JULY 11, 2013

NOTICE OF MEETING

There will be a Regular Meeting of the BOARD OF COMMISSIONERS with a Special Agenda on Thursday, July 18, 2013, IMMEDIATELY FOLLOWING A MEETING OF THE FINANCE COMMITTEE WHICH BEGINS AT 9 A.M., on the 9th Floor of the County Administration Building, in the Commissioners’ Board Room, Mount Clemens.

PRELIMINARY AGENDA

1. COMMITTEE REPORTS:
   a) Government Operations, July 15 (to be provided)
   b) Justice & Public Safety, July 16 (to be provided)
   c) Economic Development, July 17 (to be provided)
   d) Finance, July 18 (to be provided)

2. RESOLUTIONS:
   a) Override of County Executive’s Veto of Ordinance 2013-4 (page 1) (attACHED) (Naming Rights) (offered by Board Chair)
   b) Override of County Executive’s Veto of Ordinance 2013-5 (page 3) (attACHED) (Project Labor) (offered by Board Chair)
   c) Override of County Executive’s Veto of Ordinance 2013-6 (page 5) (attACHED) (Bid Library Access) (offered by Board Chair)
   d) Override of County Executive’s Veto of Ordinance 2013-7 (page 7) (attACHED) (Purchase Orders) (offered by Board Chair)

MACOMB COUNTY BOARD OF COMMISSIONERS

David J. Flynn – Board Chair
District 4

Kathy Tocco – Vice Chair
District 11

Mike Boyle – Sergeant-At-Arms
District 10

Toni Moceri – District 1

Marvin Sauger – District 2

Veronica Klinefelt – District 3

Robert Mijac - District 5

James Carabelli – District 6

Don Brown – District 7

Kathy Vosburg – District 8

Fred Miller – District 9

Bob Smith – District 12

Joe Sabatini – District 13
e) Override of County Executive’s Veto of Resolution 13-140 (page 9) (Macomb County Provider Alliance) (offered by Board Chair) (attached)
f) Override of County Executive’s Veto of Resolution 13-143 (page 11) (Project Labor) (offered by Board Chair) (attached)
g) Override of County Executive’s Veto of Resolution 13-144 (page 13) (45 Day Contract) (offered by Board Chair) (attached)
h) Override of County Executive’s Veto of Resolution 13-145 (page 15) (Purchase Orders) (offered by Board Chair) (attached)
i) Override of County Executive’s Veto of Resolution 13-147 (page 17) (Bid Library Access) (offered by Board Chair) (attached)

Corinne Bedard
Committee Reporter
BOARD OF COMMISSIONERS  
MACOMB COUNTY, MICHIGAN

Whereas, section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) empowers the Commission to “approve contracts of the County;” and

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and

Whereas, the Commission exercised that authority when it adopted Ordinance 2012-1 to establish comprehensive policies and procedures governing the awarding of contracts; and

Whereas, the Commission considers County buildings, facilities, and other County-owned property to be public assets owned and operated for the benefit of the County and its residents and believes the naming of that property should be undertaken in a deliberative process open to the public; and

Whereas, on June 20, 2013, the Commission adopted Ordinance 2013-4 to amend Ordinance 2012-1 to provide the procedures governing the awarding of naming-rights contracts for County buildings, facilities, or other County-owned property to include Commission approval; and

Whereas, on July 8, 2013, the County Executive vetoed that ordinance; and

Whereas, the Commission believes that Ordinance 2013-4 is in the best interests of the citizens of Macomb County.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Ordinance 2013-4.

Date: ______________, 2013

________________________________________
David Flynn, Commission Chair

________________________________________
Carmella Sabaugh, County Clerk

Adopted: ______________, 2013
Delivered to Executive: ______________, 2013
Notice Published: ______________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

I am in receipt of your adopted Ordinance No. 2013-4, which amends the purchasing policy in Ordinance 2012-1.

Section 8.10 of the Charter requires the Commission to adopt comprehensive “policies and procedures” governing the awarding of contracts. It does not authorize the Commission to do so by ordinance. Section 4.6 of the Charter requires the Commission to act by resolution unless an ordinance is required by the Charter or law.

Therefore, Ordinance No. 2013-4 is hereby vetoed. Because Ordinance No. 2013-4 violates the Charter, the Ordinance is a nullity and is void for lack of authority. Since Ordinance 2013-4 has no force and effect and is unenforceable, it will not be followed if this veto is overridden.

