



City of the Village of Clarkston
375 Depot Rd
Clarkston, Michigan 48346
City Council Special Meeting
03 30 2021
7:00pm

You may join the meeting from your computer, tablet or smartphone using the following link: <https://global.gotomeeting.com/join/517045453>

Or you may call in using the following phone number and access code: (872) 240-3212 . Access Code: 517-045-453

1. Call To Order
2. Pledge Of Allegiance
3. Roll Call
Mayor Haven, Avery, Bonser, Casey, Kneisc, Luginski, Wylie
4. Approval Of Agenda - Motion
5. Public Comments:
Individuals have the opportunity to address the City Council on subjects not on the Agenda, limiting their comments to three minutes. Alternatively, public comments may be emailed to City Manager Jonathan Smith @ smithj@villageofclarkston.org or City Clerk Jennifer Speagle @ speaglej@villageofclarkston.org and they will be read out loud during this time. If preferred, comments may be stated or submitted anonymously.
6. Discussion: In Person Meetings
Documents:
[VIRTUAL VS IN-PERSON MEETINGS 03 30 21.PDF](#)
7. Resolution: Continuing Of The Local State Of Emergency
Resolution continuing a State of Emergency to address the outbreak of COVID-19 virus in The City of the Village of Clarkston.
Documents:
[RESOLUTION CONTINUING STATE OF EMERGENCY \(COVID 19\) 03 20 2021.PDF](#)
8. Resolution: Closed Session To Discuss Pending Litigation

To Hold a Closed Session Meeting as permitted by State Statute MCL 15.268 (e) to discuss the Bisio v City of Clarkston Lawsuit (Oakland County Circuit Court Case number 2015-150462-CZ Pending before Honorable Leo Bowman.)

8.a. Call To Order

8.b. Roll Call

Mayor Haven, Avery, Bonser, Casey, Kneisc, Luginski, Wylie

8.c. Discussion: Pending Litigation With Atty Mark Peyser

8.d. Motion: End Of Closed Session

9. Resume Open Session

10. Motion: Bisio Lawsuit Settlement Agreement

Documents:

[MOTION - BISIO LAWSUIT SETTLEMENT AGREEMENT 03 30 21.PDF](#)

11. Adjourn

Only those matters that are on the agenda are to be considered for action.

City of the Village of Clarkston
City Manager Comments on Resuming In-Person Meetings
March 30, 2021

1. Despite the COVID vaccine, the daily rate of new cases in Michigan is rising and Michigan currently has the 5th highest case rate (210/M) in the country. Additionally, Michigan has the 2nd highest infection rate in the country of the new B.1.1.7 variant. Oakland County, overall, has the 2nd highest COVID infection rate (200/M) in Michigan, only exceeded by Wayne County.
2. The State's COVID amendment of the Open Meetings Act (OMA) that has allowed municipalities to hold no-reason virtual meetings will end March 31st, 2021. Legislation to extend the ability to hold virtual meetings was drafted, but not acted upon.
3. Starting April 1st, virtual meetings may continue but virtual *voting* by municipal leaders will not be permitted unless the leader is absent due to military duty, the leader has a medical condition that prevents them from attending, or the local municipality declares a State of Emergency.
4. If in-person meetings are resumed, the current MDHHS indoor gathering limit of 25 people must be enforced. Social distancing of 6' and mask wearing must also be enforced.
5. The City's new conference room, while 3 times the size of the old meeting space, would only accommodate 16 people for an in-person meeting. When Council, City Attorney, staff and the TV crew are accounted for, only 5 members of the public could attend. If an in-person meeting was held and more than 16 people attempted to attend, the meeting would need to be terminated.
6. I recently contacted the Clarkston United Methodist Church, asking if their gymnasium could be used for City Council and other City meetings. The pastor agreed to discuss the matter with his staff and get back to me. The gymnasium at the church is of sufficient size to accommodate the full 25 socially distanced people allowed indoors by MDHHS, but if a 26th person attempted to attend, the meeting would need to be terminated.
7. A hybrid meeting whereby voting members attend in-person and others attend virtually would lessen, but not eliminate, the possibility of the 25 person maximum being violated. But the technology required to ensure the ability for all participants to communicate seamlessly through integrated microphones, speakers and video would be complex and expensive. Hybrid meetings held offsite would further increase the complexity of the technology.
8. A growing number of Michigan Counties, Townships, Cities and Villages are declaring a State of Emergency to allow them to continue to meet virtually for the safety of both their board members and the public. Additionally, many municipalities are finding that more people are participating in virtual meetings than in-person meeting, a pattern they would like to continue.
9. Based on all of the above, it is my recommendation that the City declare a continued State of Emergency for the next 90 days, thereby allowing the continued use of virtual meetings.

Respectfully submitted,

Jonathan Smith,

City Manager

March 30, 2021

CITY OF THE VILLAGE OF CLARKSTON

**RESOLUTION CONTINUING A STATE OF EMERGENCY
TO ADDRESS THE OUTBREAK OF COVID-19 VIRUS IN
THE CITY OF THE VILLAGE OF CLARKSTON**

At a special meeting held virtually of the of the City of the Village of Clarkston, City Council, Oakland County, Michigan, held at the City Offices in the City of the Village of Clarkston, on Tuesday, March 30, 2021, at 7:00 p.m.

