



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney *LGB*
DATE: September 19, 2012
SUBJECT: Citizens United Against Corrupt Government v. Troy City Council

Enclosed please find a copy of a lawsuit that was recently filed against the Troy City Council by Robert Davis, the founder of the non-profit entity *Citizens United Against Corrupt Government*. The complaint and its accompanying Emergency Motion for Declaratory and Injunctive Relief were served on the City on September 7, 2012. A proposed resolution authorizing our office to defend the interests of the Troy City Council is proposed for your consideration. However, due to the expedited nature of the Emergency Motion, our office has already filed a response to the Motion, which was heard by Oakland County Circuit Court Judge Colleen O'Brien on September 12, 2012. The City prevailed on the Emergency Motion for Declaratory and Injunctive Relief, and the Court issued its denial order on September 13, 2012. This case will now proceed on the regular court docket.

Through the complaint, Mr. Davis alleges that the Troy City Council violated the Open Meetings Act by convening a closed session on August 15, 2012, as part of the City Manager search selection process. Mr. Davis is seeking declaratory relief and injunctive relief, as well as a disclosure of any closed session minutes, plus attorney fees, costs, and other unspecified relief.

Our office intends to respond to the allegations in the complaint by filing a motion to dismiss the case. If you have any questions concerning the above, please let me know.

STATE OF MICHIGAN
IN THE 6TH JUDICIAL CIRCUIT COURT
FOR THE COUNTY OF OAKLAND

CITIZENS UNITED AGAINST CORRUPT GOVERNMENT,
a Michigan Nonprofit Corporation,
PLAINTIFF,

2012-129214-CZ

Case No. 12- CZ

Hon. Colleen O'Brien

-v-

TROY CITY COUNCIL,
DEFENDANT.

ANDREW A. PATERSON (P18690)
Attorney for Plaintiff Robert Davis
46350 Grand River Ave., Suite C
Novi, MI 48374
(248) 568-9712

Complaint for Declaratory Judgment and Injunctive Relief

PLAINTIFF, CITIZENS UNITED AGAINST CORRUPT GOVERNMENT, by and through its attorney, Andrew A. Paterson, for its Complaint for Declaratory Judgment and Injunctive Relief, states and alleges the following:

COMMON ALLEGATIONS

1. Plaintiff, Citizens United Against Corrupt Government ("Plaintiff Citizens United"), is a Michigan nonprofit corporation organized for the purpose of promoting and ensuring corrupt-free and law-abiding civic government through social actions and court actions designed to eliminate unlawful illegal actions by all governmental officials, representatives and entities in all levels of government.
2. Defendant, Troy City Council ("Defendant City Council"), in accordance with the City of Troy's Home Rule City Charter, is the duly elected 7-member local legislative

and governing body for the City of Troy that is charged with and exercises governmental and proprietary authority.

3. An actual controversy exists between the parties named herein for a declaratory judgment to be issued by the Court as required under MCR 2.605(A)(1).
4. The Defendant City Council is a "public body" as defined by MCL §15.262(a) of the Open Meetings Act ("OMA") that is required to strictly adhere to and comply with its provisions. See, *People v Whitney*, 228 Mich App 230, 242 (1998) ("Unquestionably, the [city] council is a public body.")

NATURE OF THE ACTION

5. The Michigan Court of Appeals has determined, and held, that the OMA provides three distinct types of relief. *Leemreis v Sherman Twp*, 273 Mich App 691, 699-700; 731 NW2d 787, 792 (2007) ("Reading the OMA as a whole, it appears that these sections, and the distinct kinds of relief that they provide, stand alone.") The Court determined in *Leemreis* that:

"[1] MCL 15.270(1) permits a person to 'commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.' Under this section, a person can seek invalidation of the decision and there is no provision for costs or attorney fees. [2] MCL 15.271(1) permits a person to 'commence a civil action to compel compliance or to enjoin further noncompliance with this act.' Under this section, a person who commences a 'civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act' and obtains 'relief in the action' shall recover costs and attorney fees for the action. [3] MCL 15.271(4). MCL 15.273 permits a person to bring a claim against a public official for an intentional violation of the OMA and, if the public official did intentionally violate

the OMA, he or she is liable for actual and exemplary damages of not more than \$500 total 'plus court costs and actual attorney fees to a person or group of persons bringing the action.' MCL 15.273(1). None of these sections refers to either of the other sections. Reading the OMA as a whole, it appears that these sections, and the distinct kinds of relief that they provide, stand alone." *Leemreis v Sherman Twp, supra*, at 699-700.

6. Accordingly, Plaintiff Citizens United has filed this civil action pursuant to MCL 15.271 of the OMA, for **Counts I-II**, alleging that Defendant City Council violated numerous sections of the OMA and the Plaintiff Citizens United is seeking the Court's Declaration that Defendant City Council so violated the OMA: by conducting deliberations in a closed session and not in an open meeting, and by making decisions to narrow the field of candidates for the office of city manager from approx. 54 candidates to 5 finalists during a closed session when said decisions should have been made during an open meeting.
7. Additionally, Plaintiff Citizens United is seeking the Court's Declaration that Defendant City Council violated the OMA by failing to provide Plaintiff Citizens United with a copy of the minutes from the closed session held on August 15, 2012 in accordance with the OMA.
8. For **Count II only**, in accordance with MCL §15.267(2) of the OMA, Plaintiff seeks the Court's Order declaring an OMA violation and requiring Defendant City Council to disclose the closed session meeting minutes from its August 15, 2012 closed session.

9. Plaintiff Citizens United is also seeking, in Count III, the Court's Order permanently enjoining Defendant City Council from further noncompliance with the OMA, pursuant to MCL 15.271(2).
10. Plaintiff Citizens United's instant action is timely, as **there is no statute of limitations period for a "person" to commence a civil action under MCL 15.271 of the OMA.** *News, Inc. v City of* , 185 Mich App 296, 301-302; 460 NW2d 312 (1990).

