



**CITY COUNCIL SPECIAL MEETING AGENDA
March 31, 2021 – 3:00 P.M.**

- 1. CALL TO ORDER**
- 2. ATTENDANCE (*ROLL CALL*)**
- 3. AGENDA CHANGES (ADDITIONS/DELETIONS)**
- 4. PUBLIC COMMENT AGENDA ITEMS ONLY (*Limit 3 minutes*)** *Select “unmute” mic in the Zoom interface and speak your name to be recognized or press *6 if you are calling in by phone to unmute your phone to speak.*
- 5. DISCUSSION ITEMS**
 - A. State of Emergency - Continuation of Virtual Meetings**
 - B. Park Street North Project Change Order & Additional Projects**
 - C. Oval Beach Pass Fee Adjustment**
 - D. Event Guidelines for COVID**
- 6. PUBLIC COMMENT (*Limit 3 minutes*)** *Select “unmute” mic in the Zoom interface and speak your name to be recognized or press *6 if you are calling in by phone to unmute your phone to speak.*
- 7. COUNCIL COMMENTS**
- 8. ADJOURN (*ROLL CALL*)**

NOTICE:

This public meeting will be held using Zoom video/audio conference technology due to the COVID-19 restrictions currently in place.

Join online by visiting: <https://us02web.zoom.us/j/2698572603>

Join by phone by dialing: **(312) 626-6799 –or– (646) 518-9805**

Then enter “Meeting ID”: **2698572603**

Please send questions or comments regarding meeting agenda items prior to meeting to: ryan@saugatuckcity.com

Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact Saugatuck City Clerk at 269-857-2603 or erin@saugatuckcity.com for further information.



FROM: Ryan Heise, City Manager
MEETING DATE: March 31st, 2021
SUBJECT: Emergency declaration to allow for virtual meetings

DESCRIPTION:

From the League of Municipalities:
The amendment to the Open Meetings Act (OMA) that allowed no-reason virtual meetings sunsets on March 30, 2021. The amendment gave strict reasons for virtual meetings, and after the March 30 sunset, public bodies are not permitted to hold electronic meetings in the absence of a statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer that would risk the personal health or safety of members of the public or the public body if the meeting were held in person (among other reasons).*

After a local emergency/disaster is declared, be certain that rules established for remote meetings are consistent with requirements of the Open Meetings Act. A list of rules are on the attached fact sheet. P. 10

If Allegan County were to declare a state of emergency for the County (this idea is pending in some counties in the state), then that declaration would supersede this Resolution.

COMMITTEE/COMMISSION REVIEW:
NA

BUDGET ACTION REQUIRED:
NA

LEGAL REVIEW:
Counsel drafted the resolution.

POSSIBLE MOTION:
Approve resolution #210331-A as presented.

Mark E. Bekken
584 Campbell Road
Saugatuck, MI 49453

March 30, 2021

Re: City of Saugatuck
State of Emergency Declaration

As Mayor of the City of Saugatuck, with COVID numbers increasing, I am declaring a local State of Emergency. This Emergency declaration will allow the City of Saugatuck to continue virtual meetings for all boards and commissions.

A handwritten signature in black ink, appearing to read "Mark E. Bekken", with a long, sweeping horizontal stroke extending to the right.

Mark E. Bekken
Mayor of the City of Saugatuck

CITY COUNCIL
CITY OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN

At a regular meeting of the City Council for the City of Saugatuck held at the City Hall, 102 Butler Street, Saugatuck, Michigan, on March 31, 2021, the following Resolution was offered for adoption by Council member _____ and was seconded by Council member _____:

RESOLUTION NO. 210331-A

A RESOLUTION DECLARING A LOCAL STATE OF EMERGENCY AND IMPLEMENTING
SUPPLEMENTAL RULES OF PROCEDURE FOR PUBLIC BODIES REGARDING VIRTUAL
PUBLIC MEETINGS

