

Jonathan Smith

From: Annie Novotney <annienovotney@millpondinnbb.com>
Sent: Monday, January 9, 2023 10:35 AM
To: Jonathan Smith
Subject: Fwd: Online Form Submittal: City Council Agenda Item Request

Hello,

Thank you for adding us to the agenda. I wanted to send you the online agenda request form that I filled out for your record just in case you need to look into a glitch in your system.

Truly,
Annie

----- Forwarded message -----

From: <noreply@civicplus.com>
Date: Fri, Dec 9, 2022 at 7:47 AM
Subject: Online Form Submittal: City Council Agenda Item Request
To: <annienovotney@millpondinnbb.com>

City Council Agenda Item Request

City Council Agenda Item Request
375 Depot Road Clarkston, MI 48346 (248)625-1559

Today's Date	12/9/2022
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City Council Meeting Date	12/12/2022
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NOTE:

Council meetings are held the second and fourth Mondays of each month. All agenda items must be received by noon on the Thursday prior to a meeting.

First Name	Carl
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Last Name	Szasz
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Address1	8031 Ortonville Rd.
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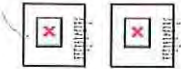
City	Clarkston
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State	MI
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Zip	48348
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Phone Number	5177496399
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Email	annienovotney@millpondinnbb.com
Describe Item	Millpond Inn Bed and Breakfast
Action Requesting	Provide information about the Inn.
Attachments	<i>Field not completed.</i>
12/5/2015	



Annie Novotney
 Innkeeper & Property Manager | Millpond Inn
 c (517) 749.6399 | f (248) 528-1744

annienovotney@millpondinnbb.com | www.millpondinnbb.com

Inn: 155 N. Main Street · Clarkston, MI 48336

Mailing: 8031 Ortonville Rd · Suite 210 · Clarkston, MI 48348

Jonathan Smith

From: Evelyn Bihl
Sent: Monday, December 12, 2022 3:54 PM
To: Jonathan Smith
Subject: 155 Main Street - Mill Pond Inn

Annie call and was wondering if she was on the agenda for tonight. I looked at the agenda and indicated to her I did not see anything regarding the Mill Pond Inn. However, I did not know if it would be under new business and it just is not listed.

I transferred her phone call to your voice mail.

FYI - Annie did say it is under Carl Szasz.

Evelyn

Jonathan Smith

From: Jonathan Smith
Sent: Monday, November 21, 2022 10:30 AM
To: 'Eric Haven'
Cc: Thomas Ryan
Subject: RE: Stacy Kingsbury Report

Good Morning Eric,

Yes, let's plan on starting this new report in January.

I called Mary Kuhn about a week ago and explained to her that our Ordinance Enforcement Office/Ambassador is working with the Mill Pond Inn owners and that a Notice of Violation had been issued. But I told her that this correction will take some time, possibly a few months. She understood.

I also told Mary that I spoke with neighbor Robert Stakle regarding his sump pump discharge. He did not feel that his sump was the cause of the water in her back yard, but agreed to talk to his plumber.

Jonathan Smith
City Manager, City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
smithj@villageofclarkston.org
Office: (248) 625-1559
Cell: (248) 909-3380

-----Original Message-----

From: Eric Haven <haveneric@gmail.com>
Sent: Monday, November 21, 2022 8:54 AM
To: Jonathan Smith <smithj@villageofclarkston.org>
Cc: Thomas Ryan <sylvanlawtr@gmail.com>
Subject: Stacy Kingsbury Report

Jonathan,

Good morning.

Question: when can we expect the first Stacy Kingsbury, our ordinance "Ambassador", report in our council packets, starting a monthly rhythm of progress toward compliance of non-conforming properties in our village? I think January would be fine.

We are especially concerned about 159 North Main at this time. Has Mary Kuhn, neighbor, checked in with you lately?

Eric Haven
248-891-3688
HavenEric@Gmail.Com

Jonathan Smith

From: Jennifer Speagle
Sent: Wednesday, November 16, 2022 12:37 PM
To: Thomas Ryan; Stacy Kingsbury
Cc: Jonathan Smith
Subject: RE: 155 N Main Zoning Violation

Hi All,

Just wanted to relay a little bit more information on a couple of things to notate for future reference if needed.

1. Jack Yarosh a young man who works for the company that owns the Mill Pond is registered to vote in the City of Clarkston (since 2020) and did come in on election day to vote. He has never voted in the City before, his drivers license does show 155 N Main Street as his address but he was very nervous that day when questioned about his residency status.
2. We received a call from a lady last week that wanted to send a thank you letter to Mike Cascone for helping her and her husband with dining suggestions. She stated that they were staying at the Mill Pond Inn and in talking with her she stated that her host name I believe was Ann or Annie, that no one lives or stays there and they do not serve breakfast.

Thank you,

Jennifer A. Speagle

City Clerk
City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
speaglej@villageofclarkston.org
Office: (248) 625-1559
Fax: (248) 625-3770

From: Thomas Ryan <sylvanlawtr@gmail.com>
Sent: Wednesday, November 16, 2022 12:16 PM
To: Stacy Kingsbury <skingsbury@cescode.com>
Cc: Jonathan Smith <smithj@villageofclarkston.org>; Jennifer Speagle <speaglej@villageofclarkston.org>
Subject: Re: 155 N Main Zoning Violation

I think a civil infraction violation should be issued for violating city ordinances.

Should you have any questions, please let me know.

Sincerely,

Tom

On Wed, Nov 16, 2022 at 9:55 AM Stacy Kingsbury <skingsbury@cescode.com> wrote:

Morning Jonathan,

Here is the letter I sent out after your review with the city attorney. It does state if he continues to use as an AirBnB he has to cease operations. He seems to only read the part where it says I noticed the adverts. Let me know what the next step the attorney would like to proceed with.