JURISDICTION/STANDING

11. Jurisdiction is conferred upon this Court by MCL §15.271 of the OMA.
12. Plaintiff Citizens United is a "person" who has standing to commence this action under §11(1) of the OMA (MCL §15.271(1)), as a "person": "*If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.*" (Emphasis supplied.)
13. Plaintiff Citizens United, as a registered domestic nonprofit corporation, is a "person" as defined under the OMA and has standing to commence an OMA action under MCL §15.271. *Booth Newspapers, Inc. v Wyoming*, 168 Mich App 459, 474; 425 NW2d 695 (1988) ("We agree with the trial court that plaintiff is a person. Under the OMA, it is a person who may file suit to compel compliance with the act, MCL 15.271(1); MSA 4.1800(21)(1), and a successful person who may recover actual attorney fees and court costs, MCL 15.271(4); MSA 4.1800(21)(4). As a general rule, the term person is defined as including corporations unless such a construction

would be inconsistent with the manifest intent of the Legislature. See MCL 8.3; MSA 2.12 and MCL 8.31; MSA 2.212(12).”)

14. Plaintiff Citizens United’s standing under the OMA is recognized under Michigan law. See, *Lansing Schools Education Ass’n v Lansing School Dist Bd. of Ed.*, 487 Mich 349, 372; 792 NW 2d 686 (2010). In *Lansing Schools Ed Ass’n*, the Michigan Supreme Court articulated Michigan standing law:

[A] litigant has standing whenever there is a legal cause of action. Further, whenever a litigant meets the requirements of MCR 2.605, it is sufficient to establish standing to seek a declaratory judgment. Where a cause of action is not provided at law, then a court should, in its discretion, determine whether a litigant has standing. A litigant may have standing in this context if the litigant has a special injury or right, or substantial interest, that will be detrimentally affected in a manner different from the citizenry at large or if the statutory scheme implies that the Legislature intended to confer standing on the litigant. [*Lansing Schools Ed Ass’n*, *supra* at 372.] (Emphasis supplied.)

15. Michigan law has always granted standing to parties such as the Plaintiff for OMA actions. See *Booth Newspapers, Inc.*, *supra*, at 574. (“We agree with the trial court that plaintiff is a person. Under the OMA, it is a person who may file suit to compel compliance with the act, MCL 15.271(1); MSA 4.1800(21)(1), and a successful person who may recover actual attorney fees and court costs, MCL 15.271(4); MSA 4.1800(21)(4). As a general rule, the term person is defined as including corporations unless such a construction would be inconsistent with the manifest intent of the Legislature. See MCL 8.3; MSA 2.12 and MCL 8.31; MSA 2.212(12).”)

16. The Oakland County Circuit Court is the proper venue for this action. §11(2) of the OMA (MCL §15.271(2)) states: "*An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any a county in which the public body serves.* An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county." (Emphasis added.)
17. That Defendant City Council's principal office is located in the County of Oakland at 500 W. Big Beaver, Troy, MI, 48084, in the City of Troy, Oakland County, Michigan.
18. An actual controversy exists by reason of the Defendant City Council's actions, individually and collectively, being in violation of the OMA, and the Plaintiff is a proper party to bring this action thereon.
19. This Court is the proper venue and forum, it has jurisdiction over the parties, it can determine the truth or falsity of the allegations raised, and it can grant the relief sought herein.

COUNT I

DEFENDANT CITY COUNCIL VIOLATED THE OMA ON AUGUST 15, 2012 BY MEETING IN CLOSED SESSION FOR AN IMPERMISSIBLE PURPOSE AND BY MAKING A DECISION AND HAVING DELIBERATIONS IN A CLOSED SESSION

20. Plaintiff incorporates, repeats, and realleges, the foregoing allegations as though fully set forth herein.
21. On July 23, 2012, Defendant City Council voted to hold a special meeting of the Defendant City Council for Wednesday, August 15, 2012 at 5 pm in the City Council

Board Room, for the purpose of meeting in Closed Session to review material and/or select finalists to be scheduled for interviews for the position of City Manager. **(See pg. 5 of the Approved Minutes from Defendant City Council's July 23, 2012 Meeting attached hereto as Exhibit A).**

22. On Wednesday, August 15, 2012, the Defendant City Council held a special meeting of the Defendant City Council for the purpose of meeting in Closed Session to review material and/or select finalists to be scheduled for interviews for the position of City Manager. **(See pg. 1 of Approved Minutes from Defendant City Council's August 15, 2012 Special Meeting attached hereto as Exhibit B).**
23. The approved minutes from Defendant City Council's August 15, 2012 Special Meeting clearly reflect that all 7 members of the Defendant City Council were present and that the Defendant City Council met in closed session to review material and/or select finalists to be scheduled for interviews for the position of City Manager. **(See pg. 1 of Approved Minutes from Defendant City Council's August 15, 2012 Special Meeting attached hereto as Exhibit B).**
24. The approved minutes from Defendant City Council's August 15, 2012 Special Meeting clearly reflect that the meeting was called to order at 5:15 pm and the meeting immediately recessed into a closed session at 5:16 pm. **(See pg. 1 of Approved Minutes from Defendant City Council's August 15, 2012 Special Meeting attached hereto as Exhibit B).**
25. The approved minutes from Defendant City Council's August 15, 2012 Special Meeting further reflect that the meeting reconvened into open session at 7:34 pm and the meeting was immediately adjourned at 7:36 pm with no actions being voted upon

by the Defendant City Council. (See pg. 1 of Approved Minutes from Defendant City Council's August 15, 2012 Special Meeting attached hereto as Exhibit B).

26. That on August 20, 2012, the City of Troy's Community Affairs Director, Ms. Cindy Stewart, issued a press release that indicated that the Defendant City Council had announced the five (5) finalists for the position of Troy City Manager out of the 54 candidate applications. (See August 20, 2012 Press Release from the City of Troy attached hereto as Exhibit C).
27. Defendant City Council's August 15, 2012 closed session violated the OMA for the Defendant City Council met in closed session for an impermissible purpose due to the fact that the Defendant City Council could not meet in closed session to discuss, deliberate and make a decision regarding who the five (5) finalists were going to be for the position of Troy City Manager.
28. The OMA specifically provides for the manner and circumstances by which a "public body" can meet in a closed session. MCL §15.267 of the OMA states:

Sec. 7.

