

**VILLAGE OF GRAND BEACH
SPECIAL COUNCIL MEETING MINUTES
MAY 23, 2019**

President Deborah Lindley called the Special Meeting to order at 7:43 p.m. EST. In attendance in addition to Lindley were James Bracewell, Paul Leonard Jr., Steve Slater and Blake O'Halloran.

Bracewell moved, seconded by O'Halloran to amend the agenda as presented to add "*Closed Session Under Section 8(h) of the Michigan Open Meetings Act to Consider Attorney-Client Privileged Materials*" and to approve the amended agenda. Motion carried unanimously 5-0.

Lindley moved, seconded by Leonard to go into closed session under section 8(h) of the Open Meetings Act in order to discuss material exempt from public discussion and disclosure under state or federal statute, being a written memorandum from our Village Attorney.

Roll Call Vote

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

Motion carried unanimously 5-0.

The Council went into closed session at 7:57 p.m. EST.

Lindley moved, seconded by Slater to return to open session at 8:10 p.m. EST. Motion carried unanimously 5-0.

Village Attorney Sara Senica told the Council that the "Ethics Ordinance" presented is actually a codification of many laws. She spoke first about the Open Meetings Act (OMA) and the Freedom of Information Act (FOIA). She told Council members that Berrien County has the strongest prosecutor on those type of issues and they watch closely over the municipalities; more than any other county in Michigan. She spoke about three former City Council members from the City of New Buffalo who were charged criminally on an OMA violation. She said because they were charged with a criminal act, the City's insurance did not pay to defend them and each of them paid \$10,000 in legal fees. She said we have prosecutors that had no problem charging them criminally. She doesn't think the New Buffalo Council members made a mistake, but the prosecutor charged them with a criminal act.

She said the OMA requires notices and specific reasons for going into closed sessions and they can charge you if you make a mistake. She said we don't think about all of the emails or texts that are written, but if there is ever a lawsuit all of the emails and texts can be brought in to the lawsuit. She said Council members can communicate with her without worry about FOIA because of attorney-client privilege which she states in her emails.

She talked about the difference between being a business owner and a council member. She explained that in business you can make your own decisions without working with others like you do when you are on a Council.

The world is now more litigious and she tells her clients that if you send an email, the whole world might see it. You can send things out for information, but you can't discuss it. You can discuss things one on one.

Attorney Senica went over the different items under Section Three of the proposed ordinance.

1. Acts in the Public Interest: She said the Council owes people a fair process. They should to be unbiased and fair to all involved.
2. Compliance with Law – The whole Ethics Ordinance stems from different cases that have come up in the State of Michigan. These are things that people have already done wrong.
3. Default to the Village – She said Council members should set an example. She talked about a Council member in another municipality who didn't pay his property taxes for three years. He was censured and not elected the next time because people didn't think it was fair for him to make financial decisions with their tax money when he didn't pay his taxes. She said not paying your property taxes is an obvious way to be in default, but if you violate Village ordinances or let your property get run down, you are in default. The Council is held to a higher standard, so you should lead as an example. Being in default is doing anything that an ordinary citizen cannot get away with without being censured.
4. Respect for Process – Council members need to make sure they are not doing anything to make things unfair such as in zoning matters. The biggest thing she sees in lawsuits is when someone is denied a variance they always claim that the process was unfair, so the Council has to be careful not to do anything to make it unfair.
5. Conduct of Public Meetings – She said you should listen as courteously and attentively as you can. If you find out about information that can influence a vote on something, you have to bring it to everyone so that they know as much as you know about the topic. She explained that a Council member is only one-fifth of the Council.
6. Communication – This was discussed under Conduct of Public Meetings.
7. Full Disclosure – If you have a particular financial interest in something that comes before you, you have to disclose it and recuse yourself from the vote.
8. Gifts, Favors and Loans – She doesn't suspect that anyone is getting a gift, favor or loan and thinks that this happens in bigger cities like Chicago. She said you don't want to be accused of being unfair because someone is paying you for something.
9. Confidential Information – You don't want to leak any information out to others if it is confidential. You are held to a higher standard. She gave examples of how leaking confidential information can cause problems.
10. Use of Public Resources - This is one of the biggest issues she comes across. As a Council member, you are one of five and need to make decisions as a whole. Public resources can't be used for public gain. If there is a contractor in the Village, you shouldn't ask them to do anything that he would not do for anyone else. This goes along with the Positive Workforce Environment section. In other communities employees feel like they're getting pulled in too many directions and the employees get nervous about this. You want to retain your employees. It's really important that nobody interferes with the

employees. When you don't know who your boss is, it makes your job really hard. We have to remember that our employees and our contractors should not be interfered with. This makes them very uncomfortable. Employees should know who to take direction from and shouldn't take direction from three different people. There was discussion about the different roles Council members hold as commissioners of different areas and the need to work with the employees if it is in regards to their department that they serve as commissioner over. She said you might have a good rapport with employees, but you can't ask them to do something special for you.

11. Representation of Private Interests - As a council member, you are one member of the group. If you're in the community or at a county meeting and you identify yourself as being on the Council in a community, and maybe you have gone rogue and don't agree on something because you are the 1/5 and the 4/5 voted differently, you have to identify that you are representing yourself as a private citizen, not as the Council. Council members have less rights than their neighbor because the neighbors can say what they want. You don't want to give the impression that something was already voted on. If someone is talking about something that you know is going to be a major decision, be very diplomatic and let them know that you are waiting to hear everything and hear what the Council has to say.

12. 12 - 15 were discussed with other items.

16. Compliance & Enforcement – She said a lot of things that violate this ordinance are unintentional. If you have a member that you think violated something you should just talk to them one on one and no one else has to know about it. If someone does intentionally violate something after you've talked to them quietly, you have the option of having a private meeting or going into a closed session. That doesn't happen often because it usually gets resolved by a Council person talking to them. Sometimes Senica will get involved and she will call them, and usually after she talks to them, that's the end of it. If it doesn't stop and someone truly goes rogue and wants to hurt the community and talks badly and can't communicate anymore, the Council will go into a closed session to talk about what's happening and try to correct the person as a group. The Council tells them if this doesn't stop, they are going to censure them. The attorney and Council can make a recommendation to the governor for someone to be removed, but it is very unheard of. Usually someone will resign before it comes to that. If someone does something wrong, it reflects on the group. If you are asked to put your name on something, even if you are in favor of it, you can't tell people you're in favor of it because you are only 1/5 of the Council. You can say that we have a policy and you can't say anything until we have all of the evidence.

The Council discussed their thoughts and feelings on the ordinance.

Senica suggested that if the Council adopts the ordinance, it should be part of an orientation after the next election and each person elected should sign it and it should be put in their file.

Lindley moved, seconded by Bracewell to close the meeting.

There being no further business, the meeting adjourned at 9:57 p.m. EST.

Respectfully Submitted,

Mary J. Robertson
Clerk/Treasurer