

**PROCEEDINGS OF VILLAGE OF FRANKLIN
VILLAGE COUNCIL REGULAR MEETING
MONDAY, JANUARY 10, 2011, 8:00 PM
FRANKLIN VILLAGE HALL – BROUGHTON HOUSE
32325 FRANKLIN ROAD, FRANKLIN, MICHIGAN 48025**

I. CALL TO ORDER

The meeting was called to order by President Gallasch at 8:00 P.M. at the Franklin Village Hall, Franklin, Michigan.

II. ROLL CALL

Present: Lew Eads, Fred Gallasch, Brian Gettel, Jim Kochensparger, Bill Lamott, Steve Rosenthal, Mike Seltzer

Also Present: Amy Sullivan, Village Administrator
Eileen Pulker, Clerk
Thomas Morrow, Treasurer
Patrick Browne, Police Chief
Tony Averbuch, Fire Chief
John Staran, Hafeli Staran Hallahan & Christ, P.C., Village Attorney
Vivian Carmody, Administrator, Main Street Franklin

III. ADOPTION OF AGENDA

Motion by Lamott supported by Seltzer to approve the Agenda as revised.

Gallasch requested that Agenda item IX C (Consider Revision of Master Fee Schedule for Tree Removal Permit) be postponed as additional cost analysis needs to be done.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer

Nays: None

Motion carried.

IV. MINUTES

A. December 13, 2010 Regular Village Council Meeting

Motion by Seltzer supported by Lamott to approve the minutes of the December 10, 2010, Regular Village Council Meeting as submitted.

Ayes: Eads, Gallasch, Gettel, Lamott, Rosenthal, Seltzer

Nays: None

Abstain: Kochensparger

Motion carried.

B. December 14, 2010 Special Village Council Meeting

Motion by Seltzer supported by Eads to approve the minutes of the December 14, 2010, Special Village Council Meeting as submitted.

Ayes: Eads, Gallasch, Gettel, Lamott, Rosenthal, Seltzer

Nays: None

Abstain: Kochensparger

Motion carried.

C. January 5, 2011 Special Village Council Work Session Meeting

Motion by Gettel supported by Lamott to approve the minutes of the January 5, 2011, Special Village Council Work Session Meeting as submitted.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer
Nays: None
Motion carried.

V. REPORTS OF VILLAGE OFFICERS AND AGENTS

Patrick Browne, Police Chief: Browne advised as to recent activity in the Village and noted that the Village experienced its first commercial break-in in over a year, information relative to internet scams will be posted on the Village website, and joint training with the Farmington Hills Police Department will start this month.

Tony Averbuch, Fire Chief: Averbuch referred to his submitted written report, advised that the telephone contract has been updated resulting in a potential \$1,000.00 cost savings for the Village, and noted that fuel and health insurance costs are increasing, the Department is trying its best to control costs, and budget work will commence in a few months after assessments figures/revenue projections are received.

Thomas Morrow, Treasurer: Morrow referred to his submitted written report, advised the Audit Report/Management Letter has been recently received and noted the report shows a couple of items that merit discussion: 1) Using a market basis analysis there is an increase in unfunded liability for the Police and Fire Department Pension Fund due to poor investment results which will need to be made up with either future investment returns in excess of the 8% included in the actuarial report or by utilizing the General Fund. 2) Liability for Other Post Employment Benefits (OPEB) has effectively doubled. Morrow noted that taking both into consideration the Village has almost one million in new liabilities, opined any "Rainy Day" type funds may have already been spent, and urged Council to exercise extreme fiscal conservancy to get through these difficult economic times. Discussion ensued regarding current and future funding of both Pension and OPEB and investment returns with a discussion on obtaining better rates for the Village's investments to be added to the next Council work session.

Vivian Carmody, Administrator, Main Street Franklin: Carmody advised the Board voted in new officers last week as required by the Bylaws and the change to a calendar v. fiscal year: Chair – Mary Ann Liut, Vice-Chair, Charles Dunn, Treasurer - Jim Zack, Secretary – Pat Burke, with Pam Hansen replacing Matthais on the Board whose term had expired. Carmody noted that MSOC will be holding a Mainstreet 101 – 2 day workshop in Oakland County on March 30-31.

VI. SUBMISSION OF CURRENT BILLS

Motion by Kochensparger supported by Gettel to approve the Bills List as submitted.

Discussion ensued regarding Artist Printing Inc. – Signs for Ice Rink and Office Team – Buyout Contract Fee.

TOTALS

General Administration	\$	13,453.24
Building	\$	6,939.16
Insurance	\$	41,214.03
Legal	\$	2,967.00
Police	\$	10,976.91
Pressure Sewer	\$	-
General Debt Service	\$	450.00
Major Roads	\$	17,777.60
Local Road	\$	17,777.60
Rubbish	\$	17,742.75

Trust & Agency	\$	22,400.00
Tax Fund	\$	12,108.86
Waste Water	\$	-
ALL FUNDS	\$	163,807.15

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer

Nays: None

Motion carried.

