the Board of Ethics in accordance with this section. The standard for removal shall be, at a minimum, a preponderance of the evidence. Such process shall be modeled, to the extent practical, after the impeachment process set forth by law for removal of civil officers. The ordinance may allow for the adoption of rules and regulations to be followed by the County Commission when conducting a hearing on a recommendation for removal.

MEMORANDUM

FROM: Charter Commissioner Tom Rombach,
Executive/Commissioners Committee Chairperson

TO: Members of the Macomb County Charter Commission

RE: Report of the Executive/Commissioners Committee

DATE: April 29, 2009

Attached is the Report of the Executive/Commissioners Committee that was adopted on Saturday, April 25, 2009. Although still subject to legal review and revision, the Report contains the concepts that were developed by our Committee.

I want to thank Chairman Jacob Femminineo, Jr. and my fellow Commissioners for entrusting me with the chairmanship of the Committee. I also want to commend Vice-Chair Robert Smith, the members of the Committee, and all the other Charter Commissioners who attended our meetings, for their insights and diligence.

Finally, this Report could not have been produced without the extraordinary assistance of the Commission staff and legal counsel.

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Section 3.1 County Executive

The office of County Executive is created and the executive power is vested in the County Executive who is the head of the executive branch of County government.

Section 3.2 Role of County Executive

The Office of County Executive shall provide administrative leadership serving the public in a professional and ethical manner which promotes citizen participation. The role of the County Executive includes, but is not limited to, the coordination and direction of various County activities so that policies are achieved effectively and efficiently; the supervision of County fiscal matters to assure that sound fiscal practices and financial management principles are followed, commensurate with funding capabilities and constraints; and the promotion of employee satisfaction through a stable work environment and personal development opportunities. This section shall not limit the authority, duties, or responsibilities of the County Executive as provided for in this Charter.

Section 3.3 Election and Term

The County Executive shall be elected at large on a partisan basis for a 4-year term concurrent with the term of the Governor of the State of Michigan.

Section 3.4 Qualifications of the County Executive

Any person who is a qualified elector in Macomb County as of the deadline for filing to run for the office of County Executive shall be qualified to serve as the County Executive.

Section 3.5 Oath of Office

Before entering upon the duties of his or her office, the County Executive shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution.

Section 3.6 Office at County Seat

The principal office of the County Executive shall be at the county seat.

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Section 3.7 Compensation

3.7.1 The County Commission shall establish compensation for the County Executive by ordinance. A change in compensation after it is established shall not be effective before the commencement of a new term. Any change in compensation shall be adopted by the County Commission prior to the filing deadline for the primary election in which candidates for the next County Executive term are to be nominated.

3.7.2 The County Commission shall not utilize any means or mechanism, whether available under state law or otherwise, which would result in a compensation adjustment or recommendation that would become effective without adoption by a majority of the County Commissioners serving.

3.7.3 Compensation for the initial home rule County Executive installed under this Charter shall be established in the manner set forth in Article XI of this Charter.

Section 3.8 Authority, Duties, and Responsibilities

The County Executive has the authority, duty, and responsibility to:

- (a) Supervise, coordinate, direct, and control all County facilities, operations, and functions except as otherwise provided by law or this Charter;
- (b) Implement and enforce all laws in the County except as otherwise provided for by law or this Charter;
- (c) Exercise all powers and duties granted the County Executive by law, ordinance, or other provisions of this Charter, and exercise all incidental powers necessary to perform any of the duties and functions specified in this Charter or lawfully delegated to the County Executive;
- (d) Submit reports and recommendations to the County Commission on any matter affecting the County;
- (e) Exercise powers and duties required for emergency preparedness;
- (f) Interact with individuals and organizations in the community to ensure that services are responsive to citizens' needs;

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- (g) Maintain intergovernmental relations and advocate or develop proposed legislation beneficial to County interests;
- (h) Coordinate economic development programs, countywide planning, and the marketing of County resources; and
- (i) Devote his or her entire time to the position of County Executive, and shall not engage in or be engaged or employed in any private business or private employment.

Section 3.9 County Government Organization Plan

3.9.1 Within 90 days after the start of a new term of office, the County Executive shall submit a proposed county government organization plan to the County Commission. Accompanying each organization plan shall be an explanation of the reasons for any reorganization and an evaluation of the financial impact of the proposed plan.

