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CHAIRPERSON PRO TEM
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VICE-CHAIRPERSON PRO-TEM
THOMAS L. MINTER

ADMINISTRATIVE SERVICES/
PERSONNEL COMMITTEE
CHRIS SWOPE, CHAIR
CALVIN LYNCH
DEBBIE DE LEON
VICTOR CELENTINO
MICHAEL SEVERINO

INGHAM COUNTY BOARD OF COMMISSIONERS

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THE ADMINISTRATIVE SERVICES/PERSONNEL COMMITTEE WILL MEET ON TUESDAY, MAY 7, 2002 AT 7:00 P.M. IN THE PERSONNEL CONFERENCE ROOM, HUMAN SERVICES BUILDING, 5303 S. CEDAR, LANSING.

Agenda

Call to Order

Approval of the [April 23, 2002 Minutes](#)

Additions to the Agenda

Limited Public Comment

1. Presentation - Charles Londo, Monroe County Controller - Discussion Regarding Monroe County's Most Recent Adoption of a [Living Wage Policy](#)
2. Board of Commissioners - Resolution Authorizing a Memorandum of Understanding Supporting Lansing to [Detroit Regional Commuter Rail](#)
3. Fair Board - Resolution Authorizing Award of Proposal and Entering Into a Contract for Blacktop at the [Ingham County Fairgrounds](#)
4. Facilities Department - Resolution Authorizing Renewal of a Contract with Moore's Security Services, Inc. for Security Services at [Various County Facilities](#)
5. Financial Services Department - Resolution Authorizing Entering Into an Agreement with the [Michigan Municipal Risk Management](#) Authority for Property and Liability Coverage
6. Other - Review of MAXIMUS Cost of Services Study **This document was distributed to the Board at the April 30, 2002 Board of Commissioners' Meeting, please bring your copy to the meetings.**
7. Controller's Office - Phase II Federal [Stormwater Requirements](#)
8. Board Referrals
 - a. Letter from [James M. Howard](#), City of Mason Zoning & Development Director, Stating That the City of Mason Will Be Updating its Master Plan
 - b. Letter from the Ingham County Road Commission Requesting the County's Support of Their Application for Funding to Repair the [College Road Bridge](#) over the Sycamore Creek
 - c. Letter from the Ingham County Road Commission Requesting the County's Support of Their Application for Funding to Repair the [Van Atta Road Bridge](#) over the Red Cedar River

- d. Letter from the Ingham County Road Commission Requesting the County's Support of Their Application for Funding to Repair the [Hagadorn Road Bridge](#) over the Red Cedar River
- e. Letter from the Ingham County Road Commission Requesting the County's Support of Their Application for Critical Bridge Funds to Repair the Howell Road Bridge over [Sycamore Creek](#)
- f. Lake Lansing Property Owners Association Lake Lansing Watershed Management Plan and Executive Summary (distributed at Board meeting)

Announcements
Public Comment
Adjournment

The County of Ingham will provide necessary reasonable auxiliary aids and services, such as interpreters for the hearing impaired and audio tapes of printed materials being considered at the meeting for the visually impaired, for individuals with disabilities at the meeting upon five (5) working days notice to the County of Ingham. Individuals with disabilities requiring auxiliary aids or services should contact the County of Ingham in writing or by calling the following: Ingham County Board of Commissioners, P.O. Box 319, Mason, MI 48854 Phone: (517) 676-7200.
A quorum of the Board of Commissioners may be in attendance at this meeting.

ADMINISTRATIVE SERVICES/PERSONNEL COMMITTEE

April 23, 2002

Minutes

Members Present: Chris Swope, Victor Celentino and Michael Severino

Members Absent: Calvin Lynch and Debbie DeLeon

Others Present: Jerry Ambrose, Harold Hailey, Jared Cypher, Bob Moore, Summer Hallwood, Suzanne Shaw, Kurt Hedger, Amy Klinke, Ron Eggleston, Betty Johnson, Nancy Kuepear and others

The meeting was called to order by Chairperson Swope at 6:33 p.m. in the Personnel Conference Room of the Human Services Building, 5303 S. Cedar, Lansing.

1. a. Historical Commission - Interviews

The Committee interviewed Craig Whitford, Albert Schulien and Dace Koenigsknecht for the vacancy on the Historical Commission.

(The Committee put the meeting on hold at 6:47 p.m.)

(Comm. Severino arrived at 7:02 p.m.)

(The meeting was called back to order at 7:03 p.m.)

2. Presentation - Representatives from Washtenaw County Amy Klinke of Administration and Kurt Hedger of Corporate Counsel Discuss Their Recent Adoption of a Living Wage Policy

Ms. Klinke stated Washtenaw County was approached by a Living Wage Coalition. This initiated the County's discussions regarding a living wage. She further explained that a copy of a power-point presentation regarding Washtenaw's Living Wage Ordinance is included in the agenda packet. Ms. Shaw, Washtenaw County Board Chair, stated the Board had questions going into the ordinance discussions. The ordinance ultimately passed twelve to two. Mr. Hedger, Washtenaw County Corporate Counsel, stated the Ordinance does have some grey areas and areas which need further work.

In response to Chairperson Swope, Mr. Hedger stated he believes an ordinance carries more authority than a policy. The living wage issue requires an ordinance due to its gravity. He further stated using a policy or an ordinance is an individual choice. Ms. Shaw further explained that Ypsilanti Township has not experienced any problems with its living wage ordinance.

Mr. Hedger stated Washtenaw's ordinance only applied to contracts which were executed after the effective date of the ordinance. Ms. Klinke stated she issued a survey to Washtenaw's vendors and then conducted a series of focus groups to discuss the living wage. This was the Board's attempt to address issues of concern prior to drafting the final ordinance. Focus groups consisted of vendors and nonprofits. Ms. Shaw stated a majority of the nonprofits encouraged and embraced the living wage ordinance.

In response to Mr. Ambrose, Mr. Hedger addressed his question regarding a furniture contract. He explained the installation portion of the contract would fall within the ordinance. Mr. Hedger also spoke regarding concerns Washtenaw addressed with area colleges. Washtenaw has not experienced any problems with subcontractors to date. Contractors cannot subcontract without the prior approval of the Board. Mr. Hedger further explained that Washtenaw recognizes that its courts are an independent unit of government. The courts also agreed to abide by the county policies and

procedures. In regard to health insurance, Ms. Klinke stated employees pay no more than \$.50 per hour toward health insurance. Employers need to pay at least \$1.00 toward health insurance.

Ms. Klinke explained that employees bear the burden of proving noncompliance. The County does not conduct on-site inspections. Mr. Hedger stated noncompliance with the living wage ordinance would be addressed in the same manner as noncompliance with the prevailing wage law. All contractors must post notice of the living wage ordinance at the worksites.

In response to Comm. Severino, Ms. Klinke stated the intent of the ordinance is to cover employees which have a direct contact with a contract with the county. The Committee continued this discussion. Mr. Hedger stated Washtenaw County uses a practical approach when addressing some issues with the ordinance. The ordinance is similar to the prevailing wage law. The intent is for employers to comply with the spirit of the ordinance, not the letter of the law.

Mr. Hedger and Ms. Shaw encouraged the Commissioner to contact them regarding any further questions.

Approval of the April 2, 2002 Minutes

MOVED BY COMM. CELENTINO, SUPPORTED BY COMM. SEVERINO, TO APPROVE THE APRIL 2 MINUTES AS SUBMITTED. Absent: Comms. Lynch and DeLeon

Additions to the Agenda

- 1b. Parks Board Interviews
- 4b. Resolution Designating April 27, 2002 as 'Dia De Los Ninos: Celebrating Young Americans' in Ingham County

Limited Public Comment: None

MOVED BY COMM. SEVERINO, SUPPORTED BY COMM. CELENTINO, TO APPROVE A CONSENT AGENDA FOR THE FOLLOWING ITEMS:

- 4. Board of Commissioners:
 - a. Resolution in Honor of the 130th Anniversary of Arbor Day
 - b. Resolution Designating April 27, 2002 as 'Dia De Los Ninos: Celebrating Young Americans' in Ingham County
- 5. Health Department - Request to Start a Managerial Employee at Step Three
- 6. Facilities Department - Resolution Requesting Authorization to Enter Into a Five (5) Year Contract with Quality Fire Equipment to Perform Monthly Maintenance and Inspections on All Fire Extinguishers and to Perform Semi-Annual Services on Fire Suppression Systems and Kitchen Hoods Where Needed
- 7. Controller's Office
 - b. Resolution Authorizing Adjustments to the 2002 Budget Adjustments

(Comm. Severino stated he would appreciate receiving all meeting material prior to the Committee meetings.)

