



Detroit Water and Sewerage Department

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Legislation Details (With Text)

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In control: Office of the General Counsel
On agenda: 2/5/2020 **Final action:** 2/5/2020
Title: 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
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Attachments:

Date	Ver.	Action By	Action	Result
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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 February 5, 2020
Item No. 20-0046
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