**VILLAGE OF MICHIANA**

**MICHIANA COUNCIL MEETING**

**Thursday, February 11, 2021**

The meeting was held by Virtual “Zoom”. Mike Mintz, Phil Bonello, Linda Stein, Joann Fisher and Kathleen Hogan Morrison were present on the call, as well as Police Chief Ryan Layman, Water & Street Superintendent Rick Reitz, Clerk Anne Heywood, and Village residents dialed in to listen and participate.

**Addition to Agenda –** Purchase for pickle ball courts was added to New Business.

**Approval of Regular Council Meeting Minutes from January 8, 2021**

Kathleen Hogan Morrison made a motion to approve the council meeting minutes from January 8, 2021; Phil Bonello seconded the motion; motion approved.

**Items moved up on the Agenda (addressed by Sara Seneca, Village legal counsel):**

**1. Resolution 2021-001** – Proposed Special Assessment by New Buffalo Township, for counsel to review and consider. See #2 in this section.

**2. Proposed Special Assessment on Grand Beach and the Village of Michiana** –

Village attorney, Sara Seneca, stated that the Home Rule Village Act and Village Charter outline our authority to impose special assessments to provide for public safety, etc. Currently, we have our own Police Department and contract with Michiana Shores for fire services. New Buffalo Township wants to assess the Village of Michiana for some of these same costs but on behalf of the Township. This 2.1 mill special assessment would generate $1,297,000 in the first year, and is proposed to continue for 20 years.

Breakdown of Assessment for the first $1,297,000:

$600,000 – County Sheriff patrol in NBT

$110,000 – Medic/Ambulance (Township-wide)

$250,000 – Operation of New Buffalo Township Fire Dept

$250,000 – Bond payment for new $5M public safety building being built by Township

Sara said the Township has the authority to pass ordinances and resolutions, however she does not believe it has the authority to pass ordinances and resolutions that affect the Village. The Village has sole jurisdiction to pass ordinances, resolutions and special assessments within its boundaries. New Buffalo Township ordinances and resolutions do not apply to the Village, just as ordinances and resolutions passed by the Village impact only Village property. The Village already has fire and police services. She said a township has never before attempted to assess a Home Rule village.

Sara said she reviewed Act PA33 of 1951 which is cited in the resolution by the Township; it gives the same authority that the Township has to the Village (including funding police and fire services). The resolution repeatedly states that the “’township’ has the authority” (to do various things). However, Section 10 of Statute states that everywhere it says “township” will also mean “incorporated village” and “city”. This does not mean New Buffalo Township can assess other villages. Sara said the Village of Michiana is a sovereign and incorporated village but technically is in New Buffalo Township.

Sara agreed with Kathleen Hogan Morrison that the purpose of the resolution is to make clear our authority and to not concede that New Buffalo Township has the authority to assess the Village, especially in the event that this issue it litigated. Mike Mintz said it needs to be established who has what authority, as this may not be the only time an assessment would occur and we don’t want to set a precedent. He also asked if there is an ability to control the amount of the assessment if it is approved. Sara said if a judge rules in favor of the assessment, then it would be important to ask whether there is an ability to control the amount charged. She said she has discussed these issues with New Buffalo Township legal counsel and informed him we already have police and fire services, and that the benefits to our residents would only be for the Medic/Ambulance portion and are not proportionate to the amount to be charged.

Resident and Village board opinions should be submitted to New Buffalo Township prior to their meeting on February 16.

Public question – Would we have any input on how New Buffalo Township would spend the money? Sara said yes, you can vote in Township elections to make your opinions clear to local government. However, there is the question of how much impact the Villagers’ votes can have within the Township. If this was a millage residents would be voting on it. There is no direct due process for a special assessment. Sara said the failed millage vote in the Township was for general purposes, not public safety. She said a millage goes down each year and a special assessment can go up. New Buffalo Township can meet each year and increase it with no vote required.

