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NOTICE

Gaines Charter Township Board of Trustees

February 22, 2021

The Gaines Charter Township Board of Trustees reserves the right to meet in closed session, during the March 8, 2021 7:00 PM public meeting, pursuant to the Open Meetings Act, being MCL 15.268 *et seq.*, in regard to confidential attorney-client privilege legal advice presented in a written legal opinion.

MATERIAL EXEMPT FROM DISCLOSURE BY STATUTE

Pursuant to Section 8(h) of the OMA, a public body may meet in a closed session to “consider material exempt from discussion or disclosure by state or federal statute.” MCL 15.268(h). Thus, any document or topic that is specifically exempt or deemed confidential by state or federal law may be discussed in closed session.

One of the more commonly cited reasons is to discuss written opinions subject to the attorney-client privilege. Attorney-client privileged written communications are exempt by statute pursuant to Section 13(1) (g) of the Michigan Freedom of Information Act (“FOIA”). MCL 15.243(1) (g). As a result, Michigan Courts have also found that a public body may go into closed session to consider material subject to attorney-client privilege. *Booth Newspapers, Inc v Wyoming City Council*, 168 Mich App 459; 425 NW2d 695 (1988). However, the closed session must be limited to the discussion of confidential legal advice presented in a written legal opinion. Thus, the public body must not discuss any matters outside the legal advice presented in the written opinion or verbal legal opinions from an attorney. Moreover, any “decision,” (defined in part as any determination, action, vote or disposition, or public policy) may not be made in the closed session. Put another way, no motions or Board actions should be taken in closed session. No discussion of public policy should be made in closed session under this exemption.

- **Open Meetings Act.** Closed Session minutes are exempt from disclosure by statute, Section 7(2) of the OMA. The Attorney General has opined that the public body may go into closed session to discuss closed session minutes.