

## A Letter in Response... to a Letter

October 11, 2018

This letter, written by William Basinger, is in direct response to a letter written by Susan Bisio. Susan Bisio, along with her husband, have a pending lawsuit against the City of the Village of Clarkston. That matter is currently being considered by the State's Supreme Court. Prior to the 'highest court in our state,' the courts have sided with the City.

Even with this major lawsuit still pending, Susan Bisio took it upon herself to write a letter to voters before the upcoming election. It was a dark and negative hit piece, and it was the type of letter that caught the attention of Mr. Basinger.

Here is his response, unedited and in its' entirety:

A recent letter regarding Council candidates from Susan Bisio to City residents contains numerous erroneous accusations and distortions in an unfounded attempt to impugn their integrity. It is clearly a desperate attempt to defeat those who properly sought to defend the City against her wholly baseless lawsuit, which the City has now decisively won in two courts.

This lawsuit has needlessly caused much dissension and has cost the City's insurers tens of thousands of dollars to defend. While she has thrown "everything but the kitchen sink" in her letter, pointing out the fallacies in her major assertions sufficiently demonstrates her efforts at mistruth and distortion.

Ms. Bisio's intimates that the closed meeting regarding 148 S. Main was an intentional attempt to skirt the the Open Meetings Act (OMA) even though the City settled the lawsuit. In fact, the Prosecutor's office specifically concluded: "[i]t does not appear that the violation of the OMA was intentional, but was the result of some confusion about the law. For this reason, no further action will be taken by this office on this matter."

Ms. Bisio notes Candidate Haven's original filing petition was disqualified (merely due to premature signature dates). But, she fails to note that a legal challenge to the disqualification, based on established case law, was filed with the Secretary of State. However, Mr. Haven decided to not cause the City unnecessary legal expense and he recollected petition signatures making further "appeal" unnecessary and it was withdrawn as moot.

You should also be aware that the circuit court opinion she cites, referencing Ms. Catallo in respect to a restaurant rezoning request, was recently completely reversed by the Michigan Court of Appeals on all counts with costs awarded to the City.

The "secret" emails were not sent in some "secret" fashion, they were just "emails" between some members of Council and were properly made available when she requested them pursuant to the Freedom of Information Act (FOIA). Finally, Ms. Bisio attempts to infer that the present and former councilpersons support of the City's justified defense against her FOIA lawsuit (filed by Mr. Bisio as her attorney) is not in the best interests of its citizens as it is "keeping secret files regarding city business".

Four judges have now considered and rejected her claim (the Circuit Court and recently the Court of Appeals), the latter concluding her lawsuit is "unsupported by the plain language of the relevant statutes, by Michigan caselaw, and by the foreign caselaw relied upon by plaintiff."

Acquiescing in her flawed statutory interpretation would have expanded the FOIA well beyond its current scope and ultimately resulted in additional costs for municipal taxpayers. This is why the Michigan Municipal League Legal Defense Fund assisted in the City's defense due to the case's "extreme importance" for all Michigan municipalities.

Finally, adding insult to injury, Ms. Bisio rails against the Council candidates for voting to discuss the City's defense against her lawsuit in a closed meeting with the City's attorney. However, the Open Meetings Act specifically allows for this and logically so. Would you want your attorney discussing your defense strategies in public for the other side to know?

It is Ms. Bisio, not the City, who brought this court case and who is solely responsible for the continuing needless expenditure of funds in now defending her very doubtful to succeed application to the Michigan Supreme Court.