Sincerely,

Mark A. Hackel
Macomb County Executive
BOARD OF COMMISSIONERS  
MACOMB COUNTY, MICHIGAN

Whereas, section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) empowers the Commission to “approve contracts of the County” and the Michigan Court of Appeals, in *Hackel v Macomb County Commission*, 298 Mich App 311 (2012), ruled that the Commission’s power to approve contracts includes the power to disapprove contracts; and

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and

Whereas, the Commission exercised that authority when it adopted Ordinance 2012-1 to establish comprehensive policies and procedures governing contract awards; and

Whereas, on June 20, 2013, the Commission adopted Ordinance 2013-5 to amend Ordinance 2012-1 to require that certain County contracts include provisions ensuring that skilled tradespersons and laborers constructing, altering, repairing, and improving County-owned facilities work in harmony with all contractors working on a given project; and

Whereas, the Commission, in adopting Ordinance 2013-5 exercised its policy-making authority and desired to establish by ordinance certain criteria that it would consider when voting to approve or disapprove contracts as authorized under Charter section 4.4(d); and

Whereas, on July 8, 2013, the County Executive vetoed that ordinance; and

Whereas, the Commission believes that Ordinance 2013-5 is in the best interests of the citizens of Macomb County.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Ordinance 2013-5.

Date: ______________, 2013

__________________________
David Flynn, Commission Chair

__________________________
Carmella Sabaugh, County Clerk

Adopted: ______________, 2013
Delivered to Executive: ______________, 2013
Notice Published: ______________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

I am in receipt of your adopted Ordinance No. 2013-5 which purports to amend Article 4, Section 4.1 of Ordinance No. 2012-1.

Section 8.10 of the Charter requires the Commission to adopt comprehensive "policies and procedures" governing the awarding of contracts. It does not authorize the Commission to do so by ordinance. Section 4.6 of the Charter requires the Commission to act by resolution unless an ordinance is required by the Charter or law.

Further, the Commission does not have any authority to dictate how policies and procedures will be implemented. Under Section 8.10, implementation of policy is the Executive’s responsibility. In addition, the Court of Appeals held, in Hackel v Commission, that negotiation of contracts is a power of the Executive, not the Commission, meaning the Commission cannot dictate the terms to be included in a contract.

Therefore, I hereby veto Ordinance No. 2013-5. Because it exceeds the Commission’s authority, the Ordinance is a nullity, is void for lack of authority, has no force and effect, and is unenforceable. It will not be implemented if this veto is overridden.

Sincerely,

Mark A. Hackel
Macomb County Executive
Whereas, section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) empowers the Commission to “approve contracts of the County;” and

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and

Whereas, the Commission exercised that authority when it adopted Ordinance 2012-1 to establish comprehensive policies and procedures governing the awarding of contracts; and

Whereas, when exercising its Charter granted authority to approve contracts, the Commission often requested information about other bidders and specifications for projects which information was not always timely supplied; and

Whereas, as a result and in an effort to improve transparency and institutional accountability in County contracts, the Commission adopted Ordinance 2013-6 on June 20, 2013, to amend Ordinance 2012-1 to provide the Commission with the right to access the County bid library to review open and closed requests for proposals and requests for qualifications; and

Whereas, on July 8, 2013, the County Executive vetoed that ordinance; and

Whereas, the Commission believes that Ordinance 2013-6 is in the best interests of the citizens of Macomb County.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Ordinance 2013-6.

Date: ______________, 2013

____________________________________
David Flynn, Commission Chair

____________________________________
Carmella Sabaugh, County Clerk

Adopted: ______________, 2013
Delivered to Executive: ______________, 2013
Notice Published: ______________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

I am in receipt of your adopted Ordinance No. 2013-6 which purports to amend Article 4, Section 4.2 of Ordinance No. 2012-1.

The new Section 4.2(O) appears to grant the Commission a “right” that it does not have the authority to grant to itself. The Charter does not grant the Commission any power or authority to create new rights or powers for itself.

In addition, the Charter granted all control and supervision of County facilities and operations to the County Executive. The maintenance of, and access to, the County bid library are therefore Executive functions which cannot be overridden by the Commission.

Further, Section 4.6 of the Charter requires the Commission to act by resolution unless an ordinance is required by the Charter or law.

