

CALL TO ORDER

The regular meeting of the Michiana Village Council was called to order at 7:00 pm EDT by Village President Sheila Stein.

ROLL CALL

Council members Present: President Sheila Stein, President Pro-Tem Beverly Bruesch, Council member George Hermelink, and Council member Patricia Carpenter.

Council members Absent: Council member Hillary Herbst.

Motion by Hermelink, second by Bruesch, to excuse Council member Hillary Herbst from this evenings meeting. Voice vote showed unanimous approval, motion carried (4-0).

Others Present: Russ Ramage, Chief of Police Lyn Papke, Public Works Superintendent Rick Reitz, Kathleen Roberts, Officer Kenneth Books, Tree Inspector Kris Wulff, Michiana Shores VFD Chief James Imes, and Clerk Cathy Ganus.

APPROVAL OF MINUTES

Motion by Hermelink, second by Bruesch, to approve the minutes of the March 9, 2009 meeting as amended to include that the blue and red stickers are both \$1.00 each. Voice vote showed unanimous approval, motion carried (4-0).

CLERK'S REPORT - MONTHLY BILL REVIEW

Motion by Bruesch, second by Hermelink, to approve General Fund check # 27013 to and including check # 27082 totaling \$44,274.84. Roll call vote showed unanimous approval, motion carried (4-0).

Motion by Bruesch, second by Hermelink, to approve Major Street Fund check # 1098 totaling \$10,116.00. Roll call vote showed unanimous approval, motion carried (4-0).

Motion by Bruesch, second by Hermelink, to approve Water Authority Fund check # 5346 to and including check # 5363 totaling \$45,618.81. Roll call vote showed unanimous approval, motion carried (4-0).

CORRESPONDENCE

Letter of Resignation - Patricia Capt Carpenter

A letter of resignation has been submitted by Council member Patricia Capt Carpenter. The letter was then read by Clerk Ganus.

Motion by Hermelink, second by Bruesch, to reluctantly accept with gratitude the letter of resignation from the Michiana Village Council submitted by Patricia Capt Carpenter. Voice vote showed unanimous approval with Patricia Capt Carpenter abstaining. Motion carried (3-0).

[Patricia Capt Carpenter left at this time.]

Appointment of Council member - Russ Ramage

President Stein advised that Michiana Village resident Russ Ramage has submitted a letter of interest for the replacement of the position vacated by Patricia Capt Carpenter. Ganus then read the letter of interest submitted by Russ Ramage.

CORRESPONDENCE (continued)

Appointment of Council member – Russ Ramage (continued)

Motion by Hermelink, second by Bruesch, to appoint Russ Ramage to the position on the Village of Michiana Council vacated by Patricia Capt Carpenter. Voice vote showed unanimous approval, motion carried (3-0).

REPORTS

Fire Chief Report - MSVFD Fire Chief James Imes

Michiana Shores Volunteer Fire Department Chief James Imes provided the fire department activity report for the month of March, 2009. During this time, the MSVFD responded to one (1) fire call as well as two (2) medical (first responder) calls. Chief Imes then answered questions from the Council.

Imes went on to state that he has been interviewed by Fire Chief's Magazine (Mary Rose Roberts) and he will provide a copy of the article upon publication. Imes also reminded the Council of the Michiana Shores VFD Pancake Breakfast Fundraiser on April 26, 2009.

Tree Inspector Report – Kris Wulff

Michiana Village Tree Inspector Kris Wulff advised that he has received two (2) tree permits, which he provided to Ganus for the file. He also advised that Asplundh Tree Trimming has completed their work in the Village.

Treasurer's Report

In the absence of Treasurer Amy Hemphill, Ganus gave the Treasurer's report.

Hemphill made the following recommendations in her report regarding the 2008 tax cycle: 1) Three (3) parcels have duplicate payments posted to them and one (1) parcel has an overpayment. Hemphill recommends the re-payment of same; and 2) The tax account has a current balance of \$43,608.34. After the refunds in item one (1), Hemphill recommends the transfer of \$38,000 from the Tax Fund to the General Fund.

