

**TOWN OF MICHIANA SHORES**  
 601 El Portal Drive  
 Michiana Shores, IN 46360-1175  
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**March 10<sup>TH</sup>, 2020 Council Meeting Minutes**

1. **7:04pm Call to Order/Pledge-** Council President Daina Dumbrys
2. **Roll Call: Present:** Pres. Daina Dumbrys, V-P Michael Martinez, Pam Dubie, Mike Lancioni, Rich Young, Clerk/Treasurer Joan Lewis, Atty. Jeffrey Gunning, Fire Chief Garry Bendix, Police Chief Bob Sulkowski, Park Board Pres. Dolly Millick, BZA VP Ray Dumbrys, Bldg. Commissioner Steve Thomas, Web Content Manager Daina Dumbrys, Drainage Board Ray Dumbrys.
3. **February 11, 2020 Meeting minutes** were approved with a motion from Michael Martinez; seconded by Mike Lancioni; and a vote of 5 Ayes.
4. **Agenda:** Amended to advance Refuse Bid opening to front of Agenda. Invitation for Bids published in Michigan City News Dispatch 2/21/2020 & 2/28/2020  
 Bids were opened and read by Clerk Treasurer, Joan M. Lewis:

<u>Company</u>	<u>1<sup>st</sup> yr</u>	<u>2<sup>nd</sup> yr</u>	<u>3<sup>rd</sup> yr</u>	
Recycle Track Systems (RTS)	\$ 11.50	11.76	12.03	Per Container w/Spring Clean-up
(Refuse & Garbage weekly)	11.25	11.50	11.76	No spring clean-up
	15.25	15.59	15.94	No Spring clean-up – containers Left 25ft up driveway
Republic Services	11.80	12.15	12.51	Per container w/Spring Clean-up
	11.80	12.15	12.51	No Spring clean-up
	14.60	15.04	15.49	No Spring clean-up – containers Left 25ft up driveway
No Leaf pick-up – They do not have an IDEM dump site.				Left 25ft up driveway

Mike Lancioni stated he figured it would be \$3.60 more a year per household if the bid was awarded to the current vendor. The cans would have to be replaced, which is doable but disruptive just to save \$3.60 per year per household the first year. He also mentioned a new service provider would need to furnish new cans, the drivers would have to learn the routes and Republic Services has been doing it for a lot of years. Now the question in front of us is; Is it worth \$3.60 (\$1,616.80.) to change services and that which it entails. Rich Young stated he was not in favor of having the cans move back to the houses.

Rich Young stated, “The past three years Republic Services extended their contract with no increases and they were good about that and did a good job.” The longevity in dealings and faithfulness they demonstrated as well as the good experience enjoyed by the Town’s residents shows they have the desired ability, capacity, character and reputation and are an overall responsible service provider.

Mike Lancioni stated it’s his opinion we should stay with Republic for consistency, indicating it would take a while and be an inconvenience for folks to have Republic reclaim its waste receptacles and have to replace them with new. Indicating the suitability of Republic under the circumstances, Mike Lancioni made a motion to stay with Republic with no option for Spring clean-up; seconded by Michael Martinez. Motion carried with 5 Ayes.

RTS stated they would honor the leaf pickup bid if we decided to accept it later.

[Upon review of the bid submissions, while both bidders submitted a completed Form 96 with supporting materials, only Republic complied with the specification's requirement to submit insurance information and a required E-Verify Affidavit.]

## **5. Reports from Committees, Officers and Clerk/Treasurer**

a. Job Descriptions – Joan Lewis: All job descriptions were reviewed in committee.

b. Clerk/Treasurer – Invoices/Claims: Joan Lewis

1. **Add'l. Vouchers for February** were read by Joan M. Lewis and approved with a motion by R. Young; seconded by P. Dubie; motion carried with 5 Ayes.

2. **March 2020 Vouchers** were read by Joan M Lewis and approved with a motion by Michael Martinez, seconded by Rich Young; motion carried with 5 ayes.

c. **CCG Grant Final Report** must be provided to the Clerk Treasurer from Robert Sulkowski, Grant Administrator. Pres. Dumbrys requested a copy when he has completed it. This report is required for SBOA & Federal audits.

d. **Annual Appointments**– Council: Pres. Dumbrys stated there is an expected resignation from the Park Board but is setting this aside until next meeting.