To summarize, the issues that need clarification are whether the Township has the authority to assess the Village, and if so, is it fair to Village residents to have to pay the Township when they are already receiving the same benefits.

Mike made a motion to pass the resolution; Phil Bonello seconded the motion; motion passed.

**Old Business – Update on Stop 43 Easement Agreement**

Mike Mintz said we have four homeowners north of Stop 43 who want to do either seawall or revetment on their properties but all four would have to use part of the Village right of way to complete their projects. Sara Seneca has researched and established which is vacated, Village or homeowner property. Edgewater submitted its plan to EGLE. The Village determined that an easement is needed if homeowners use Village right of way. Homeowners can use the easement in perpetuity with certain caveats including not being allowed to add to the wall or revetment, people maintaining the right to walk on the beach, and that the Village retains the right to build a road or install utilities, if needed.

The Village’s Stop 43 is also compromised by erosion and requires revetment. The Village has received a letter from Triple D proposing a plan in the amount of ~$60,000. Triple D will donate ~$40,000 and will receive a letter from the Village for its claim for a tax deduction. The Village will pay the balance of ~$20,000. The cost to the Village can be offset by charging the four homeowners ~$4,500 each for the easement. This would include the legal fees for the revetment project. Mike said Village residents will get half the revetment at Stop 43 paid for by the four homeowners. Mike and Kathleen Hogan Morrison emphasized that the easements must be signed so prices and fees are fixed and paid before the contract with Triple D is executed.

Regarding the term “perpetuity”, Sara said contract language dictates that the homeowners have a permanent easement until the Village needs to run a road or utilities on that property. She said the easement will accrue to heirs and successors of those homeowners.

Public question - Does the easement have to be in perpetuity or can it be renewed? Sara said the reason it is in perpetuity is because the land involved is under water and contains torn up concrete and rebar. The Homeowners will have to insure the property which takes the burden off the Village. She said the Village’s goal is to serve its citizens and that it would be difficult for the homeowners to spend large sums of money, knowing the easement would expire.

Public question for Mike Mintz – What is the plan for Stop 43 bus stop when the revetment is done? Mike said the plan is for a pavilion and walk out, but we have to see how much beach might return and what kind of beach access will be available for emergency service vehicles, and then see what plan would be best.

Mike made a motion to approve a signed Village contract with Triple D Excavating per the terms outlined in an email from Devon Moore dated January 27, 2021, after the easements at Stoop 43 for four homeowners’ revetment projects have been signed and the fees paid. Mike Mintz had asked that a roll call vote be taken to approve the contract; all councilmembers approved.

Sara Seneca was dismissed from the meeting at this time.

**REPORTS**

**1. Building Inspector Report** - Bill Lambert said the Martino home is in the drywall phase and close to completion. He said there are 3-4 additions to add to the building inspection report: a new house is going on the old Hockberg property, a rehab at 4141 Lake Shore Drive, and a couple others are in the planning stage.

**2. Treasurer’s Report –** Cheryl Cook (Absent).Karen Szyp stated there is $2,552,877.63 for total funds, and as of December 31, 2020 the Pokagon fund still has $30,952.00.

**3. Tree Inspector Report –** Kris Wulff – not on call.

**4. Fire Chief Report** – Chief Gary Bendix report submitted; not on call.

**5. Police Commissioner Report** – Russell Bruesch said it has been a fairly busy winter, all is going smoothly and there is nothing of significant importance to report.

**6. Police Report –** Chief Ryan Layman put together a slide show to explain all the police services in the greater area and who covers what. For more detailed information on this report, inquire at the Village hall.

Ryan said there were a few break-ins last month, but they didn’t make it into the houses (got as far as the screened porch and nothing was stolen).

