

**VILLAGE OF GRAND BEACH
SPECIAL COUNCIL MEETING
MARCH 5, 2021**

Council President Deborah Lindley called the electronic (virtual) Zoom Special Council Meeting to order at 3:00 p.m. EST.

Lindley read the following information regarding the remote meeting:

This meeting is being held remotely due to the COVID-19 pandemic under enrolled 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 Slater to adopt the agenda as presented.

Roll Call

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

Motion carried unanimously 5-0.

COMMENTS ON AGENDA ITEMS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

ENGAGEMENT LETTER – LEGAL SERVICES

Lindley explained that at a recent meeting she attended with Village Attorney Sara Senica and representatives from Michiana, one of the Michiana council members asked Sara Senica to provide terms to establish the amount of time and legal fees needed to pursue a lawsuit regarding New Buffalo Township’s Special

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Assessment District (SAD). She said the reason for engaging legal counsel is to protect the Village's sovereign rights as a home rule Village. The township has the right to determine millage rates that are voted on by the registered voters of the township, but she feels that they don't have the right to establish a SAD in the Village. She said if they were able to do this, it would negate them passing millages and instead establishing SADs in the future. The SAD could be increased by a vote of the five Township board members. The Village has the right to establish a SAD in the Village.

She said Sara Senica's fees are \$160 an hour with an estimate of between \$20,000 and \$28,000 to be split between Michiana and Grand Beach. The cost depends on circumstances in the circuit court. If it is appealed to the appellate court, the costs will go up and the Council will consider the costs at that time to determine what they want to do.

She said both Villages have full confidence in Sara Senica's municipal knowledge and her investigations pursuing this legal issue.

Leonard said he agrees with Senica's analysis and feels that the Villages have a very strong case and that her proposal and estimate is reasonable. He said litigation is always full of uncertainty because you don't know what the other side is going to do and how they are going to litigate, so the cost estimate is a best case scenario, and we have to be prepared for additional costs that aren't anticipated. He said we might have to consider how far up the chain this could go and it could go all the way to the Supreme Court. This has to do with our ability to govern ourselves. As a practical matter, he keeps thinking no taxation without representation, as neither Village has a representative on the Township Board. He said this is a way for New Buffalo Township to reach into the pockets of each taxpayer in Grand Beach and Michiana to finance projects throughout the township that don't provide any measurable benefit to the Villages. This is a fight worth having and taking all the way to the end.

Bracewell said he supports what Leonard said, and said that not too many people challenge their townships in this state successfully. It's been his experience that it is very difficult to overturn their decisions, although he did go to the Tax Tribunal 20 years ago and won. He supports the lawsuit and using Village funds to pay for it.

Slater said this has been something that he has been concerned with since getting on the Council and he thinks the Township has overplayed their hand and have pushed too far and they don't have the authority to do what they are trying to do. He fully supports what the other Council members have said.

O'Halloran said he thinks the biggest thing is precedent, and if we don't win, it will be a challenge to home rule Villages in the future. This is hitting our Village right in the center of the importance of what we do. If we allow another Board to levy taxes on the Village whenever they feel like it, he thinks it's a big problem for all Villages. He thinks this will go all the way to the Supreme Court. He said we need to get through the circuit court, and who knows what that will cost. If we can get into the appellate court, then the Michigan Municipal League will come in with their lawyers and help all of the Villages. He thinks that when another Board of five members can make decisions that affect so many, that is a major concern for everyone and right or wrong, no matter how you feel about it, we have to go forward with it and he supports having Sara Senica represent the Village.

Lindley moved, seconded by Leonard to agree to the engagement letter with Attorney Sara Senica pertaining to her legal services and fees.

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Roll Call

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

Motion carried unanimously 5-0.

CONFLICT OF INTEREST WAIVER

Lindley explained that Sara Senica wanted the Village to be aware that she is representing both Villages of Michiana and Grand Beach, so she drew up the conflict of interest waiver, but she feels that there is no conflict since our intent is the same.

Lindley moved, seconded by O’Halloran to sign the Conflict of Interest Waiver prepared by Attorney Sara Senica.

Roll Call

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

Motion carried unanimously 5-0.

TAXPAYER NEXT STEPS – TAX TRIBUNAL

Lindley said the Village cannot give legal instruction to the taxpayers, but since the Village does not pay taxes to the township, the Village has no legal standing to file an appeal to the Tax Tribunal which deals with individual taxpayer issues of unfair taxes. She said it is her understanding that if a taxpayer wrote a letter or spoke at the Township’s recent public hearing to appeal the SAD, you may file an appeal to the Tax Tribunal. She said that their decision can help with decisions in the circuit court although they are different issues, ours is based on home rule and theirs is based on taxes.

PUBLIC COMMENTS – GENERAL

Ed Trainor thanked the Council for the steps taken on this issue. He said it is important to both full time and part time residents. He said there is a lot of support out there from both Michiana and Grand Beach and he has between 500-600 people on his group email list. If you are interested in being included in his group emails regarding the SAD, you can let him know at etrainor111@gmail.com.

He said individual taxpayers can file an appeal to the Tax Tribunal in two ways with the deadline being March 17, 2021. You can file in the following manner:

1. File appeal through an attorney. The group has identified a good law firm as Kotz Sangster and they’ll file all documents for you at a cost of \$1,050 per taxpayer.
2. You can file on your own online through the Tax Tribunal website at a cost of \$250.

Trainor said they might have a Zoom meeting for individuals where they might get into strategies.

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Bill Kenny said he wants to make sure he understands this budget wise and that the Village will incur legal fees and the Township will incur legal fees, and he feels like they are fighting each other and paying for legal fees on both sides.

Anthony Ulizio thanked everyone for their effort.

ADJOURNMENT

Lindley moved, seconded by Slater to adjourn the meeting.

Roll Call

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

Motion carried unanimously 5-0.

With no further business, the meeting was adjourned at 3:32 p.m. EST.

Respectfully Submitted,

Mary J. Robertson
Clerk-Treasurer