



# Detroit Water and Sewerage Department

735 Randolph Street  
Detroit, Michigan 48226  
(313) 224-4704 Office  
dwsd.legistar.com

## Legislation Details (With Text)

**File #:** 20-0019      **Version:** 1      **Name:**  
**Type:** Request, Closed Session      **Status:** Approved  
**In control:** Board of Water Commissioners  
**On agenda:**      **Final action:** 1/23/2020  
**Title:** Upon the request of Chief General Counsel Debra N. Pospiech, Esq., the Board of Water Commissioners votes to approve a meeting with General Counsel in closed session pursuant to Sections 8(e) and (h) of the Michigan Open Meetings Act to discuss settlement strategy in pending litigation and a confidential attorney communication.  
**Indexes:** Board of Water Commissioners  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
1/23/2020	1	Board of Water Commissioners	approved	Pass

Upon the request of Chief General Counsel Debra N. Pospiech, Esq., the Board of Water Commissioners votes to **approve a meeting with General Counsel in closed session pursuant to Sections 8(e) and (h) of the Michigan Open Meetings Act to discuss settlement strategy in pending litigation and a confidential attorney communication.**

Agenda of January 23, 2020  
Item No. 20-0019  
Closed Session Request

**TO:** The Honorable  
Board of Water Commissioners  
City of Detroit, Michigan

**FROM:** Debra N. Pospiech, Esq., Chief General Counsel, Detroit Water and Sewerage Department

**RE:** *Detroit Invest Corporation v. Detroit Water and Sewerage Department*  
Wayne County Circuit Court Case No. 18-003729-CZ  
Michigan Court of Appeals Case No. 348675

### MOTION

Upon the request of Chief General Counsel Debra N. Pospiech, Esq., the Board of Water Commissioners for the City of Detroit Water and Sewerage Department (DWSD), by an affirmative roll call vote of 2/3 of the Board Members appointed and serving, hereby resolves to **meet with General Counsel in closed session pursuant to Sections 8(e) and (h) of the Michigan Open Meetings Act to discuss settlement strategy for pending litigation entitled *Detroit Invest Corporation v. Detroit Water and Sewerage Department* and related matters discussed in a confidential attorney communication.**

## **BACKGROUND**

Section 8(e) of the Michigan Open Meetings Act (MCL 15.261 et. seq.), allows a public body to meet in closed session: “To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.” Section 8(h) also allows a public body to meet in closed session: “To consider material exempt from discussion or disclosure by state or federal statute.” The Freedom of Information Act (MCL 251.231 et. seq.) exempts from disclosure records subject to attorney-client privilege. (MCL 15.243(g))

Section 7 of the Open Meetings Act requires an affirmative roll call vote of 2/3 of the Board Members appointed and serving to approve a closed session. (MCL 15.267(1))

General Counsel provided a confidential memorandum to Commissioners regarding the above-captioned lawsuit and respectfully requests a closed session to discuss the memorandum and settlement strategy.

Respectfully Submitted,

**Debra N. Pospiech**

Debra N. Pospiech, Esq.  
Chief General Counsel