Finally, the Commission already has access to all publicly available bid information. Ordinance No. 2013-6 is therefore redundant and meaningless.

Because Ordinance No. 2013-6 violates the Charter and exceeds the Commission’s authority under the Charter and laws, the Ordinance is hereby vetoed as a nullity and as void for lack of authority.

Sincerely,

[Signature]

Mark A. Hackel
Macomb County Executive
BOARD OF COMMISSIONERS  
MACOMB COUNTY, MICHIGAN  

Whereas, section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) empowers the Commission to “approve contracts of the County;” and  

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and  

Whereas, the Commission exercised that authority when it adopted Ordinance 2012-1 to establish comprehensive policies and procedures governing the awarding of contracts, which ordinance included a requirement that the Commission approve contracts involving multiple purchases from a single vendor within a fiscal year that in total exceeded $35,000; and  

Whereas, the Commission intended to clarify that repeated use of small purchases (those under $5,000) from single vendors that resulted in aggregate purchases exceeding $35,000 in a single fiscal year would require Commission approval; and  

Whereas, on June 20, 2013, the Commission adopted Ordinance 2013-7 to amend Ordinance 2012-1 to clarify that the procurement of tangible goods in an amount of $35,000 or more from any single vendor during one fiscal year through the use of small purchases or automatically renewing purchase orders requires Commission approval in order to ensure that such methods are not used to circumvent Commission approval as authorized by the Charter; and  

Whereas, on July 8, 2013, the County Executive vetoed that ordinance; and  

Whereas, the Commission believes that Ordinance 2013-7 is in the best interests of the citizens of Macomb County.  

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Ordinance 2013-7.  

Date: ______________, 2013  

David Flynn, Commission Chair  

_____________________________________________  
Carmella Sabaugh, County Clerk  

Adopted: ______________, 2013  
Delivered to Executive: ______________, 2013  
Notice Published: ______________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

I am in receipt of your adopted Ordinance No. 2013-7 which purports to amend Section 6.3 of Ordinance No. 2012-1 by imposing certain purchase order requirements.

Section 8.10 of the Charter requires the Commission to adopt comprehensive “policies and procedures” governing the awarding of contracts. It does not authorize the Commission to do so by ordinance. Section 4.6 of the Charter requires the Commission to act by resolution unless an ordinance is required by the Charter or law. Ordinance No. 2013-7 exceeds the Commission’s authority under Section 4.6 of the Charter because Section 8.10 only authorizes the use of an ordinance for establishing requirements for competitive bidding and the use of sealed bids for purchases and contracts. Section 8.10 does not authorize the use of an ordinance to impose new policies relating to the use of purchase orders and small purchases.

Further, the provisions of Section 6.3 cannot be implemented with current staffing allocations and current computer resources, and even if it could be implemented, compliance will be impossible or extremely impractical. After a vendor’s sales to all units of the County reach $35,000.00, every new purchase from that vendor will need to be submitted to the Commission for approval, regardless of the amount of the new purchase. The new system would also need to deny new procurements that exceed the threshold, even when procurements are made by purchase orders and invoices, and it will be impossible to account for automatically renewing purchase orders until after the transaction has occurred.

Therefore, Ordinance No. 2013-7 is hereby vetoed as a violation of the Charter because it exceeds the Commission’s authority under Section 4.6, and because it will be impossible to implement. Rather than override this veto, it is my hope that the Commission will review the use of small purchase orders to understand how this mechanism works to deliver small purchases most efficiently and for the lowest cost.

Sincerely,

Mark A. Hackel
Macomb County Executive
BOARD OF COMMISSIONERS
MACOMB COUNTY, MICHIGAN

Whereas, section 11.1 of the Home Rule Charter of the County of Macomb (the “Charter”) provides that all “ordinances, resolutions, rules, and regulations in force when this Charter takes effect shall remain effective unless changed by this Charter or an ordinance or resolution adopted under this Charter;” and

Whereas, the Commission adopted the County Living Wage Policy in 2006 (the “Policy) to require that certain contractors pay employees a “living wage” as defined in the Policy; and

Whereas, the Policy authorizes the Commission to grant exemptions from the requirements therein; and

Whereas, the Policy was not changed by the Charter or an ordinance or resolution under the Charter; and

Whereas, the Macomb County Provider Alliance (MCPA) requested an exemption from the Policy, and the Commission, consistent with the provisions of the Policy, approved the exemption on June 20, 2013 by adopting Resolution 13-140; and

Whereas, if the Commission did not approve the exemption, the MCPA would be forced to pay a higher wage for employees which could endanger the ability of the MCPA to provide services under its limited financial resources; and

Whereas, on July 8, 2013, the County Executive vetoed that resolution; and

Whereas, the Commission believes that Resolution 13-140 is in the best interests of the citizens of Macomb County.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Resolution 13-140.