- (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.
- (2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved. (Emphasis supplied.)**

29. That MCL §15.268 of the OMA prescribes the specific purposes for which a public body may meet in closed session:

Sec. 8.

A public body may meet in a closed session only for the following purposes:

- (a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.
- (b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.
- (c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.
- (d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.
- (e) 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.
- (f) **To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).**
- (g) Partisan caucuses of members of the state legislature.
- (h) To consider material exempt from discussion or disclosure by state or federal statute.
- (i) For a compliance conference conducted by the department of commerce under section 16231 of the public health code, Act No. 368

of the Public Acts of 1978, being section 333.16231 of the Michigan Compiled Laws, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

30. The approved minutes from the Defendant City Council's August 15, 2012 Special Meeting indicate that the Closed Session was permitted by MCL 15.268(f) and MCL 15.268(h)-MCL 15.243(e) and (k). It is Plaintiff's position that such closed session was not permitted by the aforementioned sections of the OMA and FOIA.
31. "[T]he purpose of the [Open Meetings Act] is to promote governmental accountability by facilitating public access to official decision making and to provide a means through which the general public may better understand issues and decisions of the public concern." *Kitchen v Ferndale City Council*, 253 Mich App 115, 125; 654 NW2d 918 (2002).

32. “A strict construction must be given to closed-door exceptions in order to limit the situations in which meetings are not opened to the public.” *News, Inc v* , 185 Mich App 296, at 302; 460 NW2d 312 (1990), citing *Booth Newspapers, Inc v Wyoming City Council*, 168 Mich App 459, 467; 425 NW2d 695 (1988).
33. A public body, in this case Defendant City Council, has the burden of proving that an exemption exists to allow the convening of a closed session. See, *Schmiedicke v Clare School Bd.*, 228 Mich App 259, at 261-262; 577 NW2d 706 (1998).
34. The OMA strictly limits “closed session” meetings of public bodies and generally requires that whenever a quorum of a public body meets to consider and discuss public business, such deliberations or decisions must take place in an open meeting, unless an exception applies. See MCL §15.263; *Herald Co v Bay City*, 463 Mich 111, 129; 614 NW2d 873 (2000); *Nicholas v Meridan Charter Twp Bd*, 239 Mich App 525, 531; 609 NW2d 574 (2000).
35. Presumably, Defendant City Council voted to go into a closed session at the August 15, 2012 Special Meeting as permitted by MCL 15.268(f) and MCL 15.268(h)-MCL 15.243(e) and (k).
36. However, Defendant City Council was not permitted to enter into a closed session under such exemption because Defendant City Council could not “deliberate” and/or make a “decision” regarding the finalists without doing so in an open meeting.
37. MCL 15.263(2) of the OMA states:

(2) All decisions of a public body shall be made at a meeting open to the public. (Emphasis supplied.)

38. MCL 15.262(d) of the OMA defines the term "Decision" as follows:

"Decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

39. Defendant City Council violated the OMA by making a "decision" on reducing the field of 54 candidates down to five (5) finalists to be interviewed for the position of Troy City Manager in a closed session. Said "decision" should have been made in an open meeting in accordance with MCL 15.263(2) of the OMA.
40. Our Michigan Supreme Court addressed this very issue in the landmark case of *Booth v U of M Bd of Regents*, 444 Mich 211 (1993). In *Booth*, our Supreme Court addressed the issue of the U of M Board of Regents, consisting of eight members, appointed itself as the Presidential Selection Committee and began the process of choosing a new university president. The Presidential Selection Committee compiled an informal list of 250 potential candidates. The first cut reduced the number of candidates from 250 to 70 and a second phase of the cuts essentially employed the same procedure. The candidates were eventually reduced to 12 finalists. Before the interviews of the finalists, the candidates informed the regents that they wanted their candidacy to remain confidential by signing a form letter that the Board had prepared. The Board of Regents then held closed meetings to discuss the remaining 12 candidates. The Board of Regents believed it could do this because of the request of confidentiality by the candidates. The Michigan Supreme Court held that the Board adopted a procedure that violated the OMA. *Booth, supra* at 229. The Supreme

Court further held that the Board of Regent's actions were closed session decisions that violated the OMA. Any other interpretation of its actions would contradict the act's letter and spirit. *Booth, supra*, at 229.

41. What happened in *Booth* is precisely what happened here in this case. Our Supreme Court, in *Booth, supra*, held:

In the instant case, the Court of Appeals construed the "specific contents" exemption narrowly and held that the OMA permitted closed sessions only to review personal matters contained in a candidate's application. We agree. Considering the OMA's prodisclosure nature, the requirement to strictly construe exemptions and the mandate for open candidate interviews, it is reasonable to assume that the Legislature intended this exemption to be a limited compromise, allowing privacy rights to dictate in instances where boards were not engaged in decision-making activities. **Here we agree with the panel that the board went beyond this limitation and made reduction decisions under the guise of this exemption. Clearly, however, the OMA requires that "all decisions of a public body" be made in public. Consequently, the act mandates that the Presidential Selection Committee made any reduction decisions in public. [*Booth v U of M Bd of Regents*, 444 Mich 211, at 230-231 (Emphasis supplied).]**

42. Thus, in accordance with the holding in *Booth, supra*, the Defendant City Council had to make the reduction decisions in a public meeting and not during a closed session.
43. It is undisputed that the Defendant City Council met in a closed session on August 15, 2012 to select the five (5) finalists out of the pool of 54 candidates.
44. In a memo dated July 20, 2012 addressed to the members of the Defendant City Council, Troy City Attorney, Lori Grigg Bluhm, states therein that on Wednesday, August 15 or Thursday, August 16, 2012, the Defendant City Council was going to

meet in a closed session “to determine finalists.” (See July 20, 2012 Memo from City Attorney Lori Grigg Bluhm attached hereto as Exhibit D).

45. Thus, not only did Defendant City Council make a “decision” in closed session, but Defendant City Council, by the admission of their own legal counsel anticipated in participating in “deliberations” during the August 15, 2012 closed session.

46. MCL 15.263(3) of the OMA states:

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8. (Emphasis supplied).