MOTION CARRIED UNANIMOUSLY. Absent: Comms. Lynch and DeLeon

MOVED BY COMM. SEVERINO, SUPPORTED BY COMM. CELENTINO, TO APPROVE THE ITEMS ON THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. Absent: Comms. Lynch and DeLeon

1b. Parks Board Interview

The Committee interviewed Tina Weatherwax Grant for the vacancy on the Parks Board.

3. Parks Board - Presentation by Ron Eggleston - Lake Lansing Non-Motorized Pathway

Mr. Eggleston spoke regarding the importance of recreational opportunities and its relation to drawing people to our area. Other parts of the State have developed trail systems. The Parks Board conducted a trail study. The Parks Board would like to connect the County trail to the end of the River Trail and extend the trail to Lake Lansing. This would involve a collaboration with several other governmental entities. Discussions have begun with these entities.

Mr. Moore displayed graphics of the current and future possible trail systems within the County. He explained there is a lot of interest in extending the County trail system south. A major problem for Ingham County is that it does not have any real corridors for trails. Mr. Moore stated the City of Lansing plans to connect the Potter Park trail to the Hawk Island County Park in two to three years.

In response to Chairperson Swope, Mr. Moore stated there is no real time frame for the development of additional trails. Grants are available for the development of trails. These grants do require matching funds. Private funding may also be available.

Ms. Kupears applauded the County's efforts on the existing trail system and in identifying further possible routes. An expanded trail system with desirable destinations will only improve the area. Trails would also enhance the usage of the County parks. Ms. Kupears further spoke regarding the health benefits of trails.

Ms. Riddle stated she envisions being able to ride her bike to and from work on a trail system from Meridian Township to downtown Lansing. Some people would enjoy using non-motorized trails instead of driving to every destination.

Ms. Johnson, avid cyclist and runner, stated many runners are very supportive of an expanded trail system. She also spoke regarding the importance of connecting existing trails.

Mr. Provincher stated an expanded trail system would be very beneficial to the community. Trails are a way for people to interact with each other in a way that cannot be done on the roadway.

Ms. Prince distributed trail information from other areas within the State to the Committee for their review. She stated the youth would benefit from area trails. Trails can also have a huge economic impact on the community.

Mr. Veenstra stated the proposed trails have excellent support from the community. He encouraged the Committee to support this project. The trail system is necessary to the health of our community. Mr. Veenstra also spoke regarding Meridian Township's plans for trails. The proposed trail system is practical.

7. Controller's Office
 - a. Resolution Establishing Priority Statement Guiding 2003 Activities and Budget Process

Mr. Ambrose stated this Committee should review the draft list of priorities and develop its priorities for 2003. A revised resolution containing priorities from Human Services, Law & Courts and this Committee will be presented to the Finance Committee tomorrow night. Mr. Ambrose explained this process.

The Committee discussed the draft priorities at this time. The Committee ranked items 6, 8, 9, 14, 21 and 24 as high priorities for this Committee. Language from item 20 will be added to item 14.

8. Greater Lansing Convention & Visitors Bureau - Quarterly Activity Report

The Report was received and placed on file.

- 1b. Parks Board Appointment

MOVED BY COMM. SEVERINO, SUPPORTED BY COMM. CELENTINO, RECOMMEND THE APPOINTMENT OF TINA WEATHERWAX GRANT TO THE PARKS BOARD. MOTION CARRIED UNANIMOUSLY. Absent: Comms. Lynch and DeLeon

- 1a. Historical Commission Appointment

The Committee will make a recommendation to the Board Chair regarding this appointment.

9. Board Referrals
 - a. Letter, with Supporting Documents, from the Great Lakes Folk Festival Asking for Continued Financial Support from Ingham County

Chairperson Swope stated the Festival requested \$50,000 from the CVB . However, the CVB allocated the Festival \$5,000.

- b. Letter from Michigan State University Regarding Proposed Railroad Underpasses on Farm Lane

The Board Referrals were received and placed on file.

Announcements: None
Public Comment: None

The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Debra Neff

MEMORANDUM

TO: Administrative Services/Personnel Committee
FROM: Jim Hudgins, Purchasing Director
DATE: April 30, 2002
RE: Monroe County's Living Wage Policy

Attached for your information is the adopted Living Wage Policy from Monroe County.

JH/smr

LIVING WAGE RESOLUTION

A RESOLUTION providing standards and procedures for certain Monroe County service contractors as well as the County to pay nonexempt employees a living wage as defined by this Resolution.

The Board of County Commissioners of the County of Monroe adopted the within Resolution at its Regular Meeting held on October 9, 2001.

Section 1. Purposes

The purposes of this Resolution are (1) to increase the quality and reliability of services procured for Monroe County ("County") or provided to County inhabitants by the County and its contractors by promoting higher productivity and retention of employees working for the County or on County contracts; (2) to make the County a living wage employer and to use County spending to encourage the development of jobs paying wages above the poverty level; (3) to use County spending and procurement of services to require covered employers that provide services to the County to pay their employees a "Living Wage," that is, a wage sufficient to meet their employees' basic subsistence needs; (4) to raise the income of low-income working people and their families employed by covered employers on County contracts; (5) to permit hardship exemptions for certain non-profit employers from the provisions of this Resolution; (6) to provide incentives for covered employers to provide health insurance to their employees; and (7) to monitor and enforce the requirements of this Resolution.

Section 2. Findings

The Monroe County Board of Commissioners finds as follows:

- (1) According to economic research summarized in the Economic Policy Institute's August 2000 issue guide, "Higher Wages Lead to More Efficient Service Provision," payment of higher wages is associated with greater business investment in employee training, higher productivity, and lower employee turnover, and this Resolution is intended to promote better quality and reliability of services procured for the County or provided to County inhabitants by contractor/contractors by promoting higher productivity and retention of employees working on County contracts;
- (2) This Resolution is adopted pursuant to the County's spending and procurement powers and provides for payment of living wages only to nonexempt employees of the County and its covered employers; further, this Resolution does not establish any generally applicable County minimum wage, or affect the wages paid by any business or individual that chooses not to provide services covered by this Resolution to the County.
- (3) The Michigan League for Human Services found in its October 1998 report, "Economic Self-Sufficiency: A Michigan Benchmark," that a family of three required at that time, on average, \$2,724 a month to pay for housing, food, child care, health care, transportation, clothing, household supplies, a telephone, and taxes, and this was at the time equivalent to an hourly wage of \$15.83 for households with a single worker and \$7.92 for households with two workers;
- (4) Federal and state minimum wages, currently set at only \$5.15 an hour, means that a full-time, full-year minimum wage employee earns only \$206 a week, or \$10,712 a year, while the 2000 United States Department of Health and Human Services federal poverty guideline was \$8,350 for a single person, \$11,250 for a two-person family, \$14,150 a year for a three-person family, and \$17,050 a year for a four-person family; and income

near the poverty level is not a desirable standard of living sufficient to meet the subsistence needs of a family in Monroe and its surrounding communities;

- (5) As an employer, the County can serve as a positive example by adopting living wage policies for its own workforce, resulting in lower turnover, better morale, and higher productivity for county employees that are providing their services to the County and the general public.

