



City of the Village of Clarkston
Artemus M. Pappas Village Hall
375 Depot Road
Clarkston, Michigan 48346
City Council Regular Meeting Minutes
03 22 2021 Final Minutes

3/22/2021 - Minutes

1. Call To Order
@ 7:pm by Mayor Haven
2. Pledge Of Allegiance
3. Roll Call
Haven, Bonser, Casey, Kneisc, Luginski, Wylie - Present (all calling in from Clarkston, Mi) Avery - Absent
4. Approval Of Agenda - Motion
Motion by Wylie Seconded by Bonser to approve the Agenda as presented. Haven, Bonser, Casey, Kneisc, Lugingski, Wylie - Yes Motion carries.
5. Public Comments:

Chet Pardee in reference to the Bisio v Clarkston lawsuit asked who is managing the lawyers and what role is the council playing in what the city's lawyers have decided to file. Have the City officials read the public filings? He goes on to ask if James Tamm is still active on the case and estimates that the City's MML representation costs paid by the citizens is more than a half million dollars. The City's approval of \$14k was for facilitation involvement by Atty Peyser. Now I read that Atty Peyser DID NOT participate in the facilitation per his email. Is this true? Council will review Atty Peyser's February invoice tonight confirming his costs have significantly exceeded what council had approved, once again violating Michigan budget laws. How accurate will tonight's budget amendment be? The public fillings show there was an agreement in facilitation that Susan Bisio was willing to accept less than one-half of Bisio legal costs: \$160,000. This was also less than one-half of Mr. Tamm's estimate per Jonathan's acknowledgment in the June 2020 budget approval council meeting. And the filings indicate that the \$35,000 approved and paid by the city is the City's share. How can the insurance companies participate now that the settlement has been withdrawn? Had the insurance companies required the stipulations by Atty. Peyser? Atty. Peyser added requirements that make no sense. Seemingly, requiring the Bisio's to agree that the City did no harm and Susan Bisio's FOIA suit never existed.

Atty Tom Ryan asked to reply to Chet Pardee's comments. The City has hired Mr. Peyser as outside council to handle the Bisio facilitation due to Ryan's conflict in the matter. Mr Peyser has advised the City that there will be a settlement in the case however none have been finalized as it has not been signed by both parties as of yet. They are still working on some of the terms of the settlement as is common. As far as the Council overseeing the Attorneys, the Attorneys are doing their jobs as in Mr Tamm and Mr Peyser, they had filled a motion on the City's behalf to enforce the settlement agreement based on facilitation. It has not been entered and finalized as of yet but hopeful it will be in the near future.

In regards to another lawyer participating with the same Surname, Ryan was not sure what Chet was referring to. As far as the MML representation cost paid by the citizens is one-half million dollars, Ryan states he does not know the cost but that is why we have insurance. The MML has covered all of Mr Tamms legal costs, it has not been paid by the citizens, the insurance company is covering cost on behalf of the city. Atty Mark Peyser was involved in the facilitation and the initial \$14,000 was to bring him up to speed on everything. No one knew what the total budget would be for his involvement. No money is spent without City Council approval of the the budget amendment.

Ryan goes on to state that it is inaccurate that the settlement was withdrawn. There has been no inappropriate statements or clauses made by Peyser. Peyser received another draft of the settlement today and hopefully the matter will be resolved soon. We don't have a settlement agreement signed by everyone as of tonight. We have been working on it since early February.

6. FYI:
None

7. City Manager Report

8. Motion Acceptance Of The Consent Agenda As Presented

Motion by Luginski Second by Casey to approve the Consent Agenda as presented. Haven, Bonser, Casey, Kneisc, Luginski, Wylie - Yes Motion carries.

Chet Pardee stated that as Council approves the consent agenda they are once again violating Michigan Budget Law. Peyser's February invoice exceeds the dollar amount previously approved by Council. Wylie asked that this issue be moved out of the consent agenda as it is on the agenda to approve later today. Smith said that it doesn't violate the overall dept budget which is not overdrawn by make this payment. He agreed that the original \$14,000.00 estimate was established before the City knew how much was involved. There are many aspects of the case that are still ongoing. The costs are higher than originally planned but there is still money left in the budget for attorney fees.

9. Old Business

9.a. Discussion/Motion Short Term Rentals

Haven Stated that Avery isn't present and there is a desire on Council's part to have all members present before taking action on short term rentals. Smith stated that they may need to table the decision again so that there can be discussion and approval with the full Council. Resident and Short Term Rental owner Theresa Fabrizio was aware earlier in the day that this item would be pushed to a later date. She was under the impression that the discussion wouldn't happen until all Council members were present. She had a few people lined up to speak on her behalf and it is frustrating as she wants them to have the opportunity to talk. Commission Chair Rich Little commented that in Oct/Nov of 2019 the Council discussed short term rentals and asked PC to look at issue on whether to regulate or ban them. PC researched many examples of regulating and banning and came back to Council in Jan/Feb of 2020 with a list of recommendations of regulations if that is the way Council was leaning. Discussion lead to possibly banning them. In April 2020 Tom Ryan stated that there was some action in the Supreme Court regarding short term rentals so PC decided they should wait for the Supreme Court decision was issued to see if it effect local control. It has been tabled a couple of times and Council has stated that they would like every Council member to be present when voting on the short term rentals.

