**VILLAGE OF MICHIANA**

**COUNCIL MEETING MINUTES**

**Friday, March 11, 2022 at 1:00 pm Eastern Standard Time**

The meeting was held in person and by virtual Zoom meeting. President Mike Mintz, Kathleen Hogan Morrison, Linda Stein, Joann Fisher and Phil Bonello were present. Also, present Police Chief Ryan Layman, Water & Street Superintendent Rick Reitz. Clerk Anne Heywood, 15 Village residents dialed in to listen and five were present.

Mike Mintz opened the meeting by stating we had to nominate a Council President, Mike said he was stepping down and would not accept a nomination. Mike asked for nominations from the council, Kathleen Hogan Morrison nominated Joann Fisher as Council President; Phil Bonello seconded the motion; Joann Fisher accepted a roll call vote was taken four ayes and Mike Mintz sustained; motion passed. Kathleen Hogan Morrison said before moving on she wanted to recognize Mike Mintz and thank him for his service as President. Joann Fisher also thanked Mike for stepping up to the plate after Tim Iverson left and expressed appreciation for his two years of service as President. Joann Fisher nominated Kathleen Hogan Morrison as her ProTem; Kathleen accepted the position.

**ADDITIONS/DELETIONS TO AGENDA –** Women’s Club regarding a Pickleball Tournament / Discussion if Council would like to continue holding Zoom meetings

**Approval of Council Meeting Minutes for December 10th, 2021 –** Linda Steinmade a motion to approve the minutes; Kathleen Hogan Morrison seconded the motion; motion passed.

**Approval of Special Meeting Minutes from January 22, 2022** – Kathleen Hogan Morrison made a motion to approve the minutes; Linda Stein seconded the motion; motion passed.

**Water Meeting on January 25, 2022** – Kathleen Hogan Morrison approved the minutes.

**REPORTS:**

**1. Building Inspector Report –** Bill Lambert gave his report.

**2. Fire Chief Report – Michiana Shores Volunteer Fire Department –** Fire Chief Garry Bendix read his report and mentioned the Fire department will be having their annual pancake breakfast on May 1st.

**3. Police/Commission Report –** Chief Ryan Layman reported there were 53 complaints for December, 18 complaints for January and 28 complaints for February. Chief Layman reported his department completed their CPR training. Chief Layman also said they had a catalytic converter stolen in the Village on Choctaw. These parts are worth money and easy to remove so if you should hear or see anything, please call 911. Chief Layman is working on putting together an organized coffee gathering meet the officers in the park. He was hoping to have his first one over Memorial Day, the same day of the park dedication. Ryan would like to have some kind of Silent Auction where people bid on the items such as old kayaks and other item’s he has in the police evidence room. His thought was to have an opening bid, people would place their bid on the item they were interested in with a cut off time, the highest bidder wins the item. Watch the web site for more information.

**5. Beach Commissioner –** Russel Bruesch reported the beaches are starting to come back. Rusty asked if Josh and Rick could help get the portable stairs in at Stop 38 and 42 as soon as possible. Rusty said Stop 41.5 is much bigger but, as he mentioned at the last meeting, there are some large tree limbs that need to be cut up and have a bonfire like he did a couple of years ago. Stop 39, 40 and 41 have nice beaches but still have no access. Kathleen asked if Stop 37 was in good condition. Rusty said it still needs just a little work, but looks good overall. As for Stop 43, there is no beach but has a beautiful view for sunsets and would like to place two of the sunset benches over there. Rusty had concerns if someone tried to get down onto the beach at Stop 43, they could seriously be hurt with the boulders at the bottom. Joann said this is a liability for the Village and will work with Rick on getting some type of fencing put up along the edge. Rusty mentioned removing the extra set of stairs that are lying at Stop 42 which are very heavy and will need extra hands to remove. Rusty thought maybe the stairs could be used somewhere between Stop 39 and 40 as a temporary access. Kathleen asked if this is something Bill Lambert and Rusty could take a look at. Rusty said they would look at the area and see how difficult it would be to install stairs. Joann summed up the report by stating they will look into the bonfire issue, the fencing at Stop 43, and the area between 39 and 40 for potential stairs.

**6. Public Works/Water Authority Report –** Superintendent Rick Reitz reported that Josh will be attending a 3-day water class next week. Josh painted the bathroom downstairs. Rick attached two bids for eight tires for the leaf vac. The difference between the bids is $58, with Grand Beach Auto being higher. Rick justified the price difference saying that Grand Beach is closer. Linda Stein made a motion to approve the bid from Grand Beach Auto for $1,746.48 for eight tires; Kathleen Hogan Morrison seconded the motion; motion passed. Joann asked if we were looking at having any roads paved this year. Rick is getting prices so he has an idea of cost so he can put the numbers in his budget.