Section 3. Definitions

For purposes of this Resolution, the following definitions shall apply:

- (1) "Contractor" is a person or entity that has a contract with the County primarily for the furnishing of personal services where the total amount of the contract or contracts with the County exceeds \$10,000 during any 12-month period, including any contractors or subcontractors of the original contractor whose contract or subcontract for services with the original contractor exceeds \$10,000 for any 12-month period. "Contractor" does not include a person or entity that has a contract with the County primarily for the purchase of goods or property, or for the lease of goods or property to or from the County.
- (2) "Covered Employee" means a non-exempted person employed by the County as well as non-exempted persons employed by a County contractor to perform personal services which are covered or funded by a contract with the County; provided, however, that persons who are employed pursuant to federal, state or local laws relating to prevailing wages shall be exempt from this Resolution.
- (3) "Covered Employer" means a contractor that has not been granted an exemption from this Resolution pursuant to Section 7.
- (4) "Employee" means an individual who provides personal services performed for wages under any contract calling for the performance of personal services, whether written or oral, express or implied.
- (5) "Employee Health Benefits" or "Health Benefits" means providing health care benefits for employees (or employees and their dependents) at employer cost or making an employer contribution toward the purchase of such health care benefits for employees (or employees and their dependents), provided that the employer cost or contribution equals no less than \$1 an hour for the average work week of such employee, and provided further that any employee payment or contribution toward health care shall not exceed 50 cents an hour for the average work week for each such employee.
- (6) "Living Wage" means a wage equal no less than the levels established in Section 6.
- (7) "Person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, entity and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (8) "\$10,000 for any 12 month period" is computed by taking the total amount of any and all contracts and dividing that amount by the number of months the contracts covers. If a contract by itself does not exceed \$10,000, but the person or entity has other contracts with the County, which added together total more than \$10,000, then the most recent contract (and all subsequent contracts) will be covered for a period of at least 12 months. The calculation of "\$10,000 for any 12 month period" will be done starting with the date of the earliest awarded contract which is no more than 12 months prior to the current

contract being considered and will aggregate any and all subsequent contracts to the person or entity.

Section 4. Applicability

- (1) This Resolution shall apply to any person that is a service contractor as defined in Section 4 that employs or contracts with five (5) or more individuals; provided, however, that this Resolution shall not apply to a non-profit contractor or non-profit grantee.
- (2) This Resolution shall apply to any contract or subcontract awarded to or entered into with a contractor after the effective date of this Resolution and to the extension or renewal after the effective date of this Resolution of any contract or subcontract with a contractor.

Section 5. Living Wages Required

- (1) Every contractor, as defined in Section 3, shall pay its covered employees no less than a living wage as established in this Section.
 - (a) For a covered employer that provides employee health care to its employees, the living wage shall be \$8.70 an hour, or the adjusted amount hereafter established under Section 5(3).
 - (b) For a covered employer that does not provide health care to its employees, the living wage shall be \$10.20 a hour, or the adjusted amount hereafter established under Section 5(3).
- (2) In order to qualify to pay the living wage rate for covered employers providing employee health care under Section 5(1)(a), a covered employer shall furnish proof of said health care coverage and payment to the County Administrator or his/her designee.
- (3) The amount of the living wage established in this Section shall be adjusted upward no later than October 31, 2002, and every year thereafter by a percentage equal to the percentage increase, if any, in the federal poverty guidelines as published by the United States Department of Health and Human Services for the years 2001 and 2002. Subsequent annual adjustments shall be based upon the percentage increase, if any, in the United States Department of Health and Human Services poverty guidelines when comparing the prior calendar year's poverty guidelines to the present calendar year's guidelines. The applicable percentage amount will be converted to an amount in cents by multiplying the existing wage under Section 5(1)(b) by said percentage, rounding upward to the next cent, and adding this amount of cents to the existing living wage levels established under Sections 5(1)(a) and 5(1)(b). Prior to October 1 of each calendar year, the County will notify any covered employer of this adjustment by posting a written notice in a prominent place in County offices, and, in the case of a covered employer that has provided an address of record to the County, by a written letter to each such covered employer.

Section 6. Employees Covered

A covered employer shall pay each of its employees performing work on any covered contract with the County no less than a living wage as defined in Section 5. The County shall pay any of its non-exempt employees a living wage as defined in Section 5.

Section 7. Exemptions

Notwithstanding any other provisions in this Resolution, the following exemptions shall apply:

- (1) Housing construction or rehabilitation contracts are exempt from the provisions of this Resolution, even when the County participates in the selection of the contractor.
- (2) For any contract, the Board of County Commissioners may grant a partial or complete exemption from the requirements of this Resolution if it determines one of the following:
 - (A) Contracts with service contractors who employ less than five (5) employees.
 - (B) Contracts with non-profit entities or Human Services agencies.
 - (C) Employees who works seven (7) hours or less per week for a contractor.
 - (D) Any individual who volunteers to perform services for the County or one of its contractors if:
 - (a) The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
 - (b) Such services are not the same type of services, which the individual is employed to perform for such employer.
 - (E) No employee covered by a federal, state or local law requiring the payment of prevailing wages shall be covered by this Resolution.
 - (F) This Resolution shall not be applicable to the establishment and/or continuation of the following if developed specifically for high school and/or college students by the County or one of its contractors:
 - (a) A bona fide training program;
 - (b) A summer or youth employment program;
 - (c) A work study, volunteer/public service, or internship program.
 - (d) Co-Op Employees employed as a part of a High School or College Co-op program which is part of the employees educational curricula.
 - (G) Temporary or Seasonal employees hired by the County. For purposes of this Resolution, temporary and/or seasonal employees are defined as employees hired to augment the regular workforce as provided by applicable collective bargaining agreements.
 - (H) Temporary or Seasonal employees hired by a County contractor. For purposes of this Resolution, temporary and/or seasonal employees are defined as employees hired to augment the regular workforce and are hired for three (3) months or less in the case of a temporary employee or nine (9) months or less in the case of a seasonal employee.

Section 8. Monitoring and Enforcement

- (1) Every covered employer shall agree to the payment of a living wage as a condition of entering into or renewing a covered contract with the County. Moreover, the County and every covered contractor shall agree to post a notice regarding the applicability of this Resolution in every work place or other location in which employees or other persons contracted for employment are working, and shall agree to provide payroll records or other documentation as deemed necessary within ten (10) business days from the receipt of the County's request. All County contracts covered by this Resolution shall provide that a violation of the living wage requirements of this resolution shall be a material breach of the contract or grant. The County Director of Purchasing/Facilities shall monitor the compliance of each contractor under procedures developed by and approved by the County Administrator.
- (2) Each covered employer shall submit to the County Director of Purchasing/Facilities information regarding number of employees and applicable wage rates of its employees covered by this Resolution in such manner as requested by that office. At the request of the County Director of Purchasing/Facilities, any contractor shall provide satisfactory proof of compliance with the living wage provisions of this Resolution.
- (2) Only an employee aggrieved by the requirements of this Resolution may submit a complaint or report of a violation of this Resolution to the County's Director of Purchasing/Facilities. Upon receipt of such a complaint or report, the Department shall investigate to determine if there has been a violation.

Section 9. Remedy

A violation of the terms and provisions of this Resolution shall be grounds for the County to void and terminate the contractual relationship with the violating Employer.

Section 10. Repeal of Conflicting Resolutions

All resolutions or parts of resolutions in conflict or inconsistent with the provisions of this Resolution are hereby repealed to the extent of such inconsistencies or conflicts.

Section 11. Other Provisions

- (1) The provisions of this Resolution shall be incorporated into and made a part of the County Purchasing Policies.
- (2) No affected covered employer shall reduce the compensation, wages, hours of work, fringe benefits, or leave available to any covered employee or person contracted for employment in order to pay the living wage required by this Resolution. No employer shall reduce the hours of work, established working conditions, or other terms of employment as previously practiced for any employee in order to avoid coverage under this Resolution. Any action in violation of this Paragraph shall be deemed a violation of the Resolution subject to the remedy of Section 9.
- (3) Nothing in this Resolution shall be construed to require the County to take action, which would conflict with, interfere with, and/or supersede any provision of a collective bargaining agreement with any union representing County employees.
- (4) The terms and revisions of this Resolution shall apply to all contracts entered into subsequent hereto.

