**VILLAGE OF MICHIANA**

**MICHIANA COUNCIL MEETING**

**Friday, December 11, 2020**

**1:00 p.m. (EST)**

The meeting was held by Virtual “Go to Meeting”. Mike Mintz, Linda Stein, Phil Bonello, Joann Fisher and Kathleen Hogan Morrison were present on the call, as well as Police Chief Ryan Layman, Water & Street Superintendent Rick Reitz and Clerk Anne Heywood, and 27 Village residents dialed in to listen and participate. Building Inspector Bill Lambert was absent from the call.

Anne Heywood informed everyone that she had sworn in the new elected officials Joann Fisher, Mike Mintz and Kathleen Hogan Morrison.

**Mike Mintz opened the meeting asking if someone would like to nominate a Council President.** Kathleen Hogan Morrison nominated Mike Mintz as Council President; Phil Bonello seconded the motion a roll call vote was taken; Mike Mintz accepted the position. Mike Mintz nominated Kathleen Hogan Morrison as his Pro Tem; Phil Bonello seconded the motion and a call vote was taken; Kathleen accepted the position.

**Mike Mintz read the Village Appointments for 2021:**

Clerk - Anne Heywood

Treasurer – Cheryl Cook

DPW Superintendent - Rick Reitz

Tree Inspector - Kris Wulff

Police & Beach Commissioner - Russell Bruesch

Police Chief - Ryan Layman

Building Inspector - Bill Lambert

Village Attorney - Sara Senica

Code Enforcement Official – Ryan Layman (Rentals**)**

**Addition to Agenda –** Mike Mintz added the McKenna property regarding a lease agreement. Nancy Bernstein would like to report on pickle ball but has to leave early. Anne also asked if Brian Hake the Auditor could be moved up on the agenda.

**Auditor Report** - Brian Hake with Kruggel, Lawton & Co. read some of the highlights from the audit report Asset; Project, Liability Project and Special Assessment. Brian stated that the Village was in healthy financial standing. Brian said auditors consider 18 months of fund balance healthy, which shows diligence of the Village. Mike Mintz thanked Brian for his report and mentioned to the residents if they would like to see the report that it would be available in the Clerk’s office to view. Mike Mintz asked Anne if she had been able to answer Ellen Goldrick questions. Ellen Goldrick responded yes and thanked Anne.

**Approval of Council Meeting Minutes from November 13, 2020**

Kathleen Hogan Morrison made a motion to approve the council meeting minutes from November 13, 2020; Linda Stein seconded the motion; motion approved.

**Pickle Ball/Tennis** - Nancy Bernstein mentioned over Thanksgiving there were 24 to 26 people using the courts. Nancy thanked the Council again for making this happen. Nancy said Rick Reitz and Danny Bernstein will be taking the nets down sometime next week. Nancy reported more money came in making the new total for the pickleball/tennis courts $3,044.78. Mike Mintz said the courts will be locked for the winter season once the nets are taken down.

**REPORTS**

**1. Building Inspector Report** - Bill Lambert was not in attendance.

**2. Treasurer’s Report –** Cheryl Cook (Absent). Anne Heywood stated there is $2,640,421.04 in funds for November, and $30,185 in the Pokagon Fund. Phil Bonello would like future reports to show year over year and quarter over quarter to keep track how the village is doing compared with the prior year.

**3. Tree Inspector Report –** Kris Wulff received a proposal from the Tree Mann for $450 to look at 15 trees in park. Kris would like Council to approve so the Tree Mann can move forward and give his report to the park committee. Kathleen asked if he had any other proposals. Kris said no. Kathleen was not objecting in using the Tree Mann but, just for the standard of practice in the future would like to have other bids submitted so they can make sure we are getting comparable quotes. Linda wanted to clarify that the price was only for the study of the trees in the park and that the village will have to have get another bid for removal or trimming of trees and for that future bid the village should have more than one proposal. Phil asked once the diagnosis is done, will the Council get a written report on what he finds? Kris said “yes” and, if the council approves this quote, the Tree Mann would like to start right away in January. Linda supports the Tree Mann well and Phil agreed. The Council then approved to move forward with the Tree Mann. Linda wanted Kris to have the Tree Mann report back to him.

**4. Fire Chief Report** – Chief Gary Bendix reported that the department had 15 calls and said the number of calls had increased 30% from last year at this time. Gary reported that 4 of his men were down with COVID-19. 3 are back to work but 1 is still down.

**5. Police Commissioner Report** – Russell Bruesch had nothing to report

**6. Police Report –** Chief Ryan Layman reported 51 calls for the month of November. Chief Layman shared that his new Officer Courtney made her first arrest in the Village with a drunk driver, who almost, hit her squad car while off to the side of the road. Chief Ryan said they were working on a fraud case in the Village, which has to do with a rental home that was listed on Craig’s List. Chief Layman said someone from overseas hacked into the account and collecting money. This happened twice to the same homeowner. The owner is trying to remove the listing from Craig’s List. Also, in the Village, someone was trying to take a catalytic converter off a car, but the thieves were startled and got away. Chief Layman said the police have a description of the car and are working with Michigan City Police Department, which had a few similar thefts. Chief Layman reviewed the current Open Meeting Act, which ends December 31, 2020. He said there is bill in the state legislature to extend the use of virtual meeting until March. Berrien County is also going to declare a state of emergency, which will allow the meetings to stay virtual. Chief Layman will keep the Council posted as to changes. The State of Michigan is on track for distributing vaccine to all public safety employees sometime in the upcoming weeks. Linda Stein asked if the entire department wanted to receive the vaccine. Chief Layman said only 50% of his department wanted to receive the vaccine. Currently it is up to each individual to decide whether to be vaccinated.

