

CALL TO ORDER

The regular meeting of the Michiana Village Council was called to order at 1:05 pm EST by Village President Beverly Bruesch.

ROLL CALL

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

Council members Absent: Council member Hillary Herbst and Council member Russ Ramage.

Others Present: Chief of Police Lyn Papke; Public Works Superintendent Rick Reitz; Building Inspector Bill Owens; Michiana Shores Volunteer Fire Department Chief James Imes; Clerk Cathy Ganus; **Treasurer Amy Hemphill**; and residents Kathleen Roberts, Carl Landwehr, and Jurate Landwehr.

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

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

APPROVAL OF MINUTES

Motion by Stein, second by Hermelink, to approve the minutes of the regular September 14, 2009 meeting as amended. Voice vote showed unanimous approval, motion carried (3-0).

ACTION ITEMS UPDATE

At this time Bruesch went through the action items listing attached to the minutes of the September 14, 2009 meeting. Updates were provided as follows:

Grants for Armored Police Vests – Cathy Ganus - Matching-Funds grant has been approved. Awaiting acceptance of the Village's ACH bank form by the Office of the Chief Financial Officer for the US Treasury. At that time vest measurements can be taken and vests ordered. After the vests are received, the Village must pay for the vests and then request a 50% reimbursement from the BVP program.

Bill Payment Policy – Cathy Ganus & Amy Hemphill - In the process of compiling but anticipate it will be ready for the November, 2009 meeting.

McCance Park Plaque – George Hermelink - Bill Owens advised that he is ready to meet with George Hermelink regarding the design of the park plaque.

DEQ – Landwehr Tree Issue – Cathy Ganus - Contacted Michelle DeLong with MDEQ who advised she would be traveling to the Village to complete a compliance inspection on the Rowsell property next door and would review this issue at that time.

Able Disposal \$5 Trash Can Replacement Contract with Homeowners – Cathy Ganus – Contacted Able Disposal regarding a possible contract with Able Disposal and Village residents regarding the replacement of garbage cans after weekly trash pickup. Ganus was advised that Able has done this in the past; however, for liability reasons they have discontinued this service.

The Garbage Ordinance was also discussed and George Hermelink and Sheila Stein to review current ordinance and report to Council.

ACTION ITEMS UPDATE (continued)

DEQ – Michelle DeLong contact regarding Rowsell Compliance Check – Cathy Ganus –DeLong conducted a compliance check but did not advise of findings as she wanted to review the permit before rendering any opinions regarding potential violations to see what was actually permitted. To date, nothing has been received from DeLong.

Bill Owens – Compilation of Written Inspection List for Inspections Completed regarding the Rowsell property – Cathy Ganus – Owens will provide the Council with the requested information during the Building Inspector Report section of this meeting.

Kathy Klopp – Property Donation on Cherokee Drive – Cathy Ganus – Mrs. Klopp was contacted regarding donating the property to the Village in lieu of payment. Mrs. Klopp declined the offer.

CORRESPONDENCE

Rehmann Robson Correspondence

Ganus advised that she has drafted correspondence to Stephen Blann, Principal of Rehmann Robson (auditors) in regards to disputing an invoice the Village has received in the amount of \$6,800 for the audit of the Village's finances for fiscal year ending 06.30.2008.

The original audit contract signed by former clerk Mary Jo Nallenweg showed a contract total of \$8,000. In light of the embezzlement issue, the audit was suspended for some unknown reason. In January, 2009, then-Village President Sheila Stein signed an audit change order not to exceed \$2,000. In March, 2009, Ganus and Stein requested that Blann provide the Village with a final billing for the audit for the FYE 06.30.2008 as this total was to be included in the Crime Victims Report for restitution purposes in the sentencing of Mary Jo Nallenweg in connection with her embezzlement from the Village. Blann provided Ganus with an invoice in the amount of \$2,000, which the Village then paid. On May 5, 2009, the Village received the invoice in the amount of \$6,800. At that time Ganus conducted an accounting of all invoices received and paid, which resulted in the determination that the Village has overpaid for the auditing contract.

Ganus advised she received a response from Blann advising that it is their (Rehmann's) belief that the Village still owes the invoiced amount. The Council directed Ganus to continue corresponding with Rehmann Robson for a resolution.

