**VILLAGE OF MICHIANA**

**COUNCIL MEETING MINUTES**

**Friday, August 13, 2021**

The meeting was held by Virtual “Zoom” . Council President Mike Mintz called the electronic (virtual) Zoom Council Meeting to order at 1:00 p.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.

Police Chief Ryan Layman, Water & Street Superintendent Rick Reitz, Clerk Anne Heywood, and Village residents dialed in and some were present in person.

**ROLL CALL:** Mike Mintz – present at Village Hall

Kathleen Hogan Morrison – present at Village Hall

Phil Bonello – present at Village Hall

Linda Stein – present at Village Hall

Joann Fisher – present at Village Hall

**AGENDA**

**ADDITIONS TO AGENDA** – N/A

**Approval of Council Meeting Minutes from June 11th, Special Meeting of June 11th and Council meeting of July 9, 2021** - Mike Mintz moved to approve all the minutes, Kathleen Hogan Morrison seconded the motion. Motion passed.

**1. Building Inspector Report – Bill Lambert.** Bill Lambert said 31 permits were issued.

**2. Tree Inspector’s Report – Kris Wulf**. Kris Wulf said there were no permits given out for tree removal since the July council meeting. He said they are dealing with new construction and that not all sites are consulting the village about tree removal. He said he would like to work with the Council to review the current ordinance regarding penalties.

**3.** **Fire Chief Report/Michiana Shores Volunteer Department – Chief Gary Bendix** – Chief Bendix said they logged 154.21 hours. He said there were a total of 16 calls. The Village of Michiana had 5 fire calls and 2 medical calls. Joann Fisher thanked Chief Bendix and his department for helping out at the village party. Chief Bendix said he is still hoping to hold the pancake breakfast in October 10th.

**4. Police Report – Chief Ryan Layman** – Chief Layman said there were 17 complaints and 13 citations, nothing out of the ordinary. Chief Layman reported that another package was taken. Would like you to ask your neighbor to remove the package if you’re going to gone for a while.

**5. Beach Commissioner - Russell Bruesch** – Russell said the beaches are holding up well. He said there is an issue mid-bluff at Stop 37. Mike Mintz said Stops 38 and 41.5 have handled many beachgoers. Anne Heywood mentioned there were about 6 beach fire permit requests to date and that the form is on the Village website. A resident asked when they can expect improvement to the beach stop structure at Stop 37. Mike Mintz said this item is on the list of things for the Council to address. Resident Pam Schutt reported that one of the signs regarding danger rock in water was sitting on the shore over by Stop 39.

**6. Public Works/Water Authority Report – Rick Reitz** – Rick was getting quotes for paving for Hillside to East Court and Dune Ridge. He will also get a price for asphalt over by Stop 41.5. Thank you to Mrs. Martino for helping us improve Stop 41.4 with planter boxes, garbage bins holder and fencing. Rick said he is meeting with the EPA around September 15, and there may some funds available for the Water Department. Rick said he finished the second round of lead and copper testing and that he is working on the chlorination project over at the pump house. He said a group of inmates will be here the week of August 23rd to help clean up the park and take down the fencing. Mike Mintz said the Village has a new brush cutter for the tractor that can cut brush on the Village right of way which improves visibility.

**Clerk and Treasurer Report – Anne Heywood -** Anne Heywood asked for approval of the check register in the amount of $136,128.53. Phil Bonello made a motion to approve the check register in the amount of $136,128.53; Linda Stein seconded; motion approved. Anne read the Treasurer’s report for the end of July, 2021; the Village has $2,605,307.40 in total of all funds, and $25,666 in the Pokagon Fund. Anne thanked everyone who attended and helped with the Village party, with special thanks to the Michiana Shores Volunteer Fire Department. She said she has sold out a lot of the Michiana merchandise but still has sweatshirts available for sale.