Agenda Item 2

RESOLUTION STAFF REVIEW DATE April 30, 2002

Agenda Item Title: Resolution Authorizing a Memorandum of Understanding Supporting Lansing to Detroit Regional Commuter Rail

Submitted by: Board of Commissioners

Committees: Ad.Ser/Pers. __*, H.S. ____, Law & Cts. ____, Fin. __*

Summary of Proposed Action: This resolution endorses the Lansing to Detroit Regional Commuter Rail Project, and commits the county to “continue to provide project support and to seek funding to contribute their share of project capital and operating funds.”. This potential rail line service could consist of several community-based stations including Lansing, East Lansing, Howell, Ann Arbor, Dearborn, and Detroit.

Financial Implications: While there is considerable federal funds for the capital expenses of the project, there are not like funds to subsidize operational costs. The proposed commuter fares will only cover a portion of operating, making some local subsidy necessary. Preliminary estimates have placed the subsidy in the area of .25 mill, but that is very preliminary, and will be affected significantly by who ultimately participates. While the resolution does not bind the County to appropriating funds at this time, it does commit the county to seek funding for its share.

Other Implications: The cycle of available funding from the federal government makes it important for consideration of this resolution at this time. If this cycle of funding is missed, it will be six years before funds are likely to be available again.

Staff Recommendation: JA ____ JN ____ HH ____

This item was referred to the Administrative Services/Personnel Committee at the recent Committee of the Whole meeting. Debbie Alexander of CATA, who is serving as Project Manager, will be in attendance.

Introduced by the Administrative Services/Personnel and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING
SUPPORTING LANSING TO DETROIT REGIONAL COMMUTER RAIL**

WHEREAS, transportation is critical to the economy and quality of life within Michigan; and

WHEREAS, the transportation corridor comprised of I-94, US 23, and I-96 is a major travel corridor for employment, commerce, and general travel; and

WHEREAS, this highway corridor continues to grow with some corridors severely congested; and

WHEREAS, programmed highway improvements will provide marginal increases in capacity along the corridor; and

WHEREAS, growth along this corridor will continue to increase the demand for goods movement and general transportation; and

WHEREAS, growth will absorb much of this additional highway capacity and that this highway corridor will again become capacity constrained; and

WHEREAS, alternatives to automobile travel are necessary to provide travel choices other than the automobile; and

WHEREAS, this corridor contains a series of active freight rail lines that generally parallel this highway corridor; and

WHEREAS, these freight rights-of-way could be used as shared rights-of-way with a regional commuter rail line; and

WHEREAS, this potential commuter rail line service could consist of a series of community-based stations including Lansing, East Lansing, Howell, Ann Arbor, Dearborn, and Detroit; and

WHEREAS, these potential stations would be accessed via automobile and bus transit; and

WHEREAS, commuter rail service would provide an attractive service for commuter and business and recreational travel; and

WHEREAS, commuter rail service can stimulate economic development in and around station areas, as well as, concentrate development in an orderly fashion around station areas.

WHEREAS, community and jurisdictional support is integral to this commuter rail project moving forward; and

WHEREAS, the federal government will contribute to the capital cost to develop this commuter rail service and that a local matching contribution is required to obtain these federal funds; and

WHEREAS, commuter rail fares will only cover a portion of operating costs and that fares will not be sufficient to cover all annual operating costs; and

WHEREAS, local jurisdictions served by the commuter rail system will be required to contribute funds towards future engineering, operating, and environmental study activities.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners hereby endorses the Lansing to Detroit Commuter Rail Project and will continue to provide project support and to seek funding to contribute their share of project capital and operating funds.

Agenda Item 3

RESOLUTION STAFF REVIEW DATE April 25, 2002

Agenda Item Title: Resolution Authorizing Award of Proposal and Entering into a Contract
for Blacktop at the Ingham County Fairgrounds

Submitted by: Fair Board

Committees: Ad.Ser/Pers. *, H.S. , Law & Cts. , Fin. *

Summary of Proposed Action: This resolution authorizes entering into a contract with
Quinn Excavating & Paving, Inc. for Blacktop at the Ingham County Fairgrounds in an amount
not to exceed \$34,887.00.

Financial Implications: Proposals were solicited and evaluated by the Ingham County
Purchasing Department. It is their recommendation with concurrence of the Ingham County Fair
Board and Manager to award a contract to the firm submitting the lowest, responsive proposal in
an amount not to exceed \$34,887.00.

Other Implications: Funds are available within the 2002 operating budget.

Staff Recommendation: JA X JN HH
Staff recommends the approval of this resolution.

Agenda Item 3

Introduced by the Administrative Services/Personnel and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

RESOLUTION AUTHORIZING AWARD OF PROPOSAL AND ENTERING INTO A CONTRACT FOR BLACKTOP AT THE INGHAM COUNTY FAIRGROUNDS

WHEREAS, the Ingham County Fairgrounds is in need of blacktop; and

WHEREAS, \$50,000.00 is budgeted in the 2002 Capital Improvements Budget for surfacing; and

WHEREAS, proposals were solicited and evaluated by the Ingham County Purchasing Department and it is their recommendation with concurrence of the Ingham County Fair Board and Manager to award a contract to Quinn Excavating & Paving, Inc., the firm submitting the lowest, responsive proposal.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners hereby approves the award of proposal and authorizes entering into a contract with Quinn Excavating & Paving, Inc. for the blacktop in the amount not to exceed \$34,887.00 at the Ingham County Fairgrounds.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners authorizes the County Attorney to prepare the necessary documents with the Board Chairperson and County Clerk authorized to sign the same.

Agenda Item 4

RESOLUTION STAFF REVIEW DATE April 26, 2002

Agenda Item Title: Resolution Authorizing Renewal of a Contract with Moore's Security Services, Inc. for Security Services at Various County Facilities

Submitted by: Facilities Department

Committees: Ad.Ser/Per. __, H.S. __, Law & Cts. __, Finance __

Summary of Proposed Action

Resolution renews contract with Moore's Security Services, Inc. for one year June 1st, 2002 - May 31st, 2003.

The guard assignments are currently at the temporary Jackson National Life, Human Services Building, and Veterans Memorial Courthouse. This will continue until the renovated Grady Porter Building is ready when three of the guards will be re-assigned at that time.

Financial Implications

The hourly rate increases from \$10.15 to \$11.25.

Jackson National Life & Veterans Memorial Court house

33 hours per day @ 249 days per year @ \$11.25 per hour = \$92,441.25 base annual costs

Ingham County Health Department

8 hours per day @ 249 days per year @ \$11.25 per hour = \$22,410 base annual costs

Human Services Building - night meetings

5 hours per day 4 days a week @ 197 days per year @ \$11.25 per hour = \$11,081.25 base annual costs.

Jackson National Life & Veterans Memorial Court house	\$ 92,441.25
Ingham County Health Department	22,410
Human Services Building - night meetings	<u>11,081.25</u>
	\$125,932.50

Other Implications

For every contractual position added or subtracted the cost increase or reduction is approximately \$22,410 annually.

8 hours per day @ 249 days per year @ \$11.25 per hour = \$22,410 base annual costs.

Staff Recommendation: JA ____ JN __*__ HH ____

This resolution should be approved.

MEMORANDUM

TO: Administrative Services/Personnel and Finance Committees
FROM: John W. Andresen/Facilities Director
DATE: April 24, 2002
RE: Resolution Authorizing Renewal of a Contract with Moore's Security Services, Inc. for Security Services at Various County Facilities

Attached is a resolution renewing the current contract with Moore's Security Services, Inc. from June 1st, 2002 through May 31st, 2003. Moore's Security Services, Inc. was awarded the initial contract in 2000 based on competitive proposals, the current contract provides for extensions up to three (3) years. This contract allows placement of security guards at various County Facilities. Contract services are paid for on an hourly basis, at a rate of \$11.25 per guard, totaling \$125,932.50.

The funds for this contract renewal are available within various operating budgets for said services. We recommend that this contract be renewed.

Thank you!

