

**VILLAGE OF GRAND BEACH
REGULAR COUNCIL MEETING (HELD ELECTRONICALLY)
FEBRUARY 17, 2021**

CALL TO ORDER

Council President Deborah Lindley called the electronic (virtual) regular council meeting to order at 7:33 p.m. EST.

Lindley read the following information regarding the remote meeting:

This meeting is being held remotely due to the COVID-19 pandemic enrolled UNDER Senate Bill 1246, Public Act 254 of 2020 amending the Open Meetings Act. All Council members should identify themselves prior to speaking so that everyone is aware of who is speaking. The President of the Council will read all of the agenda items as we go along for those that can't see the agenda.

There will be two times when the public can speak.

- The first time will be during “comments on agenda items”.
- The second time is during “public comments - general” where you can speak about any concerns.
- All audience members will be muted until it is time for them to speak.
- Please identify yourself before speaking.

ROLL CALL – IN ATTENDANCE

James Bracewell – Attending remotely from Grand Beach, Michigan

Paul Leonard – Attending remotely from Jupiter, Florida

Deborah Lindley – Attending remotely from Grand Beach, Michigan

Blake O'Halloran - Attending remotely from Grand Beach, Michigan

Steve Slater - Attending remotely from Cedar Key, Florida

ADOPT AGENDA

Lindley moved, seconded by O'Halloran to adopt the February 17, 2021 agenda with the addition of *Item 10(j) Legally Respond to New Buffalo Township Board Regarding Their Special Assessment District.*

Roll Call Vote

Paul Leonard Aye

Deborah Lindley Aye

Blake O'Halloran Aye

Steve Slater Aye

James Bracewell Aye

Motion carried unanimously 5-0.

ADOPT CONSENT AGENDA

- a. Approve Village Council Minutes:
 Regular Council Meeting, January 20, 2021
- b. Pay Bills with Written Additions

Lindley moved, seconded by Slater to adopt the consent agenda as presented.

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Roll Call Vote

Deborah Lindley	Aye
Blake O'Halloran	Aye
Steve Slater	Aye
James Bracewell	Aye
Paul Leonard	Aye

Motion carried unanimously 5-0.

COMMENTS ON AGENDA ITEMS

None

PRESENTATIONS/RECOGNITION

BRIAN HAKE - KRUGGEL LAWTON AUDIT PRESENTATION

Brian Hake of Kruggel Lawton Company presented the fiscal year 2019-2020 audit. He said that the audit report has been finalized and they are going through the submission of the report now. He said they issued an unmodified opinion which is the highest opinion that can be given. The General Fund had a positive year and was up by \$55,000 including transfers to Capital Projects. Total government funds increased by \$272,000, the water fund increased by \$98,000 and the golf fund increased by \$61,000. The fund balance in the General Fund is \$1,041,655 which is very close to last year's fund balance of \$1,044,897.

He told the Council that the Village is sitting at a net liability in the pension, meaning that liabilities exceed assets. He said that assets can fluctuate based on market returns and liabilities are based on the number of people in the plan and the amount of pension to be paid out. Leonard asked Hake for any suggestions on how to reduce the liabilities over the next three years and what can be done so the liability does not increase. Hake said that the numbers can flip at any time depending on several variables that play into it including market fluctuations and suggested that the Council keep a close eye on it.

Clerk-Treasurer Mary Robertson said that the Village can increase the employer's contribution or make lump sum payments. She said that when the actuary plan comes out in June, we can take a look at different ways to reduce the unfunded amount in the plan.

POLICE CHIEF RYAN LAYMAN – POLICING IN THE NEW BUFFALO AREA

Police Chief Ryan Layman gave a presentation to show what geographical areas the different police departments in the New Buffalo area cover. He said there was a question about this at a prior meeting, so he created a slide show with the information.

The following departments can be seen in the area although most of them do not patrol in Grand Beach, but will come into the Village for assistance if needed:

- Michigan State Police - They patrol unincorporated areas of the state and are responsible for patrolling over 40 miles on I-94.
- Pokagon Tribal Police – Responsible for Four Winds Casinos and casino property. They have casinos in New Buffalo, Hartford, Dowagiac and South Bend.
- Berrien County Sheriff's South County Patrol – Responsible for unincorporated Villages and Townships in the south county (Village of Galien, Galien Township, Bertrand Township, Buchanan Township, Weesaw Township and New Troy).

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- Berrien County Sheriff's New Buffalo Township Patrol – Responsible for patrolling the township which includes 6 miles of I-94.
- Grand Beach/Michiana Police Department – Patrols the Grand Beach and Michiana Villages.

He said the Grand Beach/Michiana Police is the only department authorized to enforce Village ordinances with the department supported by tax dollars from both Villages.