Stacy Kingsbury

Code Enforcement

City of the Village of Clarkston

SKingsbury@cescode.com

Sent from [Mail](#) for Windows

From: [Jonathan Smith](#)

Sent: Wednesday, November 16, 2022 8:28 AM

To: [Stacy Kingsbury](#)

Cc: [Jennifer Speagle](#); sylvanlawtr@gmail.com

Subject: RE: 155 N Main Zoning Violation

Good Morning Stacy,

Earlier this week we received the attached response from the Millpond Inn, but it only speaks to their advertising methods. Can you send me a copy of the final version of the violation letter (and attachment) that we sent to them so that I can work with our City Attorney in preparing a response.

Thank you!

Jonathan Smith

City Manager, City of the Village of Clarkston

375 Depot, Clarkston, MI 48346

smithj@villageofclarkston.org

Office: (248) 625-1559

Cell: (248) 909-3380

From: Stacy Kingsbury <skingsbury@cescode.com>

Sent: Thursday, November 10, 2022 1:25 PM

To: Jennifer Speagle <speaglej@villageofclarkston.org>; Jonathan Smith <smithj@villageofclarkston.org>

Subject: Re: 155 N Main info

Thanks for that update. I take it no one has been in contact with the village then? No one has reached out to me. Jonathan do you feel like we should try o e more letter.

Sent from my T-Mobile 5G Device

Get [Outlook for Android](#)

From: Jennifer Speagle <speaglej@villageofclarkston.org>

Sent: Thursday, November 10, 2022 1:09:44 PM

To: Jonathan Smith <smithj@villageofclarkston.org>; Stacy Kingsbury <skingsbury@cescode.com>

Subject: 155 N Main info

(removed for privacy reasons)

Just had a call from a visitor named [REDACTED] ([REDACTED]) that is staying at the Mill Pond Inn. She called because her and her husband ran into Mike Cascone and had a wonderful conversation so she wanted to send him a thank you letter. While I was talking to her she started raving about the Mill Pond Inn and asked for some places to eat breakfast, lunch and Dinner so I being me slipped in a few investigative questions. LOL She said that no one lives there full time. They do not serve breakfast using the pandemic as the reason why. Anna the "host" left out some pastries and other snacks for them.

Thank you,

Jennifer A. Speagle

City Clerk

City of the Village of Clarkston

375 Depot, Clarkston, MI 48346

speaglej@villageofclarkston.org

Office: (248) 625-1559

Fax: (248) 625-3770

—
Thomas J. Ryan, Esquire
2055 Orchard Lake Road
Sylvan Lake, MI 48320
(248)334-9938 - office
(248)858-8508 - fax

Jonathan Smith

From: Jennifer Speagle
Sent: Thursday, November 10, 2022 1:27 PM
To: Stacy Kingsbury; Jonathan Smith
Subject: RE: 155 N Main info

No one has called the office that I know off HOWEVER Jack Yarosh came in and voted on Tuesday in an attempt to document that he lives there.

Thank you,

Jennifer A. Speagle

City Clerk
City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
speaglej@villageofclarkston.org
Office: (248) 625-1559
Fax: (248) 625-3770

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To: Jonathan Smith <smithj@villageofclarkston.org>; Stacy Kingsbury <skingsbury@cescode.com>
Subject: 155 N Main info

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Thank you,

Jennifer A. Speagle

City Clerk
City of the Village of Clarkston
375 Depot, Clarkston, MI 48346

speaglej@villageofclarkston.org

Office: (248) 625-1559

Fax: (248) 625-3770

Jonathan Smith

From: Eric Haven
Sent: Wednesday, November 9, 2022 7:17 PM
To: Jonathan Smith
Subject: Draft Agenda for 11/14 Council Meeting

OK, we will wait for Stacy's report.

Relative to 12 A, why isn't this violation and bizarre behavior referred to Tom, rather than council. I don't see council being able to deal with this problem. This is an administrative detail not one of policy for council to deal with. Don't you agree?

E

On Nov 9, 2022, at 5:31 PM, Jonathan Smith <smithj@villageofclarkston.org> wrote:

Eric,

Item 12.1 was added after a recipient of a parking citation in the Washington & Main parking lot asked to appeal his citation to City Council (and potentially Circuit Court) after I denied his request to void the ticket. He parked a truck and trailer across five parking spaces, but only paying for one.

Regarding the Mill Pond Inn, Stacy issued a violation warning (approved by Tom Ryan) to the business owners, asking for them to explain their operations. They were given 14 days to respond (nothing so far).

Jonathan Smith

City Manager, City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
smithj@villageofclarkston.org
Office: (248) 625-1559
Cell: (248) 909-3380

From: Eric Haven <havene@villageofclarkston.org>
Sent: Wednesday, November 9, 2022 5:10 PM
To: Jonathan Smith <smithj@villageofclarkston.org>
Subject: Re: Draft Agenda for 11/14 Council Meeting

Jonathan,

1. I do not recognize 12A.
2. When will you have a report on 159 N. Main and other properties being reviewed by Stacy Kingsbury for inclusion in the packet, not necessarily for meeting discussion.

Eric Haven
Mayor,
City of the Village of Clarkston*
Michigan

City:

havene@villageofclarkston.org,
248-625-1559

Personal:
haveneric@gmail.com
248-891-3688

Please check out the Facebook Page: "Mayor Eric Haven"

On Nov 9, 2022, at 2:42 PM, Jonathan Smith <smithj@villageofclarkston.org> wrote:

Eric,

Shown below is a draft agenda for the 11/14 Regular City Council meeting. A few of the agenda items are dependent on input from others, as shown in **red**.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Swearing-in of New Council Members
5. Approval of Agenda
6. Public Comments
7. FYI
 1. TBD
8. Election Update
9. City Manager Report
10. Consent Agenda
11. Old Business:
 1. Resolution: EV Charging Station Agreements (2), **pending Tom Ryan's review and approval of the agreements**
12. New Business:
 1. Discussion/Motion: Parking Ticket Appeal, **pending interest of the appellant**
 2. Discussion: Presentation of the 21/22 FY Budget Audit, **pending completion by Rana Emmons**
 3. Resolution: MDOT Non-Motorized Transportation Improvements, **pending completion by Rana Emmons**
 4. Motion: Pursue Certified Local Government (CLG) Status
 5. Resolution: Purchase Parking Kiosk Hardware for Depot Road Lot

13. Adjourn

Let me know of any needed additions, deletions, or changes.