RECITALS

- A. The Michigan Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended (“Open Meetings Act”) has been amended to permit public bodies, under certain circumstances, to conduct public meetings virtually. To do so after April 1, 2021, and except in certain cases of medical or military circumstances, there must be in effect a declared state of emergency.
- B. The Open Meetings Act requires that if virtual meetings are to be held, that certain rules of procedure regarding those meetings be adopted.
- C. The State of Michigan Emergency Management Act (Act No. 390 of the Public Acts of 1976, as amended; the “EMA”) provides that a municipality with a population less than 10,000 may appoint a municipal emergency management coordinator and further provides that that coordinator serves at the direction of the county’s emergency management coordinator.
- D. The Saugatuck City Council formerly, by ordinance, appointed the City Manager as its emergency management coordinator.
- E. Under the EMA, where appointment of an emergency management coordinator has occurred the chief executive (i.e., the Mayor) may declare a local state of emergency which is subject to extension by the legislative body (i.e., the City Council).
- F. About 8,000 cases of novel coronavirus COVID-19 infections and over 110 related deaths have been reported in Allegan County.
- G. Emergency rules issued by the Michigan Occupational Health and Safety Administration (MIOSHA) and emergency orders issued by the Michigan Department of Health and Human Services (MDHHS) limit attendance at gatherings and require those attending them to wear masks and maintain 6-foot distancing.
- H. Vaccines are becoming available for those desiring vaccination but some persons have medical conditions or live with persons with medical conditions putting them at greater risk of severe illness from a COVID-19 infection and some are unable to wear cloth masks making it difficult for them to attend meetings in compliance with MIOSHA and MDHHS requirements.
- I. Without otherwise limiting the scope of this Resolution, the City Council notes that it traditionally holds its meetings in its Council chambers, which is the largest single room in City Hall. The Council chambers are, however, small in area, seating is constrained, and the building’s ventilation system is limited. The City Council finds that operating in such an environment could risk the health and safety of City officials, employees and members of the public.

J. The City Council believes that it can achieve greater transparency for the public (until COVID-19 restrictions are removed), and that it is in the City's best interest to permit public bodies in the City to host virtual meetings or hybrid meetings (i.e., meetings with in-person and virtual components) under the Open Meetings Act as permitted by law and in accordance with the provision of this Resolution.

RESOLUTION

NOW, THEREFORE, IT IS RESOLVED THAT:

1. The recitals set forth above are affirmed as accurate and are incorporated herein as a basis for the actions of the City Council.
2. In accordance with the recommendation of the City's chief executive officer and after consultation with City departments heads and other local officials, a local state of emergency is hereby declared to exist throughout the City of Saugatuck.
3. This declaration shall remain in effect until the earliest of any of the following:
 - a. December 31, 2021.
 - b. If rescinded by resolution of the City Council, on the date stated in that resolution.
 - c. If any court of competent jurisdiction determines that this resolution is invalid.
 - d. In the event the State of Michigan or Allegan County adopts acts or laws having the effect of permitting public bodies to again meet virtually for any reason whatsoever.
4. This declaration shall apply to any public body within the City of Saugatuck to the extent permitted by the Open Meetings Act and, without limitation, includes the City of Saugatuck City Council, Planning Commission, Zoning Board of Appeals, Historic Preservation Commission, Board of Review, and Building Code Board of Appeals. These City public bodies may continue to meet in-person, virtually, or partially in-person and partially-virtually (i) as determined by the presiding officer of those bodies or by action of those bodies, and (ii) in accordance with this Resolution and those policies and procedures attached and marked as "Attachment A" to this Resolution.
5. This proclamation is effective immediately and is to be distributed as deemed necessary or appropriate by the Mayor and City Clerk.
6. Except as otherwise provided herein, the standing rules of procedure for the public body will remain in effect.
7. Unless a City meeting is to be held exclusively as a virtual meeting, any member intending to participate virtually must inform the chair of the public body and the City Clerk that they will be participating virtually at least 24 hours prior to the meeting if feasible. The notice for a virtual or hybrid meeting shall include notice to the public of the absence of the member and information about how to contact that member sufficiently in advance of a meeting of the public body to provide input on any business that will come before the public body.
8. To the extent possible and regardless of whether members are participating virtually, members of the public will be permitted to participate virtually in accordance with adopted rules of procedure. The preferred method of public participation will be via Zoom. Public comment may be made over zoom (audio or using the chat function) or by emailing comments to the City Clerk.
9. This Resolution is effective April 1, 2021.