David Lubell Correspondence

Correspondence was received from Dr. and Mrs. David Lubell of 11 Pocantico Trail regarding several issues. The Lubell's pointed out that there was a volleyball net stretched across the beach in front of 3881 through 3885 Lake Shore Drive. They felt the net may be illegal, however, if not, it is inappropriate and the owner should be asked not to set it up on a permanent basis. They also expressed concern in regards to a large wooden picnic table that has been present all summer on the beach at stop 38.

Bruesch advised she checked the area in question and found no evidence of a volleyball net. Ganus contacted Village resident George Curtin (his name was written on the picnic table). Mr. Curtin advised that he has been having personal difficulties and would see to it that the picnic table is removed in the near future. Ganus reminded Mr. Curtin that by ordinance items must be removed from the beach by October 15th to avoid further violation. Ganus will draft correspondence to The Lubell's to address their concerns.

Village of Grand Beach Storm Water Management Program Correspondence

The Village of Grand Beach has recently completed and submitted its Storm Water Management Program (SWMP) to the MDEQ and has received approval of same. The SWMP is available for viewing at the Grand Beach Village Hall.

TREASURER'S REPORT / MONTHLY BILLS REVIEW – Amy Hemphill

Hemphill provided the treasurer's report showing the following balances:

Building Fund	\$ 11,900.94	Capital Projects Fund	\$ 41,454.23
General Fund	\$392,908.27	Local Street Fund	\$ 37,637.22 (unreconciled)
Major Street Fund	\$ 44,181.70	Water Authority Fund	\$130,572.74
Water Authority Trust Fund	\$121,557.90		

The 2009 Village tax collection cycle has been completed and Hemphill has settled with the County. Through September 14, 2009, the Village has collected \$507,763.63 in taxes with \$46,377.88 showing delinquent. The Village should be receiving a check from the County of Berrien Revolving Fund for the delinquent amount in May, 2010.

Hemphill went on to state that in light of the Village's submission of the Act 51 (roads) reports for years 2008 and 2009, the State has sent the Village a check in the amount of \$40,000 for Act 51 funding, which will be deposited into the Major Street Fund and Local Street Fund.

Hemphill also advised that the Village has been advised by Talx (unemployment claims) that the Village has had a claim filed for unemployment benefits by part-time police officer Michael Kanger. Since the Village is a reimbursing employer, the Village is responsible to share in the unemployment expense for Kanger, even though Kanger was not employed full-time with the Village. Talx has a certain time period they review and the Village paid Kanger wages during that time period, therefore the Village is obligated to share in the expense, which amounts to \$58.21.

Motion by Hermelink, second by Stein, to accept the Treasurer's Report as presented. Voice vote showed unanimous approval, motion carried (3-0).

REPORTS

Building Inspector Report – Bill Owens

Bill Owens presented his Building Inspector Report. Stein inquired as to who the homeowner was in reference to permit # 2009-13 as the report reflected the name of the builder. Ganus advised that the homeowners were Tom and Cathy Dooley.

Regarding the Rowsell building permit and the Landwehr's issues regarding same, Owens stated that Tom McCormick of Duneland Development has planted the trees for the Landwehr's and he (Owens) will be meeting with McCormick's workers on Wednesday or Thursday regarding moving the air conditioning units to the front of the residence.

Jurate Landwehr presented the following issues: 1) Trees that were not authorized for removal are to be replaced at the expense of Duneland Development, LLC; 2) Due to the removal of the trees, water from the construction site is eroding their property; 3) There are two air conditioning units and three steel beams in place for the deck to run the entire house and this is encroaching on their property and has not been approved previously; 4) Property line markers have been bent and some have been moved from their (Landwehr's) survey of their property and need to be restored to the correct position by surveyors; 5) Siltation fence (not biodegradable) as well as construction trash needs to be removed from their (Landwehr's) property, and 6) The Rowsell's home needs to be measured to assure that it conforms to the Village of Michiana building height requirements.

Owens stated that technically the I-beams and the deck should not be allowed; however, the erosion issue is a legitimate complaint. Owens also advised that the trees have been planted so this issue has been satisfied. The tree person was not asked to bid the mulch placement by McCormick. Jurate Landwehr stated she wants to see the measurements for the building height. The Council advised Owens to re-measure and provide

REPORTS (continued)

Building Inspector Report – Bill Owens (continued)

documentation of height of Rowsell permit. Mrs. Landwehr would like a written statement.

