**VILLAGE OF MICHIANA**

**SPECIAL MEETING**

**Thursday, March 4, 2021**

The meeting was held by Virtual “Zoom”. Council President Mike Mintz called the electronic (virtual) Zoom Special Meeting to order at 10:00 a.m. EST.

Mike Mintz read the following information regarding the remote meeting:

This meeting is being held remotely due to the COVID-19 pandemic enrolled under Senate Bill 1246, Public Act 254 of 2020 amending the Open Meetings Act. All Council members should identify themselves prior to speaking so that everyone is aware of who is speaking. The President of the Council will read all of the agenda items as we go along for those that can‘t see the agenda.

There will be two times when the public can speak.

 • The first time will be during “comments on agenda items”.

• The second time is during “public comments - general” where you can speak about any concerns.

• All audience members will be muted until it is time for them to speak.

• Please identify yourself before speaking.

**ROLL CALL – IN ATTENDANCE**

Phil Bonello – Attending remotely from Albuquerque, New Mexico

Linda Stein – Attending remotely from Michiana, Michigan

Kathleen Hogan Morrison – Attending remotely from Michiana, Michigan

Joann Fisher - Attending remotely from Michiana, Michigan

Mike Mintz - Attending remotely from Michiana, Michigan

Mike Mintz brought to order a Special Meeting to decide whether the village council would engage Sara Senica to represent Michiana (along with Grand Beach) in an action against New Buffalo Township for the Township’s effort to usurp the autonomy and powers of the Village of Michiana.

Kathleen Hogan Morrison explained that this meeting is being held to discuss whether to engage Sara Senica, the Village of Michiana attorney, to challenge the special assessment for 2.1 mills which was approved and voted upon by New Buffalo Township on February 16, 2021. The purpose is not to discuss residents’ individual decisions on whether to appeal their increase in real estate taxes. She said Sara Senica has given the council her letter of engagement that outlines what she intends to do, the process, and the estimated time and cost. Council has reviewed initial legal work, timeline and cost. Sara said that whoever might lose before Berrien County Court will likely appeal to the Court of Appeals, and thereafter proceed to the Michigan Supreme Court. This process may take years. She said New Buffalo Township has not agreed to mediation. Berrien County Court may order mediation, but it is not guaranteed. Kathleen explained that this case is likely to go on for a long time because it is a case of first impression, meaning that no Michigan court has ruled on this particular matter of whether a township can specially assess an incorporated home rule village for emergency services under the laws of the state of Michigan. She said this lawsuit involves the village’s decision to claim its home rule, its power to make these decisions, and to not have them imposed upon it by the township. Individual residents will need to decide whether or not to appeal their increase in real estate taxes. The lawsuit being discussed today concerns the home rule power of the Village of Michiana.

Kathleen said that although individual residents will appeal to the Michigan Tax Tribunal, if there are many individual pending appeals and there is also the pending Village case in the Berrien County Court, there is a possibility that in the future they may be combined. There is a Michigan league that includes villages throughout the state. If the Village’s case ends up in appellate court, this entity may join the Village. This additional support is not available to us unless there is an appellate case.

Phil Bonello moved to engage Sara Senica to represent the Villages of Michiana and Grand Beach in a lawsuit against the Township of New Buffalo; Joann Fisher seconded; roll call vote was taken: Motion carried unanimously 5-0.

Kathleen Hogan Morrison stated that council cannot give advice but can inform residents who will receive an increase in real estate tax what appear to be their options in this matter. The options are: within 30 days 1) do nothing, 2) hire an attorney to appeal the increase in your taxes before the Michigan Tax Tribunal, 3) consider joining a class action consisting of a group of village residents who will appeal as a group via one law firm (one currently being prepared by the law firm of Kotz Sangster Wysocki PC), and 4) file an appeal on your own without a lawyer following the requirements of the Michigan Tax Tribunal, which is an administrative court that hears tax appeals. The Michigan Tax Tribunal website explains the required procedures.

Public comments and questions were raised related to Village vs individual lawsuits, cost of attorney fees, cost to village residents. It was explained again that the lawsuit brought by the Village in this matter is a legal matter regarding preserving sovereign power. The actions brought by individual residents is a tax appeal matter.

Kathleen Hogan Morrison moved to adjourn at 11:30 am the meeting; Phil Bonello and Linda Stein seconded the motion; motion passed.

Respectfully submitted

Anne Heywood/Clerk