3.9.2 The plan may provide for the creation or abolition of any department, agency, division, commission, and other County offices and entities with the exception of the departments and offices created by Article VII of this Charter and any others expressly exempted by this Charter or prohibited from being created or abolished by law. The plan may also assign all the powers, duties, and functions of the County among the departments, including those created by Article VII of this Charter, and agencies, divisions, or offices of County government if not prohibited by this Charter or prohibited by law. The County Executive may propose amendments to the county government organization plan to the County Commission at any time.

3.9.3 The County Commission shall approve or reject the proposed plan or any proposed amendment within 60 days after its submission.

Section 3.10 Appointments

Unless otherwise specifically provided by this Charter or law:

- (a) The County Executive shall appoint the Deputy County Executive, department directors, members of boards and commissions, representatives of the County on intergovernmental bodies, and all other appointed officials or representatives.
- (b) Appointments by the County Executive shall require confirmation by a majority of the County Commissioners serving unless such appointments are exempted

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from confirmation by this Charter or by law. The County Commission shall act on an appointment within 60 days after its submission in writing from the County Executive.

(c) Home rule elected officials are exempt from this section.

(d) The County Executive may appoint a confidential secretary, administrative assistant, and advisory boards and commissions whose members serve on a voluntary unpaid basis. Such appointments shall be exempt from approval by the County Commission unless otherwise provided by law or this Charter.

(e) All appointees of the County Executive shall serve at the pleasure of the County Executive unless otherwise provided by law or contract.

(f) Within 6 months of the effective date of this Charter, the County Commission shall establish and adopt qualifications and criteria for the appointment and hiring of department directors and other County government appointees.

Section 3.11 Veto Authority

With the exception of collective bargaining agreements, the County Executive may veto any ordinance or any resolution having the effect of law, or approving a contract, or any line item of an ordinance appropriating money by transmitting to the Commission written certification of the veto and the reasons therefore. If the County Executive fails to exercise the veto within 10 days after the submission of the ordinance or resolution to the County Executive, the action of the County Commission takes effect.

Section 3.12 Intergovernmental Relations

The County Executive, with the approval of the County Commission and concurrence of each elected officer whose department will be required to allocate or transfer resources, may:

(a) Enter into any intergovernmental contract which is not specifically prohibited by law.

(b) Join, establish, or form with any other governmental unit an intergovernmental district or authority for the purpose of performing a public function or service, which each is authorized to perform separately, the performance of which is not prohibited by law.

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(c) Accept, upon mutually agreed conditions, the transfer of performance of any municipal function or service from any governmental unit wholly or partially within the County, if the performance of that function or service by the County is not specifically prohibited by law, and if the function or service is offered on a countywide basis.

(d) Provide by contract services or functions in any political subdivision of the County with the agreement of the legislative body of that subdivision and with approval of the contract by the County Commission. The cost of services or functions provided to a political subdivision of the County, but not provided countywide, shall be paid by the political subdivision in which the services or functions are performed. The revenues collected for the contracted services or functions shall be used first to pay for the contracted services.

Section 3.13 Deputy County Executive

The Office of the Deputy County Executive is created. The Deputy County Executive shall exercise the powers and duties of the County Executive if the office is vacant or if the County Executive is absent or disabled. The Deputy County Executive shall also perform the powers and duties delegated by the County Executive.

Section 3.14 Removal from Office

The governor of the State of Michigan may remove the County Executive from office for gross neglect of duty or for corrupt conduct in office or for any other misfeasance or malfeasance while in office. The removal power shall be exercised by providing notice of charges and due process as provided by law.

Section 3.15 Vacancies

3.15.1 The office of County Executive shall become vacant upon any occurrence which would create a vacancy in any of the other elected offices of the County, including but not limited to death, resignation, removal from office, and removal of his or her residence from Macomb County.

3.15.2 Whenever any person elected to the office of County Executive shall die before the commencement of the term for which he or she was elected, there shall be a vacancy for the term to which such person was elected to be filled according to law. The vacancy shall be filled within 15 days after the beginning of the term for which he or she was elected.

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Section 3.16 Filling a Vacancy

If a vacancy occurs in the office of County Executive, it shall be filled in the following manner:

(a) The county clerk, the prosecuting attorney, the sheriff, the treasurer, and the chairperson of the County Commission shall appoint a suitable person to fill the vacancy within thirty (30) days after the vacancy occurs.