VII. PUBLIC REQUESTS AND COMMENTS

- Marcia Gershenson, Oakland County Commissioner, District 17, wished everyone a Happy New Year, noted there is a vacancy for a citizen appointment to the Huron Clinton Metropolitan Authority and Friend of the Court Advisory Council as well as a full-time position as administrator to the Board of Commissioners, and suggested the Director of IT for the County be contacted regarding possible provision of listserv type functions.
- Elaine McLain, Chair Birmingham Area Cable Board, provided a Cable update noting that the Annual Report is slightly delayed due to the Executive Director's illness, WOW has no plans to roll out service in Franklin in the near term, U-Verse PEG channels (18 Comcast Public Access; 15 Municipal access), Camera Workshop at Bloomfield Community Television was fascinating and she highly recommends, and commented that the Executive Director and the presenter from last month's investment presentation could also be contacted for investment questions.

VIII. SPECIAL REPORTS

A. President's Report

Gallasch noted the Audit for the last fiscal year has been received, commended staff and the auditors for their support efforts, advised a copy will be placed in the Village's office for the community to access, briefly reviewed the Auditor letter, opining that this is one of the best letters the Village has received, and noted the letter commends management and staff for the overall improved condition of accounting and internal control practices and the report brings attention to items that can be improved upon such as changing a line item balance prior to an expenditure on budget amendments.

B. Council Report

None.

C. Ice Rink Update

Mark Hanke advised the rink has been completed for some time now thanks to volunteers, staff, and the Fire Department and noted it appears to be well-used. Discussion ensued regarding use (hockey and skaters) with Hanke advising the rules which Sullivan assisted with can be revisited if this becomes problematic and smoothing of ice with Hanke advising it is a human effort, with the Library allowing use of its water system. Gallasch commended Bingham Farms for donating the water and Council thanked Hanke for his undertaking of this project.

IX. NEW BUSINESS

A. Consider Website Committee Appointments.

Sullivan referred to the submitted Memo noting Pulker would like clarification as to committee members. Gettel advised he had previously stated his intent to resign to afford Eads an opportunity to sit on the Committee. Discussion ensued as to whether the Committee is needed as website matters could be considered openly during Council work sessions or meetings while committee meetings are closed with it being noted that a committee can be more task oriented and issues can be discussed at open Council meetings. Lamott opined that Committee meetings should be posted and open so any and all can attend.

#2011-01 Motion by Eads supported by Kochensparger to change the membership of the Website Committee to Eads, Seltzer, and Kochensparger.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Rosenthal, Seltzer

Nays: Lamott

Motion carried.

B. Consider Website Committee Recommendation.

Eads summarized the submitted recommendation, noting that Municipal Web Services reviewed the website as requested and based on that input the Committee is recommending a working relationship be established with Muni Web to redesign, host, and maintain the Village's website with design, content and other relevant changes being coordinated by the Committee in cooperation with the Village Administrator and Clerk and with responsibility for coordination of web-related activities assigned to the Village Administrator who would report to Council through the Committee.

#2011-02 Motion by Kochensparger supported by Seltzer to contract Municipal Web Services to work up a plan for the Village's website.

Discussion ensued regarding funding, merit of bidding out the project, concern of utilizing the company that reviewed and made recommendations, appreciation for how the website has evolved and improved over time, pros and cons of making further changes to the website, possible Muni Web costs, prior bid, Eads experience with Muni Web, budgetary impact/concerns for non-budgeted item with funding coming from the general fund, need to set priorities on expenditures, potential for Jeff to incorporate needed changes, challenge when dealing with a volunteer, and potential to be a community building tool.

Judy Meade, Captains Lane, Director of Franklin Cemetery, Treasurer of Friends of Franklin Library and resident noted she has been getting lots of calls from citizens via information on the website for both the cemetery and the library, has found the updated website easy to navigate, and cannot justify spending additional funds in the current economic situation.

John Pulker, Ponds View Drive, noted that Jeff Pulker, who donated his work on the site design, had redone the website 3 times during the development phase, that there appeared to have been no clear detailed vision for the website, and cited the need for direction before any modifications are to be made.

Thomas Morrow, Treasurer, challenged Council to put a 6 month moratorium on non-budgeted spending and noted the Village does not have the funds and is in a fiscal crisis, it is not a question of whether this is a good and valid cause, and cautioned next year is likely to be just as challenging.

Discussion ensued with Rosenthal noting there was a perceived problem with the website which is what drove the request to have the website reviewed.

Ayes: Eads, Gettel, Kochensparger, Rosenthal, Seltzer

Nays: Gallasch, Lamott

Motion carried.