Thank you,

Jonathan Smith

City Manager, City of the Village of Clarkston

375 Depot, Clarkston, MI 48346

smithj@villageofclarkston.org

Office: (248) 625-1559

Cell: (248) 909-3380

Jonathan Smith

From: Jonathan Smith
Sent: Wednesday, October 26, 2022 12:26 PM
To: Stacy Kingsbury
Cc: Jennifer Speagle; Susan Weaver; Jeff Shafer; sylvanlawtr@gmail.com
Subject: RE: 155 N. Main Violation Letter
Attachments: Village of Clarkston Violation Notice - Mill Pond Inn 10-26-22.doc

Hi Stacy,

Thank you for preparing this notice! I reviewed it with City Attorney Tom Ryan, making a few minor changes in the attached version (updated dates, cc'ed Tom and myself, and removed a couple of the ordinances). With this done, please proceed with sending this to the business address.

Thanks again!

Jonathan Smith

City Manager, City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
smithj@villageofclarkston.org
Office: (248) 625-1559
Cell: (248) 909-3380

From: Stacy Kingsbury <skingsbury@cescode.com>
Sent: Wednesday, October 26, 2022 11:19 AM
To: Jonathan Smith <smithj@villageofclarkston.org>; Jennifer Speagle <speaglej@villageofclarkston.org>; Susan Weaver <sweaver@cescode.com>; Jeff Shafer <jshafer@cescode.com>
Subject: 155 N. Main Violation Letter

Morning Jonathan,

I drafted a letter for the Millpond Inn to see if we can get some type of communication going. If they decided to ignore this letter I will write a second letter to show that we are attempting to reach out to them and I will try to call someone in their corporate office. Let me know how you feel about this letter if it needs something more or less in it. I do have adverts stating that their host Annie who co hosts with Carl, that Annie lives close by and if there is an emergency they can contact her by cell phone but no number. The person that says they live there is not either one of this people. It is advertised on a lot of sites as bed and breakfast but again states this amenities are in their room. If you are happy with this letter I will get this in the mail today.

Stacy

Sent from [Mail](#) for Windows

Jonathan Smith

From: Jennifer Speagle
Sent: Tuesday, October 11, 2022 4:30 PM
To: Eric Haven; sylvanlawtr@gmail.com
Cc: Jonathan Smith
Subject: 155 N Main St Mill Pond Bed and Breakfast

Eric and Tom,

Per our conversations today regarding the Mill Pond Inn Bed and Breakfast I have reached out to Stacy Kingsbury and have don't some of my own investigating.

Mill Pond Bed and Breakfast is owned and operated by Verde Investment group which also owns a wedding venue on M15 in Ortonville. Verde Investment Group's office is located on M15 just north of I75. I do have a registered Voter at 155 N Main St named Jack Yarosh. Jack is an agent with Verde Investments. Verde Investment Group bought the Mill Pond Inn two years ago and updated all the rooms to include kitchenettes some with full ovens. I do not see any permits for these upgrades but I do know that we did send Craig Strong out there about a year ago to check it out. I will talk to Susan Weaver tomorrow and see if she has any info from Craigs visit and update you. Mill Pond Inn has their own website [Millpond Inn Bed & Breakfast \(millpondinnbb.com\)](http://Millpond Inn Bed & Breakfast (millpondinnbb.com)) and they are listed on AirBnB. I have left a voicemail with the number that is listed on the website and asked someone to call me back and have not heard anything yet.

It sound to me like they had one of their staff (Jack Yarosh) change his driver's license and voter registration to 155 N Main to make it seem like someone lives there full time.

Stacy has had appointments and meetings most of today so I haven't had a chance to talk to her personally but we have been emailing back and forth and her and I will discuss this matter more in depth tomorrow.

Thank you,

Jennifer A. Speagle

City Clerk
City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
speaglej@villageofclarkston.org
Office: (248) 625-1559
Fax: (248) 625-3770

From: Eric Haven <havene@villageofclarkston.org>
Sent: Tuesday, October 11, 2022 12:32 AM
To: Jennifer Speagle <speaglej@villageofclarkston.org>
Subject: Mary Kuhn Info

Jenn,

Please send to me Mary Kuhn's contact information and any other written complaints she may have made.

Thx,

Eric

Begin forwarded message:

From: Eric Haven <havene@villageofclarkston.org>

Date: October 10, 2022 at 11:45:41 PM EDT

To: Jonathan Smith <smithj@villageofclarkston.org>

Cc: Joe Luginski <Luginskij@villageofclarkston.org>, Laura Rodgers <larodgers@oakland.edu>, Sue Wylie <wylies@villageofclarkston.org>, Bruce Fuller <brucefuller800@gmail.com>, Gary Casey <gscasey42@gmail.com>, Al Avery <averya@villageofclarkston.org>, Thomas Ryan <sylvanlawtr@gmail.com>

Subject: Mary Kuhn

Jonathan,

Mary Kuhn 149 N. Main appeared before council at public comment time to say she is very fearful about activities at the "Bed & Breakfast" 155 N Main. She said, "Definitely, no one lives there!"

Owner-non-occupancy of this B&B property is a violation of the provisions of this non-conforming use in residential zoning.

Please report to council if there is an ongoing violation over 6 months after which this property must return to single family residential zoning status. This is a very important fact to establish!

We must move to correct this situation immediately and inform Mary Kuhn of our actions. I believe our corrections officer will be available to work on this tomorrow, Tuesday. Please let me know of her findings.

I am requesting the involvement of our attorney, Mr. Tom Ryan, in this disposition. If this is an ongoing violation beyond six months, we need to take action to close down this business and return the property to residential status.

Also, Mary reported that she has reported this in the past and has not received any response of our action. Can you confirm or deny that?