(b) A person appointed shall take and subscribe to the oath as provided in section 1 of article XI of the state constitution of 1963, and hold office for the remainder of the unexpired term and until a successor is elected and qualified. However, if the next general November election is to be held more than 182 days after the vacancy occurs, and it is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

Section 3.17 Transfers of Property and Records

All property, records, and equipment of any department, agency, board, commission, instrumentality, or other administrative unit of County government affected by this charter or a county government organization plan shall be transferred to the appropriate organizational unit established under this charter or a county government organization plan as directed by the County Executive.

Section 3.18 Signature

All claims, deeds, contracts, and other instruments and documents of the County shall be signed by the County Executive or the County Executive's official designee.

Section 3.19 Reports to the County Commission

The County Executive shall file a written report with the County Commission on the financial condition of the County at least quarterly. The report shall include:

(a) A comparison of actual revenues to amended budgeted revenues for the current fiscal year;

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- (b) A comparison of actual expenditures to amend budgeted expenditures for the current fiscal year;
- (c) Any revisions to the original revenue estimates and/or expenditure estimates; and
- (d) Any additional information required by ordinance or state law.

Section 3.20 Access to Government Financial Information

(See the Ethics Committee Final Report)

Section 4.1 County Commission

The County Commission is created. The County Commission is vested with all legislative authority. The County Commission shall consist of 11 members, and they shall be known as County Commissioners. All references to a county board of commissioners and county board of supervisors, whether in state law or otherwise, shall be deemed to refer to the County Commission.

Section 4.2 Election and Term

The term of office of a County Commissioner shall be concurrent with the term established by law for the office of State Representative. County Commissioners shall be elected on a partisan basis in even numbered years from single member districts established by the County Apportionment Commission as provided by law.

Section 4.3 Qualifications of a County Commissioner

Any person who is a qualified elector in a County Commissioner district as of the deadline for filing to run for the office of County Commissioner shall be qualified to serve as a County Commissioner for that district, unless the person is otherwise prohibited by law from holding the office of County Commissioner.

Section 4.4 Meetings, Rules and Procedures

4.4.1 At the first meeting of each new term, the County Commission shall elect a chairperson and other officers of the County Commission, establish its own rules and procedures, and establish its regular monthly meeting schedule.

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4.4.2 The vote on final adoption of any resolution or ordinance shall be by a majority of County Commissioners then serving, unless a different majority is required by this Charter or by law. Any Commissioner may call for a roll call vote on any matter before the County Commission, whether before or after a voice vote, in which instance the chairperson shall conduct a roll call vote. A majority of Commissioners serving constitutes a quorum.

Section 4.5 Powers and Duties

The County Commission shall be the elected legislative body of the County and shall be vested with all of the County's law-making powers. Powers and duties of the County Commission shall be exercised by ordinance if required by law or this Charter; if not so required, the powers and duties of the Commission may be exercised by resolution. In addition to other powers and duties prescribed in this Charter, the Commission may:

- (a) Establish policies to be followed by the County in the conduct of its affairs;
- (b) Adopt, amend, or repeal resolutions and rules necessary to conduct the business of the County, and exercise all legislative powers authorized by this Charter or law;
- (c) Adopt, amend, or repeal County ordinances that do not contravene the general laws of the state of Michigan or interfere with the local affairs of a township, city, or village within the limits of the County, and provide suitable sanctions for the violations of such ordinances;
- (d) Establish committees of the County Commission necessary to efficiently conduct the business of the County Commission;
- (e) Appropriate funds, levy taxes, fees, and other charges, and authorize borrowing in accordance with this Charter and applicable laws;
- (f) Approve the making of contracts by the County;
- (g) Approve or reject appointments by the County Executive in accordance with Article III of this Charter;
- (h) Override a veto of the County Executive by a two-thirds majority of Commissioners serving within 30 days of the veto;

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- (i) Subpoena records, documents, and individuals and administer oaths;
- (j) Appoint, approve, confirm, and remove members of committees, boards, and commissions as permitted by law or this Charter;
- (k) Submit amendments to this Charter for approval by the registered voters;
- (l) Submit, after approval by a majority vote of Commissioners serving, proposals for a tax increase to be placed on the ballot and approved by a vote of a majority of the qualified electors of the County voting thereon in order to be adopted;
- (m) Establish the salaries of elected officials and heads of boards, commissions, and departments in the manner provided in this Charter;
- (n) Exercise any power granted by law to charter or general law counties except those prohibited or modified by this Charter.

Section 4.6 Enumerated Powers Not Exclusive

The enumeration of powers in this Charter shall not be held or deemed to be exclusive. In addition to the powers enumerated in this Charter, implied by this Charter, or appropriate to the exercise of the powers enumerated in this Charter, the County Commission shall have and may exercise all legislative powers which this Charter could specifically enumerate as provided by the Constitution and the laws of the State of Michigan.

