

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

JESSICA FLINTOFT, as Clerk of Scio
Township,

Plaintiff,

Civil Action No. 22-000414-CZ

vs.

Hon. Timothy P. Connors

SCIO TOWNSHIP BOARD OF TRUSTEES,

Defendant.

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**REPLY BRIEF IN SUPPORT OF PLAINTIFF’S MOTION FOR SUMMARY
DISPOSITION UNDER MCR 2.116(C)(10) AND MCR 2.116(I)(1)**

INTRODUCTION

The first words of the response brief filed by Defendant Scio Township Board of Trustees (the “Board” or “Defendant”) exemplifies the sophistry it employs. The Board suggests that merely because Plaintiff Jessica M. Flintoft, Clerk of Scio Township (“Plaintiff or “Clerk”) needs to be supported by qualified finance staff (like any clerk) which the Board is actively refusing, then she must not have statutory duties over such finance matters and/or is otherwise incompetent. But the snippet quote the Board reproduced on page 1 of its response brief only supports the relief the Clerk requests in Count II, i.e., that the Board be enjoined from its

continued practice of arbitrarily and capriciously denying the Clerk's office the necessary finance staff and that this Court retain continuing jurisdiction to ensure that the Board does not continue to prevent the Clerk from doing her job. *See, e.g., McKim v Green Oak Township Bd*, 158 Mich App 200, 203-204 (1987); *Wayne County Prosecutor v. Wayne County Board of Commissioners*, 93 Mich App 114, 121 (1979); *Managing the Modern Michigan Township* (1990), by Kenneth VerBurg, pp. 42-44 (excerpt attached as Exhibit C to Plaintiff's MSD). Instead of providing her office with necessary resources, the Board embarked upon a campaign of illegally interfering with her duties and usurping those duties for itself contrary to law and without the Clerk's consent. The Board used the August 2021 and February 2022 Resolutions as the catalysts to achieve its improper ends, and those Resolutions must therefore be vacated.

As the Clerk demonstrated in the motion for summary disposition under MCR 2.116(C)(10) and (I)(1) ("MSD"), the Board continues to interfere with the Clerk's statutory duties (Count I) and wrongfully deprive the Clerk's office of resources necessary for the performance of such duties. Accordingly, the Clerk respectfully requests summary disposition.

ARGUMENT

I. The Affidavit of James Merte Does Not Create A Genuine Issue of Material Fact.

The Board knows it is interfering with the Clerk's duties. After the Clerk obtained two attorney opinions that agreed with her, the Board ignored them. (*See* MSD Exs. A.1 & A.7.) The Board's attempt to either create a fact question or rebut the facts with the affidavit of its employee, interim Township Administrator James Merte, fails. Mr. Merte is the same employee the Board appointed while the Clerk was absent due to illness and who the Board directed to commit the interference with the Clerk's access to Township's journals and ledgers in May 2022. Mr. Merte is the same employee who refused the Clerk's request to restore proper access until

both of the Township's attorneys confirmed at the Clerk's request that the Clerk, not the Board, was correct. (MSD Ex. A.7.)

Mr. Merte's statements fail to create a genuine of material fact. Mr. Merte's statements, when critically analyzed, do not actually deny or rebut (nor could they) the material facts of the ways in which the Board used the illegal Resolutions at issue, adopted in August 2021 and February 2022 (which purported to expand the Supervisor's and administrator's authority with new job descriptions), to wrongfully assume "ultimate authority" (as the resolutions state) over *the Clerk's statutory duties*. Further, Mr. Merte's statements address only the interferences that occurred in May 2022, yet do not even address the many prior interferences with the Clerk's duties which the Clerk demonstrated in her Verified First Amended Complaint (VFAC) and MSD, and which persist. Those interferences are un rebutted by the Board, making summary disposition essentially unopposed as to Count I regarding those interferences.

At bottom, the real issue (which the Board ignores) – more so than any individualized interference – is the illegality of the Resolutions which purported to grant such expansive, illegal authority to officers and employees of the Board that the Board now invokes whenever it decides to interfere with the Clerk's statutory duties on a continuing basis. The Board's reframing and mischaracterizing of the Clerk's claims cannot change the facts, which are undisputed as to the material facts. Attached as **Exhibit 1** is the counter-affidavit of Plaintiff in response to Mr. Merte's affidavit to provide information missing from Mr. Merte's assertions and to correct simply wrong statements by Mr. Merte, which are not material in any event. As the Clerk demonstrated before, and which the affidavits of Mr. Merte and Plaintiff confirm, the Board does not (because it cannot) deny its manipulation of the authorities over BS&A under the auspices of the Resolutions. Thus, the Board's disagreement that its actions constitute interference with, and

violated, the Clerk's statutory duties is a question of law for this Court to decide based on undisputed facts. Under MCL 41.65 and *McKim*, the Board's Resolutions of August 2021 and February 2022 are illegal because they authorize the interferences that have occurred and continue to occur.