**7. Beach Commissioner Report** – Russell Bruesch said the big storm that came through a couple of weeks ago ended up giving us more beach. The stairs at 42 have been taken off. He will work with Rick to barricade Stop 42 so no one falls. The village received an architectural draft for stop 41 ½ and the village is waiting on approval from the Pokagon Fund.

**8. Public Works/Water Authority Report** – Rick Reitz said Save our Shore had been working at resident’s home at Stop 42 had left sand in the village road overnight. Michiana had a heavy rain and created a wash out at Stop 42. The contractor is working on fixing the issue at its own expense. Rick is overseeing the project, and he will make sure to block off the stop once the work is completed.

**9. Water Board Report –** Rick Reitz said there will be a Water Board meeting on Tuesday, December 15 at 10 am. The call-in number will be posted on the web page. Linda thanked Rick and Josh for a great job of picking up the leaves this year.

**10. Clerk Report** – Anne Heywood asked for a motion to approve the check register for $54,297.87. Mike Mintz made a motion to approve the check register for November in the amount of $54,297.87; Linda Stein seconded the motion; motion passed. Anne thanked Kathleen for helping writing the Inquiry Letter as to Stop 41 ½ for the Pokagon Fund. Anne is waiting to hear from the Pokagon Fund and whether it will approve the project. If approved, the Village can move forward on the grant writing for Stop 41 ½ project.

**OLD BUSINESS:**

1. **Update on Playground Meeting –** Joann Fisher said everything is coming along and she is waiting on the park drawing from Jon Ruble of Planned Environment Associates. The drawing will be ready for a presentation at the January meeting. Then the Village can reach out to the community to see what kind of fund raising can be done. Rick will be leveling out the dirt mounds in the park before it freezes this winter.

**NEW BUSINESS:**

1. **Brian Hake – moved to the beginning of meeting**
2. **Nancy Bernstein – moved to the beginning of meeting**
3. **Lease letter for McKenna -** Mike Mintz explained that a kind of lease agreement will be drawn up by Sara Senica, the Village Attorney. The initial lease agreement would be for Steve McKenna at 4315 Lake Shore Drive regarding the repair of his sea wall on his property and placement of revetment on the property that on the village right away. After consulting with the attorney, it appears very difficult or impossible to determine which properties in that area are in village right of way, vacated or given to the homeowners. Moving forward, the village will assume it owns these rights of ways so by doing a lease agreement not only regarding the McKenna property owner but, also with other property owners from whom EGLE has received or anticipates receiving applications. There are 5 such properties. 3 are from homeowners in the Village doing revetment work (Karzen, Mathis, and Brown); and 2 from homeowners in the New Buffalo Township. This lease agreement would allow the property owners near Stop 43 to make improvements on their property and in the village right of way. If the beaches come back, the agreement does not allow homeowners to increase the size of their property or interfere with riparian rights beyond their own properties. Today the Council will vote only as to the McKenna property. All of the homeowners would be responsible for taking care of village property and maintaining the village property. The Village will require homeowners to return village property in the same condition or better condition than it was and to put a similar revetment on village property that matches the property of the surrounding homeowner property. Triple D is the contractor, who has been hired by the residents to do revetments; and Triple D has verbally agreed to do the revetment for the Village. That agreement should be put into writing. Kathleen explained that the agreement isn’t really a lease, but instead it is an easement. By the easement, homeowners gain no interest in or ownership of any village property. The current easement under discussion is as to the McKenna property. It is anticipated that there will be other written documents between the Village and other homeowner as well as with the construction company. subject to the final review of documents by the Village Attorney. Kathleen made a motion approve the concept so the Village can move forward with the subject to final review of the documents by the Village Attorney. Linda wanted to the know the recourse the Village has if homeowners fail to repair the dunes. She wanted to know the consequence if homeowners failed to restore the right of way. Phil Bonello said the Village should have photographs showing what the village property looked like before and after. There was discussion about allowing the Village Attorney to detail what penalties would be imposed so that any contractors and homeowners would know this at the beginning of the work. Joann Fisher second the motion; a roll call vote was taken 5 to 0.

**CORRESPONDENCE: N/A**

**PUBLIC COMMENT -** Lorin Brown said that no one is using the Stop 43 dune and that homeowners all paid Ms. Ginter to use her property for entering and exiting their property. Lake Michigan is just beyond the Ginter property. Lorin Brown also expressed his opinion that there is nothing to restore as homeowners are only improving their area by taking old concrete from the water, putting in “15 feet of stone to protect them. Lorin gave some history about the lake and said the steel wall has been buried since 1985. He mentioned that in the lease with the Ginter’s homeowners must rebuild her driveway. He said nothing in Michiana is being disturbed and that the homeowners near Stop 43 are planning to have the project completed no later than March in the hopes not to interfere with summer enjoyment should Stop 43 should open then. Although Mckenna had agreed and was supposed to turn the seawall on his property, instead he will make it go straight in front of the seawall that exits at Stop 43 as required by EGLE. The existing Stop 43 seawall is completely eroded of old stone; and Triple D will put down some limestone.

Mike Mintz made a motion to end the meeting; Linda Stein seconded; and the

meeting adjourned the meeting at 2:10 p.m. EST.

Respectfully submitted

Anne Heywood

Michiana Clerk