10. All resolutions, motions, and policies in conflict with this Resolution are hereby repealed to the extent of any such conflict.

The vote to adopt this Resolution was as follows:

AYES: _____

NAYS: _____

ABSENT/ABSTAIN: _____

RESOLUTION NO. ____ DECLARED ADOPTED.

Mark Bekken, Mayor

Erin K. Wilkinson, Clerk

CERTIFICATION

I, Erin K. Wilkinson, the Clerk of the City of Saugatuck hereby attest that the foregoing is a true and accurate copy of a resolution adopted by the City Council of the City of Saugatuck at a regularly scheduled meeting held on _____, 2021, which meeting was held in accordance with state law.

Erin K. Wilkinson, Clerk

**CITY COUNCIL
CITY OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 201214-A

ORDINANCE TO AMEND TITLE III, CHAPTER 31, ENTITLED “ADMINISTRATION;
DEPARTMENTS, BOARDS AND COMMISSIONS” TO ADD A NEW SECTION 31.02
ENTITLED “EMERGENCY DECLARATIONS” TO THE CODE OF THE CITY OF
SAUGATUCK

The City of Saugatuck Ordains:

Section 1. Amendment of Title III, Chapter 31 to Add Section 31.02. That Title III, Chapter 31 of the Code of the City of Saugatuck, entitled “ADMINISTRATION; DEPARTMENTS, BOARDS AND COMMISSIONS,” is hereby amended to add a new Section 31.02 to read as follows:

31.02 EMERGENCY DECLARATIONS

A. The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death and is easily spread from person to person. In light of this, it is the judgment of the Saugatuck City Council that it must be able to continue to hold public meetings virtually. As authorized by Michigan’s Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, after January 1, 2021, virtual public meetings will only be legally allowed under certain limited circumstances. Among such circumstances is when a local official or governing body has declared a local state of emergency to limit the risk to health and safety of members of the public and the public body. Michigan law, including without limitation the Emergency Management Act, Act No. 390 of the Public Acts of Michigan of 1976, as amended (the “Act”), permits a municipality to declare a local state of emergency in certain identified circumstances. It is the City Council’s intent, in adopting this Ordinance, to set forth a method and process by which a declaration of local state of emergency can occur if necessary.

B. Pursuant to the Act, the City Council of the City of Saugatuck hereby designates the City Manager as its emergency management coordinator and who shall serve at the direction of the Allegan County Emergency Management Coordinator.

C. The City may declare a local state of emergency if circumstances indicate that the occurrence or threat of widespread or severe damage, injury, or loss of life

or property from a natural or human-made cause exists. This power shall be vested in the Mayor but may not be continued or renewed for a period in excess of seven days except with the consent of the City Council. The declaration of a local state of emergency shall be promptly filed with the emergency management division of the Department of the Michigan State Police, unless circumstances attendant upon the disaster prevent or impede its prompt filing. For purposes of this section, "local state of emergency" shall mean a proclamation or declaration that activates the response and recovery aspects of any and all applicable local or interjurisdictional emergency operations plans and authorizes the furnishing of aid, assistance, and directives under those plans.

D. The City may take such further actions relative to a local state of emergency as permitted by Act 390 or other applicable laws. Nothing in this section shall be interpreted to limit the power of City officials to petition the State of Michigan or any officer thereof as permitted by law with respect to local emergencies

Section 2. Effective Date. This Ordinance shall become effective upon its publication as provided by law.

