



TO: Mayor and Council

FROM: Milton Dohoney Jr., Interim City Administrator

CC: John Fournier, Assistant City Administrator
Matthew Kulhanek, Fleet & Facilities Manager

SUBJECT: November 15, 2021 Council Agenda Responses

DATE: November 15, 2021

B-2 – An Ordinance to Add Chapter 74 to Title VI of the Code of the City of Ann Arbor Which Shall Be Entitled “General Health” and to Add Sections 6:650 - 6:653 (Sanitation Supplies in Public Restrooms) (ORD-21-32)

Question: If this were to be implemented in City-managed bathrooms only (e.g. bathrooms in City owned buildings), how many bathrooms would that be? (Councilmember Nelson)

Response:

Municipal Center – 50 (18 men’s, 18 women’s, 14 gender neutral)
Wheeler Service Center – 11 (5 men’s, 5 women’s, 1 gender neutral)
Airport – 5 (2 men’s, 2 women’s, 1 gender neutral)
S. Industrial – 3 (1 men’s, 1 women’s, 1 gender neutral)
Mary St. – 1 (gender neutral)
Dental Clinic – 4 (unknown)
Transfer Station, MRF, Drop-Off Station, Compost Eq Bldg. – 7 (unknown)
Total – 81 separate restrooms

In addition, Parks has approximately 70 restrooms (over 100 stalls) across the system, ranging from restrooms in buildings that are staffed, to unstaffed seasonal restrooms in the parks and at shelters. We did get a quick estimate on the cost to purchase all the equipment and it was in the \$15-25k range. We did not get a quote for installation. It’s work that our staff can perform, but it would take some time given the number of locations.

Fire:

Station 1

- 3 women's
- 3 men's
- 2 gender neutral (single stall locking)

Station 2 (fire prevention)

- 3 gender neutral (single stall locking)

Station 3

- 3 gender neutral (single stall locking)

Station 4

- 2 gender neutral (single stall locking)

Station 5

- 1 gender neutral (single stall locking)
- 1 men's

Station 6

- 3 gender neutral (single stall locking)

Water Treatment Plant – 10 total; 2 male, 2 female, 6 gender neutral

Wastewater Treatment Plant – 11 total; 7 of which are either women's or gender neutral

Question: Do we yet have any estimate for how much implementation will cost, per bathroom? (Councilmember Nelson)

Response: Parks provided the estimate above to purchase equipment that did not include installation. Facilities staff have not yet priced the implementation cost. It will depend on the bathroom and amount of use.

Question: Since first reading, have we gotten any additional feedback from business owners that will be affected by this? (Councilmember Nelson)

Response: No.

DC-1 – Resolution to Continue Electronic Meetings for Certain City Boards and Commissions After December 31, 2021

Question: Q1. Can you attach the pertinent sections of Michigan Open Meetings Act that speak to the requirements for in-person meetings as referred to in the first Whereas clause? (Councilmember Hayner)

Response: The pertinent sections are MCL 15.263 and 263a; in particular, section 263a(1)(c).

Question: Q2. Can you attach City Council Resolution R-642-11-91 to this agenda item? (Councilmember Hayner)

Response: Attached.

Question: Q3. Can you attach Council Resolution R-20-321 to this agenda item? (Councilmember Hayner)

Response: Attached.

Question: The third/fourth resolved clauses state: “That (persons)...must show proof of vaccination against COVID-19 or receive an exemption in the same manner as City employees...” Q4. How is this currently being handled for access to public buildings, for example, for city employees as referred to in the above resolved clause? Can you attach the current HR procedure to this agenda item? (Councilmember Hayner)

Response: Currently City Employees are providing their vaccine cards to the Benefits Office to verify that they have been vaccinated. We are not barring access to public buildings if someone is not vaccinated. If an employee remains unvaccinated after the 19th of November they will be put on suspension or an unpaid leave (depending on their bargaining agreement) for 30 days, and if they remain unvaccinated after that they will be terminated from employment.

Question: Q5. This council resolution impacts hundreds of public appointees, has notice of this possible new requirement been sent to all potentially effected persons prior to this item being discussed at Council? (Councilmember Hayner)

Response: No. If the resolution is adopted by Council, notice will be sent to the appointees. But we will not act until there is adopted Council direction through a resolution.