In addition, Mary reported there is a outdoor flooding situation from a sump pump in the adjacent property, which should, apparently, be routed into the mill pond. Please let us know about the resolution of that situation, also.

Eric Haven
Mayor,
City of the Village of Clarkston*
Michigan

City:

havene@villageofclarkston.org,
248-625-1559

Personal:
haveneric@gmail.com
248-891-3688

Jonathan Smith

From: Jonathan Smith
Sent: Thursday, February 3, 2022 1:01 PM
To: Matt Mackinder
Cc: Eric Haven
Subject: RE: Clarkston News - city topics

Hello Matt,

As a matter of policy, the City does not respond to comments made on social media, which may or may not be factually based.

That said, following are my responses to your specific questions:

1. **42 W. Washington:** This is an active case in the Oakland County courts and, as such, we are unable to comment on any aspect of it.
2. **Short-Term Rentals:** After holding a Public Hearing on the topic in 2021, the City's Planning Commission submitted an ordinance modification recommendation to City Council to *only* allow short-term rentals in commercially zoned properties. After two readings, Council voted unanimously on January 10, 2022 to approve the ordinance. The effective date of the revised ordinance change will be Tuesday, February 8th, 2022, after a posting period in the Clarkston News. Existing Short-Term Rental properties in non-commercial districts will have 12 months (February 8, 2023) to cease operations. With regards to the Mill Pond Inn, because they are a Bed & Breakfast with a separate agreement with the City, they will not be impacted by the ordinance change.
3. **Open Meetings Act:** While the Independence Television video recording ended in the November 8th Council meeting prior to the Council voting to close the Open Session and enter a Closed Session for purposes of discussing pending litigation, the fact of the matter is that Council *did* vote in favor of closing the Open Session and then opened the Closed Session.
4. **Publication of Meeting Minutes:** As of this week I believe we are now caught up, but we will re-assess any postings from last summer that may have been missed.

Thank you,

Jonathan Smith

City Manager, City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
smithj@villageofclarkston.org
Office: (248) 625-1559
Cell: (248) 909-3380

From: Matt Mackinder <clarkstonnews@gmail.com>
Sent: Wednesday, February 2, 2022 4:42 PM
To: Eric Haven <havene@villageofclarkston.org>; Jonathan Smith <smithj@villageofclarkston.org>
Subject: Clarkston News - city topics

(Adding one more topic here)

Gentlemen,

Hope you are both doing well on this snowy day!

Had a couple topics to run by the both of you for your responses.

The below – the 42 W Washington issue. In a nutshell, is the below accurate? What is the city's response on what has happened and what is going to happen next?

Short-term rentals – is this a done deal from a meeting or two ago? What is the decision here? Where does that leave the Millpond Inn?

The open meetings act violations - is this accurate? Your response?

Also, Don Rush and Jim Sherman have asked about past public notices regarding meeting minutes, specifically from last summer, saying that not publishing these is against the law and city charter.

Please let me know here and looking forward to hearing from you.

Thanks, guys,

Matt

Matt Mackinder

Editor, *The Clarkston News*

www.clarkstonnews.com

Office: (248) 625-3370

ClarkstonNews@gmail.com

From: cppardee@aol.com

Sent: Wednesday, February 2, 2022 9:51 AM

To: averya@villageofclarkston.org; caseyg@villageofclarkston.org; fullerb@villageofclarkston.org; havene@villageofclarkston.org; luginskij@villageofclarkston.org; rodgersl@villageofclarkston.org; wylies@villageofclarkston.org; smithj@villageofclarkston.org; speaglej@villageofclarkston.org; coteg@villageofclarkston.org; sylvanlawtr@gmail.com

Cc: clarkstonnews@gmail.com; jim.meloche.tmc@gmail.com

Subject: Please Take The Time to Read: Here We Go Again

All-Please read in entirety including the filings by both the Lehman attorney and City Attorney Tom Ryan. Sue Bisio has presented the information in a manner all should understand.

Apparently, not maintaining the City's infrastructure (prior to 2008) caused the destruction of what the HDC has called historically significant and contributing to the City's street scape.

Sue Wylie tried to get some update/explanation during Jim Meloche's recent council presentation, but was shut down by Atty Ryan.

Attorney Ryan appears to say to Lehman's "you can't bring this up now."

Sue Wylie and Cara have questioned the HDC policy of not permitting public input after their deliberations have begun. This should change.

How much money remains in the City's sewer fund? What did we spend it on?

I wonder what is going on under East Washington and under the alley. Is the unmanaged storm water on Clarkston Road causing similar damage? Are there other actually, really, historically contributing structures at risk due to inaction or lack of understanding of City officials?

I encourage City Officials and the HDC to reconsider their strategy regarding 42 West Washington.

Will the City's insurer cover THIS cost of the City's liability.

The reputation of Clarkston is again on the line.

It is clear that Transparency, Following the Rules and Maintaining the Infrastructure has been a challenge for City Officials for quite a while.

Regards,
Chet Pardee

JANUARY 30, 2022 BY CLARKSTON SECRETS

Things The City Attorney Apparently Doesn't Want You To Know (Revealed)

I'm not sure why the default position of Clarkston government is always secrecy. If it weren't for the city's belief that the public is only entitled to minimal information, I wouldn't feel the need to put the hours and expense necessary into the Clarkston Sunshine website to more fully inform my fellow citizens about what really happens in city council meetings (versus what the skeleton minutes say). As we saw recently, the city council violated the Open Meetings Act by asking the public to leave without taking a vote to close the session – with two of its lawyers present! Despite that, the minutes the city prepared and posted said a vote had properly been taken to close the session – when it absolutely had not. If it weren't for Independence Television, Clarkston Sunshine, and Clarkston Secrets, the city would have been able to cover up that violation of the law. I know that people are interested in reviewing my summarized text of city council meetings based on the number of views that each post receives. If that were not the case, I wouldn't put the effort into that endeavor.