Date: ______________, 2013

___________________________________________________________
David Flynn, Commission Chair

___________________________________________________________
Carmella Sabaugh, County Clerk

Adopted: ______________, 2013
Delivered to Executive: ______________, 2013
Notice Published: ______________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

Resolution No. 13-140 is hereby vetoed for the reason that there is no publicly available copy of the Resolution certified by the Macomb County Clerk as having been adopted and the resolution certificates provided to my office by the Clerk had no resolutions attached. Therefore, without knowing the final content of Resolution No. 13-140 as adopted by the Commission, I am left with no choice but to veto its adoption.

Additionally, if proposed Resolution No. 13-140 was adopted without change, it is also vetoed because it purports to concur in the request of the Macomb County Provider Alliance (MCPO) to approve an exemption from compliance with the Living Wage Policy of the County that existed prior to the effective date of the Charter. Under the Charter, the Executive has the authority, duty, and responsibility to direct and control all County departments, facilities, operations, and services, with the exception of those controlled by other Countywide Elected Officials. In addition, state law grants the Executive the sole authority to determine the procedures and policies applicable to the Community Mental Health Agency. See MCL 330.1204(2). Further, the Michigan Court of Appeals ruled, in Hackel v Commission, that the Executive may decide which contracts to negotiate and the terms of those contracts.

Therefore, Resolution No. 13-140 granting an exemption to the 2006 Living Wage Policy for all contracts with the Community Mental Health Agency is hereby vetoed as a nullity that is void for lack of authority. Going forward, my office will handle all MCPO requests, and if any of them fall within the Commission's contract approval authority, they will be processed by my office and submitted to the Commission as required.

Sincerely,

Mark A. Hackel
Macomb County Executive
BOARD OF COMMISSIONERS  
MACOMB COUNTY, MICHIGAN

Whereas, the section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) authorizes the Commission to “approve contracts of the County” and the Michigan Court of Appeals, in Hackel v Macomb County Commission, 298 Mich App 311 (2012), ruled that the Commission’s power to approve contracts includes the power to disapprove contracts; and

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and

Whereas, the Commission adopted Resolution 12-1 to establish those comprehensive policies governing the awarding of contracts; and

Whereas, on June 20, 2013, the Commission adopted Resolution 13-143 to amend Resolution 12-1 to require that certain County contracts include provisions ensuring that skilled tradespersons and laborers constructing, altering, repairing, and improving County-owned facilities work in harmony with all contractors working on a given project; and

Whereas, the Commission, in adopting Resolution 13-143 exercised its legislative and policy-making authority under the Charter and desired to, by resolution, establish certain criteria it would consider when voting to approve or disapprove of contracts as authorized by Charter section 4.4(d); and

Whereas, on July 8, 2013, the County Executive vetoed that resolution; and

Whereas, the Commission believes that Resolution 13-143 is in the best interests of the citizens of Macomb County.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Resolution 13-143.

Date: ________________, 2013  

______________________________________________  
David Flynn, Commission Chair  

______________________________________________  
Carmella Sabaugh, County Clerk

Adopted: _________________, 2013  
Delivered to Executive: _________________, 2013  
Notice Published: _________________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

Resolution No. 13-143 is hereby vetoed for the reason that there is no publicly available copy of the Resolution certified by the Macomb County Clerk as having been adopted and the resolution certificates provided to my office by the Clerk had no resolutions attached. Therefore, without knowing the final content of Resolution No. 13-143 as adopted by the Commission, I am left with no choice but to veto its adoption.

Additionally, if proposed Resolution No. 13-143 was adopted without change, it is also vetoed because it purports to add Section II.A.3 to the Commission’s Contracting Policy in Resolution No. 12-1. The Commission does not have any authority to dictate how policies and procedures will be implemented. Under Section 8.10, implementation of policy is the Executive’s responsibility. In addition, the Court of Appeals held, in Hackel v Commission, that negotiation of contracts is a power of the Executive, not the Commission, meaning the Commission cannot dictate the terms to be included in a contract.