PRESENT: _____

ABSENT: _____

The following Resolution was offered by _____ with support from _____ to continue a state of emergency to address the outbreak of COVID-19 virus in the City of the Village of Clarkston.

WHEREAS, COVID-19, and the possible exposure to persons afflicted with it, constitute a clear and present danger to the health, safety, and welfare of City personnel and persons doing business with or residing in the City. Federal, state, and county orders, directives, guidelines, and recommendations, including from the Michigan Department of Health and Human Services (MDHHS) and the Center for Disease Control (CDC), have been issued in an effort to control the COVID-19 Coronavirus pandemic declared by the World Health Organization (WHO); and

WHEREAS, these federal, state, and county orders, directives, guidelines, and recommendations include closing and restricting business establishments; cancelling, postponing, and limiting the numbers at gatherings of people; postponing or limiting the number of persons required to physically attend public meetings; and calling for appropriate steps to be taken by local governments in an effort to control the spread of COVID-19; and

WHEREAS, these federal, state, and county orders, directives, guidelines, and recommendations have been changed or updated on a frequent basis, and further changes or updates are expected. Most recently, the Michigan Department of Health and Human Services issued an Emergency Order on March 2, 2021, which includes limiting the number of persons permitted to attend indoor gatherings, and requiring the implementation of social distancing protocols and the wearing of face masks. The MDHHS Order directly impacts the City’s ability to conduct indoor gatherings, including public meetings of City Officials, City Administration, City Staff and Employees and members of the general public due to space constraints; and

WHEREAS, COVID-19 and the possible exposure to persons afflicted with it, the emergence of dangerous new COVID variants, the current upward trend of COVID cases, and the gradual and systematic program for vaccinating the general public constitute a clear and present danger to the health, safety, and welfare of City residents, personnel, and persons doing business the City; and

WHEREAS, In accordance with the Emergency Management Act, Public Act 390 of 1976, the City's Emergency Preparedness Ordinance, section 3a(1)(b) of the Michigan Open Meetings Act, and pursuant to federal, state, and county orders, directives, guidelines, and recommendations, the City of the Village of Clarkston City Manager, Mayor and City Council have determined and declare a continuing Local State of Emergency due to COVID-19 and authorize the City Manager, or Mayor, in conjunction with City Staff and Police and Fire Services, to act in accordance to ensure that indoor gatherings are conducted safely and in accordance with applicable federal, state, and county orders, directives, guidelines, and recommendations relating to COVID-19.

THEREFORE, IT IS RESOLVED AND DECLARED by the City Manager, Mayor and City Council of the City of the Village of Clarkston, Oakland County, Michigan, that there is a continuing Local State of Emergency in the City due to COVID-19, and MDHHS orders the City of the Village of Clarkston Emergency Preparedness Plan be implemented to ensure that local resources are to be used as needed and to the fullest extent possible.

IT IS FURTHER RESOLVED AND DECLARED THAT:

1. The City Council authorizes the City Manager or Mayor to take appropriate measures, in their discretion, to respond to or protect City residents, businesses, and personnel from the declared Local State of Emergency by adopting and enforcing all appropriate measures, including but not limited to:
 - A. Taking actions necessary to comply with federal, state, and county orders and directives that are binding on the City.
 - B. Limiting, cancelling, or postponing City meetings and functions to those required by law.
 - C. Cancelling, postponing, or continuing emergency rules for any public meeting of a City Council, board, commission, or committee, and providing public notice and conducting City Council, board, commission, and committee meetings electronically with remote attendance, in accordance with the Open Meetings Act, as amended, and the electronic meetings rules previously adopted by Council.
2. This Declaration shall remain in effect until the earlier of June 30, 2021 or the City Council determines the Local State of Emergency no longer exists and terminates this Declaration.

3. To the extent the previous emergency declaration, adopted by City Council on April 13, 2020, remains in effect; this Declaration terminates and supersedes that prior Declaration.

AYES: _____

NAYS: _____

ABSENT: _____

RESOLUTION DECLARED ADOPTED.

Eric Haven, Mayor

CERTIFICATION

I, Jennifer Speagle, being the duly appointed and qualified Clerk of the City of the Village of Clarkston, Oakland County, Michigan, do hereby certify and declare that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of the Village of Clarkston at a special meeting held virtually on March 30, 2021.

JENNIFER SPEAGLE, City Clerk

City of the Village of Clarkston

375 Depot Road
Clarkston, Michigan 48346

Motion - Bisio Lawsuit Settlement Agreement

A motion is hereby made for the City Council to authorize City Manager Jonathan Smith to execute the Susan Bisio settlement agreement whereby in addition to the City paying directly the sum of \$35,000 to Ms. Susan Bisio's counsel, the Kemp Klein law firm in settlement of the total fee claim, both the City and Ms. Bisio has agreed to release each other from any and all claims they may have against the other arising out of the FOIA litigation.

Motioned by _____ and Seconded by _____ .

Avery	Bonser	Casey	Haven	Kneisc	Luginski	Wylie	Totals
<input type="checkbox"/> Yes							
<input type="checkbox"/> No							
<input type="checkbox"/> Abstain							
<input type="checkbox"/> Absent							

Motion is Adopted

Motion is Defeated

Jennifer Speagle, City Clerk

March 30, 2021

Date