II. *McKim* Is Governing Law, And The Issue Presented Are Squarely For This Court.

The Board clings to its request that this Court punt to the ballot box on these important issues, but the issues presented by the Clerk are squarely for the judiciary as a matter of Michigan law. The Township's attempt to escape *McKim* in this regard is meritless. Contrary to its assertion, *McKim* was not limited to its facts regarding custody of township mail. The *McKim* court was clear that a township board cannot place any "impermissible restraint on [the clerk's] authority as township clerk," including the clerk's "right to custody of the Township records" and "papers" in "contravention of MCL 41.65." 158 Mich App at 205-06. In trying to avoid the consequences of its interference, the Township claims that the Court of Appeals' unpublished decision in *Charter Twp of Royal Oak v Brinkley*, 2017 Mich App LEXIS 842 (Mich Ct App May 18, 2017), somehow undercuts *McKim*. It does not. In *Brinkley*, the clerk prevailed over the township at summary disposition. The trial court granted summary disposition for the clerk, and the *only* issues on appeal concerned whether the township's pleadings and briefs were frivolous and in bad faith. The court applied *McKim* with respect to the statutory duties, further demonstrating its binding precedence. The *Brinkley* court simply noted in dicta that *McKim* was decided before November 1, 1990 for purposes of MCR 7.215(J)(1), and therefore arguably not binding on the Court of Appeals, which has no relevance to this case. Indeed, regardless of when *McKim* was published vis-à-vis whether it is binding on *the Court of Appeals*, it is a published decision of the Court of Appeals which is binding on *this Court*, and squarely applies.

III. The Board's Efforts To Mislead As To The Procedural Posture Should Be Ignored.

The Board continues to try to get as much mileage out of the previous court hearing in this case as it can to prejudice Plaintiff, even though that issue is moot and not before the Court. This tactic further demonstrates the obfuscation employed by the Board, aimed at distracting from its interference with the Clerk's statutory duties.

When Plaintiff brought a TRO motion as the outset of filing this case, which the Court denied, it was based on the Board's cancellation of a contract signed by the Clerk and the Treasurer engaging Rehmann Robson to provide short term accounts payable and payroll services, which the Clerk and Treasurer believed where needed on an emergency basis *under the Township's procurement policy*. The TRO proceedings had *nothing to do with the Clerk's other claims of the original complaint* regarding interference with her statutory duties and the Board's wrongful starvation of her office's resources. The TRO did not even touch upon or seek relief as to the claims at issue now. The Clerk amended her complaint in May 2022 due to the Board's *additional interference with her duties* committed in May 2022 by Mr. Merte at the direction of the Board, as extensively alleged and briefed. When the Clerk amended her pleading to add these new interferences, the Clerk did not include the Rehmann Robson issue argued at the TRO hearing because the issue was mooted by the Court's decision. The Board's reliance on an irrelevant perceived victory to try to taint the amended pleading and distract from its interference is indicative of its tactics and should be ignored.

CONCLUSION

Plaintiff reiterates her request for relief set forth in her VFAC and MSD.

Dated: August 22, 2022

Respectfully submitted,
By: /s/ Mark J. Magyar
Dykema Gossett PLLC
Attorneys for Plaintiff

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**INDEX TO EXHIBITS TO PLAINTIFF'S REPLY BRIEF IN SUPPORT OF SUMMARY
DISPOSITION**

Exhibit	Description
1	Affidavit of Jessica M. Flintoft, Scio Township Clerk
1.A	Corrective Action Plan for FYE21 submitted to State Treasury.
1.B	May 12, 2022 Email from Supervisor Hathaway to Auditor Helisek
1.C	Executed Scope of Work with Nick Armelagos, CPA

EXHIBIT 1

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AFFIDAVIT OF JESSICA FLINTOFT

I, Jessica Flintoft, being first duly sworn, depose and state as follows:

1. I am the duly elected Clerk of Scio Township and the Plaintiff in this action.
2. This Affidavit is based upon my personal knowledge. I can competently testify to the facts contained herein if called upon to do so.
3. I fully incorporate the Affidavit I executed on June 14, 2022, which is Exhibit A in support of my motion for summary disposition under MCR 2.116(C)(10) and (I)(1) ("MSD"). I submit this Affidavit in response to the affidavit signed by James Merte on June 29, 2022, and filed by Defendant on August 18, 2022, in response to my MSD.