C. Consider Oakland County Water Resource Commission Fund Transfer Request.

Sullivan provided a brief overview noting that authorization to transfer funds from the Pump Replacement Reserve ("Reserve") to offset the deficit in the Sewage Disposal System is the request. Gallasch noted the Reserve would need to be built back up if pump replacement is necessary.

#2011-03 Motion by Gettel supported by Kochensparger to transfer \$53,645.86 to the Sewage Disposal System from the Pump Replacement Reserve as Requested by the Oakland County Water Resource Commission in the letter dated December 17, 2010 .

Morrow inquired if the sewer rates would be adjusted to rebuild the Reserve with Sullivan advising the County does the calculations and provides the Village with what the rates will be and that new rates will be in effect on July 1, 2011.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer
Nays: None
Motion carried.

D. Consider Sale of Police Vehicle.

Browne provided a brief overview noting the request is for authorization to sell the 2006 Crowne Vic to the high bidder, Chicago Motors, Inc. Discussion ensued regarding sale and bidder.

#2011-04 Motion by Lamott supported by Rosenthal to accept the \$3,907.00 bid from Chicago Motors, Inc. for the purchase of the 2006 Crown Vic Police Vehicle.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer
Nays: None
Motion carried.

E. Consider Whether to Meet in Closed Session at the Conclusion of the Regular Meeting to Discuss a Written Attorney/Client Privileged Communication.

#2011-05 Motion by Lamott supported by Eads to meet in closed session at the conclusion of the regular meeting to discuss a written attorney/client privileged communication.

Roll Call Vote:

Eads	Aye
Gallasch	Aye
Gettel	Aye
Kochensparger	Aye
Lamott	Aye
Rosenthal	Aye
Seltzer	Aye

Motion carried

X. RESOLUTIONS/PROCLAMATIONS/ORDINANCES

A. Consider Resolution for the Marihuana Moratorium to be Extended an Additional 180 Days.

Staran advised he has prepared and submitted a draft Resolution to extend the moratorium an additional 180 days as recommended by Planning Commission, noting he echoes their recommendation being there are many unanswered questions as this matter is in a state of flux in terms of the law. Discussion ensued regarding the length of the Resolution.

#2011-06 Motion by Lamott supported by Kochensparger to approve the Resolution provided, as follows:

Resolution

Whereas, on August 9, 2010, the Franklin Village Council adopted a 180-day moratorium on all land uses relating to the medical use of marihuana in the community and directed the Planning Commission to study, deliberate and recommend to the Village Council whether and to what extent the Village should regulate medical marihuana land uses, activities, businesses or facilities; and

Whereas, on December 4, 2008, the Michigan Medical Marihuana Act, MCL 333.2642 et seq., became effective; and

Whereas, the stated purpose of the Act is “to allow under State law the medical use of marihuana,” to provide protections for the medical use of marihuana, to provide for a system of registry identification cards for qualifying patients and primary caregivers, to impose a fee for registry application and renewal, to provide for the promulgation of rules, to provide for the administration of this Act, to provide for the enforcement of this Act, to provide for affirmative defenses, and to provide for penalties for violations of the Act; and

Whereas, the Act allows a qualifying patient who has been issued and possesses a registry identification card to possess up to 2.5 ounces of usable marihuana for medical use, and if the patient has not specified that a primary caregiver will be allowed to cultivate marihuana for the patient, to cultivate up to 12 marihuana plants in an enclosed, locked facility for medical use; and

Whereas, the Act allows a primary caregiver to assist up to 5 qualifying patients to whom the caregiver is connected through the State Department of Community Health with the use of medical marihuana, provided that the caregiver does not possess more than 2.5 ounces of usable marihuana for each patient and cultivate more than 12 marihuana plants for each patient in an enclosed, locked facility; and

Whereas, the Act does not specify the location(s) where a qualifying patient may cultivate marihuana; and

Whereas, the Act does not specify the location(s) where a primary caregiver may cultivate marihuana; and

Whereas, the Act does not specify the manner or location in which medical marihuana may be delivered to a qualifying patient by the patient's caregiver; and

Whereas, the Act does not provide for medical marihuana growing facilities, or for the regulation of medical marihuana growing facilities; and

Whereas, the Act does not provide for medical marihuana dispensaries or clubs, or for the regulation of medical marihuana dispensaries or clubs; and

Whereas, law enforcement officials have expressed concern over the negative impact unregulated medical marihuana growing facilities and dispensaries may have upon the community; and

Whereas, recent law enforcement actions, court decisions, lawsuits, news reports, and scholarly analyses of the Act have identified various inconsistencies, conflicts and vagaries within and relating to the Act; and

Whereas, there is a need for the Michigan Legislature to revisit and amend the Act to address the current Act's shortcomings and render the Act more workable for local government and the general public; and

Whereas, the Village Planning Commission, on December 15, 2010, adopted a resolution recommending that the Village Council extend the moratorium regarding medical marihuana land uses for an additional 6 months to allow for further study and analysis by the Planning Commission.