47. Because the OMA does not define the term “deliberation,” the Michigan Court of Appeals has turned to dictionary definitions and stated that “deliberation” is “the act of carefully considering issues and options before making a decision or taking some action.” The Michigan Court of Appeals also stated that the term “deliberation” “includes “*discussing*,” which in turn, is defined as “the act of *exchanging views* on something; a debate. Although Black’s Law Dictionary does not define “debate,” the *Random House Unabridged Dictionary* (2d ed) (1998), defines the word as “a discussion, as of public question in an assembly, involving opposing view points.” *Ryant v Cleveland Twp.*, 239 Mich App 430, 434; 608 NW2d 101 (2000), citing Black’s Law Dictionary (7th ed). (Emphasis in the original).

48. Defendant City Council undeniably engaged in “discussions” during the August 15, 2012 Closed Session on which of the 54 candidates to select as the five (5) finalists to interview for the position of Troy City Manager.

49. As our Supreme Court held in *Booth v U of M Bd of Regents*, 444 Mich at 230-231: **“Clearly, however, the OMA requires that “all decisions of a public body” be made in public. Consequently, the act mandates that the Presidential Selection Committee made any reduction decisions in public.” (Emphasis supplied).**
50. Moreover, Plaintiff is not convinced that any of the 54 applicants/candidates for the position of Troy City Manager requested that the contents of their applications remain confidential. Proof of this is the fact that the Defendant City Council made all of their resumes public on the city’s website.
51. Any “discussions” and “decisions” regarding the reductions of candidates should have been conducted in an open meeting for those discussions were not exempt under the OMA. *Booth v U of M Board of Regents, supra.*
52. The Court, pursuant to MCL §15.267(2) of the OMA, should issue its order requiring the disclosure of the closed session meeting minutes from the Defendant City Council’s August 15, 2012 closed session in order to ascertain whether or not Defendant City Council discussed more than the subject matters covered by any exemption.
53. Plaintiff affirmatively asserts that there exists real and imminent danger of irreparable injury to the public when governmental bodies act in secret; that Defendant City Council has so acted, and Plaintiff affirmatively asserts the organization has suffered legally sufficient irreparable harm necessary for standing and for an injunction to be issued, as a result of Defendant City Council’s acts and failures to act as aforescribed and alleged.

COUNT II

THE MINUTES FROM THE AUGUST 15, 2012 CLOSED SESSION CONVENED BY DEFENDANT CITY COUNCIL SHALL BE DISCLOSED PURSUANT TO MCL 15.267(2) DUE TO THE FACT DEFENDANT VIOLATED THE OMA BY MEETING IN CLOSED SESSION FOR AN IMPERMISSIBLE PURPOSE

54. Plaintiff incorporates, repeats, and realleges, the foregoing allegations as though fully set forth herein.
55. On September 4, 2012, Plaintiff, through its Director, Robert Davis, sent via email, a letter to the Troy City Clerk, Aileen Bittner, requesting to have a copy of the minutes from the Defendant City Council's August 15, 2012 Closed Session. **(See Plaintiff's September 4, 2012 letter to Troy City Clerk attached hereto as Exhibit E).**
56. On September 5, 2012, Troy's City Clerk Aileen Bittner responded via email to Plaintiff's request and denied Plaintiff the right to receive a copy of the minutes from the Defendant City Council's August 15, 2012 Closed Session. **(See September 5, 2012 Response from Troy City Clerk, Aileen Bittner attached hereto as Exhibit F).**
57. If this Court determines that Defendant City Council did not have the authority to meet in closed session on August 15, 2012 under the exemption stated in their meeting minutes, the meeting minutes of said closed session shall be disclosed to the Plaintiff.
58. MCL 15.267(2) of the OMA states in relevant part the following:
 - (2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13....

59. It is well-established that if it is determined that a public body met in closed session for an impermissible purpose or convened an improperly called closed session, those minutes from said closed sessions are subject to disclosure under the OMA.
- “Plaintiffs attacked the closed session itself as wholly improper under the OMA, a posture under which the minutes of that session would be entirely subject to disclosure as nonexempt under the OMA and the FOIA. See *Detroit News, Inc v Detroit*, 185 Mich App 296, 303-304; 460 NW2d 312 (1990).” *Manning v East Tawas*, 234 Mich App 244, at 249; 593 NW2d 649 (1999).
60. The closed sessions held by the Defendant City Council on August 15, 2012 was improper for the Defendant City Council could not meet in a closed session for the purpose of “deliberating” and making a “decision” regarding which five (5) candidates to select as finalists from the list of 54 candidates for the position of city of manager.
61. Further, the Court may determine and consider whether some or all of the August 15, 2012 closed session should be disclosed. As the Michigan Court of Appeals has opined: “Accordingly, we hold that were the deliberations of a public body meeting in closed session concerned both exempt and nonexempt subject matter, a court may order disclosure of minutes that have been redacted to conceal the exempt subject matter.” *Manning v East Tawas*, 234 Mich App 244, at 249-250; 593 NW2d 649 (1999).
62. If this Court orders full disclosure or partial disclosure of the minutes of the improperly held closed sessions, Plaintiff shall be awarded actual court costs and

attorney fees in accordance with the OMA. *Manning v East Tawas*, 234 Mich App 244, at 253-254; 593 NW2d 649 (1999).

COUNT III

INJUNCTIVE RELIEF

63. Plaintiff incorporates, repeats, and realleges, the foregoing allegations as though fully set forth herein.
64. Defendant City Council's repeated violations of OMA provisions in a single meeting cause an immediate need for this Court to issue its Order enjoining the Defendant City Council from further violations and further noncompliance with the OMA and its Order compelling Defendant City Council to comply with the OMA.
65. Accordingly, Plaintiff seeks the Court's Declaration that the Defendant City Council, and each of them, violated the OMA and that they be enjoined from further such repeated violations of the OMA.

COUNT IV

COSTS AND ATTORNEY FEES

66. Plaintiff incorporates, repeats, and realleges, the foregoing allegations as though fully set forth herein.
67. Plaintiff is entitled to receive his "*courts costs and actual attorney fees for the action*" pursuant to §11(4) (MCL 15.271.11(4)) of the OMA. It reads:

If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act

and succeeds in obtaining relief in the action, the person shall recover courts costs and actual attorney fees for the action.