Hemphill also advises that delinquent taxes as of March 1, 2009 total \$17,087.11. The Village should receive a check from the Berrien County Revolving Fund at the end of May or early June to make the Village whole on property tax revenue.

Motion by Hermelink, second by Bruesch, to authorize the treasurer to refund the overpayment and duplicate payments for the 2008 tax cycle. Roll call vote showed unanimous approval, motion carried (4-0).

Motion by Hermelink, second by Bruesch, to authorize the transfer of \$38,000 from the Tax Fund to the General Fund. Roll call vote showed unanimous approval, motion carried (4-0).

Account balances as of March 31, 2009 were as follows:

General Fund	\$54,243.19	Major Street Fund	\$ 48,116.58
Local Street Fund	\$43,104.20	Water Authority Fund	\$ 89,491.65
Building Fund	\$ 5,302.76	Capital Projects Fund	\$ 41,433.46
Tax Fund	\$43,608.34	Water Authority Trust	\$120,072.33

REPORTS (continued)

Finance Report / Committee Minutes

The minutes of the April 3, 2009 meeting of the Village of Michiana Finance Committee were submitted for perusal.

Human Resources Committee Report

Kathy Roberts requested that a work session of the Human Resources Committee be held. She then provided the Council with a draft version of the Michiana, Michigan Resource and Safety and Security Committee, which is made up of five (5) members – Lyn Papke, James Imes, Rusty Bruesch, Carole Nagy, and Kathy Roberts. Several suggestions were made to amend the document, however, further in the discussion it was decided to place this issue on the table to allow the Council time to review the proposed document.

Police Report – Police Chief Lyn Papke

Michiana Police Chief Lyn Papke provided the monthly police report for the month of March, 2009. During that time, the Police Department logged a total of 792.5 police hours. There were twelve (12) complaints handled: two (2) assists to other departments, two (2) ambulance assists, one (1) fire assists, and the Department responded to a total of five (5) alarms. Also during that time, there were two (2) assists from other police departments. Six hundred seventy (670) security inspections were also conducted.

Grant for Police Vests Update

Papke also reported that he will follow up with the Department of Justice on the Bulletproof Vests Grant he submitted in January, 2009 for new bulletproof vests.

Sale of Old Police Vehicle Update

Papke stated that he has had a couple of leads on the old police vehicle. He advised that a cab company has shown interest. It should be noted that as of this time the police vehicle has not been advertised for sale in the newspaper nor listed on the County Listserv due to the police vehicle not being stripped of the extra equipment.

Public Works / Water Authority Report – Superintendent Rick Reitz

Superintendent Rick Reitz presented the monthly superintendent's report for the month of March, 2009.

Building Inspector Report

In the absence of Building Inspector Bill Owens, a written building inspectors report was submitted.

Conversation ensued about the fact that Owens has previously expressed interest in stepping down as the building inspector for the Village. Council member George Hermelink will speak with Owens in reference to a new building inspector.

OLD BUSINESS

Restitution Hearing Update – People vs. Mary Jo Nallenweg

President Stein attended the restitution hearing for Mary Jo Nallenweg in reference to the restitution owed to the Village of Michiana in regards to the embezzlement case. It should be noted that Nallenweg and her attorney agreed to the final figure for restitution purposes.

OLD BUSINESS (continued)

Restitution Hearing Update – People vs. Mary Jo Nallenweg (continued)

According to Stein, Nallenweg was ordered to pay a total of \$10,089.84 (\$2,000 in professional accounting fees, \$6,022 in professional legal fees, \$1,561.16 for the remainder of the original forged check, and \$506.68 for the two unauthorized checks). It should be noted that the original forged check totaled \$6,240.36; however, the Three Oaks Business Association (TOBA) has returned \$4,679.20 to the Village (paid to TOBA from Village of Michiana funds by Nallenweg).