Layman said that Grand Beach and Michiana answered 600 calls for service in 2020. New Buffalo Township assisted them 20 times and they assisted the township police 27 times in 2020.

He said it might seem like there are a lot of police agencies in the New Buffalo area, but many are just starting from New Buffalo and covering other territory.

PUBLIC HEARINGS

None

COMMISSION REPORTS

BUILDING & ZONING: Bracewell said that it has been very quiet in the Village, but there are many plans being submitted with homes and properties being sold recently. He thanked Chief Layman for serving an owner in Fifteen Acres. Layman said that beginning on February 1, 2021 the court house has moved into phase 2 and will start holding jury trials, so he hopes that other court cases will begin to be held.

PARKS & BEACHES: Slater had nothing to report.

STREETS & WATER: Leonard said he has exchanged emails with Joe Farwell concerning the Memorandum of Understanding and Easement regarding the water lines on their property on Ely Avenue. He said Farwell has questions for Village Attorney Sara Senica, so it will take a little more time.

POLICE: Lindley said Village Attorney Sara Senica has done a fantastic job and has done a lot of research regarding the New Buffalo Township Special Assessment that includes the Villages of Grand Beach and Michiana, and Lindley has great confidence in her research.

PRO SHOP & COURSE: O'Halloran said the golf course is open for Village residents to ride their snowmobiles on. Snowmobilers should be considerate of the neighbors, stay off the greens and are not allowed in the 42 Acres. He said he would like to form a golf committee to look at options for improvement to the course in the future. He would also like to begin evaluating the trees on the course.

SERVISCAPE REPORT

Clay Putnam said they have been doing equipment maintenance and are currently reviewing bids from various vendors.

PERSONNEL REPORTS

SUPERINTENDENT: In addition to written report, Superintendent Bob Dabbs told the Council that Oselka Constructors still need to get their two excavators out of the Village. After much discussion, Dabbs said he will video tape the equipment as they move along the roads and they will put plywood down to protect the roads at any turns. He will request written confirmation from Oselka to state that they will be held responsible for any damage to the roads.

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POLICE CHIEF: In addition to his written report, Police Chief Ryan Layman corrected a statement that was made at the February 12, 2021 meeting stating that there were 60 fire calls in Grand Beach in 2020. Layman said that 20 of the calls were in Grand Beach and 40 calls were in Michiana.

BUILDING INSPECTOR: Building Inspector Bill Lambert was not in attendance.

UNFINISHED BUSINESS

None

NEW BUSINESS

COUNCIL MEETINGS - TIME CHANGE

Lindley moved, seconded by Slater to change the start time of regular council meetings to 7:00 p.m. EST and update the “Rules of Procedures” to show the correct meeting time.

Roll Call Vote

Steve Slater	Aye
James Bracewell	Aye
Paul Leonard	Aye
Deborah Lindley	Aye
Blake O’Halloran	Aye

Motion carried unanimously 5-0.

PROPERTY, LIABILITY & AUTO INSURANCE

Lindley explained that the Village received information regarding the insurance renewal. She said the premium for this year is \$26,116 which is a 12% reduction from last year, partly due to the fact that we reduced our police fleet by one squad car. We will also receive a dividend of \$1,986.

PUMP HOUSE FURNACE REPLACEMENT

Lindley explained that the furnace at the pump house went out and an estimate to repair the furnace was \$1,000 and they weren’t sure if it would last through the winter after the repair. The cost of a new furnace was \$3,800, so she had the furnace replaced.

Lindley moved, seconded by Leonard after the fact, to replace the furnace in the pump house at a cost not to exceed \$4,000.

Roll Call Vote

James Bracewell	Aye
Paul Leonard	Aye
Deborah Lindley	Aye
Blake O’Halloran	Aye
Steve Slater	Aye

Motion carried unanimously 5-0.

BUDGET AMENDMENT – GOLF FUND FY 2020-2021

Lindley moved, seconded by O’Halloran to approve a budget amendment for the Golf Fund for fiscal year 2020-2021 for the purchase of a furnace for the pump house.

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Roll Call Vote

Paul Leonard	Aye
Deborah Lindley	Aye
Blake O'Halloran	Aye
Steve Slater	Aye
James Bracewell	Aye

Motion carried unanimously 5-0.

GOLF CART PARKING FEES

O'Halloran moved, seconded by Leonard to increase the golf cart parking stickers by \$5.00 for the 2021 season for residents.

Roll Call Vote

Deborah Lindley	Aye
Blake O'Halloran	Aye
Steve Slater	Aye
James Bracewell	Aye
Paul Leonard	Aye

Motion carried unanimously 5-0.

GOLF FEES

O'Halloran said that there will be no increase in the golf fees and cart rental fees this year.