68. The award of attorney fees and costs by the Court is **mandatory** upon a finding of a violation of the Open Meetings Act and has been so held and affirmed in *Craig v. Public Schools Chief Executive Officer*, 265 Mich App 572 (2005), and see, *Kitchen v. Ferndale City Council*, 253 Mich App 115; 654 N.W.2d 918 (2002).
69. That Plaintiff is so entitled to such recovery of court costs and actual attorney fees whether or not there is a proof of injury or whether or not there is an issuance of an injunction under the Open Meetings Act as so held in *Herald Co., Inc. v. Tax Tribunal*, 258 Mich App 78; 669 NW2d 862 (2003).
70. If this Court orders full disclosure or partial disclosure of the minutes of the improperly held closed sessions, Plaintiff shall be awarded actual court costs and attorney fees in accordance with the OMA. *Manning v East Tawas*, 234 Mich App 244, at 253-254; 593 NW2d 649 (1999).
71. Accordingly, Plaintiff seeks an award from the Court against Defendant City Council and each of them for payment of his costs and attorneys fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Citizens United, prays and respectfully requests that this Court grant relief as follows:

- A. ISSUE a DECLARATORY JUDGMENT declaring that Defendant City Council violated the Open Meetings Act by convening and holding a closed session on August 15, 2012 that violated the OMA.

- B. ISSUE a DECLARATORY JUDGMENT declaring that Defendant City Council made a “decision” and held “deliberations” to select five (5) finalists for the position of Troy City Manager to interview in violation of the OMA.
- C. ISSUE a DECLARATORY JUDGMENT declaring that pursuant to MCL §15.267(2) of the OMA, the minutes from the closed sessions held on August 15, 2012 shall immediately be fully or partially disclosed to the Plaintiff.
- D. ISSUE its ORDER that Defendant City Council pays the Plaintiff’s court costs and attorney fees that Plaintiff has incurred as a result of having to bring this action, all pursuant to MCL 15.271(4) of the Open Meetings Act.
- E. ORDER any and all such OTHER RELIEF as justice may so require.

Respectfully submitted,

ANDREW A. PATERSON (P18690)
Attorney for Plaintiff
46350 Grand River Ave., Suite C
Novi, MI 48374
(248) 568-9712

DATED: September 6, 2012

Pastor Simion Timbuc from Bethesda Romanian Pentecostal Church performed the Invocation. The Pledge of Allegiance to the Flag was given.

A. CALL TO ORDER:

A Regular Meeting of the Troy City Council was held Monday, July 23, 2012, at City Hall, 500 W. Big Beaver Road. Mayor Daniels called the meeting to order at 7:33 PM.

B. ROLL CALL:

- Mayor Janice Daniels
- Jim Campbell
- Wade Fleming
- Dave Henderson
- Maureen McGinnis
- Dane Slater
- Doug Tietz (Arrived at 7:37 PM)

C. CERTIFICATES OF RECOGNITION AND SPECIAL PRESENTATIONS:

C-1 Troy Chamber of Commerce – Troy Birmingham Transit Center Operating Expenses Funding Model Update

D. CARRYOVER ITEMS:

D-1 No Carryover Items

E. PUBLIC HEARINGS:

E-1 Zoning Ordinance Text Amendment (File Number ZOTA 243) – Proposed Amendment to Article 5, Permit Financial Institution Drive-Through Uses Within the Big Beaver District by Special Use Approval

The Mayor **OPENED** the Public Hearing.
The Mayor **CLOSED** the Public Hearing after receiving comment from Jeff Wagner of 5/3 Fifth Third Bank.

Resolution #2012-07-148
Moved by Fleming
Seconded by Tietz

RESOLVED, That Article 5 of the City of Troy Zoning Ordinance, pertaining to the permitting of financial institution drive-through uses within the Big Beaver District by special use approval, be **AMENDED** to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 243), City Council Public Hearing Draft, as recommended by the Planning Commission.

Yes: All-7
No: None

MOTION CARRIED

F. PUBLIC COMMENT:

Holeton, John	Spoke on I-4 Smart Meter Resolution
Holeton, Pauline	Spoke on I-4 Smart Meter Resolution
Savage, James	Spoke on the Troy Birmingham Transit Center
Walters, Allen	Spoke about proposed street signs
Walters, Roger	Spoke about proposed street signs
Schepke, Gordon	Spoke about new management, the recall efforts, and other topics.
Wilsher, Cynthia	Spoke about the transit facility, public comment, and other topics.
Peters, Richard	Spoke about various topics.
Kajma, Linda	Spoke about Mayor Daniels.
Lee Kochenderfer	Spoke against the recall efforts.

G. RESPONSE / REPLY TO PUBLIC COMMENT

H. POSTPONED ITEMS:

H-1 No Postponed Items

I. REGULAR BUSINESS:

I-1 Board and Committee Appointments: a) Mayoral Appointments – None; b) City Council Appointments – None

a) Mayoral Appointments - None

b) City Council Appointments - None

I-2 Board and Committee Nominations: a) Mayoral Nominations – None; b) City Council Nominations – Historic District Commission; Parks and Recreation Board

a) Mayoral Nominations - None

b) City Council Nominations:

Resolution #2012-07-149

Moved by McGinnis

Seconded by Slater

RESOLVED, That Troy City Council hereby **FORWARDS** the following nominated person(s) to serve on the Boards and Committees as indicated to the next Regular City Council Meeting for action:

Parks and Recreation Board

Appointed by Council

7 Regular Members and 1 Troy School Board Member:

Regular Member: 3 Year Term / Troy School Board Member: 1 Year Term

Term Expires: 07/31/2013

Gary Hauff

(Troy School Board Member)

Term currently held by: Gary Hauff

Term Expires: 07/31/2013

Aditya Yelamanchi

(Student Rep.)