**7. Beach Commissioner Report** – Russell Bruesch said due to the ice on the shoreline we won’t have to worry about erosion for 6-8 weeks. He said at that point there are two viable options for additional beaches. He said we have portable stairs available for Stop 38 but we have to determine how to deal with the safety issue regarding the concrete wave wedges in the water. He said we may be able to add to the existing stairs at Stop 37. The cost would be minimal, as we have the needed equipment. At Stop 39 the tall bluff is problematic. It may be possible to install portable scaffolding stairs and connect to current portable stairs. Russell said he is optimistic for at least one more beach this year, either Stop 37 or 38. Russell said delivery time for portable stairs is about 2-3 weeks.

Stop 41 ½ waiting to see if the Village was awarded the grant for new stairs. He said there is a large beach at Stop 42. Mike said new pylons have been installed and the stop would have to be reconnected before installing the stairs at Stop 42.

**8. Public Works/Water Authority Report** – Rick Reitz said he has been busy with snow maintenance, plowing and salting the roads. He said he has three bids for proposal to remove three trees at Pinewood and Grand Beach Rd: CNA at $3,940, Olivia’s Tree Service at $3,650, and Green Leaves who came in the lowest at $3,500. Rick said he will see if Green Leaves will come down to $3,400. He said the payment can come out of Act 51 funds. Linda Stein made a motion to approve an estimate for Green Leaves for $3,400-3,500; Phil Bonello seconded; motion passed. Rick said he is planning to replace the older white truck, get an estimate for a larger 450, and trade in the 350. Rick said the snow removal is going well and the salt spreader works great. He said he takes the older truck home and leaves the plow here. Josh is expected to return to work tomorrow.

**9. Water Board Report –** Regarding the chlorine project, Rick Reitz said the pricing for the parts he needs is $16,260.60. The original with Tim to do the work was $65,000. Rick said he doesn’t want to exceed $60,000. Kathleen Hogan Morrison made a motion to approve expenditures for the chlorine project not to exceed $60,000; Linda Stein seconded; motion passed.

**10. Clerk Report** – Karen Szyp state the check register for January is in the amount of $53,634.68; Mike Mintz asked for a motion to approve. Linda Stein made a motion to approve the check register for January as submitted in the amount of $53,634.68; Joann Fisher seconded the motion; motion passed.

**OLD BUSINESS:**

**1. Update on Park -** Joann Fisher said the park plan is posted outside the Village office, and overall has received positive comments. She hopes when the weather breaks residents can gather and discuss the plan. She said there is $2,130 in the general fund for the park. Joann made a motion to move the $2,130 from the general fund to the park fund; Phil Bonello seconded the motion; motion passed. Joanne said they will have to determine how to raise funds. As the funds come in they will decide how to proceed with the park plan in phases.

**2. Update on Stop 43 Easement Agreement –** Moved up on the agenda

**NEW BUSINESS:**

**1. Resolution 2021-001 –** Moved up on the Agenda

**2.** **Special Assessment being proposed by New Buffalo Township –** Moved up on the Agenda

**3. Purchase of Benches for Pickle Ball Courts –** Addition to Agenda

Nancy Bernstein said they have $3,400 in their pickle ball fund and are purchasing two backless benches that will be located on the courts on the side by the nets. The fund balance will be $1,700.00. Kathleen Hogan Morrison said that even though the pickle ball players raise funds, they still need council approval for improvements. Nancy said they were told the benches were a good idea and won’t interfere with the park plan. Linda Stein made a motion to approve the purchase of two benches for the pickle ball courts in the total amount of $687.00 (these will not be paid for with Village funds); Joann Fisher seconded the motion; motion approved.

**PUBLIC COMMENT –**

Resident Willa Lang commented on the great job plowing the snow, and suggested to Joann Fisher to make a clear Phase One for the park. She also volunteered to contact residents to ask about their preferred way to be contacted regarding important issues such as the proposed special assessment.

Resident Karen Shoshana thanked the council for their hard work over the years. She spoke of attempting to act as agent for residents who did not respond in protest to the proposed special assessment.

Mike Mintz requested a motion to end the meeting; Kathleen Hogan Morrison made a motion to adjourn the meeting; Joann Fisher seconded the motion.

Respectfully submitted

Anne Heywood