



COUNTY OF MECOSTA
BOARD OF COMMISSIONERS
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District #5

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District #6

William Routley
District #7

Paul E. Bullock
Controller/Administrator

To: Mecosta County Board of Commissioners

From: Paul Bullock, Administrator *PB*

Date: March 12, 2021

Re: Declaration of a State of Emergency

At the direction of our Chairperson, please find attached a resolution to declare a county wide state of emergency at the March 18th meeting. I will be asking you to add this to the new business section of the meeting at item 6-6. The purpose of this is to allow public bodies within the County the option of continuing to hold virtual or hybrid meetings and remain in compliance with the Open Meetings Act.

Currently the State covers us thru March 31st, but that will be the end of that. Under the amended OMA a public body may continue to hold virtual or hybrid meetings If a local state of emergency is in place.

This is being submitted to you on advice of the Michigan Association of Counties and our Corporate Counsel. The concern is that without this option we simply don't have a large enough area to hold a socially distanced meeting if more than a handful of citizens want to attend. Our Attorney says if we can't accommodate the public, and we don't have this option, we should recess the meeting until we can. Not an option given our facilities.

If adopted, this option will also be available to all "public bodies" within the County. I am advising the City, MOISD, Big Rapids Public Schools, and the Townships Association of this.

If you have questions, please let me know. I am attaching the proposed resolution for your information. Also attached is the memo from our Corporate Counsel.

Attachments:

- Client Update/David Stoker
- Proposed Resolution #2021-07

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IMPORTANT CLIENT UPDATE

In response to a recent decrease in reported COVID-19 cases across the State of Michigan, the following actions by the State's Executive Branch have been taken to address the COVID-19 pandemic:

Michigan Department of Health and Human Services:

- 1) General Overview: The Michigan Department of Health and Human Services (MDHHS) issued an Epidemic Order under MCL 333.2253 effective March 5, 2021 adopting regulations related to COVID-19, including the regulation of gatherings, building capacities, face coverings, food service establishments, organized sports, the protection of employees in the workplace, and facility-specific contact tracing.¹ The MDHHS Epidemic Order provides that it is effective through April 19, 2021.
- 2) Indoor Gatherings at Non-Residential Venues: This MDHHS Epidemic Order prohibits indoor gatherings² at non-residential venues, except where no more than 25 persons are gathered. This means that under the MDHHS Epidemic Order up to 25 persons may gather for a public meeting; however, pursuant to Public Act 254 of 2020, a public meeting subject to the Open Meetings Act (OMA) may be conducted virtually for any reason through March 31, 2021.³ If the public wishes to attend a public meeting in person, all applicable masking⁴ and distancing requirements shall apply. As a condition of hosting a meeting (gathering), the public entity must design the meeting facilities and accommodations to encourage and maintain physical distancing and must ensure that

¹ The MDHHS initially adopted an Emergency Order under MCL 333.2253 on October 5, 2020, which was rescinded and replaced by MDHHS on October 9, 2020; October 29, 2020; November 18, 2020; February 8, 2021; and again March 5, 2021 (signed March 2, 2021).

² "Gathering" is defined as "any occurrence, either indoor or outdoor, where 2 or more persons from more than one household are present in shared space."

³ This is unless there is a state or local emergency or disaster order permitting remote meetings after March 31, 2021 under MCL 15.263a(1)(b).

⁴ Wearing a face mask during a gathering, such as at a public meeting, does not apply to individuals who are giving a speech for a broadcast or to an audience so long as the audience is at least 12 feet away from the speaker.

persons not part of the same household group maintain 6 feet of distance from one another to the extent possible.

A fair reading of the MDHHS Epidemic Order would appear to allow more than 25 persons to be present in 1 facility where no more than 25 persons are present in each room in the facility so long as each room allows for a minimum of 6 feet of social distancing between persons and masks are required. Since it is prohibited under the OMA to exclude a person from a meeting otherwise open to the public except for breach of the peace actually committed at the meeting, it is critical that government offices are prepared to provide the necessary overflow accommodations for attendees on-site.

Overflow accommodations must include 2-way communication capabilities to ensure 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 or other participants during a public comment period. In the event in-person attendees must be turned away due to capacity limitations without the ability to access the public meeting, the public body should recess the meeting until alternative accommodations are made available in compliance with the OMA.

To avoid potential violations of the OMA, public meetings intended to be held in-person should be noticed as a hybrid, allowing for both in-person and virtual attendance.