Term currently held by: Aditya Yelamanchi

Yes: All-7
No: None

MOTION CARRIED

I-3 No Closed Session Requested

I-4 Smart Meter Resolution

Resolution #2012-07-150
Moved by Slater
Seconded by Campbell

WHEREAS, Detroit Edison Company, Consumers Energy Company and other energy providers have deployed Smart Meters in Troy; and

WHEREAS, The Michigan Public Service Commission (MPSC) opened a case on January 12, 2012 (Case U-17000), and directed electric utility companies to provide information on whether the electric utility intends to allow customers to opt out of having a Smart Meter and, if so, how does the utility intend to recover the cost of an opt out program; and

WHEREAS, The MPSC's Order also issued a temporary moratorium on any new installations of Smart Meters until further Order; and

WHEREAS, HB 5411 has been introduced in the Michigan Legislature, which would codify the rights of customers to decline the installation of a Smart Meter or ask to have an installed Smart Meter removed; and

WHEREAS, Michigan Attorney General Bill Schuette filed comments in MPSC Case U-17000 on April 16, 2012. In his comments, he strongly advocated that customers should be afforded a meaningful and fair opportunity to opt out of Smart Meter installation without being penalized by unwarranted and excessive costs; and

WHEREAS, There has been concern expressed by some electric customers that the Smart Meters are overly intrusive into their energy usage; and

WHEREAS, Some electric customers have alleged that emissions from the Smart Meters are actually dangerous to their health.

NOW, THEREFORE, BE IT RESOLVED, That the Troy City Council **SUPPORTS** the ability of customers to opt out of the Smart Meter program on their homes.

BE IT FURTHER RESOLVED, That the Troy City Council **AGREES** with Attorney General Schuette that utility customers who opt out of the Smart Meter program should be able to opt out without being penalized by unwarranted and excessive costs; and

BE IT FURTHER RESOLVED, That the Troy City Council **SUPPORTS** HB 5411 to the extent that it legislatively mandates a Smart Meter Opt Out provision; and

BE IT FURTHER RESOLVED, That copies of this resolution be **SENT** to Governor Snyder, the Oakland County delegation of the Michigan Legislature, the Michigan Attorney General, the Michigan Public Service Commission, the Michigan Association of Counties and the Oakland County Board of Commissioners and all elected officials representing the City of Troy.

Yes: All-7

No: None

MOTION CARRIED

I-5 City Manager Search

Resolution #2012-07-151

Moved by Daniels

Seconded by McGinnis

a) Approval of City of Troy Profile for the Position of City Manager

BE IT RESOLVED, That the City of Troy Profile for the Position of City Manager is **APPROVED**. A copy of the profile will be **ATTACHED** to the minutes of this meeting, as well as **POSTED** on the City of Troy webpage.

c) Call for Special Meeting – Interviews of Finalists

BE IT RESOLVED, That a Special Meeting of the Troy City Council is **CALLED** for Wednesday, August 29, 2012, starting at 9 AM and continuing on Thursday, August 30, 2012, starting at 9 AM, in the City Council Board Room, 500 W. Big Beaver Road, Troy, MI 48084, for the purpose of conducting interviews of the finalists for the City Manager position and for the purpose of deliberating and selecting a new City Manager.

Yes: All-7

No: None

MOTION CARRIED

I-5 City Manager Search

b) Call for Special Meeting – Closed Session Regarding Finalists

Resolution #2012-07-152

Moved by Tietz

Seconded by Slater

BE IT RESOLVED, That a Special Meeting of the Troy City Council is **CALLED** for Wednesday, August 15, 2012 at 5 PM in the City Council Board Room, 500 W. Big Beaver Road, Troy, MI 48084, for the purpose of meeting in Closed Session, as permitted by MCL 15.268 (f) and MCL 15.268 (h)- MCL 15.243 (e) and (k), to review material and/or select finalists to be scheduled for interviews.

Yes: All-7

No: None

MOTION CARRIED

J. CONSENT AGENDA:

J-1a Approval of "J" Items NOT Removed for Discussion

Resolution #2012-07-153

Moved by Slater

Seconded by McGinnis

RESOLVED, That Troy City Council hereby **APPROVES** all items on the Consent Agenda as presented with the exception of Item J-4b, which **SHALL BE CONSIDERED** after Consent Agenda (J) items, as printed.

Yes: All-7

No: None

MOTION CARRIED

J-1b Address of "J" Items Removed for Discussion by City Council

J-2 Approval of City Council Minutes

Resolution #2012-07-153-J-2

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the Regular City Council Meeting of July 9, 2012, as submitted.

J-3 Proposed City of Troy Proclamations: None Proposed

J-4 Standard Purchasing Resolutions:

- a) **Standard Purchasing Resolution 9: Approval to Expend Funds for Membership Dues and Membership Renewals: Southeast Michigan Council of Governments (SEMCOG)**

Resolution #2012-07-153-J-4a

RESOLVED, That approval is **GRANTED** to pay membership dues to the Southeast Michigan Council of Governments (SEMCOG) in the amount of \$9,861.00, which covers the time period of July 15, 2012 to July 15, 2013.

- c) **Standard Purchasing Resolution 6: Grant Approval and Authorization to Expend Funds – 2010 Edward Byrne Memorial Justice Assistance Grant (JAG) Program**

Resolution #2012-07-153-J-4c

RESOLVED, That the Troy City Council hereby **AUTHORIZES** the Troy Police Department to receive the 2010 Edward Byrne Memorial Justice Assistance Grant in the amount of \$10,604.00 and amend the budget accordingly to expend the funds for the purchase of security equipment for the prisoner detention center from the sole source provider, Simplex Grinnell, for an estimated total cost of \$10,597.00, as detailed in the attached quote dated March 28, 2012.

J-4 Standard Purchasing Resolutions:

- b) **Standard Purchasing Resolution 1: Award to Low Bidder – Beaver Trail Park Fencing**

Resolution #2012-07-154

Moved by Henderson

Seconded by Slater

RESOLVED, That Troy City Council hereby **AWARDS** a contract to remove and replace the fencing surrounding the detention pond at Beaver Trail Park to the low bidder, Motor City Fence Company of Troy, MI, for an estimated total cost of \$15,029.00, as reflected on the bid tabulation opened June 21, 2012, w be **ATTACHED** to the original minutes of this meeting.