I also wouldn't have started the Clarkston Secrets website if it weren't for, as the name implies, all of the secrets kept by Clarkston government. I use the Clarkston Secrets website to discuss specific city topics, such as the time the city outrageously agreed to accept \$10,000 from a third party to pay a city obligation on the condition that the identity of the source of payment be kept "secret" from the taxpayers. I'm not sure why anyone at the city thought that doing something that suggested that even a whiff of the possibility of influence peddling was a good idea – especially since the fact was that the city's insurer made the payment, something that was not objectionable. But if it weren't for the Clarkston Secrets website, the city would never have felt the need to reveal the source of the \$10,000 payment. Had they not deliberately chosen to hide information from the public, they wouldn't have received all of the bad publicity that resulted from that decision.

Sadly, actions like these demonstrate that Clarkston city government believes that it operates independently of its taxpayers and constituents. This is completely unacceptable. While I know that government officials don't like transparency (even though they always claim that they do), bringing things into the open that the government would prefer not to disclose is essential to keep government officials in their proper place; that is, directly responsible to the people who put them there and who are ultimately responsible for paying for everything that the officials decide on our behalf. And, while our city officials don't perceive my efforts as "serving" the community, something that the mayor constantly encourages, they have done more to force the city to be more transparent than anything else I've seen during the almost twenty years I've lived in the City of the Village of Clarkston. As I learned the hard way, our government won't disclose information to the public unless it is forced to do so most of the time.

I have years of experience working as a municipal attorney specializing in transparency issues, and I honestly don't understand the cloak of secrecy the city places around settlements and ongoing litigation. Once a settlement is approved in closed session and the city council authorizes the city manager to sign it on behalf of the taxpayers, there is no reason

that the settlement can't be attached to the minutes so that the public can understand the terms and cost of a settlement made in their name. For example, wouldn't you want to know that the city is paying out hundreds of thousands of dollars in sidewalk injury claims if that was happening? Of course you would! And the public's awareness of something like that would bring appropriate public pressure to bear on the city council, forcing them to adjust their spending priorities away from buying unnecessary, cutesy little street signs to fixing the sidewalks and roads so that future injuries could be avoided. Perhaps that's one of the reasons the city manager and city council choose to keep the public in the dark, making settlement agreements available only through a Freedom of Information Act (FOIA) request with no way for the FOIA requester to further disseminate the information to his/her neighbors without access to a website that is regularly visited by people who also want to know what's going on in their own city.

That's if the city even bothers to respond to a FOIA request when they are supposed to, even though failing to timely respond to a FOIA request is a violation of the statute and can result in an immediate lawsuit once the due date passes. I have two FOIA requests that have been lingering for weeks past the response deadline, one of which pertains to an injury sustained due to our badly maintained sidewalks (the Kay Valley case). As is typical, the city refused to disclose either the amount or the terms of the Kay Valley settlement to the public. In my FOIA lawsuit, the city and I agreed to settle the case for \$160,000 in attorneys' fees and costs. The city separately negotiated help to pay this amount from the city attorney's malpractice carrier and the city's insurer. It didn't matter one bit how they came up with the money – Clarkston was on the hook for \$160,000. Yet, after coming out of closed session, the city deceptively hid the terms and the total amount of the settlement from the public, disclosing only the portion that the city was paying directly toward the settlement, which was \$35,000.

It's clear that no settlement agreement comes before the city council for approval unless the person suing the city has tentatively agreed to it. In my FOIA case, the city council would not consider discussing the settlement agreement unless I signed it before they closed the session to discuss it. The authorization that the council gives to the city manager to sign a settlement agreement once they return to open session "seals the deal," so there's no reason that the public can't learn about it at that point.

I fully support the city council's right to have privileged discussions with their attorneys in a closed session, provided that these discussions meet the requirements of the Open Meetings Act (which certainly seems questionable at times). I also don't expect the city attorney to discuss litigation strategies in a public session. However, I do expect the city attorney to factually answer a freaking question about materials that have been publicly filed in court. After all, these materials are available to anyone who wants them on request. More importantly, these are Clarkston lawsuits, and when someone is involved in litigation with Clarkston, it's our lawsuit too. Surely the city attorney is smart enough to stick to the facts without disclosing any privileged strategy in an open meeting, or at least I think he should be. But, hiding things is the way he prefers to operate, given that it took me five years and a trip to the Michigan Supreme Court to get Clarkston records that the city attorney thought he was entitled to hide in a secret, off-site file – from both me and his client, the city council. It is no surprise that his malpractice carrier had to help the city pay for the attorneys' fees in my lawsuit when it ended.

So, without further ado, here are the materials that the city attorney decided you weren't entitled to know about regarding the pending motion in the case involving 42 West Washington. This is what the city attorney didn't want to discuss at the January 24, 2022 city council meeting when the city's litigation about this property came up during a presentation by the Historic District Commission.

The case is Lehman Investment Company LLC versus City of the Village of Clarkston and its Historic District Commission, case number 21-186123-AA, pending in the Oakland County Circuit Court. The litigation involves the owners' desire to demolish the house at 42 West Washington. The house sits within the historic district, but it wasn't considered important enough to add to the historic home inventory when that inventory was done years ago. It is a 1950's concrete block construction, unlike most of the houses in the historic district that were built in the 1800's. In other words, no one thought that it was very important at the time.

Lehman Investment Company is the plaintiff (the one bringing the lawsuit) and in this motion, they are also the appellant (because Lehman is appealing from an unfavorable decision of the State Historic Preservation Review Board). Clarkston and the Historic District Commission (HDC) are the defendants (the ones being sued) and are referred as the appellee. Motions are filed when a party wants to ask the court to do something, and they are almost always accompanied by a document known as a brief. In a brief, parties make arguments to try to persuade the court to rule in their favor, and briefs include references to court rules, statutes, and anything else that party thinks might be helpful. The other side has the opportunity to respond to the motion and to file its own brief, and they are usually trying to persuade the court not to grant the other side's request. Motions are heard in Oakland County Circuit Court on Wednesdays. The hearing on this motion is scheduled for next week on February 2nd.