Question: Q6. Can members of the general public attend in-person meetings once they resume? If so, will members of the general public, who wish to attend any in-person meeting, be required to show “proof of vaccination against COVID-19 or receive an exemption in the same manner as City employees” before being allowed to attend? (Councilmember Hayner)

Response: Members of the public will be able to attend meetings in person. There is currently no requirement that any members of the public provide a proof of vaccination to attend a meeting.

Question: Q7. I assume that there were very specific notices given and defined processes followed for actual city employees around the COVID vaccine mandate issued by HR, including deadlines for compliance and the process for termination. Is there a similar set of specific notices and defined processes for removal to accompany this mandate for citizen appointees? (Councilmember Hayner)

Response: If Council directs that appointees be subject to a vaccine mandate, City staff will carry out the directive in a thoughtful and deliberate manner. Appointees to boards and commissions are not the same as employees, and the processes for enforcing a vaccine mandate will be vastly different, and significantly less complicated. Ultimately, decisions on enforcement or removal of political appointees will have to be decided by the City Council, not by the staff. Staff will work at the direction of Council to ensure the process is handled with care.

Question: Q10. I assume that we would not want someone who tests positive for COVID-19, or who has been advised to quarantine from exposure to COVID-19 to attend in-person meetings. What accommodations, if any, will be made for any citizen appointee/board members/elected officials etc. to attend meetings electronically if they are forced to quarantine due to exposure to COVID-19? (Councilmember Hayner)

Response: City Council members and appointees who sit on OMA covered boards are not allowed to attend meetings virtually under state law after December 31, 2021.

Question: Q11. Some concerts and events at private venues (the Masonic Auditorium, or various large club venues for example) have required proof of COVID-19 vaccination for entry. I have seen this proof satisfied by showing a card, showing a laminated copy of a card, showing a picture of a card on a phone, and someone even showed an “app” that certified as proof. Does the state require some specific type of proof for meeting OMA requirements? (Councilmember Hayner)

Response: The OMA is silent on the issue of vaccine passports.

OPEN MEETINGS ACT (EXCERPT)
Act 267 of 1976

15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; COVID-19 safety measures; tape-recording, videotaping, broadcasting, and telecasting proceedings; accommodation of absent members; remote attendance; rules; exclusion from meeting; exemptions.

Sec. 3. (1) All meetings of a public body must be open to the public and must be held in a place available to the general public. All persons must be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting. For a meeting of a public body held in person before April 1, 2021, the public body shall do both of the following:

(a) To the extent feasible under the circumstances, ensure adherence to social distancing and mitigation measures recommended by the Centers for Disease Control and Prevention for purposes of preventing the spread of COVID-19, including the measure that an individual remain at least 6 feet from anyone from outside the individual's household.

(b) Adopt heightened standards of facility cleaning and disinfection to limit participant exposure to COVID-19, as well as protocols to clean and disinfect in the event of a positive COVID-19 case in the public body's meeting place.

(2) All decisions of a public body must be made at a meeting open to the public. For purposes of any meeting subject to this section, except a meeting of any state legislative body at which a formal vote is taken, the public body shall, subject to section 3a, establish the following procedures to accommodate the absence of any member of the public body due to military duty, a medical condition, or 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:

(a) Procedures by which the absent member may participate in, and vote on, business before the public body, including, but not limited to, procedures that provide for both of the following:

(i) Two-way communication.

(ii) For each member of the public body attending the meeting remotely, a public announcement at the outset of the meeting by that member, to be included in the meeting minutes, that the member is in fact attending the meeting remotely. If the member is attending the meeting remotely for a purpose other than for military duty, the member's announcement must further identify specifically the member's physical location by stating the county, city, township, or village and state from which he or she is attending the meeting remotely.

(b) Procedures by which the public is provided notice 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.

(3) All deliberations of a public body constituting a quorum of its members must take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person must not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person must be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person must not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies, but only when deliberating the merits of a case:

(a) The Michigan compensation appellate commission operating as described in either of the following:

(i) Section 274 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.274.

(ii) Section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, 421.34.

(b) The state tenure commission created in section 1 of article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a board of review from the decision of a controlling board.

(c) The employment relations commission or an arbitrator or arbitration panel created or appointed under

1939 PA 176, MCL 423.1 to 423.30.

(d) The Michigan public service commission created under 1939 PA 3, MCL 460.1 to 460.11.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body that adopts a nonpolicymaking resolution of tribute or memorial, if the resolution is not adopted at a meeting.