Section 4.7 Limitation on County Commission's Powers

In the exercise of all its powers, the County Commission shall be subject to the express limitations imposed by this Charter and by all applicable provisions of the Constitution and laws of this state.

Section 4.8 Compensation

4.8.1 The County Commission shall establish compensation for County Commissioners by ordinance. A change in compensation after it is established shall not be effective before the commencement of a new term. Any change in compensation shall be adopted by the County Commission prior to the filing deadline for the primary election in which candidates for the next County Commission term are to be nominated.

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4.8.2 The County Commission shall not utilize any means or mechanism, whether available under state law or otherwise, which would result in a compensation adjustment or recommendation that would become effective without adoption by a majority of the County Commissioners serving.

Section 4.9 Vacancies

4.9.1 A vacancy occurs in the office of a County Commissioner by death, resignation, removal from the district, or removal from office.

4.9.2 A vacancy in the office of a County Commissioner shall be filled by appointment within 30 days by a majority vote of County Commissioners serving. The appointee shall be a qualified elector in the district to which he or she is appointed. The appointee shall take office and begin serving upon filing the oath of office with the County Clerk after the meeting at which the appointment is made.

4.9.3 If the vacancy is filled in an odd-numbered year, the appointee shall serve until a successor is elected in a special election called by the County Commission in accordance with law. If the vacancy is filled in a year which is an even-numbered year, the appointee shall serve out the unexpired term.

4.9.4 If a vacancy is not filled by appointment as required by this section, it shall be filled by a special election if it occurred during an odd-numbered year. If impractical to hold the special election during the odd-numbered year when the vacancy occurred, the special election shall be held as soon as practical during the next year.

Section 4.10 Removal from Office for Incapacity

A County Commissioner may be removed from office by the affirmative vote of not less than three-fourths of the members of the full County Commission after a public hearing upon a finding that he or she is unable by reason of incapacity to perform the duties of his or her office. The decision of the County Commission may be appealed by the Commissioner to the Circuit Court within the time prescribed by applicable law or court rules for appeals from administrative tribunals. The Circuit Court shall make de novo determinations of fact. After all appellate remedies have been exhausted, the findings of fact by the Circuit Court shall be final. If the removal decision was upheld or was not appealed within the applicable time limitations, the office shall be deemed vacant.

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Section 4.11 Independent Commission Counsel

(a) An independent Commission Counsel may be appointed on a case-by-case basis by a majority of the County Commissioners to provide legal services related to specific projects or specific issues as deemed necessary by the County Commission. The Commission Counsel shall be supervised exclusively by the Commission. The Commission Counsel shall not be an employee of the County and shall not be engaged or retained for an indefinite term.

(b) The Commission Counsel shall be an attorney or attorneys licensed to practice law in Michigan. The process for soliciting and retaining a Commission Counsel shall be established by an ordinance adopted by a majority of the County Commissioners serving and shall not be subject to the veto authority of the County Executive.

(c) Commission Counsel shall provide legal services related only to the protection and implementation of the rights, powers, and duties of the County Commission and related matters deemed necessary by the County Commission.

Section 4.12 Assumption of Functions or Services

The legislative body of any unit of government which is wholly or partially within the County may transfer, subject to the approval of the County Commission and upon mutually agreed conditions, any municipal function or service to the County if the performance of that function or service by the County is not specifically prohibited by law and if the function or service is offered on a County-wide basis.

6.6.3 Compensation

(a) Compensation for the home rule elected officials under this Article, and any others that are created by Charter or state law, shall be established by ordinance adopted by the County Commission. A change in compensation after it is established shall not be effective before the commencement of a new term. Any change in compensation shall be adopted by the County Commission prior to the filing deadline for the primary election in which candidates for the elected office are to be nominated.

(b) The County Commission shall not utilize any means or mechanism, whether available under state law or otherwise, which would result in a compensation adjustment or recommendation that would become effective without adoption by a majority of the County Commissioners serving.

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(c) Compensation for the initial home rule elected officials under this Article and installed under this Charter shall be as established in Article XI of this Charter.

Section 7.6 Compensation

7.6.1 Unless a different process is set forth in this Charter, compensation for officials and employees of the County not subject to a collective bargaining agreement shall be recommended by the County Executive and approved in an ordinance adopted by the County Commission.