4. The following attached exhibits, of which I have personal knowledge through my personal involvement and/or through my position as Clerk, as custodian of Scio Township's books, records, and papers, are true and correct copies of:

Exhibit 1. Corrective Action Plan for FYE21 submitted to State Treasury.

Exhibit 2. May 12, 2022 Email from Supervisor Hathaway to Auditor Helisek.

Exhibit 3. Executed Scope of Work with Nick Armelagos, CPA.

5. The past, irregular accounting practices of the Township have continued, despite my efforts to correct them. These irregularities can be summarized as failures to make and record transactions on a timeline or contemporaneously by date, and retrospectively entering revenue or expense items to accounts for the purpose of rebalancing accounts, prior to examination by the auditors. Actions of the Board of Trustees adopted at the lead of the Township Supervisor, subsequent to filing my Complaint and as detailed below, have not only impeded my ability to perform my duties, but also continues these unsound practices.

6. Contrary to Mr. Merte's Affidavit Paragraph 7, prior Clerk Nancy J.C. Hedberg did not perform the Township's audits. In accordance with MCL141.426, the Township has for decades retained an independent certified public account to perform the Township's audits. Nor during 2017-2019 when I served Clerk Hedberg as her Deputy Clerk, did Clerk Hedberg perform any significant activities to prepare for the annual audit.

7. In April 2021, the Finance Manager had been instructed by the Treasurer and Finance Director to prepare for my signature Township checks that were backdated. The Finance Manager brought the concern to me, which I addressed with the Treasurer who asserted that the practice was both typical and proper. I refused because signing these back dated checks would be a misrepresentation. These checks were for tax distributions to local units that, if backdated, would have been recorded in the General Ledger as having been distributed prior to a deadline

when in fact they were late. These late distributions were one of several findings in our most recently complete audit for Fiscal Year End 2021, in response to which Treasurer Palmer and I submitted a Corrective Action Plan outlining steps we planned to take to correct deficiencies. [See Exhibit 1] Due to the Board's refusal to provide sufficient qualified finance staff, we have been unable to implement most planned corrective actions.

8. Contrary to Mr. Merte's Affidavit Paragraph 7, my qualifications and training provide me with the knowledge to understand the critical gaps in qualifications and expertise of its finance staff from which the Township suffers.

9. After exhausting all other options, I filed this suit on April 11th because I am profoundly concerned about the harm that this Board of Trustees is inflicting on Scio Township residents by violating the statute, and dismissing democratic norms of checks and balances that the separation of duties set forth by Township statute establishes, and because the interference renders me unable to perform my statutory duties.

10. Mr. Merte did not have any Township-issued credentials to access BS&A or any other information systems after his retirement as Assessor in August 2021 until his sudden re-employment on May 10, 2022 as interim administrator (while I was absent due to illness) when he was granted "Enterprise Administrator" access over all 12 BS&A modules, including the financial journals and ledgers, the Tax Rolls, and Assessing Rolls.

11. In fall 2021, Mr. Merte volunteered to assist Treasurer Palmer and newly appointed Deputy Treasurer Egeler to prepare the 2021 Winter Tax Bill, collected within Fiscal Year ending March 31, 2022. This 2021 Winter Tax Bill contained multiple major errors, the first of which was a failure to collect \$750,000 in two millages due to Washtenaw County.

12. When I separately asked Mr. Merte and Treasurer Palmer to describe how this \$750,000 error happened, each have said that Treasurer Palmer, Deputy Treasurer Egeler,

volunteer Mr. Merte, and then-Assessor Kulkarni were present at Township Hall. Mr. Merte told me he sat at a computer terminal entering data into BS&A Tax module in order to generate the 2021 Winter Tax Bill. Mr. Merte told me that Treasurer Palmer and Deputy Treasurer Egeler provided the data that he entered. During this time, Mr. Merte had no BS&A credentials; yet, both he and Treasurer Palmer have said he was the one entering data into BS&A.

13. Treasurer Palmer first publicly reported this \$750,000 error at the April 26, 2022 Board of Trustees meeting. Though I was not present at the May 10, 2022 Board meeting due to illness, I watched the meeting from home via Zoom. This came just two weeks after the Board had learned about the \$750,000 error for which Mr. Merte and Deputy Treasurer Egeler were responsible, yet they were elevated to positions where the Supervisor was able to direct them, and permitted to manipulate the general ledger over my objection.