JWA/cc

Introduced by the Administrative Services/Personnel and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION AUTHORIZING RENEWAL OF A CONTRACT WITH MOORE'S
SECURITY SERVICES, INC. FOR SECURITY SERVICES AT VARIOUS
COUNTY FACILITIES**

WHEREAS, the current contract with Moore's Security Services, Inc. who supplies uniformed, unarmed security guard services at various County Facilities to monitor entry into each location is due to expire May 31st, 2002; and

WHEREAS, the current contract is renewable annually up to, but not to exceed three (3) times, this would be the second renewal of said contract, funds have been approved and are budgeted within the various 2002 budgets for this contract; and

WHEREAS, Moore's Security Service, Inc. has agreed to renewal of said Agreement for the period of one year starting the 1st day of June and shall continue to May 31st, 2003 for the placement of guards to monitor entry into various County Facilities for an hourly rate of \$11.25 per guard; and

WHEREAS, it is the recommendation of the Purchasing and Facilities Departments that Moore's Security Service, Inc. shall provide security services at each location Monday through Friday with the exception of weekends and County holidays, on which the facilities are closed to the public for an hourly rate of \$11.25 per guard for a total estimated cost of \$125,935.50.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners hereby authorizes renewal of a contract with Moore's Security Services, Inc., 5900 Millett Highway, Lansing, Michigan 48917 for uniformed, unarmed guards to monitor entry into various County Facilities, Monday through Friday with the exception of weekends and County holidays at the hourly rate of \$11.25 per guard for a total estimated cost of \$125,935.50 for the period of June 1st, 2002 to May 31st, 2003.

BE IT FURTHER RESOLVED, that the Controller is authorized to extend this contract for up to and additional two (2) years, at an hourly rate to be negotiated.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners authorizes the Board Chairperson and the County Clerk to sign any necessary contract documents that are consistent with this resolution and approved as to form by the County Attorney.

Agenda Item 5

RESOLUTION STAFF REVIEW

DATE April 30, 2002

Agenda Item Title: Resolution Authorizing Entering Into an Agreement with the Michigan Municipal Risk Management Authority for Property and Liability Coverage

Submitted by: Connie Lange/Risk & Insurance Administrator

Committees: Ad.Ser/Pers.* , H.S.____, Law & Cts. ____ , Fin.*

Summary of Proposed Action: This resolution authorizes the continuation of the contract agreement between the County and Michigan Municipal Risk Management Authority (MMRMA) for property and liability insurance coverage, record servicing, and providing loss control services.

Financial Implications: The County will continue to participate in MMRMA with the renewal of the current contract beginning on July 1, 2002, and to continue each year thereafter unless participation is terminated by the Ingham County Board of Commissioners. The current year cost is \$865,366 annually of which a \$100,000 is reimbursed by the Medical Care Facility.

Other Implications: None

Staff Recommendation: JA X JN ____ HH ____

Staff recommends the continuation of the contract between Ingham County and Michigan Municipal Risk Management Association.

MEMORANDUM

To: Administrative Services/Personnel and
Finance Committee

Date: April 23, 2002

From: Connie Lange
Risk & Insurance Administrator

Michigan Municipal Risk Management Authority Renewal
Subject

Ingham County has been participating in the Michigan Municipal Risk Management Authority (MMRMA) since 1986. The MMRMA consists of 300 public sector Members including 56 Michigan counties and has \$120 million in assets. Its purpose is to provide quality property/liability coverage and other services for the benefit of its Members.

The current three-year agreement ends June 30, 2002 and has limited Ingham County's cost increases to 3% per year, however, the new agreement will be for one year. The County's current annual cost, which includes the Medical Care Facility, is \$865,366. We have not received the renewal pricing yet, but it is expected to contain an increase to catch up for the last three years and reflect the current hard market.

The disaster of September 11th is estimated to cost the worldwide insurance industry between \$60 and \$71 billion and will exhaust up to 20% of the surplus held by all insurance companies. Whether or not all the current rate increases are justified is a subject of debate. However, one thing is clear, the amount of insurance being offered is going down while prices and deductibles are going up.

The September attack did, however, hit the property and liability industry at the bottom of an economic cycle when they were already in a weakened financial position. The attack, combined with the decline in the stock market in 2001 and the drop in yields on bonds, has companies raising prices and/or withdrawing coverage.

Pooling arrangements like the MMRMA are better prepared to weather adverse market conditions. Rate increases are minimized by limiting reinsurance, focusing on risk avoidance and loss control, employing aggressive defense strategies and working on legislation beneficial to governmental entities. Despite these efforts, the cost of the required reinsurance is expected to increase substantially.

The withdrawal from the marketplace of companies willing to sell to municipalities is exactly the reason Ingham County joined the Authority in 1986. In the early 80's, it was a difficult market for insurance buyers. The only opportunity to place police professional coverage was with the MMRMA. The alternative was to totally self-insure this exposure and place remaining coverage with several different insurance companies. This is the same position we find ourselves in today.

I have spoken with Livingston County staff, who have searched the market and found nothing close to the public sector coverage provided by MMRMA - at any price. Municipalities that have left the MMRMA in previously years when the market was soft, are returning to avoid 60 to 240% premium increases with reduced coverage. These entities are welcomed back, they have experienced the volatility of the marketplace and are ready to resume participating in the MMRMA. Every Member strengthens the financial position of the Authority which currently has \$120 million in assets.

An example closer to home is the Ingham County Medical Care Facility which left Ingham County's MMRMA program a number of years ago for a specialized nursing home insurer. Last year, the ICMCF rejoined the County's insurance program. Ms. O'Shea had searched the market for coverage and found premiums starting at \$175,000; coverage through the Authority was \$123,610.

In short, the MMRMA provides stable pricing, all inclusive liability coverage (including law enforcement and nursing liability as well as employment practices), all property coverage and a staff which works solely with governmental entity claims. Another important service is loss control. The loss control staff works hand and hand with law enforcement, parks and recreation and other departments providing up to date training, guidance and answering a wide range of questions. Ingham County staff has served on MRMA Committees such as the Parks and Recreation, Law Enforcement and Membership Committees to share our knowledge as well as learn and help develop new guidelines for all Members.

I would recommend renewal of the agreement with the MMRMA effective July 1, 2002 and renewing annually thereafter. Thank you for your consideration of this matter.

Introduced by the Administrative Services/Personnel and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION AUTHORIZING ENTERING INTO AN AGREEMENT WITH THE
MICHIGAN MUNICIPAL RISK MANAGEMENT AUTHORITY FOR PROPERTY AND
LIABILITY COVERAGE**

WHEREAS, Ingham County has been a participant of the Michigan Municipal Risk Management Authority (MMRMA) since July 1, 1986; and

WHEREAS, MMRMA has an exceptional record servicing our account and providing valuable loss control services; and

WHEREAS, MMRMA's responsibility to its members is to seek out the most competitive rates; and

WHEREAS, the Insurance Coordinator has evaluated the market, surveyed other municipalities and has concluded that it is in the best interest of the County to continue with the MMRMA.

THEREFORE BE IT RESOLVED, that Ingham County continues participation in MMRMA with the renewal of the current contract on July 1, 2002 to continue each year thereafter unless participation is terminated by the Board of Commissioners.

BE IT FURTHER RESOLVED, that the Ingham County Board of Commissioners authorizes the County Attorney to prepare the necessary documents with the Board Chairperson and County Clerk authorized to sign the same.

MEMORANDUM

TO: Administrative Services & Personnel Committee
Finance Committee

FROM: Jerry Ambrose, Controller

DATE: April 29, 2002

RE: Phase II Federal Stormwater Requirements

The Michigan Department of Environmental Quality has proposed rules implementing responsibilities under this federal legislation. The rules are in a public comment period which ends May 14, 2002. As proposed, the rules appear to require operators of stormwater drainage systems to obtain a permit to do so by March, 2003. Obtaining such a permit appears to require compliance with significant and costly standards. There are also penalties for non-compliance.

A discussion of this issue has been presented in the recent Analysis of Areas of Priority, dated February, 2002.

It appears that the proposed rules will require County Boards of Commissioners to obtain such a permit, and by extension, to expend funds for meeting the requirements. However, it does not appear that county boards generally have ownership of, or operational responsibility for, stormwater drainage systems. Arguably, Road Commissions may, and Drain Commissioners on behalf of independent drainage districts, may also. Some County Boards of Commissioners may also, but only if they have entered into specific agreements with municipalities, as provided for under Act 342 agreements, for example.