Nallenweg was ordered to pay \$460 per month while on probation. Of that payment, fifty percent (50%) (\$230) goes to the Court for fines and costs, twenty-five percent (25%) (\$115) goes to the Village of Michiana for restitution, and twenty-five (25%) (\$115) goes to the Three Oaks Business Association for restitution of the \$4,679.20 originally paid to them with Village of Michiana funds.

BS & A Software – Fund Accounting & Utility Billing

Ganus provided the Council with the updated figures in reference to the BS & A Software Fund Accounting computer program and Utility Billing program. The cost for the general ledger, accounts payable, payroll, and utility billing programs total \$8,780. Ganus and Hemphill have prior experience with these programs so the in-site training / implementation / program install figures in the quotation are inflated.

Motion by Bruesch, second by Ramage, to accept the proposal from BS & A Software regarding the Fund Accounting and Utility Billing software programs contingent upon the recommendation of the Finance Committee as well as the Water Authority Committee. Roll call vote showed unanimous approval, motion carried (4-0).

Village Council Meeting Date / Time Review

Ganus has checked the Open Meetings Act and in order to change the Village Council meeting date / time, the notice of change must be posted within three (3) days after the meeting at which the change is made. Since the Village does not have an annual meeting, the thought was that village residents would be advised of the meeting date / time change in the yearly newsletter sent out with the water bills as well as sending a notice to the *Harbor Country News* and the *South County Gazette*. There will also be a public notice posted on the bulletin boards within the Village.

Motion by Bruesch, second by Hermelink, to change the meeting time for the Village of Michiana Council to 3 pm EST on the second Monday of each month. Voice vote showed unanimous approval, motion carried (4-0).

NEW BUSINESS

Michiana Women's Club Day Camp Contract / Hall Use Dates

The Michiana Women's Club Day Camp contract was presented to the Council once again with the exception of the redacted items involving the provision of the Women's Club financial statements to the Village.

Motion by Ramage, second by Hermelink, to submit the commercial lease agreement between the Village of Michiana and the Michiana Women's Club for the Michiana Women's Club Day Camp as presented with the redacted items being removed from the document. Roll call vote showed the following: Ramage, Yes; Hermelink, No; Bruesch, Yes, and Stein, No. Motion dies due to tie vote.

The issue regarding the tie vote was insurance liability and the amount of coverage included in the lease agreement. The Council was hesitant to move forward until further investigation could be conducted in reference to the liability of the Village in the operation of the Day Camp.

NEW BUSINESS (continued)

Michiana Women's Club Day Camp Contract / Hall Use Dates (continued)

This item was placed on the table for further investigation. Ganus will check with the Village's insurer to ascertain what the premiums would be based on the amounts presented by the Women's Club and possibly include this as a rider to the Village's insurance policy. Ganus will also speak with the Women's Club Liaison to inquire whether the Women's Club would be willing to increase their insurance levels.

NPDES MS4 Permit – Amendment of Application To Include Post Construction Controls

The Village has been advised that the Municipal Separate Storm Sewer Systems (MS4) application that was submitted has been reviewed by the State of Michigan, Department of Environmental Quality, Water Bureau and the Village is lacking post construction controls for long-term volume and rate of storm water run-off from development and redevelopment (not short-term sedimentation controls).

This shall be the first reading (in name only) of the amendment to the ordinance in reference to post construction controls. Dr. John Luce is the chairman of the committee who is charged with meeting with Christine Bauer of the MDEQ Water Bureau to amend the ordinance. This information will be presented at the May, 2009 Council meeting.

Formation of Citizens Advisory Committee – White Creek Clean-Up

In our 2008 Annual Report for the NPDES MS4 Permit, the Village advised that a Citizen's Advisory Committee (CAC) was being formed to encourage public involvement in all aspects of the Storm Water Management Plan (SWMP) and its implementation. The CAC was requested to hold its first meeting in the summer of 2009 and annually thereafter.