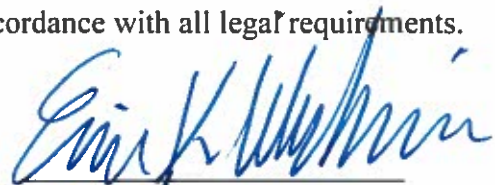
YEAS: Bekken, Dean, Leo, Lewis, Peterson, Stanton, Trester

NAYS: none

ABSENT: none

ORDINANCE NO. 201214-A ADOPTED

I, Erin Wilkinson, the Clerk of the City of Saugatuck, certify that the foregoing is a true and accurate copy of an ordinance adopted at a regular meeting of the City Council of the City of Saugatuck, held on December 14, 2020, and noticed in accordance with all legal requirements.



Erin Wilkinson, Clerk

Introduced: 12/14/2020

Adopted: 12/14/2020

Published: 12/16/2020





Declaring a Local State of Emergency or Disaster

Introduction

The amendment to the Open Meetings Act (OMA) that allowed no-reason virtual meetings sunsets on March 30, 2021. The amendment gave strict reasons for virtual meetings, and after the March 30 sunset, public bodies are not permitted to hold electronic meetings* in the absence of a statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer that would risk the personal health or safety of members of the public or the public body if the meeting were held in person (among other reasons).

Declared State of Emergency or Disaster

The following language, in pertinent part, was added to the OMA: “to accommodate the absence of any member of the public body due to...a statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer *that would risk the personal health or safety of members of the public or the public body if the meeting were held in person...*” MCL 15.263(2) (emphasis added).

Sources of Authority

There are three sources of authority for declaring a local state of emergency or state of disaster. These statutes grant the authority; the exercise of that authority is through a resolution, an ordinance, or pre-existing charter language.

- 1) These are the laws that authorize a municipality to declare a local state of emergency or disaster:
 - pursuant to municipal police/public health powers
 - Home Rule City Act, MCL 117.3(j) (sample resolution attached)
 - Home Rule Village Act, MCL 78.23(f)
 - General Law Village Act, MCL 67.1(c), MCL 64.2 (president’s powers)
 - Fourth Class City Act MCL 91.1(2)
 - pursuant to the Emergency Management Act, PA 390 of 1976 (sample resolution attached):
 - Defines “disaster” to include “epidemic”
 - Section 2 - Definition of “local state of emergency” implies requirement that the municipality or county has adopted an emergency operations plan in accordance with the Act
 - Section 9 – Appointment of Emergency Management Coordinator
 - Section 10 – Declaration of Local State of Emergency
 - ❖ Declared by chief executive official of county or municipality
 - ❖ Effective for 7 days
 - ❖ May be extended by the governing body
 - pursuant to Section 3(2) of the Open Meetings Act:

Permits a public body to meet by electronic or telephonic means upon declaration of a local state of emergency or state of disaster if meeting in person would place at risk the personal health or safety of members of the public or members of the public body.

Taking Action

Check your city or village charter for authority to declare a state of emergency or state of disaster under the police/public health powers (sample Resolution by charter authority attached). The charter gives you the authority, but the city or home rule village council must act on it by passing a resolution or ordinance, as applicable.

Adopt an emergency management ordinance under the Emergency Management Act including its requirements for an emergency operations plan and the appointment of an emergency management coordinator (sample ordinance attached).

Potential Risks

Authority for each of these declarations are not without some risk of a challenge. Challenges under the OMA must be brought within:

- 60 days of approved meeting minutes being made available to the public
- 30 days if the decision involved awarding a contract or bid, assessments or bonds

After a local emergency/disaster is declared, be certain that rules established for remote meetings are consistent with requirements of the OMA:

- Post meeting notice on homepage of website 18 hours before a meeting
 - Notice must explain why the public body is meeting electronically
 - How members of the public may participate electronically
 - How members of the public may contact members of the public body before the meeting
 - How persons with disabilities may participate in the meeting
- Post the meeting agenda on website two hours before a meeting
- Ensure two-way communication for members of the public body
- Announcement at the beginning of the meeting by each public body member attending remotely including the member's physical location by stating county, city, township or village and State, except for members of the military absent because of military duty
- Participation by the public at some point in the meeting; may be limited to typed public comments.