14. Contrary to Mr. Merte's Affidavit Paragraph 10, I do not have the ability to view the history of access to the BS&A modules that contain the Tax Rolls and Assessing Rolls. I strongly suspect that such a history of access would show that the Assessing Rolls and/or Tax Rolls have been manipulated by interim administrator Merte to correct the errors that he, the Supervisor, Treasurer, and their Deputy have made.

15. Contrary to Mr. Merte's Affidavit, beginning Paragraph 6, Sandra Egeler has been the Deputy Treasurer & Deputy Supervisor since May 2022; and only the Deputy Treasurer between November 2021 and April 2022.

16. On May 13, 2022, Supervisor Hathaway emailed Township's Auditors citing the provision of "Financial Reporting and Audit Function" in the August 17, 2021 of Resolution 2021-31 at issue, asserting that his appointment of Sandra Egeler as Deputy Supervisor provided her with the authority to "work with the Supervisor on the audit." [see **Exhibit 2**]. By "work" the Supervisor meant manipulation of the general ledger prior to submitting last year's accounting

records for audit. Internally, when she was Finance Director, Ms. Egeler referred to this process as “audit prep,” an atypically long and atypically manual process that the interim administrator, Supervisor, and Treasurer still assert that only Ms. Egeler is qualified to do. In fact, Ms. Egeler is wholly conflicted and thereby unqualified by virtue of her position as Deputy Treasurer & Deputy Supervisor with their responsibilities for tax collection and assessing respectively.

17. Mr. Merte’s Affidavit Paragraph 6 states the purpose of his providing access to Ms. Egeler was “so she could reconcile journal entries in preparation for the audit.” “Reconciling journal entries” is not a normal or legitimate activity for anyone to undertake on the books of a local unit of government prior to being audited. Entering adjusting journal entries or closing entries is a necessary part of year-end or other period-end closing procedures.

18. Contrary to Mr. Merte’s Affidavit Paragraphs 7 and 12, the Board of Trustees has refused to hire qualified finance staff. The Finance Director position remains vacant.

19. Contrary to Mr. Merte’s Affidavit Paragraph 9 the general ledger was never returned to me, and the general journal was not in the same condition it was in before Mr. Merte’s improper grant of permission to manipulate it was given to Ms. Egeler. Only after Mr. Merte received Mr. Homier’s written legal opinion of May 18 answering the questions I posed and making clear that Sandra Egeler and Nancy Colasanti should have only read access to the general ledger did Mr. Merte begin to restrict the write access for both individuals in the General Ledger module. Within those 5 days of overly broad granted authority, Ms. Egeler had made 155 general journal entries, 57 of these to the general ledger, all for the prior fiscal year. I demanded that Mr. Merte instruct Ms. Egeler to reverse all 155 entries to restore the journals and ledgers to the same condition it was before Mr. Merte’s illegal grant of permission to manipulate the journals and ledgers to Ms. Egeler. Mr. Merte refused to reverse or delete the 98 general journal entries.

20. Contrary to Mr. Merte's Affidavit Paragraphs 6 and 9, aside from the Supervisor Hathaway's illegal direction to Mr. Merte, there was no direction by the Board of Trustees to assign the work of audit preparation to the Deputy Treasurer & Deputy Supervisor Egeler. In fact, at the Clerk's insistence, on May 24th the Board of Trustees authorized up to \$10,000 for the Administrator to select an outside financial professional to assist with year-end closing activities in preparation for the audit. The Administrator selected consulting CPA Nick Armelagos. The Township is currently under contract with CPA Armelagos to assist in preparing the FYE22 financial statements and closing adjustments. [see Exhibit 3]

21. Contrary to Mr. Merte's Affidavit Paragraph 5, Mr. Merte's job as Administrator is not to "oversee the Township's software, including the BS&A software." BS&A itself provides excellent support to its customers, as does the Township's Managed IT Services Company Applied Imaging (formerly known as NetSmart), both of which have "Enterprise Administrator" access in BS&A on behalf of the Township as a whole. Mr. Merte relied on the provisions in the Resolution 2022-05 to "hold ultimate authority over BS&A administration and accessibility" and "hold ultimate authority over administration of software including assignment of access" in order to, at Supervisor Hathaway's direction, take custody and control of the financial journals and ledgers, the Tax rolls, and the Assessing rolls—none of which are records of the Board of Trustees, for whom he works.

22. Contrary to Mr. Merte's Affidavit Paragraphs 5, 8, 10, and 11, Mr. Merte did in fact revoke my necessary "access" to the journals and ledgers by taking them from my custody and control, refusing to return them after multiple proper demands, and by manipulating these journals and ledgers. Mr. Merte characterizes this taking of the journals and ledgers as "concurrent access" by himself and other unauthorized individuals. MCL41.65 speaks not once of a Clerk being required to have mere access to the accounts, journals, ledgers; but that she

“shall have custody of all the records, books, and papers,” that she shall “open and keep accounts,” that she “shall prepare and maintain the journals and ledgers.” In accounting, journals are a series of books of original entry, and ledgers are a series of books for recording financial transactions. Today, these Township journals and ledgers are kept within BS&A.