The attorney for Lehman filed the motion and brief on December 20, 2021. Some lawyers prefer to file their motion or response and brief in one document; others, like the Clarkston city attorney, prefer to file the motion or response as one document and the brief as another. Motions have numbered paragraphs, and an attorney responding to the motion will respond to each of the numbered paragraphs. Both attorneys will use the same numbering system, so if a motion makes a claim in paragraph #1, the attorney responding to the motion will reply in his/her own paragraph #1. This means that you have to read the motion and the motion response side by side to understand what the parties are saying. Motions contain mostly factual claims, and since they are signed by an attorney, the attorney is representing that s/he believes that the facts that are claimed are true.

I'll briefly summarize the documents that were filed below, but it's important to go to the documents themselves, read everything for yourself, and draw your own conclusions.

In its motion, Lehman Investment Company says that Clarkston and the HDC hid information from Lehman during the administrative proceedings involving this property. Specifically, Lehman shows that the city paid \$80,000 to the previous property owners for damage caused by a collapsed storm drain that ran next to the house, something that Lehman says it only became aware of after filing several FOIA requests with Clarkston to get the information. Lehman's motion goes into great detail about the damage, what happened in the case, how the city's failure to provide complete information harmed Lehman, and it includes some additional documents that Lehman says support its claims. Lehman is asking the court to allow the additional materials it attached to be included in the court record so that the judge can consider them when making a decision on Lehman's appeal. The brief that follows the motion provides the legal arguments why Lehman says that should happen. Lehman's attachments consist of a letter regarding the previous settlement with Clarkston; a 2009 inspection, soil exploration, and crack reports; and a 2021 inspection report that concludes that the house should be condemned because it is "a danger to itself, to anyone who enters it, and to the general public." All this material shows leakage from the city's defective storm drain washed away soils under the house, causing dangerous settling and breaks in the structure – something that can't be repaired without driving piles under the house and other extensive work that would exceed the value of the house. Lehman also included a sworn statement from Robert Roth (on behalf of Lehman). You can read all of these materials by clicking on this link:

[20211220 MOTION FLD FOR RELIEF-BRF-PLF 103055367](#)

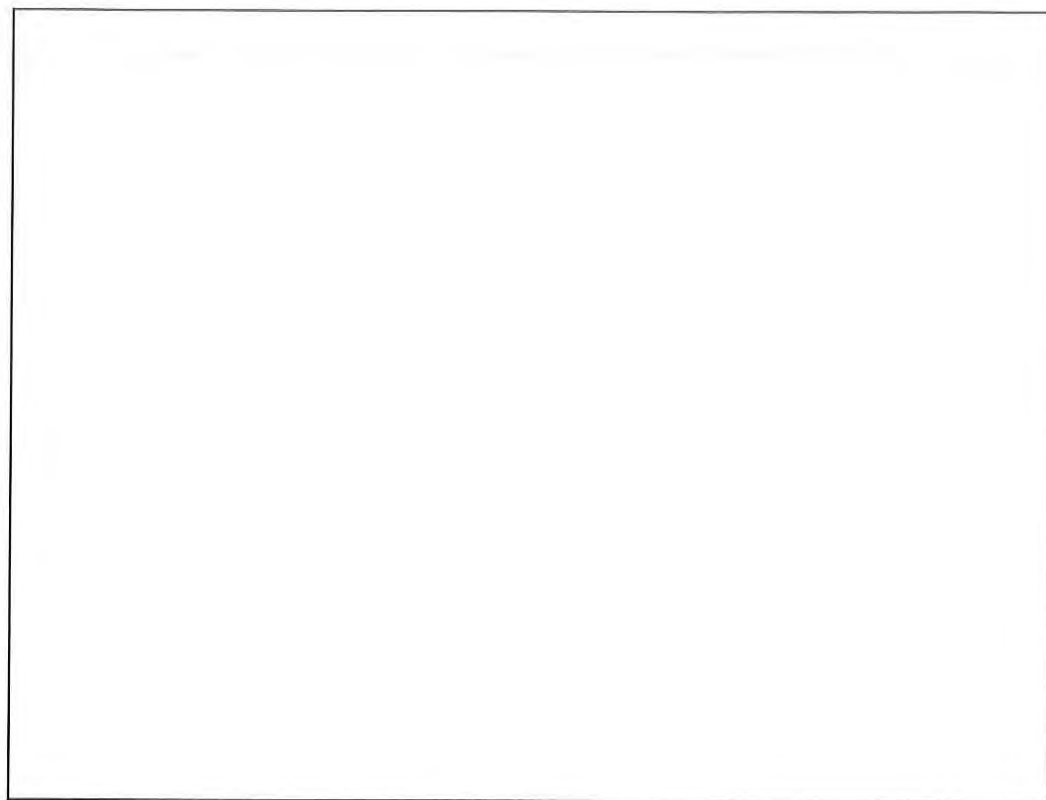
As we know, there are always two sides to every story. The city attorney filed an answer to the motion on January 20, 2022, using like-numbered paragraphs. He admitted some of the claims, denied some of the claims, and he didn't answer some of the claims (saying that documents speak for themselves, that Lehman is making an argument rather than a statement of fact, stating that the city lacks enough information to form a belief about what Lehman said in its motion, etc.). This formalistic response gives you little information about what the real dispute is. And it simply lacks credibility when Lehman says that it let the city inspect the house and see the internal damage and the city answers that it is "without sufficient information to form a belief as to the inspection by the City." Really? The city doesn't know if it inspected the property? This is just another example of the city's penchant for concealing things. Either it inspected the property, or it didn't. A simple yes or no response would be appropriate. But the city apparently just doesn't know what it did. You can take a look at the city's response to each of the numbered paragraphs by clicking on this link:

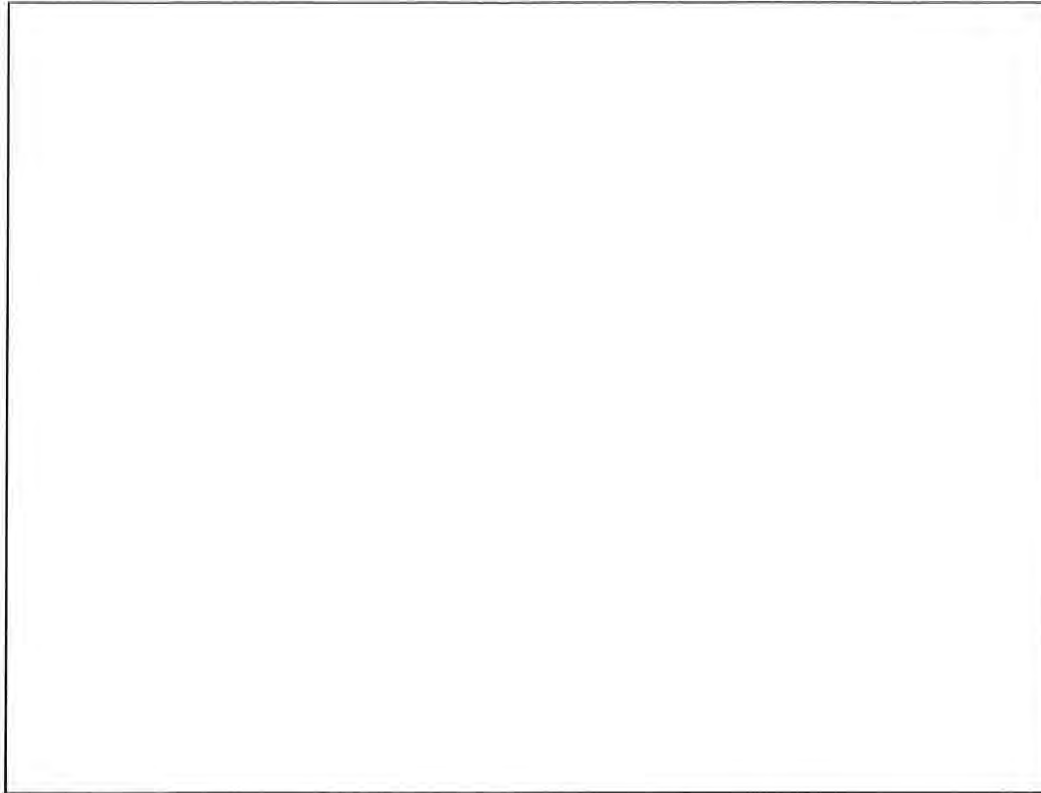
[20220120 ANSWER FLD TO MTN FOR MISCELLANEOUS RELIEF-POS-DFT 103096998](#)

The city attorney also filed a three-page brief, arguing that the information that Lehman wants the court to consider should not be added to the record under the rules governing appeals and because the city had no legal obligation to provide this information to Lehman. After all, the city claims, Lehman could have found the previous lawsuit if they'd just looked for it and some of the damage (cracks in the basement) was obvious (though Lehman claims that the cracking just looked like normal, aging concrete). So, even though the city knew about these things, they didn't have to say anything – too bad, so sad for Lehman. Rather than authorizing Lehman to tear down what Lehman claims a dangerous structure, the city apparently wants it to remain standing, force Lehman to repair it, and try to get this 1950's block construction house designated as a "historic" structure while the appeal is pending. You can read the city's brief by clicking on this link:

[20220120 BRIEF FLD IN OPPT TO MTN FOR RELIEF-POS-DFT 103096996](#)

FYI, here are some photos of this "historic" structure that the fight is about:





No wonder the city attorney didn't want to talk about this at the city council meeting. After all, if they can do this to Lehman, they can do something just as harmful to you – and you likely wouldn't have the financial resources to pay the legal fees to fight them.

Believe me when I tell you that I know firsthand that Clarkston will hurt and try to destroy you if they can – even when Clarkston violates the law. In my FOIA case, and in my husband's Open Meetings Act case, the city attorney (who was apparently consulted on every detail based on the legal services bills we saw) tried to deliberately destroy my husband's ability to earn a living by threatening his license to practice law in collaboration with the city attorney's "social friend" (the insurance-funded attorney). The two of them also tried to financially destroy me to the point where I wouldn't have ever been able to retire. All of this was despite the fact that the city was wrong in both cases and was ultimately forced to admit that yes, it had violated the Open Meetings Act, and yes, the documents that I fought to obtain for five years were public records under the FOIA.

The city attorney reports to the city council and serves at their pleasure – and the city council is ultimately responsible for his reprehensible conduct. And if they are unaware of the sordid details, it means only that they deliberately avoided learning the details – but it doesn't make them any less responsible for what is done in Clarkston's name. And, in case you're wondering, the insurance company is not paying the legal fees for this lawsuit – you are.

Buckle up, buttercup. The only one who will win in the end is the city attorney. By my calculation, our bill for this case is getting close to \$20,000 so far, and this case might go on for years.

Like this:

42 W. WASHINGTON, HISTORIC DISTRICT, HISTORIC DISTRICT COMMISSION (HDC), SECRETS, TRANSPARENCY

2 comments

Top rated
comments first

Cory Johnston

January 30, 2022

An explanation for those who may not know is that there are contributing and non-contributing structures in a historic district. Contributing are those built and existing in the period of significance. Non-contributing are those built after or having no historical significance. The period of significance for the Village of Clarkston historic district is up until about the end of the 1920's. 42 W. Washington, and the Clarkston Mills Mall building next to it, were both built after this time, the house well after. Both are documented as non-contributing although in the historic district. The separate garage was constructed more recently and is therefore not documented in the city's historic district applications since it didn't exist at that time, although it is mentioned in some of the recent filings.

Jonathan Smith

From: Eric Haven <haveneric@gmail.com>
Sent: Friday, January 21, 2022 8:17 PM
To: Jonathan Smith
Subject: New Mill Pond Inn Owners

Jonathan,

I think the Mill Pond Inn reverts back to residential after 6 months if not an active business. Do you know its status?