(10) This act does not apply to a meeting that is a social or chance gathering or conference not designed to avoid this act.

(11) This act does not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection must be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation that the board of trustees, by rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate action.

(12) As used in subsection (2):

(a) "Formal vote" means a vote on a bill, amendment, resolution, motion, proposal, recommendation, or any other measure on which a vote by members of a state legislative body is required and by which the state legislative body effectuates or formulates public policy.

(b) "Medical condition" means an illness, injury, disability, or other health-related condition.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;—Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 158, Imd. Eff. June 14, 1988;—Am. 1988, Act 278, Imd. Eff. July 27, 1988;—Am. 2016, Act 504, Eff. Apr. 9, 2017;—Am. 2018, Act 485, Eff. Mar. 29, 2019;—Am. 2020, Act 228, Imd. Eff. Oct. 16, 2020;—Am. 2020, Act 254, Imd. Eff. Dec. 22, 2020.

Administrative rules: R 35.621 of the Michigan Administrative Code.

OPEN MEETINGS ACT (EXCERPT)
Act 267 of 1976

15.263a Electronic public meetings; telephonic or video conferencing; "agricultural commodity group" defined; permissibility under certain circumstances; 2-way communication required; advance notice of electronic meetings; availability of agenda; registration requirement prohibited; remote participation limited to military duty or medical condition.

Sec. 3a. (1) A meeting of a public body held, in whole or in part, electronically by telephonic or video conferencing in compliance with this section and, except as otherwise required in this section, all of the provisions of this act applicable to a nonelectronic meeting, is permitted by this act in the following circumstances:

(a) Before March 31, 2021 and retroactive to March 18, 2020, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2).

(b) Subject to subdivision (d), on and after March 31, 2021 through December 31, 2021, only those circumstances requiring accommodation of members absent for the reasons described in section 3(2). For the purpose of permitting an electronic meeting due to a local state of emergency or state of disaster, this subdivision applies only as follows:

(i) To permit the electronic attendance of a member of the public body who resides in the affected area.

(ii) To permit the electronic meeting of a public body that usually holds its meetings in the affected area.

(c) Subject to subdivision (d), after December 31, 2021, only in the circumstances requiring accommodation of members absent due to military duty as described in section 3(2).

(d) On and after March 31, 2021, for a public body that is an agricultural commodity group, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2). As used in this subdivision, "agricultural commodity group" means any of the following:

(i) A committee as that term is defined in section 2 of the agricultural commodities marketing act, 1965 PA 232, MCL 290.652.

(ii) The state beef industry commission created in section 3 of the beef industry commission act, 1972 PA 291, MCL 287.603.

(iii) The potato industry commission created in section 2 of 1970 PA 29, MCL 290.422.

(iv) The Michigan bean commission created in section 3 of 1965 PA 114, MCL 290.553.

(2) A meeting of a public body held electronically under this section must be conducted in a manner that permits 2-way communication so that members of the public body can hear and be heard by other members of the public body, and so that public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. A public body may use technology to facilitate typed public comments during the meeting submitted by members of the public participating in the meeting that may be read to or shared with members of the public body and other participants to satisfy the requirement under this subsection that members of the public be heard by others during the electronic meeting and the requirement under section 3(5) that members of the public be permitted to address the electronic meeting.

(3) Except as otherwise provided in subsection (8), a physical place is not required for an electronic meeting held under this section, and members of a public body and members of the public participating electronically in a meeting held under this section that occurs in a physical place are to be considered present and in attendance at the meeting for all purposes.

(4) If a public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, in addition to any other notices that may be required under this act, post advance notice of a meeting held electronically under this section on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of nonregularly scheduled or electronic public meetings. Subject to the requirements of this section, any scheduled meeting of a public body may be held as an electronic meeting under this section if a notice consistent with this section is posted at least 18 hours before the meeting begins. Notice of a meeting of a public body held electronically must clearly explain all of the following:

(a) Why the public body is meeting electronically.

(b) How members of the public may participate in the meeting electronically. If a telephone number,

internet address, or both are needed to participate, that information must be provided specifically.

(c) How members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.

(d) How persons with disabilities may participate in the meeting.