23. BS&A is an enterprise management system designed for local units of governments, particularly those in Michigan. Scio Township started using its first BS&A module in 2001, continually adding modules through 2021. Today, Scio Township’s relies on 12 BS&A modules. The Township’s Tax Rolls are the responsibility of the Treasurer which are contained within the modules of *Tax* and *Delinquent Personal Property*. The Township’s Assessment Rolls are the responsibility of the Supervisor and are contained within modules of *Assessing* and *Special Assessments*.

24. At issue in this case are the records of MCL41.65 which are to remain in my custody, and which are contained within the 8 financial management suite modules of BS&A: *Accounts Payable, Cash Receipts, Fixed Assets, General Ledger, Miscellaneous Receivables, Payroll, Purchase Orders, and Utility Billing*. Under MCL41.65, it is the Clerk who must have custody, meaning the care and control of these accounts and journals and ledgers, for inspection, preservation, or security. Aside from the accounts for which the Treasurer is responsible under MCL41.78(1) discussed below, there is no other provision of custody made by law. Without such custody and control, I cannot perform my statutory obligations.

25. The Treasurer keeps an accurate account of the receipts and expenditures of township money, per MCL41.78(1). The Treasurer keeps these accounts by entering information within receipting and disbursement journals contained in *Accounts Payable, Cash Receipts, Miscellaneous Receivables, Payroll, and Utility Billing*. With properly granulated administration of the BS&A modules—something the Clerk and former Administrator Rowley both have

recommended be developed for the Township —both the Treasurer and the Clerk can meet all statutory obligations responsibly. Similarly, if the Supervisor or other person were to want to begin using BS&A to prepare or administer the budget, that person would be granted appropriate permissions to the few budgeting functions of the *General Ledger* module. Of course, it is the Clerk who has custody of current and prior year Township budgets.

26. Under MCL41.65, the township clerk **shall also open and keep an account** with the treasurer of the township, and **shall charge the treasurer** with all funds that come into the treasurer's hands by virtue of his or her office, and **shall credit him or her** with all money paid out by the treasurer on the order of the proper authorities of the township, and **shall enter the date and amount of all vouchers** in a book kept by the township clerk in the office. This is the core reckoning of the fiduciary relationship between the Clerk as Accountant and the Treasurer as Tax Collector and Custodian of Monies. I cannot fulfill this duty without sufficient qualified finance staff that is independent from the Treasurer, Supervisor, and Board of Trustees.

27. MCL41.65 provides that the Clerk shall also open and keep a separate account with each fund belonging to the township, and shall credit each fund with the amounts that properly belong to it, and shall charge each fund with warrants drawn on the township treasurer and payable from that fund. **The purpose of this ‘separate account’ is so that I can independently as Clerk and separate from the Treasurer (or her Deputy Treasurer or the Supervisor or the Board of Trustees), account for the funds that belong to the township** in order to properly reflect the assets, liabilities, fund equities, revenues, and expenditures for each fund of the township. The Township remains out of compliance with current standards and regulations because of our understaffing. I need sufficient qualified finance staff under my direction to carry out these statutory core duties, as well as ultimate authority to determine who can manipulate the accounts, journals, and ledgers contained within the *Accounts Payable, Cash Receipts, Fixed*

Assets, General Ledger, Miscellaneous Receivables, Payroll, Purchase Orders, and Utility Billing modules.

28. By statute, I shall be responsible for the detailed accounting records of the township utilizing the uniform chart of accounts prescribed by the state treasurer, and I shall prepare and maintain the journals and ledgers necessary to reflect the assets, liabilities, fund equities, revenues, and expenditures for each fund of the township. **The Township's journals are within *Accounts Payable, Cash Receipts, Fixed Assets, General Ledger, Miscellaneous Receivables, Payroll,* and *Utility Billing* modules of BS&A. The Township's general and subsidiary ledgers are within *Accounts Payable, Cash Receipts, Fixed Assets, General Ledger, Miscellaneous Receivables, Payroll,* and *Utility Billing* modules of BS&A.**

29. Therefore, I need sufficient qualified finance staff under my direction to carry out these statutory core duties, as well as ultimate authority to determine who can manipulate the accounts, journals, and ledgers contained within the *Accounts Payable, Cash Receipts, Fixed Assets, General Ledger, Miscellaneous Receivables, Payroll, Purchase Orders, and Utility Billing* modules. Since May 13th when Mr. Merte removed my BS&A "Enterprise Administrator" authority, and began to use his own newly granted BS&A "Enterprise Administrator" access to override my actions, I have not had the ultimate authority required to safely keep these records and books where they are not exposed to alteration or mutilation.