The CAC's function is to encourage the public to participate in the "White Creek Clean-Up Day" to be held bi-annually commencing in the summer of 2009, advise the Village on local legislation or administrative actions that will perfect the quality of White Creek and the Lake Michigan shoreline, and meeting with neighboring citizens organizations in Michigan and Indiana to foster protection of White Creek and the Lake Michigan shoreline.

Council member Russ Ramage has volunteered as the Council Liaison to the Citizen's Advisory Council with Dr. John Luce chairing the committee.

License Agreement – Village of Michiana (Licensor) and Phillip and Susan Pence (Licensee)

Village attorney Sara Bell requested the Council consider entering into a license agreement with Phillip and Susan Pence, ~~80 Pocantico, New Buffalo, MI 49117~~ **regarding property located on East Court Drive and Pinewood Drive, New Buffalo, MI 49117.**

The Pence's property borders the Village and a survey revealed that some of the Pence's porch and landscaping encroaches on an undeveloped Village street. There are quite a few streets within the Village that were platted but never opened or paved. This particular street is shown as sixty-six feet (66') wide and it runs into the creek. The owners would like a license from the Village acknowledging that several inches of their porch and some of their landscaping encroach on Village property and in return, the owners will promise to care for the property and hold the Village harmless. The property owners do not get any ownership in the Village's property and the Village will have the right to terminate the license if they (Village) ever decide to actually build a street.

Attorney Bell advised that it is important for the Village to obtain a written license agreement so as to define the parties' legal rights and obligations. The Village first starting using a written license agreement in the early 1990's. Bell went on to state that she has advised the current parties that the Village should not have to pay any legal fees whatsoever for the preparation of a license or attorney conversations and emails with the

NEW BUSINESS (continued)

License Agreement – Village of Michiana (Licensor) and Phillip and Susan Pence (Licensee) (continued)

Village regarding the issue. The owner has agreed that if the Village will grant the license, they will pay all of the legal fees associated with the license.

Motion by Hermelink, second by Bruesch, to authorize the Village President to sign the license agreement negotiated between Village Attorney Sara Bell and Attorney Sally Taylor for a license agreement acknowledging that several inches of the porch and some of the landscaping at ~~80 Pocantico~~ **on East Court Drive and Pinewood Drive encroach on Village property and in return, the owners will promise to care for the property and hold the Village harmless under the condition that the Village's legal fees must be covered by the current owner of the property. Voice vote showed unanimous approval, motion carried (4-0).**

New Village of Michiana Logo – Business Cards

Council member Hermelink presented the Council with four (4) logos. General consensus is that the Village will stick with item three (the beach scene) for now.

Current Contracts Held by Village of Michiana

Ganus provided the Council with a listing of the current binding contracts that the Village holds.

Website Domain Update

This item was placed on the table for further investigation.

Appointment of Cathy Ganus as Clerk

Cathy Ganus has completed her probationary period as clerk for the Village.

Motion by Hermelink, second by Bruesch, to appoint Cathy Ganus as the permanent Village Clerk. Voice vote showed unanimous approval, motion carried (4-0).

Resignation of Sheila Stein as President; Appointment of President & President Pro-Tem

A letter of resignation was received from Sheila Stein advising that she wish to step down from the position as president of the Village Council for an undetermined amount of time. Ganus then read the letter.

Motion by Hermelink, second by Bruesch, to accept the resignation of Sheila Stein as president of the Village Council with the condition that she remains on the Village Council. Voice vote showed unanimous approval, motion carried (4-0).

Motion by Stein, second by Ramage, to appoint Beverly Bruesch as Village President. Voice vote showed unanimous approval, motion carried (4-0).

ANNOUNCEMENTS

Stein advised that she attended the Local Revenue Sharing Board meeting and the Village of Michiana will receive \$45,738 based on thirty-five percent (35%) with the monies being earmarked for fire, police, and public safety.

PUBLIC COMMENTS

None.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:20 pm EST.

Cathy A. Ganus
Michiana Village Clerk