It appears that the proposed rules, if adopted, may add a significant new and unfunded responsibility for county government. Attached for your review is a copy of the comments presented by the Ottawa County Corporation Counsel which outline many of the concerns. I suggest that the County Board consider a resolution objecting to the current rules. A resolution will be sent under separate cover or presented at the meeting.

Please let me know if you would like a copy of the proposed rules, which are also available on the MDEQ Web site.

April 29, 2002

Mr. David Hamilton, Chief
Surface Water Quality Division
Department of Environmental Quality
Hollister Building
105 West Allegan St.
PO Box 30473
Lansing, Michigan 48909-7374

RE: NPDES Phase II Requirements

Dear Mr. Hamilton:

At the request of Mr. Robert Oosterbaan, Ottawa County Administrator, I have reviewed the provisions of the federal Clean Water Act, 33 USC Section 1251 et seq, as amended, the rules concerning the NPDES Phase II program as promulgated by the Environmental Protection Agency at 40 CFR Parts 9, 122, 123, and 124, and the proposed state regulations developed by the Department of Environmental Quality to implement those requirements in the State of Michigan.

We understand the federal and proposed state rules to require affected local governments which own or operate so-called "municipal separate storm sewer systems" and "small municipal separate storm sewer systems" ("MS4's") to develop and implement a storm water management program designed "to reduce the discharge of pollutants from their MS4 to protect water quality." This is to be accomplished through a permit process which your office will be involved in, and through the development and implementation of "minimum control measures" to implement the storm water provisions of the Clean Water Act within the jurisdiction of the affected local government, as detailed in the federal regulations and the proposed state regulations. We understand the role of your agency to be (i) assisting the affected local municipalities to implement the requirements of 4CFR Parts 9, 122, 123 and 124; (ii) implementing state regulations to accomplish this; and then (iii) acting as the enforcing agent of the federal government against those local governments which fail to abide by the requirements of the federal legislation and the federal and state regulations. The Department of Environmental Quality is soliciting public comment on its proposed regulations through May 13, 2002, pursuant to the requirements of the Michigan Administrative Procedures Act, MCLA 24.201; et seq. A public hearing on these proposed regulations is scheduled in Lansing on Tuesday, April 30, 2002 at 2:00 p.m.

We have grave concerns about the validity of your proposed regulations because they impose burdens on Ottawa County which are neither contemplated under the federal regulations nor independently authorized under Michigan law. We also have concerns, including constitutional questions, about the validity of the NPDES Phase II program, particularly as implemented in your proposed regulations. A review of the federal regulations and of your department's proposals, should serve to establish the nature and scope of our concerns.

1. Ottawa County does not own or operate a "small municipal separate storm sewer system" within an "urban area" under the Federal Regulations, as we understand them.

In general, the NPDES Phase II regulations apply in "urbanized areas." Ottawa County is designated in Appendix 6 of the federal regulations as a "governmental entity located fully or partially within an urbanized area" as determined in the latest available Federal Census. However, only certain portions of Ottawa County are in fact within "urbanized areas" of the county, (Georgetown Charter Township, Holland Charter Township, the City of Hudsonville, the City of Zeeland, Park Township, and those portions of the City of Holland located within Ottawa County.) Whatever Ottawa County may (or may not) be required to do under the federal regulations, it is apparent that it is not required to act on a county-wide basis.

A "small municipal separate storm sewer system" is not defined in the Clean Water Act, but is defined in the Federal Regulations, at 40 CFR Section 122.26(a)(16)(iii), which states:

(16) Small municipal separate storm sewer system means all separate storm sewers that are:

(i) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or agency under section 208 of the CWA that discharges to waters of the United States.

(ii) Not defined as "large" or "medium" municipal separate storm sewer systems pursuant to paragraphs (b)(4) and (b)(7) of this section, or designated under paragraph (a)(1)(v) of this section.

(iii) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

(17) Small MS4 means a small municipal separate storm sewer system.

(18) Municipal separate storm sewer system means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems pursuant to paragraphs (b)(4), (b)(7), and (b)(16) of this section, or designated under paragraph (a)(1)(v) of this section.

(19) MS4 means a municipal separate storm sewer system. (emphasis added)

In the commentary to the federal rules, the Federal Environmental protection Agency makes it clear that individual public buildings, (or even multiple public buildings in a single location) are not MS4's for purposes of the Federal Rules See: 64 Fed. Register at 68749.

Under Michigan law, the ownership and operational control of county-wide "storm water systems" are not functions of county boards of commissioners. The County Road Law, MCLA 224.1 et seq., and the Drain Code of 1956, MCLA 280.1 et seq., confer effective ownership and the right to control and operate both county roads and county drains on boards of county road commissioners and county drain commissioners, respectively.

Their jurisdiction to perform these functions, and the operation of these systems are, as you know, substantially independent of the counties and their county boards of commissioners. Even if a general law county, such as Ottawa County, may be said, in some sense, to "own" the roads and drains within its jurisdictional limits, it clearly "operates" neither system. A fair reading of

the Federal Rules and the commentary that accompanies it makes it apparent that in instances where an MS4 is "owned" by one public entity but "operated" by another, the "operator" has the responsibility for NPDES Phase II compliance, See: 64 Federal Register at 68750. It is also readily apparent that when the term "operator" is used in the federal regulations, actual "operation" is contemplated therein. In other words, day-to-day, "hands on" running of the MS4 facility.

In this connection, we also note that Ottawa County neither owns nor operates any other facilities, structures, or systems within the "urban areas" of the County which could conceivably be termed an "MS4" or a "small MS4" under the federal regulations.

We therefore conclude that Ottawa County is neither an "owner" nor an "operator" of an MS4 or a small MS4 within an "urban area" under the federal regulations, and therefore is not required to apply for an NPDES Phase II permit under those regulations. To the extent such an application may be required of any person or entity having county-wide control over any affected MS4's within Ottawa County, we conclude that it would be the responsibility of the Ottawa County Board of Road Commissioners (roads) and/or of the Ottawa County Drain Commissioner (drains). In this regard, we specifically note that your Department's proposed Phase II Storm Water program rules adopt the Federal Regulations by reference in Proposed MAC R 323.3289(2). With that preliminary background, and in light of our conclusions based upon the content of the federal regulations, we turn to the proposed Phase II rules promulgated by the Department of Environmental Quality.

2. The definitions of "owner/operator" set forth in the proposed state regulations is critically inconsistent with the definitions set forth in the federal regulations.

While the proposed state regulations adopt and incorporate the federal regulations by reference, it is apparent that the drafters of the state regulations were not satisfied with the definitions set forth in the federal regulations, or with the content of the federal commentary to those regulations. That unhappiness is tellingly apparent in proposed R323.2103(k), which is concerned with the definition of "operators" of MS4's. The proposed regulation states:

(K) "MS4 Operator" or "Municipal Separate Storm Sewer System Operator" means a public body or statutory housing authority that either owns a separate storm sewer system or has the power or authority to implement or carry out any of the minimum measures for storm water pollution control as described in R 323.2161a.

Proposed R 323.2161a contains a lengthy list of requirements, for "storm water pollution control," among them:

- (1) Develop, implement, and enforce a storm water management program.
- (2) Adoption and enforcement of an ordinance, "or other regulatory mechanism" to prohibit non-storm water discharge into the storm sewer system and "implement appropriate enforcement procedures and actions."
- (3) Adoption and enforcement of an ordinance to control soil or sedimentation erosion, including "post construction storm water run-off."
- (4) Mandatory training programs, using federal and state materials.
- (5) Records maintenance and annual reporting requirements.
- (6) The collection and analysis of information on storm water discharges, and the submission of that information, as required, to the DEQ.