 **7. Water Board Report**  Rick Reitz is working on getting the CCR and Cross Connection report done. He had the high service pump serviced everything was good. The Liability Study report suggested taking out a pump and replacing it with a larger pump. Rick was going to get prices. Peerless was coming next week to meet with Kathleen Hogan Morrison and Mike Mintz regarding the electric for the chlorination project. Rick had Wightman look into another water main project over by the Comanche, Choctaw area. The project came in higher than he anticipated, which was well over a million. Rick will be meeting with another engineer to bid this project and is requesting that they break it down into sections.

Mike Mintz inquired about who is responsible for trees that have fallen. Rick explained that the street department would cut up the tree and remove it from the road, but that the homeowner would have to remove it. If the tree belongs to the Village, the Village would be responsible for removal.

**8. Clerk/Treasurer Report –** Anne Heywoodasked for approval of the register in the amount of $427,825.90. Phil Bonello made a motion to approve the register as submitted; Phil questioned a few checks on the register and Anne explained who the vendor was and what the check was for; Mike Mintz seconded the motion; all approved. Anne reported that the balance for all accounts in January is $2,915,269.47 and $28,590 balance for the Pokagon fund. Anne mentioned the following dates: Leaf pick up will start April 18 through April 29; Yard waste program starts up again on Thursday's, April 7th, pickup will continue every Thursday until October 27th. Parking stickers & golf cart stickers for 2022 will be available April 11th stickers are $10.

There will be a lottery for Kayak & Paddleboard stickers the cost is $250. Last day to enter the lottery is May 6th. Names will be pulled on May 9th and winners will be announced at the May 13th meeting. Joann explained that the money collected will be used only for new racks and the beaches. The 2022 Directory were being printed and should be available by April 1st.

**OLD BUSINESS:**

1. **Park Update –** Joann Fisher reminded everyone that the Michiana Madness in March would take place on Saturday, March 19th from 1-4. The event is free and everyone is invited to come down to watch the game and enjoy some beverage and pizza from Villa Nova. Michiana merchandise would be available. Anyone who donates $100 would receive a mini-Michiana basketball set. All proceeds would be used for the new basketball backboards and poles. We had two residents, the Lennon and Mackey Families already contribute $1,500 each. Linda Stein inquired about the cost which Anne said was $7,500 (which included installation). Joann thanked Nancy Thill for all the PR work for Michiana Madness, also thanked Berta Beranek and Lisa Zirpolo for putting together a fundraiser to help raise money for the basketball court. If you would like more information, you will need to contact one of them. Joann said Pizzo would be planting some native grasses over by the creek and planting seven new trees in the park, not sure on the time line just yet. The tree carver will start April 19th. Rusty housed the teeter totter animals over the winter and gave the animals a fresh coat of paint. As the weather gets warmer, they will be installed back in the park. On Sunday, May 29th (Memorial Day weekend) we will be dedicating the park and serving root beer floats from 1:00 pm – 4:00 pm (EST) in the park. Phase one of the playground is done and looks great. Another important date to save in Monday, June 6th this is the Golf Outing to be held at the Pottawattomie Country Club. More information will be going out with the water bills and on the web-site. The committee-Ryan, Anne, Nancy Thill, Berta Beranek, Rick Turim and Lisa Zirpolo, have been working hard putting this together. Kathy Roberts and Sheila Stein collected money in honor of recently deceased Marla Dorf to put in a musical garden. New tables and benches have been placed in the park. The placements are not permanent, they just wanted to get the items out of Rick’s garage and placed around the park.
2. **Tree Ordinance Update –** Phil Bonello thanked his committee (Nancy Thill, Karen Szyp, Tim McCarthy and Maribeth Wulff) for their input. After working on this tree ordinance, Phil Bonello submitted all documents to Sara Senica for legal review. After reading it over, Sara recommended that the committee adopt the following guidelines: The board to create a Tree Board made up of five people, one being a council member. Having a Tree Board allows the Village to apply for funds from various groups. The group also recommends that the Village website make a prominent spot to discuss “all things about trees”. This spot would cover things such as: Guidelines, Arbor Day activities, the importance and value that the Village trees contribute to the beauty and feel of the Village, a calendar of educational events promoting the care, maintenance and genetic diversity of trees, the species the Village encourages, the species the Village discourages (invasives, infected), the best times to plant and trim, etc. Phil mention there were two budget items that came up while working on this; the first would be taking inventory of the trees (the density and genetics of all the Village trees which is estimated to be somewhere around $10,000). The second recommendation was to do preventive maintenance of the Village trees such as pruning of the trees or perhaps the removal of dead limbs that hang over the road way. To reiterate, this cost is roughly $10,000. Phil feels it is still too early to talk about budget numbers now, but perhaps in April. Phil, asked that the guidelines be put on the website for residents to review. He would like this to be on the April meeting’s agenda to address any questions the residents or council may have. Phil would like to have this approved at the April meeting.
3. **Update on the Lawsuit with New Buffalo To regarding the Assessment –** Kathleen Hogan Morrison presented an update we received from Village Attorney, Sara Senica, pertaining to the lawsuit filed by the Village against the Township. Attorney Sara Senica stated they there was a trial date set between July 6 and July 15. There is a settlement conference for June 6 and motions are due by early May. The motions could be one side verses the other, attempting to dismiss the case or asking for a settlement, we just don’t know. There are a number of residents, both here and in Grand Beach, that are working with the law firm Kotz Sangster in regards to individual’s claims. At this point, we are in a briefing schedule. Both cases filed the original brief back in February. The New Buffalo Township must file their reply within 21 days which would be around the third week of March. The next step is for the court to review and make a decision. The Michigan tax tribunal who decides these cases does not have any time limitation on making decisions and they will either grant the appeal, deny the appeal or require further action. There are individuals who filed separately and we are unsure what is happening on their end.

