

EM SUBMISSION NO.: EME 430 2014

PRESENTED: 8-4-14

ADOPTED: 8-5-14

**RESOLUTION TO SUBMIT TO THE ELECTORS OF THE CITY OF FLINT,
AT THE NOVEMBER 4, 2014 ELECTION THE QUESTION OF WHETHER
OR NOT THE OFFICE OF THE OMBUDSMAN OF THE CITY OF FLINT
SHOULD BE ELIMINATED**

BY THE EMERGENCY MANAGER:

Due to the current and future fiscal challenges that undermine the financial stability of the City of Flint, the Emergency Manager wishes to present to the electors of the City of Flint, in accordance with §2-407 of the Flint City Charter, and MCLA §117.21 of the Home Rule City Act, the opportunity to vote upon the question as to whether or not the Office of the Ombudsman should be eliminated, at the upcoming election on Tuesday, November 4, 2014; and,

The population of the City of Flint and the corresponding tax base has deteriorated; and,

Over the years, the Office of the Ombudsman has been a significant expense to the City of Flint. The last adopted budget, in fiscal year 2011, for the Office of the Ombudsman was \$323,443.00; and,

The government of the City of Flint is expected to provide the same level of services with less resources; and,

The government of the City of Flint must find creative ways to eliminate unnecessary expenses to facilitate maintaining an adequate level of basic and essential services to the citizenry; and,

Government at all levels has entered into an era of fiscal crisis, including less revenue to the City of Flint from federal and state governmental resources; and,

The government of the City of Flint must maximize the use of tax dollars, and prioritize how City resources are allocated; and,

It is in the best interests of the citizens of the City of Flint to submit to the electors of the City of Flint a proposal that the Office of the Ombudsman be eliminated.

BE IT RESOLVED that an amendment to the Flint City Charter is proposed to repeal §3-501 through §3-517; and

BE IT RESOLVED that the existing sections of the Flint City Charter to be altered by such proposal, if adopted, now read as follows:

Sec. 3-501 OMBUDSMAN.

A. The Ombudsman shall be appointed by a two-thirds (2/3) majority of City Council members elect.

B. The initial appointment shall be made within three (3) months after the date on which the first City Council elected under this Charter takes office.

Sec. 3-502 TERM OF OFFICE.

A. The Ombudsman's term is seven (7) years.

B. The initial appointment shall be made within three (3) months after the date on which the first City Council elected under this Charter takes office.

Sec. 3-503 VACANCY.

If a vacancy occurs in the office of the Ombudsman, the City Council shall, within sixty (60) days, fill the office for a seven (7) year term.

Sec. 3-504 JURISDICTION.

A. The Ombudsman may investigate official acts of any agency which aggrieve any person. The authority of the Ombudsman extends equally to all agencies.

B. The Ombudsman shall have no power to investigate any matter under the jurisdiction of the Civil Service Commission.

C. The Ombudsman, in accordance with Section 1-801 of this Charter, shall establish rules for receiving and processing complaints, conducting investigations and hearings, and reporting findings. No fee shall be levied for the filing or investigation of complaints.

Sec. 3-505 POWERS OF INVESTIGATION.

A. The Ombudsman may request and shall be given necessary assistance and information by each agency.

B. The Ombudsman may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any agency during regular business hours, and establish rules of procedure in accordance with Section 1-801 of this Charter.

C. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the Ombudsman shall apply to the appropriate court.

Sec. 3-506 DELEGATION OF POWERS.

The Ombudsman may delegate in writing to a member of his or her staff the power to administer oaths and take testimony. A delegation is revocable at will and does not prevent exercise of any power by the Ombudsman.

Sec. 3-507 CORRESPONDENCE FROM PERSON DETAINED.

Any letter to the Ombudsman from a person in a place of detention, penal or otherwise, under the control of an agency shall immediately be forwarded unopened, to the Ombudsman.

Sec. 3-508 CONSULTATION REQUIRED.

A. No report or recommendation that criticizes an official act shall be announced until every agency or person affected is allowed reasonable opportunity to be heard with the aid of counsel.

B. Thereafter, if the Ombudsman believes it necessary to make a formal report, a copy of any statement made by an agency or person affected shall accompany the report.

Sec. 3-509 REPORTS.

The Ombudsman shall report at least annually to the City Council action taken under this Chapter. All reports shall be made public.

Sec. 3-510 DUTY TO REPORT ILLEGAL ACTS.

If the Ombudsman has probable cause to believe that any elective officer, appointee, employee, or member of an agency, or any person doing or seeking to do business with an agency has committed or is committing any illegal act, the Ombudsman shall promptly refer the matter to the appropriate authorities.

Sec. 3-511 OBSTRUCTION.

The office or position of any elective officer or appointee who willfully and without justification or excuse obstructs any investigation of the Ombudsman by withholding documents or testimony may be forfeited.

Sec. 3-512 IMMUNITY.

The Ombudsman and staff shall be, to the full extent permitted by state law, immune from any suit based on any report or communication performed within the scope of official duties.

Sec. 3-513 LIMITATIONS.

The Ombudsman may not hold any office of trust or profit other than that of Ombudsman, or engage in any occupation for profit outside the duties of this office.

Sec. 3-514 REMEDIES CUMULATIVE.

The remedies of this Chapter are additional to those provided under any other law.

Sec. 3-515 SALARY AND OTHER COMPENSATION.

The salary and other compensation of the Ombudsman is equal to that of the City Clerk.

Sec. 3-516 STAFF.

The Ombudsman shall be granted a budget adequate to allow such staff as is reasonable and proper for the performance of the duties of said office. All staff members shall be appointed by and serve at the pleasure of the Ombudsman.

Sec. 3-517 REFERENDUM.

The question of whether the office of Ombudsman shall be retained shall be submitted to the voters of the City of Flint at the general election of November, 1980. If the question fails, the office will terminate on the first day of the following January.

BE IT RESOLVED that the following ballot question be submitted to the electors of the City of Flint, at the Election to be held on Tuesday, November 4, 2014:

PROPOSAL _____

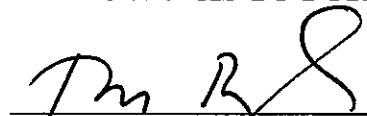
AN AMENDMENT TO ELIMINATE THE OFFICE OF THE OMBUDSMAN

Shall the Flint City Charter be amended by eliminating §3-501 through §3-517, which would eliminate the Office of the Ombudsman?

Yes _____

No _____

APPROVED AS TO FORM:


Peter M. Bade, City Attorney

EM DISPOSITION:

ENACT *x*

REFER TO COUNCIL _____

FAIL _____


Darnell Earley, Emergency Manager

DATED: 8-5-14