NEW BUFFALO SHORELINE ALLIANCE

Slater said that the New Buffalo Shoreline Alliance (NBSA) was formed about six years ago and during that time they have reached out to the Army Corps of Engineers (ACOE) and had meetings with them regarding the loss of sand at the beaches. He said it has become very evident that they aren't going to take any responsibility for damages south of the New Buffalo breakwater.

He said it has cost millions of dollars to both residents and Grand Beach due to loss of land and property value. He said there was a case in Stevensville titled "Banks vs. United States" where a group of lakefront property owners filed a lawsuit and won with it being determined that the ACOE was responsible for a "taking".

The NBSA connected with a law firm in Chicago and they feel they have a strong case against the ACOE. They will handle the entire case and cap the cost at \$400,000. To date, the NBSA has raised between \$100,000 and \$150,000 towards the lawsuit.

He said the Village owns shoreline at its beach accesses and can join the suit.

He said if the case is won, the money will go into a trust and will not go to any of the owners. The money will be spent on sand and revetment work. The NBSA has suggested a donation of \$4,000 for lakefront property owners and somewhere in the \$2,000 range for off lake properties.

Slater moved, seconded by Leonard that the Village of Grand Beach join the case spearheaded by the NBSA as a plaintiff and provide information necessary to move forward, and pay \$5,000 toward legal fees from the Capital Projects Parks and Beach fund.

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Roll Call Vote

Steve Slater	Aye
James Bracewell	Aye
Paul Leonard	Aye
Deborah Lindley	Aye
Blake O'Halloran	Aye

Motion carried unanimously 5-0.

EGLE SPECIAL EXCEPTION – 51005 LAKE PARK DRIVE

Lindley said the Council has two special exception requests regarding revetment work at 51005 and 51007 Lake Park Drive. Clerk Mary Robertson said that when EGLE went to look at the properties for their proposed work, they noticed they were going to be doing much more work than what they originally thought which is why they required the special exceptions.

Lindley moved, seconded by Leonard to accept the special exceptions for property located at 51005 Lake Park Drive and 51007 Lake Park Drive.

Roll Call Vote

James Bracewell	Aye
Paul Leonard	Aye
Deborah Lindley	Aye
Blake O'Halloran	Nay
Steve Slater	Nay

Motion carried unanimously 5-0.

EGLE SPECIAL EXCEPTION – 51007 LAKE PARK DRIVE

LEGALLY RESPOND TO NEW BUFFALO TOWNSHIP BOARD REGARDING THEIR SPECIAL ASSESSMENT DISTRICT

Lindley said that she felt last night's vote to adopt a resolution for a special assessment district (SAD) by New Buffalo Township was very disappointing. She said it was voted on after about two hours of comments against it, and the vote was unanimous and without comment. She said the Village does not feel the Township has the ability to do a special assessment on a home rule Village and they think it is an unfair assessment. She said sadly that she thinks the only way to address the issue is by legal means.

Slater said he was appalled that without comment they adopted the resolution, adding that the Village is 100% in favor of fire, Grand Beach Police and Medic 1. He said it is not fair to be double dipped for our police and the Council should take a look at what options are available.

Bracewell said he was neither shocked nor surprised at what happened. He felt it was insulting to take two hours of comments and not respond.

O'Halloran said it is very important that the Village look at all of our options and take into account the precedent that this could set. He said this could go to the state of Michigan and possibly all the way to the supreme court, and added that no one likes litigation with neighbors and friends. He said we need to understand what the Township has rights to do, and he was disappointed that there was no discussion. He questions the legality and their right to assess. He said at least in the future, we need to have notice so the township residents feel like they have notice to participate.

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Leonard said the issue isn't just about a defective process or procedure and is more fundamental than that. He said they can't do what they did because lands being assessed are in the Village and that is off limits to the Township. He said a tax is paid by everyone in the township, but with a SAD you can carve out an area and assess it.

Lindley moved, seconded by Slater to proceed with legal action against New Buffalo Township regarding the Special Assessment district.

Roll Call Vote

Paul Leonard	Aye
Deborah Lindley	Aye
Blake O'Halloran	Aye
Steve Slater	Aye
James Bracewell	Aye

Motion carried unanimously 5-0.

PUBLIC COMMENTS – GENERAL

None

CORRESPONDENCE

None

Lindley thanked residents for sending letters or speaking in opposition of the SAD at the Township's public hearing. She thanked resident Ed Trainor for helping the Council spread the word.

ADJOURNMENT

Lindley moved, seconded by Bracewell to adjourn the meeting.

With no further business, the meeting was adjourned at 9:56 p.m. EST.

Respectfully submitted,

Mary J. Robertson
Clerk-Treasurer