**NEW BUSINESS:**

1. **Stop 39 Kathleen Hogan Morrison explained what is needed:** Kathleen summarized the 3-step process necessary and needed to protect both Lake Shore Drive at Stop 39 as well as the critical Dune at the same Stop. Kathleen had reported in December 2021 that the Village spent $40,000 to install scour skirting and trap bags followed by filling the bags with sand along the bottom of the dune. That step has been successful thus far. The next steps are back-fill behind the bags, plant dune grass and to create access to the beach. Kathleen encouraged everyone to feel free to ask questions about the project or any of the steps. It is possible that this update will be discussed and put to vote at the next council meeting as decisions need to be reached. We, as council members, must focus on the infrastructure and Critical Dune issues, as well as beach access.

**Step 1**: In December 2021, Northshore Property Solutions LLC installed trap bags at the bottom of the bluff at Stop 39 to protect the Critical Dune from winter storms. Northshore hired Superior Groundcover as a subcontractor to fill the bags from the street using Superior’s truck, sand and hoses. The project was completed in a timely manner and has proved successful throughout the winter. In mid-December, Kathleen stated she received a call from Caleb from Northshore explaining that Northshore and Superior had added an additional 20 feet of trap bags, scour skirt, and sand because the 200 feet specified in the contract failed to reach and cover to the northern property line. The contract stated only 200 feet of materials were required, but the project needed an additional 20 feet of materials and water pumping for the scour skirt. The total for these additional items was $5,500. Kathleen told the company that the Village was not contractually bound to pay this amount, but to submit an additional bill. Which she told them she would discuss with the Village Council.

Kathleen explained that her view remains that the Village is not required by contract to pay the additional cost. That said, the Village has benefited from the additional work and it is possible that the trap bag system may have failed without the additional 20 feet of work. The council can decide to pay the bill, can refuse to pay the bill or can pay a portion of the bill. Kathleen said the council will have to make that decision.

**Step 2**: Kathleen stated that the past two months she has sought estimates/quotes from many companies to complete the backfill and dune grass planting at Stop 39. Yesterday, a long awaited third estimate/quote was finally received. Kathleen reminded all that EGLE had insisted that the Village go through the permitting process for work at Stop 39, which could have prevented the immediate work to save the street, dune, and stop. Kathleen sought to avoid that process due to the delay and expenses for civil engineers, designers and heavy equipment at our small stop and small beach. EGLE eventually agreed that we would not need to go through permitting if we worked from the street, did not use large equipment on the Critical Dune, and did not move the concrete pieces on and in the sand. That is what we did for Step 1.

Kathleen now has new quotes:

A. Superior Groundcover is the company that filled the trap bags and filled the sand from the street in Step 1. Superior estimates that the sand backfill will cost $63,000 and the dune grass planting will cost $14,000 for a total of $77,000. The company states the installation of backfill will be in March or April and that the dune grass installation is likely to be around the same time, but if weather requires it will be in the Fall. No deposit is required, but net is due upon completion. That means it could be $77,000 paid now or $63,000 paid now and $14,000 paid in the Fall (new budget year). There is no warranty on the sand backfill, but there is a 1-year replacement warranty on the dune grass if there is a greater that 10% loss. Superior would not use large equipment and would do it from the road so no EGLE permit would be needed. Also, there is no guarantee on the amount of backfill and plantings needed. Kathleen asked how much larger the billing could go. She was told 10%, the same amount the estimate was reduced when she tried to negotiate the price. The backfill would be to the top of the trap bags and slope back into the existing slope.

B. Triple D Excavating and Moore (the company that did the work at Stop 43) understand that Stop 39 is a very small project in comparison. Triple D’s quote is for $97, 580. The quote is broken down as $25,568 for Equipment, Labor and mobilization to restore the dune, $60,012 for sand, and $12,000 for dune grass plantings. The quote requires property staking by others and permits by the Village for all local, state, and federal permits if necessary. In other words

Triple D apparently wants to do excavation work and have the Village deal with EGLE.

