

CALL TO ORDER

The special June 18, 2009 meeting of the Michiana Village Council was called to order at 1:40 pm EST by Village President Beverly Bruesch.

ROLL CALL

Council members Present: President Beverly Bruesch, President Pro-Tem Sheila Stein, Council member, and Council member Russ Ramage.

Council members Absent: Council member Hillary Herbst and Council member George Hermelink.

Others Present: Chief of Police Lyn Papke; Building Inspector William Owens; Melissa Swims, Western Insurance; Stephen Blann, Rehmann Robson; resident Russell Ewert; Treasurer Amy Hemphill; and Clerk Cathy Ganus.

Motion by Stein, second by Ramage to excuse Council member Hillary Herbst from the meeting. Voice vote showed unanimous approval, motion carried (3-0).

Motion by Stein, second by Ramage to excuse Council member George Hermelink from the meeting. Voice vote showed unanimous approval, motion carried (3-0).

NEW BUSINESS

Ordinance Enforcement

Bruesch advised that there is an ongoing issue regarding a construction site near the home of Dr. Allen Kahn on East Court that has debris and excess sand which has damaged Dr. Kahn's plantings. Dr. Kahn voiced a complaint in regards to the way the rear of his property looks due to the construction of a new home across the street. Dr. Kahn advised that he has boulders along his property line that prevent vehicles from entering his property. With the sand coming from the construction site, the boulders are now half buried. Owens advised that Brian Kissel is the contractor and he is aware of the issue and wants to keep the neighbors happy. Stein suggested that Owens advise the contractor to stop by the office and advise of his resolution to the problem.

Bruesch went on to state that Cynthia Ring has also contacted the Village about her property being violated by The Robert Henry Company (who has been retained by Harris Rittoff to bury the electric utilities along the street) as well as construction debris and contractor vehicles.

Bruesch inquired as to whom is responsible to enforce the parking issue. Papke advised that there is a lot of activity going on in this area and there is no parking available. Stein stated that since Papke is on duty during the day he should address the violations immediately and this would bring the issue to closure.

Bruesch also advised that the mailbox that was constructed by a Village resident on Pocantico should not have been permitted as the Ordinance dictates the size, shape, etc. of mailboxes and this particular mailbox does not even come close to meeting the standards. Bruesch then asked who was responsible for overseeing this type of construction. Owens advised that it was probably his responsibility. Owens stated his lack of enforcement on this issue was to alleviate problems.

The question of who is allowed to park in the road right-of-way (which is twenty feet from the center of the road) arose as well as the issue of residential encroachment into the right-of-way with moveable objects (boulders, chains, landscaping, etc.) Papke advised that anyone could park in the road right-of-way. Owens stated that Village roads were not constructed to specification and there is no good way to ascertain where the road right-of-way is located; however, suggested that a good way to locate the right-of-way would be to look for utility poles as the Village grants utility easements on Village property for utility companies and they (utilities) can only construct inside the road right-of-way (not on residential property). Bruesch requested

NEW BUSINESS (continued)

Ordinance Enforcement (continued)

that Owens compile a list of the locations where the issue regarding moveable items (boulders, chains, landscaping, etc.) being placed in the Village right-of-way needs to be addressed. Owens stated he is going to be going on vacation in July and will provide as complete of a list as he can prior to leaving. A letter will be sent giving the residents two (2) weeks to address the issue(s) or Village employees will address the issue(s).

Bruesch asked how long building permits are valid in relation to construction projects that appear to be dragging on for a long period of time. Owens was unsure of the time period and will further investigate.

Bruesch advised that there have been trees trimmed on Village property at or near Stop 41, which is not allowable, and inquired as to why citations have not been issued for this violation. Papke advised that he, Village Tree Inspector Kris Wulff, and Village Public Works Superintendent Rick Reitz addressed the issue two (2) weeks ago. Wulff halted the trimming and advised the trimmers to remove what they had already trimmed from the property. Bruesch went on to state that the trimmers were back on-site for three (3) hours. Ganus will check with Wulff to see what transpired regarding the trimming issue.

Audit FYE 06.30.2008 Financial Statement Presentation

Stephen Blann from Rehmann Robson presented the Village financial statements for fiscal year ending June 30, 2008. Blann began his presentation by going over the opinion letter. He stated that the grayed out areas need to be responded to by the Village "management". Hemphill inquired as to what roles and responsibilities should the clerk and the treasurer assume. Blann stated that whoever generates should not be the same as whoever posts (clear separation of duties for checks and balances).

Hemphill also questioned the bank confirmation in reference to a CD that the Village currently has. Village information shows the CD is owned by the Major Streets Fund but the Water Authority Fund says they are the owners. The issue stems from the fact that the CD was cashed and the money was placed into the Water Authority Fund; however, interest from the CD (which was sent to the Village on a monthly basis) was deposited into the Major Streets Fund. Blann stated at this point there is really no way to ascertain who is now the owner of the CD as there could have been a loan from one fund and in exchange for re-payment, the CD could have been assigned to another fund.