30. Contrary to Mr. Merte's Affidavit Paragraph 11, he has in fact overridden my actions without my knowledge or consent. One example is when he on Friday May 13 at 5:19pm granted Sandra Egeler "Administrator" permission to the General Ledger module, against the verbal and written direction I had given him on May 12. As Deputy Treasurer, Ms. Egeler is responsible for handling the cash of the Township, and to maintain appropriate segregation of duties per State Treasury guidelines. I granted her access to view, but not modify, the General Ledger. A second

example is when, shortly after midnight of May 14, Mr. Merte eliminated my “Enterprise Administrator” permissions across all 8 financial management modules, and again granted Ms. Egeler’s “Administrator” permission over the General Ledger module.

31. I currently do not have sole control over manipulation of the township’s financial journals and ledgers. Further, the Board refuses to support my office of Clerk with the qualified personnel necessary for me to perform my statutory duties for no reasonable or rational basis that I can discern.

32. I declare under the penalties of perjury that this Affidavit has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

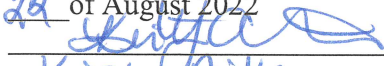
FURTHER AFFIANT SAYETH NAUGHT.



Jessica M. Flintoft

Subscribed and sworn to before me this

29 of August 2022



Kristy Aiken, Notary Public

Washtenaw County, Michigan

Acting in Washtenaw County, MI.

My commission expires: 5-12-2028

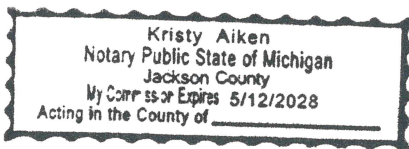


EXHIBIT 1.A

November 10, 2021

Corrective Action Plan for deficiencies under the Treasurer's responsibility.

Regarding the tax collections distributions to the other taxing units –

The growth in the Township has created the need for additional help in the Treasurer's office. The last two years dealing with the COVID restrictions magnified the problem.

I have appointed a full-time deputy and with the Township Board's approval. This appointment will also help resolve the issue of providing the Board with the required Investment reports. The Treasurer will now have the information needed to prepare the required report on the Investment activity for Township Funds.


Donna E. Palmer

Scio Township Treasurer

November 18, 2021

Corrective Action Plan for deficiencies under the Clerk's responsibility.

Deficiency: We had one reported deficiency in Township's internal controls that is considered to be a material weakness. During the audit procedures, our auditors identified an employee hired subsequent to the previous March 31, 2019 OPEB actuarial valuation that was not included in the census data for the OPEB actuarial valuation as of March 31, 2021. Although the impact on the total OPEB liability at March 31, 2021 was not material for this one individual, without adequate controls in place surrounding gathering and reviewing the census data, the actuarial valuation could be misstated, resulting in a potential material impact on the recorded net OPEB liability. The auditor recommended implementation of procedures controls to strengthen the OPEB census data gathering and review process.

Plan: The Township is augmenting its finance team so that more than one person is involved with preparing and submitting data for the audit or actuarial valuation processes. We will assign one person to prepare data and a second person to submit data, to reduce the likelihood of such errors. The Township is dedicated to cross training staff, documenting procedures, and hiring an additional member of the finance team so that duties can be better segregated to reduce the risk of such errors.

Deficiency: The Township is not yet in compliance with Public Act 202 of 2017 and has not set up a trust to pay retiree insurance premiums for the year, as well as the normal costs for the new employees hired after June 30, 2018.

Plan: The Board of Trustees is well aware of this issue, and will prioritize the required research and evaluation of alternatives to set up a trust in 2022. The Budget and Finance Committee will evaluate options, and bring to Board for deliberation and decision in calendar year 2022.

Deficiency: During the year, the actual expenditures did not remain within the amounts authorized in the budget. There were individual expenditures that exceed 10% of total expenditures. There were some over budget by 10% or more. Specifically, these overages were in Fund 208-753 Pathways and the Fund 242 Open Space Fund.

Plan: Prior to FYE21, the Township's budgeting approach was to purposefully budget revenues low and expenditures high, and for the Board to amend the budget only once a year at year-end to amend the budget to match actual expenditures. Prior to FYE21, these year end budget amendments were approved by the Board prior to year end (3/31). Then, final invoices and other expenses would be booked, providing finance staff with precise expenditures. The prior practice had been for finance staff to delay entering budget amendments into BS&A until mid-May, posting for 3/31. The budget

amendments entered into BS&A were not the same amounts of the budget amendments approved by the Board. We have ended this practice.