Landwehr went on to request a copy of DEQ reports as well. Bruesch advised she would check with Village Attorney Sara Bell regarding holding the Certificate of Occupancy pending resolution of all issues. Jurate Landwehr also advised that there were curlicues (metal shavings from the installation of the air conditioning unit) that needed to be picked up as well as this is a hazard to barefoot traffic.

Jurate Landwehr then asked about beach control ordinances and removal of items from beaches by October 15th of each year. Papke advised that boats on the public beach have been tagged for removal. Landwehr went on to state that there are lots of burned wood between Stop 41 and 42.

Tree / Fence Inspector Report – Kris Wulff

No report filed. Kris Wulff not in attendance.

Fire Chief Report – Michiana Shores Volunteer Fire Department – Chief James Imes

Fire Chief James Imes provided the Michiana Shores Volunteer Fire Department report for September, 2009. During this time, one (1) call was received for first responders within the Village of Michiana. Chief Imes also reported that the Fire Department Fall Pancake Breakfast will be held on Sunday, October 25, 2009 at the Fire Station and all are welcome.

Chief Imes also advised that he is in the process of working on the contract for fire services between the Michiana Shores Volunteer Fire Department and the Village of Michiana. Bruesch advised that she had been contacted about a letter asking for contributions for the MSVFD and requested that the MSVFD re-word the request so as to clear up confusion between the Village of Michiana and MSVFD.

Finance Committee Report

Bruesch advised that Finance Committee member Rich Shepard requested that information be gathered together regarding first quarter expenditures. A meeting of the Finance Committee is scheduled for Monday, October 19, 2009 at 10:00 am at the Michiana Village Hall.

Water Authority Commission Report

No report filed.

Police Report – Chief Lyn Papke

Chief Papke advised he had received a quote for a new police vehicle to replace the Crown Victoria currently in service. Papke advised that this is the last year Ford will be manufacturing the Crown Victoria. Papke provided a quotation in the amount of \$24,582 for a 2010 Ford Expedition SSV. Discussion ensued regarding different police packages available.

Motion by Stein, second by Hermelink, to accept the quote from Three Oaks Ford in the amount of \$24,582 for a 2010 Ford Expedition with trade-in of 2001 Ford Crown Victoria. Roll call vote showed unanimous approval, motion carried (3-0).

It was determined that the Ford Expedition shall be paid for out of the funds received from the Local Revenue Sharing Board. The color of the Expedition shall be blue per general consensus.

REPORTS (continued)

Police Report – Chief Lyn Papke (continued)

Papke presented the police report for the month of September, 2009. During that time, six hundred forty-six (646) man hours were dedicated to the protection of the citizens of the Village of Michiana. No citations were issued, no arrests were made, and there were seven (7) assists to other departments as well as one (1) ambulance assists. Five hundred sixty-eight (568) security inspections were conducted and seven (7) alarms calls were received.

Traffic Control Order 2009-01

There have been some issues regarding overnight parking on Village-owned properties. As a result of investigation into this issue, "No Overnight Parking" signs will be installed in front of the Michiana Village Hall and "No Parking" signs shall be installed west of the maintenance driveway parking area.

Motion by Stein, second by Hermelink, to approve Traffic Control Order # 2009-01 as presented. Voice vote showed unanimous approval, motion carried (3-0).

Resolution # 2009-04 – Establishing Parking Restrictions

Bruesch advised she has contacted the Village attorney who suggested a resolution be passed regarding the establishment of parking restrictions within the Village.

Motion by Stein, second by Hermelink, to approve resolution # 2009-04, a Resolution Establishing Parking Restrictions. Roll call vote showed unanimous approval, motion carried (3-0).

Public Works / Water Authority Report – Superintendent Rick Reitz

Reitz advised that the leaf composting pile has been removed. He went on to state that he has meetings scheduled with two (2) water customers who are disputing large water billings.

Reitz advised that resident Kenneth Wolf requested that a stop sign be placed on Apache Trail at Ponchartrain stating "Cross Traffic Does Not Stop". Reitz quoted the sign with SA-SO and the cost would be \$40 set up and \$62 per sign. This item was placed on the table.

The Council then directed Papke to conduct a traffic study at the following intersections: Michiana Drive & El Portal; Ponchartrain & East Court; and Apache & Ponchartrain.

Also brought to the attention of the Council was the fact that some of the streets are missing street signs. Reitz advised to order signs.

Water Authority Commission minutes from September 8, 2009 were presented to the Council as well.

Citizen's Advisory Committee (White Creek Clean-Up) – Russ Ramage

No report filed. Russ Ramage not in attendance.