Hemphill advised that the Village is currently seeking RFP's for banking services and inquired as to the rules for insurance of the Village's funds. Blann advised that according to the FDIC, insurance of funds invested are \$250,000 for each customer (not per fund in the case of pooled cash) per bank. Blann suggested the website www.fdic.gov for further information.

Complaint at 4149 Creek Drive

Village resident Steve Jareo addressed the Council in regards to his neighbor at 4149 Creek Drive placing rubbish by the roadway when it was clearly not pickup day. Items include cardboard, screens from window replacement, and used toilets. Bruesch to further investigate.

Property & Casualty Insurance Quotation

Ganus advised that on March 19, 2009 she had submitted a 90-day notification to the Michigan Municipal League (MML – current Village property and casualty insurers) advising that the Village was in the process of seeking bids for their property and casualty insurance as well as workers' compensation insurance. There was some concern that Ganus had not followed the proper protocol for the bid process; however, Ganus received confirmation from MML agent James Newman stating that the requirement for seeking alternative bids had been met.

NEW BUSINESS (continued)

Property & Casualty Insurance Quotation

Ganus then introduced Melissa Swims, agent with the Western Insurance Agency (Par Plan) in Kalamazoo, Michigan. Swims has prepared a quotation for property and casualty insurance with an increased benefits package (over and above MML).

Swims stated that MML coverage is \$2 million combined single limit for the entire liability package. Par Plan has separate liability limits for general liability, errors and omissions, law, and auto, which equates to \$8 million coverage with the Par Plan vs. \$2 million coverage with the MML. Swims advised that the MML only offers defense coverage for zoning issues – not awards. It should be noted that bond coverage is automatically included. The option of raising the treasurer and/or clerk's bonds for an additional premium is also available. Swims provided an annual premium quotation in the amount of \$15,800 per year, which includes a three-year premium guarantee (which results in a savings of \$3,336 annually).

Ganus provided the quotation for property and casualty insurance (the same benefits package as previous years) as submitted by James Newman from the Michigan Municipal League (MML), with total annual premium of \$19,136, which was a decrease from last years' annual premium of \$21,011 (\$1,875 decrease).

Swims was advised that the Village contracts with the Michiana Shores Volunteer Fire Department for fire protection services. Swims suggested that the Village contact the MSVFD and request that the MSVFD agree to a hold harmless clause as well as list the Village as an additional insured on the MSVFD insurance policy.

Stein advised that there is a storage building at Stop 37 and Ganus to check with Superintendent Rick Reitz about this building as it does not appear to be listed on the Village's insurance policy.

Motion by Stein, second by Ramage to accept the proposal submitted by Western Insurance Company (Par Plan) for property and casualty insurance per the quotation received in the amount of \$15,800 annually with the addition of increasing the clerk bond and treasurer bond to \$50,000 each for an additional premium. Roll call vote showed unanimous approval, motion carried (3-0).

Workers' Compensation Insurance

Swims also submitted a quotation from the Accident Fund Workers' Compensation Fund with an annual premium quotation of \$7,826. Ganus received a renewal invoice from the MML Workers' Compensation Fund in the amount of \$8,893 (which results in a savings of \$1,067 annually).

Motion by Stein, second by Ramage to accept the proposal from Western Insurance (Par Plan) for Accident Fund Workers' Compensation insurance with an annual premium of \$7,826. Roll call vote showed unanimous approval, motion carried (3-0).

OLD BUSINESS

*NPDES MS4 Permit – Amendment of Application to Include Post Construction Controls
(Zoning Ordinance – Chapter 14 Amendment)*

Michiana Village's current jurisdictional-based MS4 permit requires that the Village address how it is going to deal with post construction controls, which apply only to land disturbances an acre or greater in size that discharge to the Village's storm sewer system. As a result of this, the Village must amend the MS4 permit application to address the post construction controls.

It should be noted that post construction controls are addressed in part in Chapter 14, section 14.03, paragraph a, 1, in the Village of Michiana Zoning Ordinance in regards to site plan review. This section of the ordinance was sent to the MDEQ Water Bureau, Permits Section and they advised that what the Village has in

OLD BUSINESS (continued)

*NPDES MS4 Permit – Amendment of Application to Include Post Construction Controls
(Zoning Ordinance – Chapter 14 Amendment) (continued)*

The Council held a third reading of the proposed amendment to the Village of Michiana Zoning Ordinance at the regular meeting held on June 8, 2009.

Motion by Stein, second by Ramage to approve the amendment to Chapter 14 of the Village of Michiana Zoning Ordinance in relation to site plan review and post construction storm water controls as follows: *“Before the Building permit can be issued, the contractor has to show plans as to the disposition of a possible heavy water runoff. No run off of water that erodes the property and/or flows into White Creek or Lake Michigan will be allowed.”* **Voice vote showed unanimous approval, motion carried (3-0).**

ADDITIONAL COMMENTS

Questions arose as to whom is responsible for the overgrowth on Village road rights-of-way. It was determined that the Public Works Department is responsible for this; Ganus will advise Superintendent Rick Reitz of this request for maintenance.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 4:56 pm EST.

Cathy A. Ganus
Michiana Village Clerk