

**PROCEEDINGS OF VILLAGE OF FRANKLIN
VILLAGE COUNCIL REGULAR MEETING
MONDAY, DECEMBER 13, 2004, 8:00 P.M.
FRANKLIN VILLAGE HALL – BROUGHTON HOUSE
32325 FRANKLIN ROAD, FRANKLIN, MICHIGAN**

I. CALL TO ORDER

The meeting was called to order by President Jahnke at 8:00 p.m. at the Franklin Village Hall, Franklin, Michigan.

II. ROLL CALL

Motion by Coyer, supported by Gallasch to excuse trustee Harnisch in his absence from this meeting.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Jahnke

Nays: None

Absent: Harnisch

Motion carried.

Present: Mark Jahnke, Randy McElroy, Ralph Sosin, Fred Gallasch, Bill Lamott, Brian Coyer, Alan Harnisch (arrived 8:01 p.m.)

Absent: None

Also Present: Jon Stoppels, Administrator
Eileen Pulker, Clerk
Edward Glomb, Police Chief
Dominick Schiano, Treasurer
Bill Dinnan, Building Official
Christopher Doozan, McKenna Associates, Planning Consultant
Jim Stevens, Planning Commission Chairman
Mary Hepler, Planning Commissioner

III. ADOPTION OF AGENDA

Motion by Sosin, supported by McElroy to approve the agenda as presented.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Jahnke

Nays: None

Absent: Harnisch

Motion carried.

IV. MINUTES:

A. Regular Meeting of November 8, 2004

Gallasch noted one correction, on page 5, to add the following comment: "Gallasch complimented Donaldson on the completeness of his application and his willingness to cooperate with the Village".

Motion by Coyer, supported by Lamott to approve the minutes of the Regular Meeting of November 8, 2004 as corrected.

Ayes: Sosin, Gallasch, Lamott, Coyer, Jahnke

Abstain: McElroy

Nays: None

Absent: Harnisch

Motion carried.

V. REPORTS OF VILLAGE OFFICERS AND AGENTS

Police Chief Glomb began his report by stating that there had been one additional theft, similar to those reported last month, in which items were taken from unlocked garages and vehicles. Glomb also reported that the "Winter Festival" sponsored by the Franklin Merchants and the Franklin Community Association went very well and there was a positive response to the mounted (horse) unit among those who attended. Chief also reported that reimbursements had been received for Ryder Cup overtime and Homeland Security training for a total of approximately \$9,000. Glomb also referred Council to his written report and asked if there were any questions. Discussion ensued regarding the anticipated traffic speed sign, to which Glomb and Stoppels responded stating that the first unit received was returned (damaged) and while awaiting the new device, the power source for the unit is being researched.

Fire Chief Tony Averbuch was not present as the meeting, but had submitted a written report.

Treasurer Schiano reported that the bills list expenditures were consistent with the approved '04 - '05 Budget and that the Village has sufficient funds to meet current obligations. Schiano also reported on the status of tax receipts stating that \$2,266,050.85 had been received, which represents 94.2% of the total. Schiano stated that there had been a Finance Committee meeting on December 2, 2004 at which the 1st Quarter Budget review was conducted, resulting in no budget amendments at this time and the 2nd Quarter Budget review will be taking place sometime in January 2005. Schiano also reported that Tom Traciak of ACI Finance was looking into the allowable uses of the Pressure Sewer Fund monies, and has suggested transferring a portion of the money to debt service each year for the next ten years, and a meeting will take place on Friday December 17, 2004 to further discuss the options available. Schiano also stated that the draft audit for the Fiscal Year 2003-2004 should be completed by the end of the month, and upon receipt will be reviewed by the Finance Committee and subsequently reported to Council.

VI. Submission of Current Bills

Stoppels reported that further clarification of a few of the engineering bills was still needed, and asked that the Hubbell, Roth, & Clark bills for local & major roads, and Building department bills be held until the January Council meeting.

