

**VILLAGE OF FRANKLIN
SPECIAL COUNCIL MEETING
MONDAY, JUNE 7, 2021, at 6:00 P.M.
32325 Franklin Road, Franklin, Michigan 48025**

**The Village Council did not assemble to meet at a physical place;
the meeting was held electronically via “Zoom.us©”, in accordance with the
Michigan Open Meetings Act, as amended by 2020 PA 228**

I. CALL TO ORDER

The Special Council Meeting was called to order by President, Bill Lamott at 6:01 PM via Zoom.

II. ROLL CALL

Present: Brian Gordon, Orchard Lake, MI; Kathy Erlich, Franklin, MI; Mark Hanke, Franklin, MI; Pam Hansen, Franklin, MI; Ed Saenz, Franklin, MI; Mike Seltzer, Franklin, MI; and Bill Lamott, Glen Arbor, MI.

Absent: None

Also Present: Roger Fraser, Village Administrator; Tim Currier, Village Attorney (arrived at 6:18 PM); Dan Roberts, Chief of Police; and Heather Mydloski, Village Clerk.

III. ADOPTION OF AGENDA

Motion by Seltzer, seconded by Gordon to adopt the Agenda as presented.

Roll Call Vote

Erlich	AYE
Hanke	AYE
Hansen	AYE
Saenz	AYE
Seltzer	AYE
Gordon	AYE
Lamott	AYE

Motion carried.

IV. PUBLIC REQUESTS AND COMMENTS

Resolution to Adopt Rules for Electronic Meetings Rule 34, PUBLIC COMMENTS, During Village Council meetings conducted electronically, members of the public attending the meeting, once recognized by the chair, shall identify themselves for the record and indicate the municipality where they reside. Comments by the public will be limited to 2 minutes for each speaker unless the time is extended by the chair or by vote of the Council. Comments by the public during electronic meetings will be restricted to the public requests and comments portion of the meeting.

There were no public comments.

V. NEW BUSINESS

A. Consider Resolution to Approve Change Orders and Funding for Sidewalk Construction along Franklin Road-Summer, 2021

**RESOLUTION TO APPROVE CONTRACT CHANGES AND FUNDING FOR
SIDEWALK CONSTRUCTION ALONG FRANKLIN ROAD – SUMMER, 2021**

WHEREAS at the regularly scheduled meeting of May 10, 2021, the Franklin Village Council approved a resolution directing the Village Administrator to work with the streetscape project engineers, Nowak and Fraus and the contractor, Asphalt Specialist Inc. to determine costs and scheduling necessary to complete the planned and designed, but incomplete components of the streetscape plan, and

WHEREAS the incomplete components consist of certain sidewalks planned for the west side of Franklin Road in the downtown, sidewalks on the east side of Franklin Road from Hawthorne south to 13 Mile, and a crosswalk and pedestrian controlled signal at 13 Mile, and

WHEREAS Nowak and Fraus Engineering submitted the attached, additional service request #4 in the amount of \$87,058 for added engineering services for the renewed sidewalk construction, and

WHEREAS ASI submitted the attached construction bid form in the amount of \$914,138 as the estimated cost for the completion of those incomplete streetscape items, and

WHEREAS NSF reviewed the construction bid form for reasonableness and sufficiency, and recommends that ASI be awarded change order #5 in the amount of \$914,138 for construction of the above cited sidewalk related elements of the streetscape plan, and

WHEREAS the three-member, ad-hoc construction review committee of the Village Council met with the Village Administrator, the NFE engineer and the representative of ASI to examine the construction bid, discuss cost drivers and explore options that might reduce the cost of sidewalk construction, and

WHEREAS the construction and engineering costs to complete the sidewalks as initially approved by the Franklin Village Council is \$1,001,196, and

WHEREAS the Road Rehabilitation Program has \$602,972 (plus earned interest) remaining, and the Act 51 Major and Local Street funds can provide \$398,224, for a total of \$1,001,196 to complete sidewalks and related components along Franklin Road.

NOW THEREFORE, the Franklin Village Council resolves to approve Asphalt Specialties, Inc. (ASI) change order #5 in the amount of \$914,138 for construction and installation of:

1. Sidewalks designed for the west side of Franklin Road between Vincennes and Carol,
2. Sidewalks designed for the east side of Franklin from Hawthorne to 13 Mile Road,
3. A pedestrian crosswalk designed for the east side of the intersection of Franklin and 13 Mile Roads, and
4. Traffic signal improvements to accommodate the protected pedestrian crossing at the east side of the intersection at Franklin and 13 Mile roads,

IT IS FURTHER RESOLVED the Village Administrator is authorized to use \$602,972 from the Road Rehabilitation Funds and \$398,224 from Act 51 Major and Local Street funds for the purpose of paying expenses related to the sidewalk construction, and **RESOLVED** the Franklin Village Board of Trustees expresses its substantial concern over the dramatic increase in the cost of this project when compared to essentially the same project that was planned and bid approximately one year ago. The Village Administrator and the construction review committee of this Council are directed to work earnestly with NFE and ASI to identify and implement appropriate cost reduction strategies without sacrificing the project quality necessary for an enduring product for which the Village residents can be proud.