Remember—current Michigan Department of Health and Human Services/MIOSHA orders require employees to work remotely if possible, through April 15, 2021.

*In addition to holding an electronic meeting pursuant to a declared statewide or local state of emergency or state of disaster, the OMA requires each public body to adopt procedures to accommodate the absence of any member of the public body due to military duty or a medical condition between March 31, 2021 and December 31, 2021. After December 31, 2021, a public body is required to adopt procedures to accommodate the absence of a member only due to military duty. Importantly, in these instances, the *public body* does not meet electronically; individual members may *participate* electronically.

This Fact Sheet was provided by Steven D. Mann and Ronald C. Liscombe of Miller Canfield, Detroit



FROM: Ryan Heise, City Manager
MEETING DATE: March 31st, 2021
SUBJECT: North Park Street Change order and additional projects

DESCRIPTION:

City Council approved a contract with Krohn Excavating, LLC in March of 2020, for road resurfacing on North Park Street. In order to avoid potential future saw cuts of the roadway related to a need for replacing lead water service lines, the city requested that the contractor quickly explore the water services to each home in the project area- pre-construction. There are two recommended change orders related to this contract specific to N. Park Street work (E3 & E4). Change order E3 in the amount of \$8,217.00 is related to the investigative work to determine if lead services exist (none do). Change order E4 in the amount of \$7,392.00, is related to separating a single water service that currently serve two homes, these were identified during the exploratory digging. There are two separate repairs needed that address this issue which are included in the change order.

Separate from the N. Park Street work, there are two areas in the City that will benefit from the installation of drain tile to mitigate ground water seepage on to sidewalk and roadway. Change order E2 in the amount of \$8,928.00 addresses drain tile work on Holland Street which includes sidewalk repair and drain tile work on Allegan Street adjacent to the new sidewalk along the hill.

Change order E1 is an adjustment to the timeline for the road resurfacing project on N. Park Street.

COMMITTEE/COMMISSION REVIEW:

NA

BUDGET ACTION REQUIRED:

Approve additional contract cost of \$24,537.00

LEGAL REVIEW:

None requested.

POSSIBLE MOTION:

Approve change orders E1 – E4 for the construction contract with Krohn Excavating, LLC.

CHANGE ORDER

Date: **March 25, 2021**
No.: 1

OWNER **City of Saugatuck**
 CONTRACTOR **Krohn Excavating, LLC.**
 Project: **Park Street Improvements**
 ENGINEER'S Project No. **839540**
 ENGINEER **Fleis & VandenBrink Engineering, Inc.**

The Contract is modified as follows upon execution of this Change Order:

Description: The following page shows the breakdown of items requested as changes to the original contract. Add items E1-E4.

Attachments: Krohn - Holland St Additional Sock Pipe
 Krohn - Sidewalk Rem and Replace
 Krohn - Water Service Investigation
 Krohn - Park St Water Service Repairs

CHANGE IN CONTRACT PRICE
Original Contract Price \$ <u>147,496.80</u>
Increase (Decrease) from previously approved Change Orders No. ____ to ____: \$ <u>147,496.80</u>
Contract Price prior to this Change Order: \$ <u>147,496.80</u>
Increase (Decrease) of this Change Order: \$ <u>24,537.00</u>
Contract Price incorporating this Change Order: \$ <u>172,033.80</u>