C. D.A. D’Agostino Custom Excavation & Trucking, INC provided two quotes/estimates: one for twice as much sand to cover the trap bags and rebuild the entire dune. The first estimate is for $65,500, which is for $45,500 for washed sand, $10,800 for work on a Caterpillar 289D skid steer (heavy equipment compact track loader), and $9,200 for trucking. There is no indication of dune planting at all. The second estimate is for $131,000. This doubles the amount of sand ($91,000) the hours for the skid steer ($21,600) and the hours for trucking ($18,400). Again, there is no indication of dune planting at all. Both estimates state that the work will “need to be approved by EGLE and a permit will need to be provided.

Superior Groundcover’s estimate/quote is the one Kathleen would like to use. Kathleen explained we could use the General Fund and some Capital Fund or future Beach Fund. Kathleen felt it would be a terrible mistake to do nothing and risk having the dune collapse, followed by the structure at the stop and then Lake Shore Drive in front of Stop 39.

Step #3: regarding access to Stop 39, Kathleen said she was still trying to obtain estimates/quotes for building access to Stop 39. Kathleen had gone back to look at the past estimates for some of the stops that were done by Tom Mellen to get some kind of idea on cost. Tom was still putting numbers together on a way to support the structure. Kathleen is currently trying to follow up on a contractor Russell Bruesch suggested, who had done work at Stop 42 and 43. At one time, Mike Mintz and Rusty suggested an alternative place for stairs between Stop 39 and 40 (“39 ½”). There is no way to predict what that area will look like by May. Kathleen said she will continue to seek estimates/quotes, and will have contractors look at that area also. Mike Mintz would like to wait and see what happens after another season. Many residents thought it should be dealt with now. There was lots of discussion, Nancy Thill offered to help plant the dune grass to save cost. Joann thanked Nancy, but the dune is like a cliff and for liability reasons thought this job should be done by the professionals. Kathleen read a text from Tom Mellen who was working on doing a quote for Stop 39 stabilizing the structure and cost for stairs. He had been down there three times looking at the dune but each time the dune had shifted still working on quote. Kathleen made a motion to approve only half of the invoice (in the amount of $2,750) for the additional of 20 feet of work that was done by Northshore; Joann Fisher seconded the motion; roll call vote was taken with five ayes; motion passes. Kathleen then made a motion to amend the General Fund of $2,750 for Stop 39; Joann Fisher seconded; motion passed.

Kathleen made a motion to use Superior for the backfill of sand at Stop 39 in the amount of $77,000 which requires no permit from EGLE ; Joann Fisher seconded the motion; there was much discussion; roll call vote was taken two ayes and three nays: Motion did not pass; Phil Bonello made motion to table until April; roll call vote was taken four ayes, one nay; tabled until April meeting.

**2. Upgrade of Electric/Plumbing for the Village Hall -** Linda Stein explained the Village electric and plumbing has not been updated in many years (1947) and this a major liability and should be done as soon as possible. Linda and Josh have met with three electrical and plumbing companies for quotes for the work. There was some discussion; Linda Stein than made a motion use Town & Country from Benton Harbor for the amount of $11,425; Joann Fisher seconded the motion; roll call vote was taken; motion passed; Phil Bonello made a motion to amend the Capital Fund $11,425; Linda Stein seconded the motion; motion passed.

3. **Pickle ball Tournament –** Karen Bernstein Shoshana talked on behalf of the Women’s Club that they would like to sponsor a fundraiser at the end of July to raise money for the Michiana Day Camp. They would oversee the tournament and will split their proceeds with the park. There was much discussion. Joann Fisher tabled the tournament until the April meeting**.**

**4. Continuing Zoom meetings –** The Council talked about canceling the Zoom meeting in the summer since more people are in the Village and will come to the meetings. The Zoom format would begin again for the Fall and Winter. Joann asked Ryan his feelings since he arranges the meetings. Ryan said he has the account already set up and even if you don’t have Zoom meetings for several months, the Village is still charged. The council decided to continue using Zoom for the council meetings. Residents were happy to see this service stay.

**PUBLIC COMMENT /CORRESPONDENCE:** Garry Bendix talked briefly about intersection where there is a monument at the corner of Old Grand Beach Road and El Portal, by the Michiana Shores Fire Department Station. Garry talked about the Marquette Greenway wanting to remove that monument so the bike path can come through. Garry said that the land is owned by the Michiana Shores Fire Department**.** Garry will keep the community informed on what happens. He said they are fighting to keep it where it is**.**

**Meeting adjourned at 3:11 p.m. (EST)**

Respectfully submitted,

Anne Heywood/Clerk