Fraser stated that he was asked to submit information on Act 51 fund usage to provide clarity on the process to the Council. He asked that the Council allow him to read a memo he had produced in response to that request for public record.

Fraser's memo as follows:

When the Streetscape plan was approved by the Village Council early in 2020, it was explained the project would be funded using remaining Road Rehabilitation Program funds and available Act 51 funds. The resolution you are considering this evening allocates \$602,972 plus earned interest from the bond funds and \$398,224 in Act 51 Major and Local Street funds for a total of \$1,001,196. I've been asked several questions about the Act 51 funds.

Regarding roads, the legislative philosophy of the State is that all roads in the state are part of one system, controlled by the State but managed in cooperation with counties and other incorporated governmental units, i.e. cities and villages. Act 51 was passed in 1951 and, as amended over time, provides the policy framework and funding for that system. Four times a year the Village receives Act 51 distributions from MDOT that go to our Major and Local Street accounts. For the next fiscal year, we anticipate about \$252K in Major street revenues and \$178K in Minor street revenues. Franklin, Scenic and Wellington are categorized major streets and all others are minor streets.

Most of the expenditures we have had in the streetscape project would be permitted uses of Act 51 monies. In addition, routine maintenance, repairs, preservation initiatives such as slurry seals, and snow removal are typical uses. Non-vehicular facilities such as sidewalks providing safe passage for pedestrians are one of the many other uses for these funds. MDOT guidance has been expanded for Act 51 funds to include ways to modify existing roads to conform to the current focus on complete streets. I found few specific spending requirements, except for the expectation that a minimum of 1% of Act 51 funds will be used for pedestrian safety projects. During the past several years with the Village's focus on rehabbing local streets and subsequent focus on improving the downtown street scape, ACT 51 Major and Local street funds have been left to accumulate. As of March 31, the balance in the Major street fund was \$643,661 and in the Local street fund \$706,048. If all of the Act 51 charged expenses of this renewed sidewalk project are taken from the Major street fund, the remaining Major street fund balance will be \$245,437. The Local street fund balance would remain \$706,048.

End of Fraser's memo.

Lamott was confused by Roger's memo. He stated that in an earlier memo from Fraser, dated May 18, 2021, he understood it to show \$759,000.00 of ACT 51 monies being allocated to fund the street project, adding another \$400,000.00 from the local street fund to total \$1,100,000.00. Lamott further stated that the Village has \$1,300,000.00 total in the local and major street funds. He added this would leave a remainder of only \$200,000.00. He asked Fraser if he was understanding it correctly and if not, to clarify.

Fraser stated that he did not have the memo Lamott was referring to in front of him to verify his question. He mentioned that if in fact the memo led Lamott to that conclusion, it was not his intent. Fraser clarified that that approximately \$600,000.00 would be used from the Street Rehab funds and not Act 51 funds and the remainder of the expense of this project would be just under \$400,000.00.

Lamott thought the Village had \$1,600,000.00 in bond monies and \$1,700,000.00 in expenses, creating a deficit.

Gordon clarified that the amount Lamott mentioned was including the monies that was allocated for the remainder of the expense for previously authorized work and that Fraser was referring to uncommitted funds for the project being considered at this meeting. Lamott agreed but he reiterated that \$1,300,000.00 million in the major and local street fund balances and we are taking \$1,100,000.00 out of those funds. Fraser said that was inaccurate and clarified that the amount of money that has been charged and allocated to the street fund had been updated and the amounts he listed in his memo (above) were the amounts that were currently available.

Lamott questioned our compliance with the Act 51 guidelines as local street funds could not be used for a major street per their guidelines. Fraser clarified that his memo stated that the Act 51 monies used would be from the major street fund.

Lamott did not see that the numbers added up and questioned Fraser further.

Seltzer reminded the Council the intent of this meeting was to approve the charge orders associated with moving forward with the voter's decision to continue the street project. He referenced the "elephant in the room, that the costs have increased from last year." He further mentioned the additional costs were unfortunate, but necessary and he suggested the Council move forward in conjunction with the expressed will of the voters. He mentioned that voters would have to reach into their pockets to complete the project.

Hanke challenged Seltzer that the Villagers were not asked to contribute more for the project. Rather, the Village had already allocated the appropriate funds, so an increase was not necessary. Seltzer agreed. Hanke and Seltzer asked for the topic to go to a roll call vote.

Erlich requested more information to explain the increase in price as it was substantial as it jumped from approximately \$400,000.00 to \$900,000.00.