7.6.2 The County Commission shall not utilize any means or mechanism, whether available under state law or otherwise, which would result in a compensation adjustment or recommendation that would become effective without adoption by a majority of the County Commissioners serving.

7.6.3 Compensation for the initial officials and employees installed under this Charter shall be established in the manner set forth in Article XI of this Charter.

Section 11.11 Salaries and Benefits on Effective Date of Charter

11.11.1 The initial compensation for the first home rule County Executive shall be eight times the minimum salary authorized for the lowest paid full-time County employee on the effective date of this Charter. The County Commission shall determine the initial County Executive's salary for the remainder of the term of office by ordinance within 60 days of the effective date of this Charter.

11.11.2 The salaries and benefits for the first home rule elected officials who are already serving when this Charter becomes effective shall be continued until modified as permitted by this Charter or by law.

11.11.3 The organization plan proposed by the County Executive and approved by the County Commission shall include the initial compensation for the directors of the departments established in Article VII and any other departments included in the organization plan. The compensation for all appointed officers and employees of the County government holding office on the effective date of this Charter shall be continued until modified as permitted by this Charter or by law.

11.11.4 The initial benefits for the first home rule County Executive shall be the same as those provided to the other elected officials of the County.

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MEMORANDUM

FROM: Charter Commissioner Nick Ciaramitaro,
Budget Finance Committee Chairperson

TO: Members of the Macomb County Charter Commission

RE: Report of the Finance and Budget Committee

DATE: April 16, 2009

Please find attached the Report of the Finance and Budget Committee of the Macomb County Charter Commission. The Report was adopted at our meeting of April 9, 2009. The Report contains the consensus concepts adopted by the Finance and Budget Committee. These concepts remain subject to legal review and revision.

I want to express my appreciation to Chairman Femminineo and the members of the Commission for giving me the opportunity to serve as Chairman of the Committee. And I want to thank the members of the Committee for their diligence and hard work. I also want to thank the Commission staff and attorneys, with a special thank you to the pro bono efforts of John Axe, for all their assistance in developing this report. Finally, I want to express my appreciation to David Diegel, Macomb County Finance Director, for his guidance and to the Macomb County Clerk's office for their patience and diligence.

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Macomb County Charter Commission
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Section 8.1 Financial Management Principles

Macomb County shall employ generally accepted principles of accounting, auditing, and reporting, appropriate to local government and as required by law, in the conduct of its financial affairs.

Section 8.2 Fiscal Year

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

Section 8.3 Independent Audit

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

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

Section 8.4 Debt Limit and Borrowing Authority

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

Section 8.5 Taxing Authority

8.5.1 The County may by ordinance levy and collect any tax, fee, rent, toll, or excise authorized by law. The County may levy an ad valorem property tax not in excess of 1% of the state equalized valuation of the taxable property within the County.

8.5.2 The levy of taxes from within the ad valorem property tax limitation shall not exceed, unless otherwise approved by the electors, 5.19 mills as is adjusted currently and may be adjusted in the future by applicable constitutional and statutory requirements.

8.5.3 An increase in the authorization may be approved by the voters of the County for a period of not more than 20 years provided the increase does not produce a total authorization of more than 10 mills.

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Section 8.6 Budget Preparation and Transmittal

8.6.1 The County Executive shall prepare and adhere to a comprehensive balanced budget for the County in a manner which assures coordination among the County offices, boards, commissions, and departments.

8.6.2 The County Executive shall transmit the comprehensive balanced budget for the County's next fiscal year to the County Commission at least 90 days before the next fiscal year begins.

8.6.3 The comprehensive balanced budget prepared and recommended by the County Executive shall contain, at a minimum, the budget message, budget document, the proposed appropriations ordinance containing the information required by law, any information required by the County Commission, and all other information required by law or ordinance.

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

Section 8.7 Adoption of Line Item Operating Budget

Prior to the beginning of each fiscal year of the County, the County Commission shall adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of state law.

Section 8.8 Transfers and Impoundments

Transfers among appropriations and impoundments of appropriations may only be made in accordance with the appropriation ordinance as adopted or amended.

Section 8.9 Purchasing

The County Commission shall adopt comprehensive policies and procedures governing the awarding of contracts, including but not limited to the procurement and handling of services, supplies, materials, and equipment. These policies shall be consistent with federal and state law and with the County's charter and ordinances, resolutions, and policies of the County Commission. The County Executive shall implement the policies adopted by the County Commission, including any requirements for competitive bidding and the use of sealed bids for certain purchases.