BE IT FURTHER RESOLVED, That the award is **CONTINGENT UPON** contractor's submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

Yes: All-7

No: None

MOTION CARRIED

K. MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

K-1 Announcement of Public Hearings:

- a) August 13, 2012 – Industrial Facilities Exemption Certificate (IFEC) for US Farathane Corporation at 750 W. Wattles

K-2 Memorandums (Items submitted to City Council that may require consideration at some future point in time): None Submitted

L. COUNCIL REFERRALS:

Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

L-1 Council Member Henderson Referred Distracted Driving Ordinance for Discussion

Moved by Henderson
Seconded by Fleming

RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to prepare an amendment to Chapter 106 – Traffic by deleting part 3. of Section 1.20.05.

Vote on Resolution to Postpone L-1 Council Member Henderson Referred Distracted Driving Ordinance for Discussion to the August 13, 2012 City Council Meeting

Resolution #2012-07-155

Moved by Slater
Seconded by Campbell

RESOLVED, That Troy City Council **POSTPONES** Item *L-1 Council Member Henderson Referred Distracted Driving Ordinance for Discussion* to the August 13, 2012 Regular City Council Meeting.

Yes: All-7
No: None

MOTION CARRIED

M. COUNCIL COMMENTS

M-1 No Council Comments Advanced

Council Member Tietz spoke about many school districts no longer being responsible for collecting dues for collective bargaining agreements. Additionally, he mentioned that many school districts have adopted 80/20 plans for healthcare insurance. Council Member Tietz supports pursuing these options for future collective bargaining agreements with the City of Troy.

Council Member Campbell, in an effort to clarify discussion from the July 9, 2012 City Council Meeting, read into record the votes from the November 28, 2011 City Council Meeting regarding the 6-day and 7-day operation for the Troy Public Library.

Mayor Pro Tem McGinnis announced that Gleaners Community Food Bank of Southeast Michigan is promoting their Hunger Free Summer Food Fight for kids. It is a contest between businesses to help feed area children in need. Donations of canned and dry goods can be dropped off at City Hall, the Troy Public Library, and the Community Center. Monetary donations can be given to the Community Affairs Office at City Hall.

The Mayor announced that the State of the City Address will be held on September 20, 2012 at the Troy Community Center at 7:00 PM.

N. REPORTS

N-1 Minutes – Boards and Committees:

- a) Zoning Board of Appeals-Draft-June 19, 2012
 - b) Zoning Board of Appeals-Final-June 19, 2012
 - c) Planning Commission-Special/Study-Draft-June 26, 2012
 - d) Planning Commission-Special/Study-Final-June 26, 2012
- Noted and Filed

N-2 Department Reports:

- a) Building Department Report – June, 2012
 - b) Update on Library Strategic Planning Process
- Noted and Filed

N-3 Letters of Appreciation:

- a) Letter of Appreciation to Mike Culpepper and City Council from Nancy and Don Johnson Thanking Paul Evans and Gary Bowers for Assistance
 - b) Letter of Appreciation to Chief Mayer from Andrew and Barbara Bartos Thanking Officer Drewek for Assistance
 - c) Letter of Appreciation to Chief Mayer from Jeffrey Frost, Special Agent in Charge, from the United States Secret Service, Thanking Troy Police Department Personnel for Assistance
 - d) Letter of Appreciation to Chief Mayer from Deborah Berkey Thanking Troy Police Department Personnel for Assistance
- Noted and Filed

N-4 Proposed Proclamations/Resolutions from Other Organizations: None Proposed

Noted and Filed

N-5 Informational Item from David Ewick – City Librarian, Southfield Public Library, Regarding Shortened Hours of Operation

Noted and Filed

N-6 Fireworks Regulations

Noted and Filed

O. STUDY ITEMS

O-1 Council Rules

P. CLOSED SESSION:

P-1 No Closed Session

Q. ADJOURNMENT

The Meeting **RECESSED** at 9:44 PM.

The Meeting **RECONVENED** at 9:56 PM.

The Meeting **ADJOURNED** at 11:28 PM.

Mayor Janice Daniels

M. Aileen Bittner, CMC
City Clerk

A. CALL TO ORDER:

A Special Meeting of the Troy City Council was held Wednesday, August 15, 2012, at City Hall, 500 W. Big Beaver Road. Mayor Daniels called the meeting to order at 5:15 PM.

B. ROLL CALL:

- (a) Mayor Janice Daniels
- Jim Campbell
- Wade Fleming
- Dave Henderson
- Maureen McGinnis
- Dane Slater
- Doug Tietz

The Meeting **RECESSED** at 5:16 PM.

The Meeting **RECONVENED** in Closed Session at 5:16 PM.

C. DISCUSSION ITEM:

C-1 Closed Session as permitted by MCL 15.268 (f) and MCL 15.268 (h)- MCL 15.243 (e) and (k), to review material and/or select finalists to be scheduled for interviews.

The Meeting **RECESSED** at 7:34 PM.

The Meeting **RECONVENED** in Open Session at 7:34 PM.

D. PUBLIC COMMENT: No Public Comment Received

E. ADJOURNMENT:

The Meeting **ADJOURNED** at 7:35 PM.

Mayor Janice Daniels

M. Aileen Bittner
City Clerk



PRESS RELEASE

Contact: Cindy Stewart
Community Affairs Director
500 West Big Beaver
Troy MI 48084
ph 248.524.1147
fax 248.524.3499

For Release: August 20, 2012

City of Troy Announces Finalist Candidates for City Manager Position

(Troy, MI) – The Troy City Council announced the finalist candidates for the position of Troy City Manager. Five finalists (all from Michigan) were chosen from 54 candidate applications for the position. The finalists are (in alphabetical order):

James Creech
John Gabor
Brian Kischnick
Mark Miller
Vincent Pastue

Phillip Robertson, Senior Vice President at The Mercer Group noted, "There was an excellent candidate pool, with significant interest from across the country as well as within the State of Michigan. The City of Troy should be proud of its reputation for providing a high quality of life as well as excellent government services."

Advanced copies of the resumes for each of the candidates will be available on the City's website. Hard copies will be available at the City Clerk's Office and Troy Public Library.