e. **Attorney contract:** Atty. Gunning presented the Council with a letter giving 30 days advance notice of his resignation to be effective on April 10, 2020. President Dumbrys asked him to stay for four more days through the Council meeting of April 14<sup>th</sup>. Atty. Gunning offered to stay for an additional four days through the Council meeting of April 14, 2020 if he were paid the prorated amount of \$160 for the first ten days of April and then bill his time for the additional four days at the hourly rate provided in the last extended contract, namely \$100.00 hr. A motion was made by Mike Lancioni to accept Atty. Gunning's offer and the hourly rate per the previous contract of \$100 per hour. Seconded by Michael Martinez. Motion carried with 4 ayes. Atty. Gunning explained that per Rules of Court, he will continue as counsel of record in the Uryga case until April 30<sup>th</sup>, at least, unless replaced by substitute counsel or by leave (or order) of the Court.

f. **Code Enforcement Officer:** Michael Martinez stated he designed a Code Enforcement Officer job description which was reviewed and passed first reading by the Job Description Committee.; and he is hopeful it will be passed by the committee on second reading. (This also would require an Amendment to the Salary Ordinance.) A discussion ensued concerning posting the position on the Website and Next Door community site).. budgeting for this year (Add'l Appropriation), deputizing the code enforcer, and having someone locally for availability. Also discussed was hourly wage vs salary. Council to prepare advertisement for recruitment thru newspaper, website and Next Door.

**6. Reports Cont'd.** – Pres. Dumbrys requested that written reports be submitted to the Council.

a. **Police – Bob Sulkowski** – Chief Sulkowski stated he would like to be in on the selection of the code enforcement officer. Then he read his report, which includes Long Beach with the Michiana Shores report. Report will be on file.

b. **Fire – Garry Bendix Chief Bendix** gave the report. He announced the annual Spring Pancake breakfast will be May 3<sup>rd</sup>.

c. **Building Commissioner – Steve Thomas** stated he only had one permit request – 401 El Portal.

- d. **Park Board – Dolly Millick** stated Jeanne Paxton resigned. Council Pres. Dumbrys stated she spoke with Jeanne and she may not resign. Next Meeting announced being for Mar 23<sup>rd</sup>. (This meeting was canceled due to the coronavirus COVID-19 outbreak.)
- e. **Roads – Bob Sulkowski** stated the road crew spent 22hrs last month for snow removal.
- f. **Advisory Plan Commission** – Howard Jablon absent. Ralph Box, Vice President **presented** the report. Public Hearings, as advertised, were held for each of the legislative items on the March PC agenda. The Comprehensive Plan amendments were passed and certified to the Town Council. The proposals to amend the Zoning Code for Special Uses related to the pending Short Term Rental Regulations and other related definitions were split up and the Special Use provision was passed, approved and certified to the Town Council. The other definitions proposed were continued. Also discussed were changes to the Building Permit Application Forms as Corrective Action due to an audit deficiency noted by the SBOA audit report. Two "fields" were added to the forms, approved by the PC and sent onto the Town Council.
- g. **BZA – Matt Bowen** (absent). Ray Dumbrys gave the report – Nothing to report.
- h. **White Ditch/Drainage Board** – Daina Dumbrys deferred to Ray Dumbrys who stated he attended the Drainage Board meeting – nothing concerning Michiana Shores White Ditch.
- i. **Website – Daina Dumbrys** Stated nothing new to add; but she was not getting her e-mails. The problem has been corrected.
- j. **NIRPC – Daina Dumbrys** Stated she attended the first meeting of the year and also attended a luncheon. Main concern is the beach erosion of Lake Michigan. NIPRC is working/promoting the double track of the South Shore between South Bend & Chicago. Grants may be available for street signage, etc., if the smaller communities would work together for a grant.

## 7. Ordinances and Resolutions

- a. **Amendment to the Comprehensive Plan – Resolution 2020-02**  
Atty. J. Gunning read Resolution No. 2020-02 - A Resolution Amending the 2016 Comprehensive Plan. Atty. Read the resolution and gave an overview of it and the Plan Commission approval of it after Public Hearing on March 3, 2020. Rich Young made a motion to approve Resolution 2020-02 as read; seconded by Mike Lancioni. Motion carried with 5 Ayes.
- b. **Ordinance 2020-02 Amending the Special Use Provisions of the Zoning Code of Town Michiana Shores.** It was explained that this ordinance was also the result of Plan Commission action in which it advertised and held a public hearing and enacted only that portion of the proposal to amend the zoning code pertaining to Special Use provisions. This Ordinance 2020-02 will enable short term rental regulations being considered and contained in pending Ordinance 2020-01 which has been approved on its' first reading to go forward. Atty. J. Gunning read Ordinance 2020-02. Mike Lancioni read twenty-five comments he personally received -all in favor of the ordinance. (Several were not from residents of the Town of Michiana Shores). Rich Young said it was hard to believe there was not one against the ordinance. A gentleman from 3619 Birchwood complained there were 21 people in a 900 sq. ft. house across the street from him. Cars were parked all over the street and the music was so loud