Clerk's Report – Cathy Ganus

Ganus reported that she had received information from the Bulletproof Vest Partnership through the US Department of Justice, Bureau of Justice Assistance that the grant request Ganus had filed for a 50/50 matching grant for bulletproof vests for the police department has been approved for the purchase of three (3) new National Institute of Justice (NIJ) compliant armored vests from Michigan Police Equipment.

REPORTS (continued)

Clerk's Report – Cathy Ganus (continued)

Ganus also advised that she and Hemphill have been working with auditor Derek Hall regarding the Village audit for fiscal year ending June 30, 2009. Ganus has responded to the auditor's statement of findings and respectfully requested that a Village Council member review her responses prior to the submission of same.

Ganus also drafted correspondence to Rehmann Robson (auditing firm) regarding outstanding balance of \$6,800, which the Village is disputing.

Ganus also made contact with the Indiana Department of Revenue regarding overpayment of Indiana sales tax for water usage for Indiana water customers for April, May and June of 2006.

Monthly Bill Review

Motion by Stein, second by Hermelink, to approve General Fund check # 27330 to and including check # 27394 totaling \$65,185.04. Roll call vote showed unanimous approval, motion carried (3-0).

Motion by Stein, second by Hermelink, to approve Water Authority Fund check # 5513 to and including check # 5525 totaling \$32,468.71. Roll call vote showed unanimous approval, motion carried (3-0).

Motion by Stein, second by Hermelink, to approve Local Street Fund check # 550 totaling \$143.88. Roll call vote showed unanimous approval, motion carried (3-0).

Accounts Payable Check Approval List

Motion by Stein, second by Hermelink, to approve the October 12, 2009 accounts payable expenditures listing in the amount of \$1,905.68 from the General Fund as well as \$480.00 from the Water Authority Fund. Roll call vote showed unanimous approval, motion carried (3-0).

Motion by Stein, second by Hermelink, to accept the reports as presented. Voice vote showed unanimous approval, motion carried (3-0).

OLD BUSINESS

Pokagon Fund Grand Request / Revenue Sharing Fund

This item was placed on the table. Hermelink and Reitz to collaborate on this item.

Property Donation (Klopp)

Mrs. Klopp declined to donate the property on Cherokee Drive to the Village. She advised she would accept less than \$23,000. It was the general consensus of the Council to thank Mrs. Klopp for her offer but the Village will decline the offer at this time. Should Mrs. Klopp reconsider, the Village is willing to accept the property upon donation of same.

Leaf Pile / Future Leaf Solution / Survey

The unconstructed Village road right-of-way located on Tahoma Trail has been surveyed. Reitz is to get signs posted advising no unauthorized dumping. Reitz was also instructed to install chains and to clear the area for winter sledding.

OLD BUSINESS (continued)

Human Resources Manual Update / Updated Job Descriptions

The Human Resources manual has been updated as per Council request. The only item lacking at this point is updated job description.

Motion by Stein, second by Hermelink, to approve Resolution # 2009-05, Human Resources Manual, as presented with the exception of the updated job descriptions to be inserted at a later date. Roll call vote showed unanimous approval, motion carried (3-0).

Sick Time Payout Issue

An investigation into the sick time and vacation time payout has been conducted. There is no policy in the Human Resources Manual that addresses this issue; therefore, there will be no payout of sick time or vacation time.

NEW BUSINESS

RFP's for Health Insurance

This item was placed on the table.

Special Meeting in October – Audit FYE 06.30.2009 Presentation

A special meeting of the Village Council of the Village of Michiana on October 26, 2009 at 1:00 pm EST for the information presentation of the audit for fiscal year ending June 30, 2009.

Filing Insurance Claim – Michigan Municipal League (MML) – Embezzlement Case

This item was placed on the table to allow complete investigation into the materials needed for presentation to file a claim against the clerk / treasurer bond regarding the embezzlement that occurred against the Village.

Beach Stop Step Maintenance & Repair

Stein advised that the steps at Beach Stop ~~37~~ **41 ½** contained too wide of a span for the boards and needs an extra stringer installed. Reitz was advised to handle this.

Building Permit Structure

This item was placed on the table to allow Ganus to research building permit fee schedules.

ANNOUNCEMENTS

None.

PUBLIC COMMENTS

None.

ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 4:00 EST.

Cathy A. Ganus
Michiana Village Clerk