Jonathan Smith

From: Susan Weaver <sweaver@cescode.com>
Sent: Wednesday, November 10, 2021 12:02 PM
To: Jonathan Smith
Cc: Thomas Ryan
Subject: 155 N. Main - Mill Pond Inn
Attachments: 155 N. Main.pdf

Jonathan,

The attached letter will go out today via first class mail and certified mail.

*Susan Weaver, Building Department Administrator
Code Enforcement Services,
Operating Springfield Township, Rose Township
& City of the Village of Clarkston
Building Departments
12000 Davisburg Rd.
Davisburg, MI 48350
sweaver@cescode.com
T 248-846-6517
T 248-625-8480
Office Hrs: Mon-Thur 9 am to 4 pm
Closed FRIDAY*

CODE ENFORCEMENT SERVICES

A division of Carlisle/Wortman Associates, Inc.

12000 Davisburg Road
Davisburg, Michigan 48350

www.cescode.com

Phone: 248-625-8480

NOTICE OF VIOLATION

November 10, 2021


Verde Real Estate LLC
8031 Ortonville Rd.
Clarkston, MI 48348

RE: 155 N. Main St., City of the Village of Clarkston

To Whom It May Concern:

It has come to our attention, through a concerned 3rd party, that interior renovations were performed sometime in 2020 without the required permits. After review of your website and the photographs listed in your gallery it appears that new kitchenettes, fireplaces and other work that requires permits were installed.

Please make applications to the building department no later than November 29, 2021. Failure to do so shall result in legal action commencing.


Craig E. Strong, Director
Construction Code Division
Code Enforcement Services

Cc: Jonathan Smith, City Manager
Tom Ryan, City Attorney

Jonathan Smith

From: Ann Novotney <annnovotney@verdere.net>
Sent: Thursday, October 14, 2021 5:57 PM
To: Jonathan Smith
Subject: Change in Personnel - VRE / Narrin Farms / Millpond Inn Re: City of the Village of Clarkston Weekly Communication Letter

Thank you for reaching out to Meghan Sullivan at Verde Real Estate, LLC, Narrin Farms, LLC, and Millpond Bed and Breakfast, LLC. Meghan transitioned away from the Verde family of companies and on to a new career path on Friday, June 25th. Although she is no longer a member of our team, we wish her success in her future endeavors and appreciate her contributions to our team, guests, and vendors.

If you are a vendor of Verde Real Estate, Narrin Farms, or Millpond Inn, this inbox is being monitored regularly and your email will be forwarded to the team member who is best able to assist you. The following individuals may be reaching out to you:

Carl Szasz, President
248.795.2524
carlszasz@verdecn.com

Holly Kamm
248.707.2762
hollykamm@verdecn.com

Katie Wilson
248.707.1087
katiwilson@verdecn.com

-The teams at Verde Real Estate, Narrin Farms, and Millpond Inn

Jonathan Smith

From: Cory Johnston <cory@johnstondesign.org>
Sent: Monday, March 8, 2021 9:59 AM
To: Eric Haven; Sue Wylie; Joe Luginski; Al Avery; Ed Bonser; Jason Kneisc; Gary Casey; Bonser Ed and Sharon; gscasey42@gmail.com
Cc: Jonathan Smith; Jennifer Speagle
Subject: Comments on the March 8 2021 city council meeting agenda items

Comments for the March 8, 2021 Council meeting for the City of the Village of Clarkston

City Manager's Report

The report states there is a scheduled hearing "...to review a Motion to Enforce the Settlement Agreement that was filed on February 22, 2021."

Has the council read the referenced Circuit Court filing and agreed with what has been filed on behalf of the city? The public has no knowledge of what the council thinks the settlement is other than for a "payment of \$35,000 to effectuate the settlement" as stated in the 12-20-2021 approved meeting minutes with no information on what that settlement is or how the \$35,000 of public funds will be used.

Since this court filing is a public document, and assuming it is what the council agreed to in closed session, why was it not revealed in open session as part of the decision of the council?

This ongoing vagueness and secrecy is not how the city should be dealing with a matter of freedom of information and a ruling against the city's actions by the Michigan Supreme Court.

Short Term Rentals

There is no mention of the Millpond Bed & Breakfast at 155 North Main in the provided information. This is by definition a short term rental that has existed for close to 30 years, was approved by court order, and is in a residential zoning district.

I see no detailed review of the city's Zoning Ordinance regarding this. Section 5 of the Zoning Ordinance for R-1 and R-2 districts does not allow this use, even though it exists. Section 11.02 C and 18.10 for Special Land Uses does allow it in the Village Commercial (VC) zoning district where it does not exist. Carlisle-Wortman option 2 is what is in the Zoning Ordinance but lacking any enforcement of the ordinance provisions.

There was an informal discussion of this use at 21 N. Main (see Planning Commission minutes for December 3, 2018) which is in the VC zoning district, but the applicant withdrew their request when the city appeared to be against any such activity and was arbitrarily making up rules while at the same time ignoring what already existed.

I agree with the assessment by Carlisle-Wortman that banning, or highly restrictive requirements, are subject to possible prolonged and expensive litigation given the city's past actions, existing conditions, and considering there are no documented problems with this use.

In Person Meetings

There is no information provided for this agenda item. Will meetings continue to be broadcast live when restrictions are lifted? The city meeting room will make it difficult to attend in person and maintain social distancing given that there were logistical problems before the pandemic happened. It is unknown if the ventilation meets any standard for mitigating the spread of a virus. Those who, for whatever reason, have not been vaccinated may be reluctant to attend a meeting in a small room with limited ability to stay distant from others. As such, public participation may be restricted unless some form of the current alternative measures are maintained.

In addition, only recordings of city council meeting are available on Independence Television, contrary to the resolution passed by the council that they would be provided for all meetings. The availability of meeting minutes and recordings remains highly inconsistent.

In keeping with the intent of Michigan's Freedom of Information and Open Meetings acts, the city should determine how they are going to inform the public and allow public participation.

Cory Johnston
114 Wompole Drive
Clarkston, MI 48346
248 877-7442