it shook glasses on his dining room table. Police were called, but could not get anyone to answer the door. He said we need enforcement of our ordinances. An unidentified lady stated she was in favor of the ordinance because of the safety issues. Michael Martinez stated we need it for safety issues. He questioned the potential loss of life if 21 people are in a small home and it catches on fire; we're not going save all of those people, he reasoned. Mike Lancioni made a Motion to approve Ordinance 2020-02 with the correction of the spelling of "Michiana" in the third Whereas paragraph; seconded by Rich Young; motion carried with 5 Ayes.

Rich Young asked if the Council should consider passing this on second reading and final reading tonight, at this meeting, and Atty Gunning responded to the negative. Atty Gunning explained that he would shortly recommend that pending Ordinance 2020-01 be amended into Ordinance 2020-2 just considered on first reading.

**c. Ordinance 2020-01- Short Term Rental Regulations**

A newly revised version of Ordinance 2020-01 marked in orange marker as the "Latest" version of Ordinance 2020-01 had been previously distributed by Mike Lancioni showing some changes in content and format, including the age limitation of the responsible party provision, changes to the violations list, and the penalty section, among others. The changes in the "Latest" version of Ordinance 2020-01 were present as amendments to be made to the Ordinance and they were read, reviewed and explained by Mike Lancioni.

Michael Martinez made a motion to amend the changes into Ordinance 2020-01 as read and authored by Mike Lancioni; seconded by Mike Lancioni. Motion carried with 5 ayes.

**Consolidation or Merging of the Ordinances**

Atty. J. Gunning returned to his recommendation that Ordinance 2020-1 be merged with Ordinance 2020-2 to preserve the effort to expedite the enactment of short term rental regulations as zoning law and not as a stand-alone set of regulation and recommended that Ordinance 2020-01, as just amended, be amended into Ordinance 2020-02.

**Amending Ordinance #2020-01 as amended in its entirety into 2020-02.**

Mike Lancioni made a motion to amend Ordinance 2020-01 with its amendments into Ordinance 2020-02; Seconded by Michael Martinez. Motion carried with 5 Aye.

**Written Statement on Amending Ordinance 2020-02.** Atty. J. Gunning explained that Ordinance 2020-02, having come from the Plan Commission as an amendment to the Zoning Code and having now been amended by the Council would be returned to the Plan Commission with a written explanation for the amendment. Mike Lancioni read a statement explaining: "Short-Term rental of ANY secondary residence is not, and has not, been a permitted use in Michiana Shores. It is a direct violation of law, and that is explicitly stated as such in the current zoning code Article 2 Chapter 3 Section 2-2-3-11 Part B Item 10 ("tourist homes"). The effort underway here will lead to a compromise working solution allowing for short term rental of secondary residences in a safe and

secure manner consistent with our Comprehensive Plan.” Atty. J. Gunning read two statements: 1<sup>st</sup>: Whereas the Council seeks to implement the Regulation of Short Term Rentals as set out in Ordinance 2020-01, it desires to have Ordinance 2020-02 incorporate and include the last revised version of Ordinance 2020-01 as amended to be embodied in Ordinance 2020-02, as the amendment to be made and in proper form to the Town’s Zoning Code; and secondly, that any and all references to the “Short Rental Permit Safety & Security Program” or “Short Term Rental Regulations” or the “STR” shall have the same meaning and refer to regulation resulting herein.

Rich Young made a motion to approve that these three writings be put into one as the written statement to be sent to the Advisory Plan Commission; seconded by Michael Martinez. Motion carried with 5 Ayes.

**Comments:** Mike Lancioni stated for folks desiring to rent their property, that basically it is not allowed presently, and never was allowed, per our ordinances. They were working to play out a pathway that would allow it with guidance that we discussed. That said, he explained that the process will require those homeowners to apply with BZA for a zoning appeal. We can go ahead and notify them that would be forthcoming and that they are not allowed right now and that they may want to go ahead and get in que for the zoning appeal here in April or May, whatever they want to do here. He offered that we should probably start that notification and there would be no harm in doing so. Atty. J. Gunning stated that would be the only form of relief for someone who wants to engage this in a lawful fashion. Atty. Gunning also explained the BZA appeal process.

Mike Lancioni said he didn’t think there would be a quorum for the next Plan Commission meeting and he offered that they might consider changing the date. Possibly to the same date as the next council meeting, but earlier in the evening.