Beginning in FYE21, we have improved practices, rotating in additional finance staff into the role and greatly improving compliance with the Procurement Policy, and management of budgeted funds. Yet, finance staff still struggled to regularly produce month end reporting in a timely way, especially at year-end March 31. March 31, 2021 was no exception. In fact, at the time of preparing year-end budget amendments for approval by the Board on March 23, we hadn't yet even reconciled February much less March.

For the FYE21 budget process, we took a new approach to budgeting that led the Board and staff through a more robust budgeting process than in years past to make a more meaningful budget against which we could be held to account. A second finance staff person was tasked with proposing final budget amendments to the FYE21 budget, in accordance with state law. This finance staff person provided the best possible budget amendments as of March 23rd the date on which the Board adopted the budget amendments for FYE21 as well as adopting the budget for FYE22.

The two instances of during FYE21 where the Township incurred expenditures that were in excess of the amount budgeted were within two special funds which are adopted as a fund, not by activity as is the General Fund. And, had we kept up better on financial accounting, we would not have had these overages. In Fund 208-753 we approved invoices as late as April 23 for work completed by year end, for our some of our regular consultants and our attorney. In Fund 242, we had unusually high legal costs due to violation of a Township conservation easement, and should have brought that back to Board for a budget amendment.

Going forward, the General Ledger is reconciled monthly, and budget amendments are brought to the Board monthly. Further, our finance team is providing vendors more reminders, and will require all bills for work completed by 3/31 be estimated if not submitted by that date.

Deficiency: The Township should more fully comply with current guidance issued by the Local Government Financial Services Division (i.e., Uniform Reporting Format, Accounting Manual, Audit Manual, Budget Manual, Numbered Letters, MCGAA Statements).

Plan: The Clerk will share the following guidance issued by the Local Government Financial Services Division with the Board of Trustees, finance team, and all staff responsible for budgetary centers: *Uniform Budget Manual, Audit Manual, Uniform Accounting Procedures Manual, and the Uniform Chart of Accounts* which the Township will be implementing during FYE23. The Finance Manager, Clerk, Treasurer, and Deputy Treasury are subscribed to Treasury updates, directly receiving newly issued Numbered Letters and other guidance. Further, the Finance Manager is an active member of Michigan GFOA, receives regular updates and training opportunities from our auditor Plante Moran, and stays abreast of updates from the Michigan Townships Association of which Scio Township is also a member.



Jessica M. Flintoft
Scio Township Clerk

EXHIBIT 1.B

Points of contact for Scio Township's upcoming audit

Will Hathaway <WHathaway@ScioTownship.org>

Thu 5/12/2022 8:29 PM

To: David Helisek <david.helisek@plantemoran.com>

Cc: James Merte <jmerte@ScioTownship.org>; MHomier@fosterswift.com <MHomier@fosterswift.com>; Sandy Egeler <SEgeler@ScioTownship.org>; Jessica Flintoft <Jflintoft@ScioTownship.org>

 1 attachments (25 KB)

Supervisor Job Description 081221.docx;

David,

I am looking forward to working with you and the team at Plante Moran for Scio Township's FYE 2022 audit. As we proceed I want to make you aware of some relevant Board of Trustees' decisions.

Last Tuesday (5/10/22) the Board approved hiring James Merte as interim township administrator. Jim replaces David Rowley who announced his resignation on April 12. Jim knows Scio Township very well after having served as Scio's chief assessor for 40 years prior to his retirement last August. We are lucky to have Jim available to help the Township through this transition. I have copied Jim on this email.

Also at the May 10 meeting I announced Sandy Egeler's appointment as deputy supervisor. The Board voted to confirm Sandy in her joint role as deputy treasurer/deputy supervisor. This new appointment gives Sandy authority to work with me on the budget *and the audit*.

The supervisor's authority over the audit was established by a vote of the Board of Trustees in August 2021 when they approved the attached job description and delegated the authority to carry it out. The supervisor's authority includes:

"Financial Reporting and Audit Function: As Chief Administrative Officer per the Uniform Budget and Accounting Act, the supervisor is responsible for preparation of the Township's annual financial report to the state which, by statute, must be audited. Supervisor will oversee the audit and selection of the auditor and make recommendations for hiring the same for BOT approval."

In addition to me, the Township's designated contacts for work on the audit are Township Administrator Merte and Deputy Supervisor Egeler.