**OLD BUSINESS**

**Park Update** -- Joann Fisher said to date the Village has collected $295.000 in donations for the park. She said there is good progress on construction of the pavilion. The bocci ball court is completed. Joann said she has ordered a small section of the play equipment, the swings, zipline and log to crawl through. She said Rick and Josh will help with excavation to save money. She said the equipment should take 4 to 6 weeks for delivery. Joann said if an additional $75,000 can be raised she can order the larger piece of playground equipment. She said the Village will host an Oktoberfest event on October 9. The fee will be $35 per person and children ages 5-12 $10 to attend. There will be music, a catered dinner (including one beer), and a souvenir stein. Anne Heywood will put the details on the Village website. Joann said she is hoping weather will cooperate to hold the event outdoors.

**Weed Ordinance –** Kathleen Hogan Morrison said the Village Council reached out to several residents to have a meeting on the proposed weed ordinance. One resident showed up for a scheduled meeting. No one felt that the proposed ordinance was needed. For that reason, Kathleen said she suggests that the proposed weed ordinance be tabled.

**Lake Shore Drive New Dry Well Update –** Rick Reitz said they will look at the dry well again with Woodruff and have them at the next meeting to determine how to resolve the problem.

**Stop 43 Revetment Update –** Mike Mintz spoken to Lindsey Mathus from Edgewater Resources who is leading this project with the homes at Stop 43. The project has been delayed due to a lack of steel for Loren Brown’s property. He said a different type of steel was substituted and there was difficulty bringing it on site. Mike said he is hoping it will be completed by this fall. He said Triple D will remove the old wood structure over the water and once the revetment is almost completed the Village will look at installing some kind of support for new stairs.

**Villages of Michiana and Grand Beach Lawsuit Update – Kathleen Hogan Morrison –** The Village of Michiana with the Village of Grand Beach filed a lawsuit against the New Buffalo Township. It alleges in the portions dealing with Michiana that the Township’s actions in declaring a special assessment on Michiana’s land is:

* A violation of the Michiana Charter
* A violation of Michiana’s Home Rule Village Act
* A violation of Michiana’s PA 33 of 1951 (the Police and Fire Protection Act)

New Buffalo Township has now filed its Answer to the Michiana/Grand Beach Complaint. It generally denies the allegations and asserts Affirmative Defenses it may rely on:

* Failure to state a claim
* Village may not be party in interest
* Village may not have capacity to bring action
* Village may lack standing
* Township complied with all statutes
* Court may lack subject matter jurisdiction
* Village claims may be time-barred

Because the Village has filed its Complaint and the Township has filed its Answer, the parties are at issue. This means all concerns can begin discovery: posing written questions, requesting documents, subpoenaing persons for oral depositions, etc. That is preparation for a future trial. Settlement is always possible, but the parties are clearly preparing for a possible future trial.

The Court will order a schedule setting dates that different discovery may be completed. Dates will be set for motions, for example, Village motions seeking the Court to rule in the Village’s favor without a trial. When the Village attorney, Sara Senica, has the scheduling order, the Village Council will be advised. That is the current status of the case. Sara expects to see these actions over the next several months.

**NEW BUSINESS**

**Beach Stop 39 –** Mike Mintz and Kathleen Hogan Morrison met with Bruce Woodruff of Woodruff and Sons, a contractor who has experience in stop building and fighting erosion. Kathleen met with Lindsey Mathus, a civil engineer with Edgewater Resources that has done the engineering work for Stop 43. Both Bruce and Lindsey said it was possible to construct safe access (not just access, but safe access) to Stop 39. Not surprisingly, the issues are access at what price and what kind of access the Village wants.

Bruce Woodruff has not yet gathered all the information the Village has requested. Kathleen said in her exchange of emails with him, she asked him to provide a description and cost information as to three possible ways to address problems at Stop 39:

* Providing access only to the beach by various permanent methods and cost of each
* Providing access only to the beach with temporary, movable metal stairs and cost of same
* Providing access to the beach, using stairways and boulder revetment, and cost of both

In addition, the Village expressed interest in an estimate of the breakdown of the $1.3 million spent in Long Beach at Stop 21, and that it would be helpful to know so that the Village can determine whether the vast majority of the money was spent on the boulder revetment, on the stair structure or the actual machinery, labor and construction itself.