**Resolution 2020-03 A Resolution Approving Revised Building Permit Application Form.** Michael Martinez made a motion to approve Resolution 2020-03 - A Resolution Approving Revised Building Permit Form; seconded by Rich Young. Motion carried with 5 Ayes.

## 8. Grants

- a. **White Ditch – Joan Lewis** – Grant #CZ845 White Ditch Riparian Corridor Restoration Plan has been completed and we are working on final report.
- b. **CZ729 White Ditch Bank Restoration Phase II – Engineering.** Chris Burke Engineering is working on an RFP (Request for Proposal.)
- c. **Community Crossing Grant – Bob Sulkowski** – Grant opening July 1<sup>st</sup>. He is working on getting RFPs for the streets and the one street that was missed last year. Clerk Treasurer stated the bids have to be opened publicly.

## 9. Unfinished Business

- a. **Wood/debris removal from public property.**  
Tree removal from 2019 contract. One big tree remains to be removed. Small tree down on creek. Rich Young spoke with Mick about debris on El Portal, Hiawatha and several other areas in place of removing the large oak in his contract. Mick has done extra work assigned by Rich Young.  
**Tree down across from 3616 Hiawatha Dr.** Already removed. Removed yesterday.

- b. **Fix Bad Road Signs** Bob will get started on them. Mike Lancioni stated as long as they are put up before summer.
- c. **Road patching plan across town, Michiana Drive - Old Grand Beach Road and over Tracks** – Michiana Drive, south half, is Town of Michiana Shores responsibility. Other two are railroad & City of Michigan City issues. Mike Lancioni asked who is responsible for Michiana Drive. Mr. Sulkowski answered usually it's shared with Village of Michiana MI. A resident stated there was some sewer work done from Oakdale passed the tennis court all the way down Birchwood to Dogwood then down to house on Meadow. He stated he brought the issue up because there is a deep hole thirteen inches from the pavement in front of his house and he stated the Town should not have to pay for the repairs because whoever done the work should had a bond to repair damages. Bob Sulkowski stated H & G did the sewer work. Pres. Dumbrys asked his name & address be given to her after the meeting. Clerk treasurer never received the information.
- d. **Stop 37 - discussions with Michiana:** Mike Lancioni stated he spoke with Village President (Mr. Iverson) a couple weeks ago, and those discussions were about our shared space at Stop 37. He asked if we wanted to cost share putting in the stairs, but Mike said that it cuts two ways. Mike stated It doesn't make much sense to put in the stairs whether we have a beach or not. It also means we would get query for anything; not just a first time pay. Mike was concerned and other folks about the infringement of the rocks and boulders put on the right of way (beach), and the Village allowed that nor did they seek our opinion. They reached an agreement that anything that concerns Stop 37 beach area needs to be run through the Town of Michiana Shores IN. Mr. Iverson in Florida for another couple weeks. Mike will contact him after he returns.
- e. **Pres. Dumbrys commented** Assuming we pass Short Term Rental Ordinance, BZA needs to be prepared to have monthly meetings as needed for the next few months.

### **New Business**

- a. **Old Grand Beach Road tree stumps:** clean up, fix area at end of El Portal (Broken wood guard rail) - Railroad and/or City of Michigan City responsibility.
- b. **Moving Town Sign or Boy Scout Road Map,** Repaint Road Map and maybe move. To discuss later.

## **10. Attorney report – Jeffrey Gunning**

- a. **Town Ordinance Violation case against Robert S. Uryga**  
Atty. Gunning reported the he requested another Enlargement of time to Answer the Affirmative Defenses in the Uryga litigation but also used that moment to offer opportunity to negotiate a settlement. The court has granted the enlargement to April 30<sup>TH</sup>. A voicemail signaled willingness by the Defendant's Counsel to enter into discussions that could lead to possible settlement.
- b. **Litigation** against Water Authority of the Village of Michiana, Michigan, and the responsible accountants or accounting agency or agencies: It was agreed to gather more information. Atty. Gunning has the draft letter of demand.

- 11. Communications:** Mike Lancioni read letters he received from residents regarding the short-term rental ordinance. Rich Young asked if he received any letters that opposed the Ordinance. Mike said no.
- 12. Public Comments:** None
- 13. Council Comment:** None
- 14. Adjournment** at 9:38 pm by motion from Michael Martinez; seconded by Rich Young. Motion carried with 5 ayes.

Presented by,

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Joan M. Lewis – Clerk Treasurer

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Daina Dumbrys – Council President