I understand that the clerk has scheduled a 1:00pm Zoom meeting on Friday 5/13/22 to discuss the audit with you. To avoid confusion and make the best use of everyone's time, the meeting should also include township administrator Merte, Deputy Supervisor Egeler, and me. We'll work to make sure that everyone is included in tomorrow's meeting.

In case there are legal questions, I have copied Township Attorney Mike Homier.

Will Hathaway
Supervisor, Scio Township

EXHIBIT 1.C

**PROFESSIONAL ACCOUNTING
SERVICES CONTRACT**

THIS AGREEMENT is made this 21st day of June, 2022, by the Township of Scio, 827 N. Zeeb Rd., Ann Arbor, MI 48103 ("Township") and Nick Armelagos, 650 Byron Street, Plymouth, MI 48170 ("Contractor") for professional accounting services ("the Contract").

1. **SERVICES:** Contractor shall provide professional accounting services for Township as set forth in Appendix A attached.
2. **FEES:** Contractor shall be paid \$125 per hour, as invoiced at the end of each month.
3. **NO EMPLOYER/EMPLOYEE RELATIONSHIP:** Contractor is not an employee of the Township and is not entitled to any township employee benefits, insurance, or workers compensation.
4. **RECORDKEEPING:** Contractor shall keep records of services provided.
5. **TERM and TERMINATION:** The Term of this Contract shall be from June 21, 2022 through September ~~30~~, 2022 and shall continue on a month-to-month basis until terminated. Either party may terminate this contract on 30 days prior written notice to the other party.
6. **COMPLIANCE WITH LAWS AND REGULATIONS:** Contractor will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.
7. **INTEREST OF CONTRACTOR AND TOWNSHIP:** Contractor promises that it has no interest which would conflict with the performance of services required by this contract. Contractor also promises that, in the performance of this contract, no officer, agent, employee of the Township, or member of its governing bodies, may participate in any decision relating to this contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph does not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 (MCL 15.321 et seq).
8. **INFORMAL RESOLUTION OF DISPUTES:** The parties agree that the informal resolution of any disputes arising out of this Contract is to be encouraged.
9. **CHOICE OF LAW AND FORUM:** This contract is to be interpreted by the laws of the State of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Washtenaw County, Michigan.

ATTESTED TO:

Contractor

Nick Armelagos (Date)

Township of Scio

By: Will Hathaway 6/21/22
Will Hathaway (Date)
Supervisor

By: Jessica M. Flintoft 6/21/22
Jessica M. Flintoft (Date)
Clerk

**-Appendix A-
Nick Armelagos Contract- June 2022**

Scope of work for finance professional services

1. Assist the Township Clerk in the preparation of FYE22 Financial Statements and Closing Adjustments for the audit by working closely with the Clerk, Finance Manager, and former Finance Director/Current Deputy Treasurer. May prepare and maintain the journals and ledgers of the Township for this purpose.
2. Be available throughout the Audit to discuss with auditors financial statements, closing adjustments, and associated journals and ledgers.
3. May participate in the auditor's management meeting as well any other key audit meetings.
4. May attend the final auditor's presentation to the Board of Trustees for purposes of answering outstanding questions about the FYE22 Financial Statements.

Person will report to the Township Administrator, though items #1 and #2 will be managed and overseen by the Township Clerk.

STATE OF MICHIGAN MI 22nd Circuit Court - Washtenaw	PROOF OF ELECTRONIC SERVICE	CASE NO. 22-000414-CZ
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Case title
Flintoft, Jessica vs Scio Township Board

1. MiFILE served the following documents on the following persons in accordance with MCR 1.109(G)(6).

Type of document	Title of document
Answer/Reply/Response (Counterclaim/Cross-Claim, etc.)	Flintoft Reply Brief iso (C)(10) (002)
Other	Flintoft Exhibit List
CONNECTED FILING	Flintoft Exhibit 1

Person served	E-mail address of service	Date and time of service
Michael D. Homier	mhomier@fosterswift.com	08/22/2022 3:11:40 PM
Thomas R. Meagher	tmeagher@fosterswift.com	08/22/2022 3:11:40 PM
Laura J. Genovich	lgenovich@fosterswift.com	08/22/2022 3:11:40 PM
Robert A. Boonin	rboonin@dykema.com	08/22/2022 3:11:40 PM

2. I, Mark Magyar, initiated the above MiFILE service transmission.

This proof of electronic service was automatically created, submitted, and signed on my behalf by MiFILE. I declare under the penalties of perjury that this proof of electronic service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

08/22/2022

Date

/s/Mark Magyar

Signature

Dykema Gossett PLLC

Firm (if applicable)