Therefore, I hereby veto Resolution No. 13-143. Because it exceeds the Commission’s authority, the Resolution is a nullity, is void for lack of authority, has no force and effect, and is unenforceable. It will not be implemented if this veto is overridden.

Sincerely,

Mark A. Hackel
Macomb County Executive
Whereas, section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) empowers the Commission to “approve contracts of the County;” and

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and

Whereas, the Commission exercised its discretion to approve contracts and, as required by Charter section 8.10, established comprehensive policies and procedures governing the awarding of contracts when in adopted Resolution 12-1, which included a self-imposed time limit of 21 days for the Commission to review and approve contracts submitted to it by the Executive; and

Whereas, due to anomalies in calendars, holidays, and meeting schedules, the Commission did not have adequate time to thoroughly review contracts submitted in time to comply with its own self-imposed 21 day limit; and

Whereas, while neither the Charter nor state law requires or provides a time limit for contract approval, the Commission wishes to self-impose a 45-day time limit to allow for timely approval of County contracts; and

Whereas, on June 20, 2013, the Commission adopted Resolution 13-144 to amend Resolution 12-1 to extend the time limit to 45 days to approve contracts in order to appropriately review the terms and conditions of those contracts; and

Whereas, on July 8, 2013, the County Executive vetoed that resolution; and

Whereas, the Commission believes that Resolution 13-144 is in the best interests of the citizens of Macomb County.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Resolution 13-144.

Date: ______________, 2013

David Flynn, Commission Chair

Carmella Sabaugh, County Clerk

Adopted: ______________, 2013
Delivered to Executive: ______________, 2013
Notice Published: ______________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

Resolution No. 13-144 is hereby vetoed for the reason that there is no publicly available copy of the Resolution certified by the Macomb County Clerk as having been adopted and the resolution certificates provided to my office by the Clerk had no resolutions attached. Therefore, without knowing the final content of Resolution No. 13-144 as adopted by the Commission, I am left with no choice but to veto its adoption.

Additionally, if proposed Resolution No. 13-144 was adopted without change, it is also vetoed because it purports to amend Section II.B.1.c of the Contracting Policy in Resolution No. 12-1. The Commission’s commitment to efficient county government will be forfeit if the Commission can delay contract approvals for 45 days. Grass cutting, snow removal, window replacement, and other important services for seniors cannot wait more than 6 weeks. Many vendors will not wait that long; many grant contracts impose short deadlines; and many cost saving opportunities require much quicker responses.

Most municipalities hold full board meetings twice each month. The Commission should not endanger efficient government simply because it does not want to meet more often.

During the recent litigation relating to the Commission’s contracting requirements, the Commission’s legal counsel argued to the Macomb County Circuit Court that the Commission “has to approve these contracts within 21 days of the date that they’re submitted in an effort to assure to the Executive that it would be done promptly.” In my view, quality service to the public requires prompt action.

Therefore, I hereby veto Resolution No. 13-144, because a 45-day approval window is simply much too inefficient, is counter to the express purpose of the Charter, and will prove harmful to the best interests of Macomb County and its residents.

Sincerely,

Mark A. Hackel
Macomb County Executive
BOARD OF COMMISSIONERS  
MACOMB COUNTY, MICHIGAN

Whereas, section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) empowers the Commission to “approve contracts of the County;” and

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and

Whereas, the Commission exercised its discretion to approve contracts and, as required by Charter section 8.10, established comprehensive policies and procedures governing the awarding the contracts when it adopted Resolution 12-1, which included a requirement that the Commission approve contracts involving the procurement of tangible goods in an amount of $35,000 or more at any time or from any single vendor during one fiscal year; and

Whereas, on June 20, 2013, the Commission adopted Resolution 13-145 to amend Resolution 12-1 to clarify that Commission approval was required for purchases using automatically renewing purchase orders when such purchases reached $35,000 in expenditures; and

Whereas, on July 8, 2013, the County Executive vetoed that resolution; and

Whereas, the Commission believes that Resolution 13-145 is in the best interests of the citizens of Macomb County and helps ensure that the use of automatically renewing purchase orders is not intended to circumvent Commission approval as authorized by the Charter and required by Resolution 12-1.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Resolution 13-145.