(5) Beginning on the effective date of the amendatory act that added this section, if an agenda exists for an electronic meeting held under this section by a public body that directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, on a portion of the website that is fully accessible to the public, make the agenda available to the public at least 2 hours before the electronic meeting begins. This publication of the agenda does not prohibit subsequent amendment of the agenda at the meeting.

(6) A public body shall not, as a condition of participating in an electronic meeting of the public body held under this section, require a person to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms established and required by the public body necessary to permit the person to participate in a public comment period of the meeting.

(7) Members of the general public otherwise participating in a meeting of a public body held electronically under this section are to be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of this act applicable to a closed session.

(8) At a meeting held under this section that accommodates members absent due to military duty or a medical condition, only those members absent due to military duty or a medical condition may participate remotely. Any member who is not on military duty or does not have a medical condition must be physically present at the meeting to participate.

History: Add. 2020, Act 228, Imd. Eff. Oct. 16, 2020;—Am. 2020, Act 254, Imd. Eff. Dec. 22, 2020;—Am. 2021, Act 54, Imd. Eff. July 13, 2021.

R-642-11-91

**RESOLUTION REGARDING OPEN MEETINGS FOR
CITY COMMITTEES, COMMISSIONS, BOARDS AND TASK FORCES**

Whereas, The City Council desires that all meetings of City boards, task forces, commissions and committees conform to the spirit of the Open Meetings Act;

RESOLVED, That all City boards, task forces, commissions, committees and their subcommittees hold their meetings open to the public to the best of their abilities in the spirit of Section 3 of the Open Meetings Act; and

RESOLVED, That closed meetings of such bodies be held only under situations where a closed meeting would be authorized in the spirit of the Open Meetings Act.

Substitute Resolution
As Amended
November 4, 1991

FILED

NOV 4 1991

CITY CLERK

**APPROVED
BY COUNCIL**

NOV 4 1991

W. NORTHCROSS
CITY CLERK

D-3



Legislation Details (With Text)

File #: 20-1314 **Version:** 1 **Name:** 8/24 Emergency Declaration
Type: Resolution **Status:** Passed
File created: 8/24/2020 **In control:** City Council
On agenda: 8/24/2020 **Final action:** 8/24/2020
Enactment date: 8/24/2020 **Enactment #:** R-20-321
Title: Resolution Consenting to the Mayor's Declaration of a Local State of Emergency in Response to Covid-19
Sponsors: Christopher Taylor
Indexes:
Code sections:
Attachments: 1. Declaration - Local State of Emergency.pdf

Date	Ver.	Action By	Action	Result
8/24/2020	1	City Council	Approved	Pass

Resolution Consenting to the Mayor's Declaration of a Local State of Emergency in Response to Covid-19

Whereas, The spread of COVID-19 is considered a global pandemic;

Whereas, The Federal and State government have declared a state of emergency in order to lessen the impact of COVID-19;

Whereas, Washtenaw County reports that in the first two weeks of August there was a 12% increase in the proportion of cases among 18 to 24-year-olds compared to the month of July.;

Whereas, In the past two weeks, COVID-19 cases in those 30 years of age and younger represented 60% of reported cases in Washtenaw County;

Whereas, This trend of an increasing percentage of young people becoming infected with COVID-19 is present in many states across the country;

Whereas, Thousands of students are returning to the universities and colleges in the City of Ann Arbor, many from states with high rates of COVID-19, living in congregate settings, and traditionally disposed toward socializing in large groups;

Whereas, Such circumstances within the City threatens to cause widespread transmission of COVID-19 if emergency actions are not taken;

Whereas, The City of Ann Arbor desires to rigorously pursue efforts to reduce the spread of COVID-19 for its residents and visitors in order to protect their health and safety; and

Whereas, The Mayor of the City of Ann Arbor, as the Chief Elected Official, declared a local State of Emergency on August 24, 2020;

RESOLVED, That the City Council consents to the Mayor's Declaration of Local State of Emergency that was issued on August 24, 2020;

RESOLVED, That the Mayor's Declaration of Local State of Emergency that was issued on August 24, 2020, is hereby extended and continued until the City Council votes to discontinue such Local State of Emergency Declaration; and

RESOLVED, That the City Clerk provide the attached declaration to Michigan State Police and the District 2 South Emergency Management and Homeland Security Division Coordinator.

Sponsored by: Mayor Taylor