Although they broadly define "MS4 Operator," the proposed state rules do not attempt to define the term "MS4 owner." One must ask, why do the state definitions differ so strikingly from the wording of the federal regulations? Upon examination, the rationale under which the DEQ changed the effective definition of "owner/operator" is obvious enough. Neither county road commissions nor county drain commissions have ordinance power under Michigan law. By contrast, general law counties do have ordinance power, similar to (though less extensive than) that granted to other local governments, such as cities, villages, and townships. See: MCLA 46.11(m);

MSA 5.332(m). It is apparent that your department, with absolutely no legislative or constitutional authorization, has drafted the proposed definition of "MS4 operator" in such a way as to impose obligations on general law counties which are entirely inconsistent with the federal regulations and to impose obligations on the counties which were neither contemplated nor approved by the legislature of the State of Michigan.

Why should we be concerned about this unauthorized exercise of state regulatory authority? The answer is obvious. If the requirements of NPDES Phase II are extended to Michigan's general law counties by "administrative fiat" of the DEQ, it will be an expensive proposition. We understand that the DEQ is contemplating a permit fee of \$2,500 per permit. In addition,

the counties will incur substantial costs, (including personnel costs) associated with the development, implementation, and enforcement of the ordinances and compliance programs contemplated in the federal regulations and the proposed state regulations. However, we understand that your department has no intention of providing funding to the counties to implement the requirements of the federal regularly scheme or of the programs contemplated in the proposed regulations.

The extent to which a state agency may impose a requirement of federal law on a local government is limited in the State of Michigan by the Headlee Amendment, Article IX, Section 29 of the 1963 Constitution of the State of Michigan, which provides, in relevant part:

The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any increased costs.

As previously noted, the proposed state regulations mandate that the county pass ordinances and adopt the regulatory schemes outlined in the federal regulations. Indeed, the regulations apply to the counties (such as Ottawa County) merely because they have the authority to adopt ordinances. Because the definitions set forth in the proposed state regulations are inconsistent with the federal regulations, (the county is the "owner/operator" under the proposed state regulations but neither the "owner" nor "operator" of the roads and drainage system under the federal regulations) the county has a number of county-wide regulatory burdens imposed on it but no practical opportunity to "opt out" and file an individual permit. Setting aside what one might assume is the threshold

Headlee question of whether the specific activities sought to be regulated (county roads and county drains) are "required" activities of local governments See: *Kramer v. City of Dearborn Heights*, 496 NW2d 301 (Mich. App. 1992), the fact remains that those are activities which are not under the direct control of the county board of commissioners. Therefore, the requirement in

proposed Rule 323.2161a that the county must adopt ordinances and perform activities to monitor, regulate, and report the performance of those activities is very clearly a mandatory new activity imposed upon the counties, because they are a "new activity or service or an increase in the level of [an] activity or service" beyond that required by state law. If so, the State of Michigan must provide the funding to the county, as required by the terms of the Headlee Amendment. See: *Delta County v. Michigan Department of Natural Resources*, 325 NW 2d 455 (Mich. App. 1982). Since all of the requirements of the NPDES Phase II program arose as a result of the 1987 revisions to the Federal Clean Water Act, they are also clearly "new requirements" that are subject to the Headlee Amendment restrictions.

As previously noted, the definition of an "MS4" under the state regulation is substantially different than under the federal regulation. Under the federal regulations, as we read them, Ottawa County would be exempt from regulation because none of its facilities are an MS4. The proposed state rules, however, goes substantially beyond the federal regulations, in proposed R323.2104(k), which provides:

(k) "Separate Storm Sewer System" means a system of drainage, including, but not limited to, roads, catch basins, curbs, gutters, parking lots, ditches, conduits, pumping devices, or man-made channels, which has the following characteristics:

(i) The system is designed or used for collecting or conveying storm water from an area of land larger than the area needed for

a single building and associated parking.

(ii) The system is not a combined sewer where storm water mixed with sanitary wastes. (emphasis added)

Under this definition, which substantially differs from the federal explanation of NPDES regulatory impact, Ottawa County may have a facility within an "urban area" of the county which is an MS4. Once again, by imposing a state requirement under the proposed rules which exceeds the terms and requirements of the federal statute and the federal regulations, the state is imposing a "new requirement" which clearly requires state funding under the Headlee Amendment. See: *Argument, supra*.

3. The Wording of the Proposed Regulations Implicate the Federal Government and the DEQ in a Violation of the Tenth Amendment to the United States Constitution. There is a significant legal question whether Phase II impermissibly compels counties and other local governments which own or operate small municipal separate storm sewer systems to develop, implement, administer, and pass ordinances in furtherance of the EPA's regulatory scheme. See, e.g., 40 C.F.R. Sections 122.34(b)(1)-(6). As such, the federal Phase II regulations (and any attempt by the DEQ to impose those regulations on the counties) violates the Tenth Amendment of the United States Constitution. *Printz v. United States*, 117 S. Ct. 2365, 238e (1997); *New York v. United States*, 112 S. Ct. 2408, 2435 (1992).

Phase II is not a permissible series of conditions placed on a federal grant, See, *New York*, 112 S. Ct. at 2427, but an unfunded federal mandate that improperly commandeers the legislative processes of the counties and other local governments, treating them as "regional offices" or "administrative agencies" of the EPA. See, *id.* at 2434-35. The Supreme Court recently put teeth in the Tenth Amendment's prohibitions against such federal intrusions upon State sovereignty, reaffirming the essential principle that "[t]he Federal Government may not compel local governments to enact or administer a federal regulatory program." *Printz*, 117 S. Ct. at 2383. Phase II (and the proposed state regulations) do precisely what *Printz* forbids: without any funding, it requires local governments to adopt ordinances and programs to control the conduct of third parties at the behest of the federal government.

It is important to note that even the federal government realize that there are serious 10th Amendment problems with the federal regulations.

See discussion, 64 Federal Register 68765. To avoid the implications of the Printz decision, the Federal Rules permit an "owner/operator" of an MS4 to file an individual permit, which does not require the individual permit holder to regulate anyone's conduct other than its own. However, as previously noted, the MDEQ's proposed R 323.2103(K) has an expansive definition of "owner/operator," which catches county governments in its dragnet and effectively mandates a comprehensive, county-wide program, because only the county board of commissioners has the "power or authority" to adopt the ordinances required to regulate conduct pertaining to county roads and county drains. What this means is that by drafting its expansive proposed definition of "owner/operator" the Department of Environmental Quality has effectively eliminated the federal government's "safe harbor" option under 40 CFR 123.2(i). With respect to county governments, which do not actually "own or operate" the county road and drainage system, the state has bootstrapped a definition of "owner/operator" which effectively eliminates the exception under which the federal government sought to avoid the constitutional implications of the Printz decision. A copy of Printz v. United States is attached.

CONCLUSIONS AND RECOMMENDATIONS

For the above reasons, Ottawa County believes that MDEQ's proposed regulations are inconsistent with the terms and requirements of the federal regulations and are an unfunded, ill-advised exercise of your departments' regulatory authority. We also believe that the entire NPDES Phase II program is an unconstitutional imposition of federal authority on local governments within the state, in violation of the 10th Amendment of the United States Constitution as interpreted in the Printz decision. Without prejudice to the position that there is no lawful authority for these proposed regulations, and without limitation, we make the following specific recommendations that would significantly address our concerns about the proposed rules:

1. Your department must fully fund local government operations under the NPDES Phase II regulations to meet your obligations under the Headlee Amendment. The State of Michigan is required to fund new programs which it imposes on local governments, and this requirement clearly includes the cost of compliance with the regulatory scheme proposed in these regulations by the Department of Environmental Quality.

2. Your department should make the definition of "owner/operator" in proposed R323.2103(K) consistent with the definitions of "owner" and "operator" as set forth in the federal rules. Not only would this eliminate the inherent confusion cause by the incorporation of the inconsistent federal definitions into the state rules, it would make it clear that entities such as Ottawa County which neither "own" nor "operate" MS4's are not required (solely by reason of their existence and statutory authority) to regulate those facilities and adopt NPDES Phase II compliance programs.

3. Your department should make the state definition of "MS4" consistent with the federal definition. As noted, the federal definition does not mandate that a multi-building site is an "MS4." The proposed state regulation essentially does so mandate. Elimination of this inconsistency is not only good draftmanship, it is a crucial consideration in the County's opposition to the proposed regulations.

We appreciate your consideration of our comments and recommendations. If you have any questions, please advise.