Date: _____________, 2013

__________________________________________________________
David Flynn, Commission Chair

__________________________________________________________
Carmella Sabaugh, County Clerk

Adopted: _____________, 2013
Delivered to Executive: _____________, 2013
Notice Published: _____________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

Resolution No. 13-145 is hereby vetoed for the reason that there is no publicly available copy of the Resolution certified by the Macomb County Clerk as having been adopted and the resolution certificates provided to my office by the Clerk had no resolutions attached. Therefore, without knowing the final content of Resolution No. 13-145 as adopted by the Commission, I am left with no choice but to veto its adoption.

Additionally, if proposed Resolution No. 13-145 was adopted without change, it is also vetoed because it purports to amend Section II.B.3.f of the Commission’s contracting policy by imposing certain purchase order requirements. The new Section II.B.3.f appears to require Commission approval for the procurement of tangible goods in an amount of $35,000 or more from any single vendor during one fiscal year through the use of “Small Purchases” or through the use of “automatically renewing purchase orders.” Taken literally, Section II.B.3.f would require the following:

- Implementation of a tracking system whereby every department, division, branch, agency, or other unit of County government logs its specific vendor purchases.

- At the point when all purchases from the designated low-cost vendor reach a cumulative total of $35,000.00, whether divided among 2 or more units of County government, each new purchase from that vendor must then be submitted to the Commission for approval, regardless of the amount of the new purchase.

Therefore, Resolution No. 13-145 is hereby vetoed. Rather than override this veto, it is my hope that the Commission will review the use of small purchase orders to understand how this mechanism works to deliver small purchases most efficiently and for the lowest cost.

Sincerely,

Mark A. Hackel
Macomb County Executive
BOARD OF COMMISSIONERS
MACOMB COUNTY, MICHIGAN

Whereas, section 4.4(d) of the Home Rule Charter of the County of Macomb (the “Charter”) empowers the Commission to “approve contracts of the County;” and

Whereas, section 8.10 of the Charter requires the Commission to adopt “comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment;” and

Whereas, when exercising its Charter granted authority to approve contracts, the Commission often requested information about other bidders and specifications for projects which information was not always timely supplied; and

Whereas, as a result, on June 20, 2013, the Commission adopted Resolution 13-147 to amend Resolution 12-1 to provide the Commission with access to the County bid library so that it may review bid specifications, requests for proposals and bidder information to improve transparency and institutional accountability in County contracts; and

Whereas, on July 8, 2013, the County Executive vetoed that resolution; and

Whereas, the Commission believes that Resolution 13-147 is in the best interests of the citizens of Macomb County.

Therefore, it is resolved that the Commission hereby overrides the County Executive’s veto of Resolution 13-147.

Date: ______________, 2013

David Flynn, Commission Chair

Carmella Sabaugh, County Clerk

Adopted: ______________, 2013
Delivered to Executive: ______________, 2013
Notice Published: ______________, 2013
July 8, 2013

The Honorable Chair and Members,
Macomb County Board of Commissioners
1 South Main Street, 9th Floor
Mt. Clemens, MI 48043

Ladies and Gentlemen:

Resolution No. 13-147 is hereby vetoed for the reason that there is no publicly available copy of the Resolution certified by the Macomb County Clerk as having been adopted and the resolution certificates provided to my office by the Clerk had no resolutions attached. Therefore, without knowing the final content of Resolution No. 13-147 as adopted by the Commission, I am left with no choice but to veto its adoption.

Additionally, if proposed Resolution No. 13-147 was adopted without change, it is also vetoed because it purports to add Section II.D.4 to the Commission’s contracting policy in Resolution No. 12-1. The new Section II.D.4 appears to be the Commission’s attempt at “reserving” a right that it does not have the authority to reserve. The Charter does not grant the Commission any power or authority to create new rights or powers for itself.

Further, the Charter granted all control and supervision of County facilities and operations to the County Executive. The maintenance of, and access to, the County bid library are therefore Executive functions which cannot be overridden by the Commission.

Finally, the Commission already has access to all publicly available bid information. Resolution No. 13-147 is therefore redundant and meaningless.

Because Resolution No. 13-147 violates the Charter and exceeds the Commission’s authority under the Charter and laws, the Resolution is hereby vetoed as a nullity and as void for lack of authority, and it will not be implemented if this veto is overridden.

Sincerely,

Mark A. Hackel
Macomb County Executive