CHANGE IN CONTRACT TIMES
Original Contract Times: Substantial Completion: <u>June 19, 2020</u> Ready for final payment: <u>June 26, 2020</u> (days or dates)
Increase (Decrease) from previously approved Change Orders No. ____ to ____: Substantial Completion: <u>June 19, 2020</u> Ready for final payment: <u>June 26, 2020</u> (days or dates)
Contract Times prior to this Change Order: Substantial Completion: <u>June 19, 2020</u> Ready for final payment: <u>June 26, 2020</u> (days or dates)
Increase (Decrease) of this Change Order: Substantial Completion: <u>May 28, 2021</u> Ready for final payment: <u>June 4, 2021</u> (days or dates)
Contract Times with all approved Change Orders: Substantial Completion: <u>May 28, 2021</u> Ready for final payment: <u>June 4, 2021</u> (days or dates)

RECOMMENDED:

By: _____
 ENGINEER (Authorized Signature)
 Title: _____
 Date: _____

APPROVED:

By: _____
 OWNER (Authorized Signature)
 Title: _____
 Date: _____

ACCEPTED:

By: _____
 CONTRACTOR (Authorized Signature)
 Title: _____
 Date: _____

CITY OF SAUGATUCK
PARK STREET IMPROVEMENTS
SUMMARY OF CHANGE ORDER ITEMS OF WORK

E1. Contract Times will be revised due to the Corona Virus restrictions of 2020. The new contract times will read:

4.02 Contract Times: Dates

A. The Work will be substantially completed on or before **May 28, 2021**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **June 4, 2021**.

B. Parts of the Work shall be substantially completed on or before the following Milestone(s):

1. Milestone 1: Paving operations shall take place no later than two weeks after milling or crushing operation, whichever is first, has been started.

E2. Additional Work for Drain Tile Improvements:

Allegan Street: 20 ft of sock pipe in stone trench with structure tap, restoration and traffic control

Add: \$7,403.00

Holland Street: Sidewalk removal and replacement, 300 ft of sock pipe in stone trench with 2 structure taps, restoration and traffic control

Add: \$1525.00

E3. Additional Work for Water Service Investigation:

Hydrovac, sawcutting, asphalt removal, and 22A gravel

Add: \$8,217.00

E4. Additional Work for Water Service Corrections:

808/810 Park Street

Setup, 1 new curb stop, 1 new corp stop, approx. 110' new copper line

Add: \$5,181.00

840/844 Park Street

1 new corp stop and approx. 20' of new copper line

Add: \$2,211.00

Total Add: \$24,537.00



FROM: Ryan Heise, City Manager

MEETING DATE: March 31st, 2021

SUBJECT: Oval Beach Non-resident fee

DESCRIPTION:

City Council approved increasing the non-resident Oval Beach seasonal pass fee from \$50.00 to \$60.00. However, in subsequent conversation during a Council meeting, it was agreed by consensus of Council that a working group would be reviewing potential increases to daily and seasonal passes, along with specific improvement needs and other operations at Oval Beach. Council will need to take official action to revert the non-resident seasonal pass fee to \$50.00.

COMMITTEE/COMMISSION REVIEW:

NA

BUDGET ACTION REQUIRED:

None

LEGAL REVIEW:

None requested.

POSSIBLE MOTION:

Revert the Oval Beach non-resident seasonal pass fee to \$50.00 for 2021.



FROM: Ryan Heise, City Manager

MEETING DATE: March 31st, 2021

SUBJECT: Public events and Covid

DESCRIPTION:

The State of Michigan has and continues to issue Emergency Orders and guidelines related to public gatherings during Covid-19. Currently outdoor gatherings are allowed with restrictions; up to 300 people, with masking and social distancing required. The city has approved special events for 2021 that committed to follow the state's guidelines and will likely continue to approve events that do the same. Events that have historically drawn large crowds, such as 4th of July and Venetian, are not likely possible in 2021.

Staff is bringing this to council at this time, because lodging establishments and emergency services are requesting event schedules for planning and staffing purposes, including water patrol.

COMMITTEE/COMMISSION REVIEW:

NA

BUDGET ACTION REQUIRED:

None

LEGAL REVIEW:

None requested.

POSSIBLE MOTION:

Information only