Motion by McElroy supported by Sosin to approve the bills list as amended.

Totals:	
General Administration	\$ 17,210.23
Tax Funding	\$ 23,000.00
Building	\$ 20,423.13
General Debt	\$ 41.00
Insurance	\$ 44,885.76
Legal	\$ 3,999.39

Police	\$ 14,557.33
Pressure Sewer	\$ 1,080.39
Roads	\$ 16,145.89
2002 Local Road	\$ 1,021.08
Cell Tower	\$ 34.50
Rubbish	\$ 13,535.01
Trust & Agency	\$ 4,800.00
Village Hall & Grounds	\$ 1,493.40
Waste Water	\$ 2,303.49
All Funds	\$164,530.60

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Motion carried.

VII. PUBLIC REQUESTS AND COMMENTS

No public comments were made.

VIII. SPECIAL REPORTS

A. Long Term Planning

Jahnke reported on the continued research within the Village to prioritize projects and provide direction to the administrator, in keeping with the Village's Master Plan. Jahnke directed Clerk Pulker to arrange a Special Village Council meeting the week of January 17, 2005 to provide an opportunity to discuss the proposed projects and receive input from the other commissions in the Village, namely: Historic District, Planning Commission, and Zoning Board of Appeals.

B. Status of Refunding Bonds for the Oakland County Series 1996, dated June 1, 1996, resulting in savings to the Village.

Jahnke asked Stoppels and Schiano to report on the progress of the refunding and sale of the Oakland County bonds, which the Village continues to pay for. Stoppels stated that the sale was due to take place in January 2005. Schiano added that the lower interest rates now available would result in a substantial saving to the Village.

C. Land Conservancy, Tree Replacement, and Natural Plantings.

Lamott began by reporting on the recent meetings held with Oakland County organizations discussing Land Conservancy, Green Corridors, the Franklin River, Ash Trees, and invasive plants. Discussion ensued regarding the tree canopy along Franklin Road and on the Village Green, as well as the Derwich property and the possible nature trail and native plantings to be implemented to be enjoyed by all of the Villagers. The proposed action plan was discussed, as well as the educational opportunities for Villagers, for replacement trees and other plantings on their own properties.

#2004-106 Motion by Lamott, supported by Harnisch to approve the proposed plan to conduct a tree survey along Franklin Road, in the Franklin Cemetery and in the Village Green (including Village-owned and Franklin Community Association property), the cost of which not to exceed \$10,000.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Motion carried.

#2004-107 Motion by Lamott supported by McElroy to approve the conduction of a survey of the Derwich property to determine the amount of invasive plants that exist and the best path route; upon conclusion of the study, remove invasive plants and construct the path, the cost of which will not exceed \$5,000.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Motion carried.

D. Village Special Election to be held February 22, 2005

Jahnke reported that plans continue for the Special Village election to be held on February 22, 2005 in order to seek approval for the proposed change to the Village Charter which will increase Council Trustee and Council President terms to four years, in lieu of the current two year terms. Jahnke stated that the changes to the Village Charter are necessary due to recent State of Michigan election law reforms, in order to continue the staggering of terms the Village is accustomed to, now that Village elections will be taking place once every two years in September of odd years. The next regular Village election will not be in March 2005, but rather September 2005. Further information on the Special election will be published in the next Quorum and available at the Village Clerk's office.

IX. NEW BUSINESS

A. Consider Request of the Franklin Bingham Farms Volunteer Fire Department to waive fees incurred during the Building Addition Construction.

Stoppels reported that the fire department had requested that the Council consider waiving the various building fees, having been previously charged during the process of their building addition project at the Fire Hall. Stoppels stated that fees had not been waived during the construction of the Police Station, and that the fees already charged have been totaled at approximately \$4,500, with an additional \$500 to \$1,000 already billed to the Village by various consultants.