Fraser explained to Erlich that he had reviewed and discussed the cost increase extensively with ASI. Some of the reasons for the increase were because of the rise in costs of materials, labor, additional costs

associated with the specific needs of our community, specifically “hand holding” with the residents and the business that were essentially time consuming.

Hanke asked Fraser if the Village had the funds available to complete the suggested project? Fraser responded “Yes.”

Erlich asked that Fraser verify her understanding of his explanation to be that the price had increased because of cost of materials and ASI having to work “harder” in Franklin than in other communities?

Fraser clarified that “differently” was a more appropriate word as ASI had demonstrated an excellent job and our residents required more specialized attention and it was everyone’s desire to meet the needs of our affected residents and businesses.

Seltzer mentioned there were unforeseen draining issues as well that affected the costs as well as multiple change orders due to stop work orders. Unfortunately, we are now faced with additional costs, but no one should be surprised by the increase.

Gordon interrupted Seltzer to emphasize that if the project had not been halted multiple times, we would not be having to initiate a re- mobilization effort. He further mentioned that the cost increase was more like 25% and that was understandable and reasonable under the circumstances.

In response to Erlich, Gordon explained the project was scheduled to cost \$2,200,000.00 and the new total was \$2,600,000.00 which was an additional 400k that was less than a 25% increase.

Hanke pointed out that if we delayed any further, the costs would increase even more, so the Council needed to act.

Erlich suggested that waiting on portions of the projects could possibly save money now and allow for competitive bidding.

Hanke and Gordon disagreed.

Seltzer reminded the Council that if there are further delays, the Council is doing a disservice to our business community.

Erlich asked if there was any consideration on ways to cut costs.

Gordon stated that the Resolution clearly stated an effort to cut costs when possible.

Lamott was not in agreement as he still felt strongly the Village did not have sufficient funds, but if the Council wanted to vote then they would vote.

Hansen challenged the Council to consider not voting until everyone on the Council had a full understanding of the fund balance and the allocation of funds so there was no room for a misunderstanding that would lead residents to believe the Council acted on a resolution with insufficient

funds to complete it. She was intent on maintaining the integrity of the Council. She asked that dialogue continue until the issue was fully resolved.

Hanke asked Fraser if the Village had sufficient funds in the bond fund and the Act 51 fund to cover these expenses. Fraser responded, "Yes sir." Hanke asked if the said funds would have a balance after the monies were withdrawn? Fraser responded, "Yes, several hundred thousand dollars."

Hansen asked Fraser to name the source of the funds. Fraser stated there are two, the remainder of the road rehabilitation bond funds, which is approximately \$600,000.00, and the Act 51 monies in both major and local street funds. Most would be applied to the Major Street fund and his recommendation is to use the major street fund at approximately \$400,000.00 and leave a balance in the major street fund of \$225,000.00. The local street fund would not be touched, and it has an excess of \$700,000.00.

Erlich asked what the Village normally spends on the Street Project.

Fraser said he would have to dig into the history to find that number as the Village had been wrapped up in special projects since he became Administrator.

Erlich stated that she simply did not understand what it took to fix the roads. She asked how much monies we received from the state annually. Fraser explained \$252,000 was expected for the major street category and \$178,000.00 in the local street category.

Hanke reiterated Fraser's disclosure of sufficient funds.

Hanke asked Lamott if he still had doubt that the Village was well financed? Lamott persisted the \$600,000.00 Roger stated would be left over included \$759,000.00 of Act 51 monies and with an additional withdrawal of \$400,000.00 from Act 51 a deficit would be created, as we did not have \$1,100,000.00 in the major and local street fund. Fraser clarified that the \$600,000.00 was left over from the road rehabilitation bond fund. Lamott challenged Fraser that his May 18th, 2021, memo conflicted his comment. Lamott's concern was that funds were being double counted. Fraser did not have the memo Lamott was referring to clarify, but assured Lamott he had worked with Andrea Paulsen, the Village Finance Clerk and there were sufficient funds.

Saenz stated that he felt strongly that the best course of action for the resolution on the table was to proceed on with the project as presented.

Erlich asked who makes the decision to cut costs? Would the whole Council be able to make decisions?

In response to Erlich, Hansen expounded on the process to help Erlich understand the history of the decision making for the project.

#2021-45 Motion by Gordon, seconded by Seltzer to adopt the Resolution to Approve Change Orders and Funding for Sidewalk Construction along Franklin Road-Summer, 2021 as presented.

Roll Call Vote

Hanke	AYE
Hansen	AYE
Saenz	AYE
Seltzer	AYE
Gordon	AYE
Erlich	AYE
Lamott	NAY

6-1, motion carried.

VI. ADJOURNMENT

Motion by Gordon, seconded by Seltzer to adjourn the meeting.

Motion was approved unanimously.

There being no further business, the meeting adjourned at 6:39 PM.

William Lamott
Village Council President

Heather C. Mydloski
Village Clerk