Kathleen said Bruce is gathering this information and that the Village Council will update everyone further when this information has been received.

Kathleen said when she spoke with Lindsey, she talked about a project she had worked on in Douglas. She explained that Michiana needs to decide whether it wants temporary access or permanent access and whether it wants temporary dune protection like sandbags or more permanent protection like boulder revetments. In either case, it is expensive. Sandbags are meant to be temporary and the cost is $500 per foot.

For a more permanent approach she said the Village should not use post, but should use steel pilings and Helical piers to protect the dune or at least protect the bluff and stair system. Kathleen asked for estimates for this kind of work, and Lindsey indicated the engineering might be $10,000 to $15,000 and perhaps $65.000 for building a revetment and stair system. She said the approximate costs would be:

* $15,000 to $20,000 for boulders
* $12,000 to $15,000 for Helical piers
* $20,000 to $25,000 for timber stair system
* $10,000 for the last 14 steps aluminum and removal

Kathleen said not to panic, that the Council has not agreed to anything. She is presenting this information so everyone as a village can think about what everyone really wants and is willing to pay.

Kathleen said she believes everyone should start thinking about sources of funding:

* Pokagon Fund
* Village funds
* Money raised specifically for Stop 39 by residents (as suggested by Mike Kinasz)

Please feel free to share your feelings **in writing** to the Village Council.

Mike Mintz mentioned he attended a mayor’s conference in Sault Ste Marie where lake levels were discussed. He said EGLE (Environment, Great Lakes and Energy) said that revetments and hard structures don’t work well, that they divert the waves to other areas. He said they are leaning toward plantings with root systems to hold back the soil and sand. He said because there is not enough space at Stop 39 for adequate plantings, revetment is the only option at this time.

**Employee Covid Policy –** Mike Mintz said the new Employee Covid Policy outlines guidelines for social distancing, cleaning, and masks. The policy requires documentation of vaccination, and if an employee is not vaccinated, he or she will agree to get a Covid test weekly (rapid response test). Mike said the policy will begin next week. Kathleen Hogan Morrison made a motion to accept the Employee Covid Policy as drafted Phil Bonello seconded the motion: A roll call was taken; all councilmembers voted aye; motion passed.

**Special Exception Application –** Kathleen Hogan Morrison said that the Village has received notice that residents Robert and Diane O’Brien on Lake Shore Drive have applied for a Special Exception for the shoreline protection and emergency repairs that have already occurred. In other words, the O’Brien’s are not requesting permission to do more work. The application has been filed as previously promised when the Village (by Tim Iverson as President) and EGLE (by Ben Zimont) agreed that the work on the property could go forward to save the house and property. The O’Brien’s application seeks what they refer to as an “after the fact” permit for the emergency revetment work they did from November 2019 through early 2021 now that the lake seems to have settled down. The O’Brien’s said they had had some initial discussion with Ben Zimont and Tim Iverson about taking this approach at the onset when they realized the work would be beyond what was covered in their original permit. They said they are not planning any additional revetment work and hope they will never have to do anything more than maintain the wall going forward. Kathleen said that since this is a Special Exception Application, the Village can support it, approve it or do nothing. Kathleen recommended that the Council do nothing since the work has already been completed.

**New Michiana Website –** Chief Ryan Layman said the newly designed website will be up and running in September.

**PUBLIC COMMENT**

Maureen Shekleton mentioned that there was a big dip going over the bridge on Chickagami right before Cherokee. Rick said he would take a look at it.

A resident commented about the dangers of underage persons driving golf carts in the Village. Chief Layman said many times parents don’t know their kids took the golf cart out. He added that ticket fine for underage drivers is $100.

Phil Bonello commented that the owner of Lakeshore Disposal had a serious accident that required hospitalization, and asked that residents please be kind and patient with any issues they may have with their trash or yard waste removal.

Mike Mintz adjourned the meeting at 2:12pm EST.