Resolved, that in the interest of promoting and protecting the health, safety and welfare of the public, and in view of the need for clarification of the Act, and the resulting need for further study and analysis by the Planning Commission in order to develop a recommendation regarding whether and how to appropriately regulate medical marihuana land uses, businesses and facilities in the Village, the Village Council extends the moratorium regarding medical marihuana land uses for an additional 6 months, to August 4, 2011, with the understanding that the moratorium is not intended to prohibit or deny a qualifying patient's right, under the Act, to personally use medical marihuana in his/her private residence.

Be It Further Resolved, that a copy of this Resolution shall be sent to Governor Rick Snyder, State Senator Vincent Gregory, and State Representative Chuck Moss, requesting the State Legislature to amend the Michigan Medical Marihuana Act to provide a framework enabling local communities to properly, safely and consistently implement the intentions of the Michigan Medical Marihuana Act approved by voters in November, 2008.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer

Nays: None

Motion carried.

B. Consider Road Administrator Resolution.

Gallasch advised this is necessary due to Stoppels' departure.

#2011-07 Motion by Kochensparger supported by Seltzer to appoint Amy Sullivan as the Village's Road Administrator as provided in the Resolution, as follows:

Resolution for Designation of Street Administrator

Whereas, Section 13(9) of Act 51, public Acts of 1951 provided that each incorporated city and village to which funds are returned under the provisions of this section, that, "the responsibility for street improvements, maintenance, and traffic operations work, and the develop, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the State Transportation Department pursuant to this act."

Therefore, be it resolved, that this Honorable body designate Amy Sullivan, Village Administrator, as the single Street Administrator for the Village of Franklin in all transactions with the State Transportation Department as provided in Section 13 of the Act.

Discussion ensued regarding receipt of Act 51 funds with Sullivan noting that if she is appointed tonight she will be able to sign the forms and submit them as soon as possible.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer

Nays: None

Motion carried.

C. Consider an Ordinance to Amend Sections 1022.02 Through 1022.05 of Part Ten, Title Two, of Chapter 1022, Culverts, Laterals, Catch Basins and Driveways, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan to Modify the Culvert Permit Process, Require Driveways to be Flared, Repeal Conflicting Ordinances, and Prescribe a Penalty for Violations (*first reading*).

Gallasch provided a brief overview noting the Ordinance deals with culverts, driveways, and such, was last updated in 1960 and does not meet today's construction standards. Staran advised the proposed amendment to the culvert ordinance incorporates a remedy for situations where driveway placement does not allow for required flaring by adding "if possible" to the requirement as requested by Council at its work session.

#2011-08 Motion by Kochensparger supported by Eads to amend ordinance Sections 1022.02 Through 1022.05 of Part Ten, Title Two, of Chapter 1022, Culverts, Laterals, Catch Basins and Driveways, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan to Modify the Culvert Permit Process, Require Driveways to be Flared, Repeal Conflicting Ordinances, and Prescribe a Penalty for Violations in its first reading.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer
Nays: None
Motion carried.

D. Consider an Ordinance to Amend Section 1474.07 of Part Fourteen, Title Six, of Chapter 1474, Signs and Outdoor Structures, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Repeal the Amortization of Nonconforming Permanent Signs, Repeal Conflicting Ordinances and Prescribe a Penalty for Violations (*first reading*).

Sullivan provided a brief overview noting the recommendation from Planning Commission was to push out the sunset date for permanent non-conforming signs to be brought into compliance while the Village continues to work on updating the Ordinance and the Historic District Commission was in agreement, recommending a sunset date extension of 12/31/2011.

#2011-09 Motion by Gettel supported by Kochensparger to amend section 1474.07 of Part Fourteen, Title Six, of Chapter 1474, Signs and Outdoor Structures, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Repeal the Amortization of Nonconforming Permanent Signs, Repeal Conflicting Ordinances and Prescribe a Penalty for Violations in its first reading.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer
Nays: None
Motion carried.

Kochensparger noted that his vote on the December 14, 2010 Village Council Special Meeting Minutes needs to be changed to abstaining as he was not present at the meeting.

XI. ADJOURNMENT

Motion by Kochensparger supported by Eads to adjourn the meeting.

Ayes: Eads, Gallasch, Gettel, Kochensparger, Lamott, Rosenthal, Seltzer
Nays: None
Motion carried.

There being no further business, the meeting adjourned at 9:17. P.M.

Respectfully submitted,

Lori Rich, Recording Secretary


Eileen H. Pulker, Clerk

H. Frederick Gallasch, President