Motion by Casey second by Wylie to table the decision. Haven, Casey, Kneisc, Luginski Wylie - Yes Avery- Absent Bonser- Recused.

9.b. Discussion: In Person Meetings

City Manager Jonathan Smith stated there has been a lot of effort and discussion recently about the ability to continue in person meetings. Senate Bill 207 was proposed to allow the continuation of the no reason virtual meetings but it expires on March 31st 2021. It is not likely that Bill 207 will be extended as the Senate will be on a 2 week spring break. As of right now the April 12th Council meeting will be in

person unless a local State of Emergency is declared. To adhere to the 6 foot social distancing guidelines our conference room would only be able to hold 16 people with 7 council members and 3 staff members that would only allow 6 members of the public to attend any other would have to be turned away and that would be a violation of the Open Meetings Act. Kneisc and Luginski suggested looking at other venues like the Methodist Church or Library. Wiley recalled that Monday wasn't a good day with the Library and using the Methodist Church would create an extra burden of cleaning and sanitizing after the meeting. Wylie is in favor of continuing virtual meetings by declaring a state of emergency so the council has the flexibility. Rich Little (PC Chair) ask that Smith keep PC and HDC in mind as this will effect their meetings as well. Tom Ryan suggested that the council schedule a meeting for Tuesday, March 30th to give Smith time to look for different locations to hold meetings and that maybe legislature will enact Senate Bill 207 and push things to June 30th.

Motion by Haven Second by Wylie to set up a meeting for March 30th to discuss the need for any further action relative to virtual meetings. Haven, Bonser, Casey, Kneisc, Lugingski, Wylie - Yes

10. New Business

10.a. Discussion: American Rescue Plan Status

Along with slides giving Council an idea of what the American Rescue Plan was all about Smith explained that the American Rescue Plan (ARP) includes significant funds for local municipalities for the first time. Michigan will get \$10.3 billion and from there it breaks down to what the State, Counties and local Municipalities will keep. The City of Clarkston is projected to receive \$90,938.00. The projection is broken down at \$105 per person for the census counts. Smith believes there is 866 residents, multiplied by \$105 brings you to \$90,938.00. This is an early estimate and subject to change. The total amount will come in two tranches. 90 days from now we will receive the first half and the other half will be paid approximately 12 months later. There are four categories in which this money can be used. 1. COVID related public health emergencies and the negative impact on local households, small businesses, nonprofits, etc. 2. Essential workers that have had or will have additional expenses because of COVID. 3. Replenishing lost revenue. For example the City lost approximately \$100,000.00 by closing down the paid parking. 4. Infrastructure funding but only relating to water, sewer or broadband. There are more details to come on this. Treasury is responsible for putting together the details regarding what can and can't qualify as an approved expense before we receive the money and we have until Dec 31, 2024 to use the funds.

10.b. Resolution: Budget Amendment

Motion by Bonser Second by Casey to authorize the City Treasurer to complete a budget amendment in the amount of \$20,320.00. \$320.00 to cover an overdraft of the election supplies and \$20,000.00 to be added to the legal fees account. Haven, Bonser, Casey, Kneisc, Luginski, Wylie - Yes Motion Carries.

10.c. Discussion: FODP Report

Jim Brueck provided a status update from the FODP Committee.

10.d. Motion: Agenda Amendment

Motion by Haven Second by Bonser to amend the agenda to include a Resolution for Depot Park Gazebo Repairs. Haven, Bonser, Casey, Kneisc, Lugingski, Wylie - Yes Motion carries.

10.e. Resolution: Depot Park Gazebo Repair

Motion by Casey Second by Luginski to authorize the City Manager to spend up to \$4000.00 for materials to repair the Depot Park Gazebo. Haven, Bonser, Casey, Kneisc, Lugingski, Wylie - Yes Motion carries.

10.f. Discussion: Fourth Of July Parade

Clerk Speagle spoke with Joette Kunse (organizer of past parades) and was told that she believed The Optimist canceled this years 4th of July Parade because of the number of people it would attract. Clerk Speagle has a call into Kathy Novak, Optimist President to confirm.

11. Adjourn

Motion by Casey Second by Wylie to adjourn at 8:46pm Haven, Bonser, Casey, Kneisc, Lugingski, Wylie -
Yes Motion carries.

Respectfully Submitted by Jennifer Speagle, City Clerk.