- 3) Exceptions to Indoor Gatherings at Non-Residential Venues: Per the MDHHS Epidemic Order, as a condition of hosting a gathering, venues must encourage and maintain physical distancing to ensure that persons not part of the same household maintain 6 feet of distance from one another to the extent possible. Such limitations on indoor gatherings do not apply to, among other things:
 - a. Workplace gatherings that occur consistent with the Emergency Rules issued by the Michigan Occupational Safety and Health Administration (MIOSHA) on October 14, 2020; and
 - b. Training of law enforcement, correctional, medical, or first responder personnel insofar as said activities cannot be conducted remotely; and
 - c. Gathering for public health or other emergency purposes.
- 4) Face Masks During Gatherings: The MDHHS Epidemic Order states that all persons who choose to participate in a gathering will be required to wear a face mask. Moreover, for day-to-day operations, government offices must:
 - a. Prohibit gatherings of any kind *unless* individuals, including employees, are required to wear a face mask; and
 - b. Deny entry or services to all persons refusing to wear face masks while gathered.⁵

⁵ Despite this guidance from MDHHS, MIOSHA's Emergency Rules takes precedence in the workplace.

Should you have questions, please do not hesitate to contact our Office.

Cohl, Stoker & Toskey, P.C.
601 N. Capitol Ave.
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March 9, 2021

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MECOSTA COUNTY RESOLUTION

#2021-07

DECLARATION OF A STATE OF EMERGENCY FOR THE COUNTY OF MECOSTA

WHEREAS, on March 10, 2020, the County of Mecosta, Michigan was informed that in response to the novel coronavirus, COVID-19, a state of emergency was declared by the Governor of the State of Michigan; and

WHEREAS, on March 13, 2020, the County of Mecosta, Michigan was informed that in response to the novel coronavirus, COVID-19, a national state of emergency was declared by the President of the United States; and

WHEREAS, the Mecosta County Emergency Operations Center was partially activated on March 13, 2020, in support of Public Health in acquiring resources to deal with the pandemic, and has since been demobilized; however, the Mecosta County Emergency Operations Center remains ready to assist and may be partially or fully activated consistent with the Emergency Operations Plan which has been functioning since March 13, 2020 as necessary; and

WHEREAS, any widespread outbreak within the County of Mecosta could hinder and/or cease most daily operations within the entire County and overwhelm Emergency Medical Services, hospitals and urgent care facilities; and

WHEREAS, as a result of the requirements placed on the local health department personnel (including, but not limited to, education, enforcement, contact tracing, planning, testing and vaccination deployment), additional staff, volunteers, services, supplies/equipment and afforded liability protection may be needed to continue to protect public health; and

WHEREAS, Michigan Department of Health and Human Services (MDHHS) and Michigan Occupational Safety and Health Administration (MIOSHA) rules and orders exist requiring, or advising of, preventive measures to be in place to protect public health, including limitations on gatherings and use of remote technologies; and

WHEREAS, public bodies within Mecosta County have complied with orders or have voluntarily elected to meet virtually and may elect to continue such practice under this Declaration to protect public health consistent with the Open Meetings Act as amended; and

WHEREAS, the legislative approval for virtual and hybrid meetings in compliance with the State Open Meetings Act, in the absence of a declared State of Emergency, is set to expire March 31, 2021, and

WHEREAS, the option to continue to hold virtual or hybrid meetings remains necessary in Mecosta County for the Board of Commissioners and other public bodies, to comply with the open meetings act while ensuring preventive measures to protect public health, including adequate social distancing, it is necessary to declare a local State of Emergency.

NOW, THEREFORE BE IT RESOLVED, that the Mecosta County Board of Commissioners, in accordance with Section 10 of 1976 PA 390, as amended. and the Open Meetings Act, as amended, hereby declares that a "local state of emergency" exists within our jurisdiction as of March 18, 2021 and that local resources and funding are being utilized to the fullest possible extent, and the Emergency Operations Plan will be partially or fully implemented as this pandemic necessitates.

BE IT FURTHER RESOLVED that this Declaration will expire on May 31, 2021, unless otherwise extended by the Board of Commissioners.

AYES: Commissioners: _____

NAYS: Commissioners: _____

RESOLUTION DECLARED ADOPTED.

Marcee M. Purcell
Mecosta County Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF MECOSTA)

I, the undersigned, the duly qualified and acting Clerk of the County of Mecosta, Michigan (the County) do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the County Board of Commissioners at a regular meeting on the 18th day of March, 2021, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereto affixed my official signature on this ____ day
of _____, 2021, A.D.

Marcee M. Purcell
Mecosta County Clerk