Very Truly Yours,

Gregory J. Rapple
Ottawa County Corporation Counsel

GJR:lo

cc: Ottawa County Board of Commissioners
State Senator William Van Regenmorter
State Senator Leon Stille
Representative Barbara VanderVeen
Representative Wayne Kuipers
Robert Oosterbaan, Ottawa County Administrator
The Michigan Association of Counties

City of Mason

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Police 517 676-2458
Fax 517 676-1330
TDD 1-800-649-3777

April 10, 2002

John Czarnecki, Chair
Ingham County Board of Commissioners
Box 319
Mason, MI 48854

Dear Mr. Czarnecki:

In accordance with recently enacted changes to the Municipal Planning Act, please be advised that the City of Mason's Planning Commission is undertaking a process to update its master plan. In the coming months the Planning Commission will be developing a draft of the new plan to be submitted to the City Council for approval in order to disseminate the draft to neighboring communities for their review, as well as the other jurisdictions as stipulated in P.A. 265 of 2001. Your cooperation and comment is hereby requested as we proceed forward with plan development.

Please feel free to call with any questions.

Sincerely,

A handwritten signature in black ink that reads "James M. Howard". The signature is written in a cursive style with a large initial "J".

James M. Howard
Zoning & Development Director

INGHAM COUNTY ROAD COMMISSION

AUSTIN E. CAVANAUGH ADMINISTRATION BUILDING
301 Bush Street ● P.O. Box 38 ● Mason, Michigan 48854-0038

Larry R. Smith, Chair
June H. Pallottini, Vice Chair
Jean M. McDonald, Commissioner

John W. Midgley, P.E., Managing Director

April 22, 2002

Mr. John Czarnecki, Chair
Ingham County Board of Commissioners
P.O. Box 319
Mason, Michigan 48854

Re: College Road Bridge over Sycamore Creek
Section 12, Delhi Township and Section 7, Alaiedon Township

Dear Mr. Czarnecki:

The bridge carrying College Road over the Sycamore Creek is under the jurisdiction of the Ingham County Road Commission. The bridge needs to be replaced because it is functionally obsolete and in poor condition. We made application for critical bridge funding to rehabilitate or replace the bridge back in 1992, but haven't been successful. In fact the bridge's ranking has gone from 79th on the 1999 funding list to 91st on the 2002 funding list.

The reason for this letter is to ask for your help. We believe that if we update the application and resubmit for critical bridge funding, we have a better chance of obtaining funding. A key element for all funding applications is local and state support. Therefore, we respectfully request letters of support or resolutions of support from affected Townships, the Ingham County Board of Commissioners, State Senators, State Representatives, School Districts, and emergency response agencies that would like to see this bridge replaced.

Hopefully, your support along with the updated information, will result in a positive outcome to our College Road Bridge problem. If you have questions, please contact me at (517) 676-9722.

Sincerely,
INGHAM COUNTY ROAD COMMISSION



Robert L. Peterson, P.E.
Director of Engineering

INGHAM COUNTY ROAD COMMISSION

AUSTIN E. CAVANAUGH ADMINISTRATION BUILDING
301 Bush Street • P.O. Box 38 • Mason, Michigan 48854-0038

Larry R. Smith, Chair
June H. Pallottini, Vice Chair
Jean M. McDonald, Commissioner

John W. Midgley, P.E., Managing Director

April 18, 2002

Mr. John Czarnecki, Chair
Ingham County Board of Commissioners
P.O. Box 319
Mason, Michigan 48854

Re: Van Atta Road Bridge over the Red Cedar River, Section 36, Meridian Township

Dear Mr. Czarnecki:

The Ingham County Road Commission has been closely monitoring the condition of the Van Atta Road Bridge over the Red Cedar River for some time now. Due to its condition, we made application for critical bridge funding to replace the bridge back in 1994. Since then, the bridge beams and deck have deteriorated to the point where we may be forced to severely reduce the bridge's load carrying capacity, convert the bridge to a one-lane bridge, or close the bridge altogether.

The reason for this letter is to formally inform all interested parties of the results of our latest Van Atta Road bridge investigation and to ask for your help. We think that if we update the application and resubmit for critical bridge funding, we have a good chance of obtaining funding for 2004. A key element for all funding applications is local and state support. Therefore, we respectfully request letters of support or resolutions of support from affected Townships, the Ingham County Board of Commissioners, State Senators, State Representatives, School Districts, and emergency response agencies that would like to see this bridge replaced.

Hopefully, your support along with the updated information, will result in a positive outcome to the Van Atta Road Bridge problem that will be a hardship to many that live along or use that stretch of roadway. If you have questions, please contact me at (517) 676-9722.

Sincerely,

INGHAM COUNTY ROAD COMMISSION



Robert H. Peterson, P.E.
Director of Engineering

encl

INGHAM COUNTY ROAD COMMISSION

AUSTIN E. CAVANAUGH ADMINISTRATION BUILDING
301 Bush Street ● P.O. Box 38 ● Mason, Michigan 48854-0038

Larry R. Smith, Chair
June H. Pallottini, Vice Chair
Jean M. McDonald, Commissioner

John W. Midgley, P.E., Managing Director

April 19, 2002

Mr. John Czarnecki, Chair
Ingham County Board of Commissioners
P.O. Box 319
Mason, Michigan 48854

Re: Hagadorn Road Bridge over the Red Cedar River, Section 17, Meridian Township

Dear Mr. Czarnecki:

Hagadorn Road from the City of Mason to the Red Cedar River, including the bridge over the river, is under the jurisdiction of the Ingham County Road Commission (ICRC). The above mentioned bridge is functionally obsolete and needs to be widened so that the intersection of Hagadorn Road and Grand River Avenue can operate efficiently. ICRC made application for critical bridge funding to rehabilitate or replace the bridge back in 1984, but haven't been successful. In fact the bridge's ranking has gone from 61st on the 1999 funding list to 75th on the 2002 funding list.

The reason for this letter is to ask for your help. We believe that if we update the application and resubmit for critical bridge funding, we will have a better chance of obtaining funding. A key element for all funding applications is local and state support. Therefore, we respectfully request letters of support or resolutions of support from Meridian Township, Michigan State University, the City of East Lansing, the Ingham County Board of Commissioners, State Senators, State Representatives, School Districts, and emergency response agencies that would like to see this bridge rehabilitated or replaced.

Hopefully, your support along with the updated information, will result in a positive outcome to our Hagadorn Road Bridge problem. If you have questions, please contact me at (517) 676-9722.

Sincerely,

INGHAM COUNTY ROAD COMMISSION



Robert H. Peterson, P.E.
Director of Engineering

encl

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INGHAM COUNTY ROAD COMMISSION

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301 Bush Street • P.O. Box 38 • Mason, Michigan 48854-0038

Larry R. Smith, Chair
June H. Pallottini, Vice Chair
Jean M. McDonald, Commissioner

John W. Midgley, P.E., Managing Director

April 22, 2002

Mr. John Czarniecki, Chair
Ingham County Board of Commissioners
P.O. Box 319
Mason, Michigan 48854

Re: Howell Road Bridge over Sycamore Creek
City of Mason, Michigan

Dear Mr. Czarniecki:

The bridge carrying Howell Road over the Sycamore Creek is under the jurisdiction of the Ingham County Road Commission even though it is surrounded by the City of Mason. During our biennial bridge inspections this year, our bridge inspector discovered heavy corrosion at many of the beam ends that support the bridge deck. The bridge is not in danger of failing, but we believe it needs to be rehabilitated or replaced due to its condition.

The reason for this letter is to ask for your help. We are planning to make application for critical bridge funding and respectfully request letters of support or resolutions of support from affected Townships, the City of Mason, the Ingham County Board of Commissioners, State Senators, State Representatives, School Districts, and emergency response agencies that would like to see this bridge rehabilitated or replaced. A key element for all funding applications is local and state support.

Hopefully, your support along with information about the bridge's condition, will result in a positive outcome to our Howell Road Bridge problem. If you have questions, please contact me at (517) 676-9722.

Sincerely,
INGHAM COUNTY ROAD COMMISSION



Robert H. Peterson, P.E.
Director of Engineering