City Council will be conducting interviews of the candidates on **Wednesday, August 29** and **Thursday, August 30, starting at 9 am** in the City Council Boardroom, 500 W. Big Beaver Road. The schedule of interviews, each lasting two hours, will occur as follows:

Wednesday, August 29
9-11 am: James Creech
1-3 pm: Vincent Pastue
3:30-5:30 pm: John Gabor

Thursday, August 30
9-11 am: Brian Kischnick
11:30am-1:30pm: Mark Miller
3 pm: City Council Deliberations followed by Public Comment

Members of the public are invited to view these interviews, but will not be provided with an opportunity to formally question the candidates.

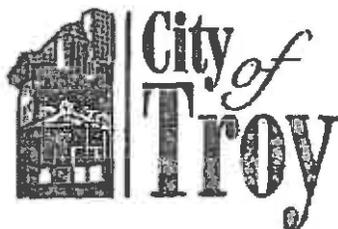
Members of the public are also encouraged to attend the **Public Forum** scheduled for **Tuesday, August 28 from 7-9 pm** at the Troy City Hall, Council Chambers, 500 W. Big Beaver. At that forum, each of the candidates will give a 5 minute personal introduction to the audience. Although the candidates will not be fielding questions, there will be opportunity for the public to meet and talk to all the candidates after their presentations.

City Council hopes to make their decision at the August 30 meeting.

Additional information, including the public hearing notices, can be found on the City of Troy's webpage at <http://www.troymi.gov/CityManagerSearch.asp>.

For additional questions, please contact Phillip Mercer of The Mercer Group at mercercnc@aol.com or Lori Grigg Bluhm, Troy City Attorney, at 248.524.3320 or Bluhmlg@troymi.gov.

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MEMORANDUM

TO: Members of the Troy City Council
 FROM: Lori Grigg Bluhm, City Attorney *LSB*
 DATE: July 20, 2012
 SUBJECT: City Manager Search

Based on the Study Session discussion at the July 9, 2012 City Council Meeting, revisions were made to the draft City Manager Position Profile. These changes were immediately incorporated and the Position Profile, which is attached, has already been posted. A ratification resolution is proposed for your consideration.

City Council also discussed the placement of classified advertisements at the July 9, 2012 Study Session. Based on a referral from Councilman Henderson, our search consultant has obtained the quote of \$29.90 per line (maximum 20 figures per line) from the weekly publication and on line publication of *Military Times (Army Times, Air Force Times, Navy Times and Marine Corps Times)*. Based on the current advertisement, it would cost approximately \$500 for one week (approximately 17 lines of 20 characters each), but the ad could be pared down to reduce costs. *Crains Detroit Business* was also suggested for advertising. *Crains* charges a minimum of \$90 for four lines (maximum 42 characters per line), and an additional \$22.50 per line. Based on the deadlines for classified advertising and the closing date for applications, the ads could only be in a maximum of two weekly publications.

Our search consultant recommends the following schedule for the City Manager Search, which is designed to meet the 120 day time frame, as set forth in the City Charter:

- Friday, August 10, 2012- Deadline for receiving applications
- Wednesday, August 15 or Thursday, August 16- Closed session to determine finalists
- Tuesday, August 28- Finalist candidates appear at Town Hall or public reception
- Wednesday, August 29 and Thursday, August 30- Interviews
- Thursday, August 30- Deliberation after interviews and selection of City Manager
- Friday, September 14- Desired start date for new City Manager

Proposed resolutions calling meetings for these dates are proposed for your consideration.

Also enclosed please find a proposal from the Metiss Group. At the July 9, 2012 Study Session, City Council discussed the advantages of having some or all of these services provided to supplement the Mercer Group search process.

CITIZENS UNITED AGAINST CORRUPT GOVERNMENT

September 4, 2012

Honorable Aileen Bittner
City Clerk, City of Troy
500 W. Big Beaver Rd.
Troy, MI 48084
BittnerA@Trovmi.gov

Re: Open Meetings Act (OMA) request for Closed Session Meeting Minutes from Closed Sessions held by Troy City Council on July 23, 2012 and August 15, 2012.

Dear Clerk Bittner,

In accordance with Michigan's Open Meetings Act (OMA), I respectfully request to receive a copy of the closed session meeting minutes from the closed sessions that were held by the Troy City Council on July 23, 2012 and August 15, 2012. If you could, I would like a response to this request ASAP. Furthermore, you can send all correspondences to my email address, which is: rdavis@miafscme.org. If you have any questions regarding my request please feel free to give me a call at (248) 470-8731.

Respectfully submitted,

Robert Davis
Director, Citizens United Against Corrupt Government
180 Eason
Highland Park, MI 48203

From: Robert Davis <rdavis@miafscme.org>
To: <bittnera@troymi.gov>
Cc: <aap43@hotmail.com>
Subject: Request for closed session minutes pursuant to the Open Meetings Act
Date: 09/04/2012
Time: 12:05 AM
Attachments:  CITIZENS UNITED AGAINST CORRUPT GOVERNMENT letter to Troy City Clerk for Closed Session Minutes.pdf

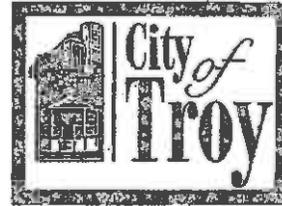
Clerk Bittner,

Please find attached hereto my written request, on behalf of Citizens United Against Corrupt Government, for closed session meeting minutes in accordance with the Open Meetings Act. If you have any questions regarding my request, please feel free to give me a call at (248) 470-8731.

Respectfully submitted,
Robert Davis

500 W. Big Beaver
Troy, MI 48084
(248) 524-3300

The City of Tomorrow...



...Today

Robert Davis
Director, Citizens United Against Corrupt Government
180 Eason
Highland Park, MI 48203
rdavis@miafscme.org

RE: Request for Closed Session Meeting Minutes

Dear Mr. Davis,

I received your request via email today for "copy of the closed session meeting minutes from the closed sessions that were held by the Troy City Council on July 23, 2012 and August 15, 2012." As I stated during our phone conversation, closed session meeting minutes are not available to the public in accordance with the Open Meetings Act. I have provided the citation below, taken from Section 15.267.7(2):

A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13.

Pursuant to the citation from the Open Meetings Act, your request for a copy closed session meeting minutes is hereby denied.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "M Aileen Bittner". The signature is written in a cursive, flowing style.

M. Aileen Bittner
City Clerk