#2004-108 Motion by Coyer, supported by Sosin to approve the one-time use of \$5,500 of the Fire Fund fund balance to be used to cover the building and consultant fees for the Fire Hall expansion project.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Motion carried.

B. Consider Application to Demolish Structure at 30175 Woodside Ct.

#2004-109 Motion by Sosin supported by Harnisch to approve the application for demolition for the property located at 30175 Woodside Ct., upon the receipt of a \$5,000 bond and the compliance of all requirements of the Building Official.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Motion carried.

C. Consider Meeting Calendar Dates for January 2005 through December 2005.

Jahnke directed the Clerk to post the meeting dates on the Village website (www.franklin.mi.us) and to also post the schedule in all of the usual places, i.e. the Village Hall bulletin boards and the Library bulletin board.

#2004-110 Motion by Gallasch, supported by Harnisch to approve the meeting date schedule as presented for the Calendar year 2005.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke
Nays: None
Motion carried.

D. Consider Metro Act Permit Application by NextG Networks Central.

Jahnke stated that due to the inadequacy of the submittal, the Village attorney was recommending denial of the application, and to expect a complete application to be submitted shortly.

#2004-111 Motion by Coyer, supported by Lamott to approve the following resolution to deny the application:

RESOLUTION DENYING THE TELECOMMUNICATIONS RIGHT-OF-WAY USE
AGREEMENT FILED BY NEXTG NETWORKS CENTRAL, AS IT DOES NOT COMPLY
WITH THE METRO ACT

WHEREAS, the State of Michigan enacted the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002 (the "Act"); and

WHEREAS, the Act, among other things, provides for a uniform permit and permit fee for access to and use of the public rights-of-way by telecommunications providers; and

WHEREAS, the Act further provides, among other things, for the Village to approve or deny access to the rights-or-way within 45 days of receiving the Safe Harbor Application from a telecommunications provider; and

WHEREAS, on or about November 15, 2004, the Village, received a "Right-of-Way Use Agreement" from NextG; and

WHEREAS, NextG failed to file an MPSC Safe Harbor Metro Act Compliant Telecommunications Right-of-Way Application as required by M.C.L.A. §484.3106(1); and

WHEREAS, the "Right-of Way Use Agreement" filed by NextG is neither the Safe Harbor Bilateral Permit nor the Safe Harbor Unilateral Permit format, as required by the Metro Act, at §484.3106(1); and

WHEREAS, the Village has complied with the requirements of the Act by providing NextG with copies of the Safe Harbor Application, Safe Harbor Unilateral Permit and Safe Harbor Bilateral Permit on November 30, 2004; and

WHEREAS, the Village and NextG are working together on the statutorily required safe harbor documents, and when presented to the Village by NextG, the Village shall have them placed upon the agenda for action by the Village Council.

NOW, THEREFORE, it is hereby

RESOLVED, that the Village of Franklin hereby denies Permit filed by NextG Networks Central is the wrong document to file, and does not comply with the mandates of the Metro Act; and

FURTHER RESOLVED, that the deficiencies contained in the Permit are matters that can be rectified by NextG through the filing of the proper safe harbor documents; and

FURTHER RESOLVED, that upon the Village of Franklin receiving a complete and proper Safe Harbor Application and Safe Harbor Permit format from NextG, the Village shall process same in accordance with State Law and Village Ordinance.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Motion carried.

E. Consider Application for Landfill Permit for the property located at 30525 Rosemond Drive.

Motion by McElroy, supported by Harnisch to approve the landfill permit application for the property located at 30525 Rosemond, subject to the conditions set forth by the Building Official as follows: an additional bond in the amount of five thousand dollars (\$5,000) to be held until such time as permanent soil erosion control has been established and after all obligations [per site plan #1 (02-164) submitted and dated 12-6-04] are fulfilled by the contractor/homeowner and approved by the Building Official; and an understanding with the contractor/homeowner that no Temporary Certificate of Occupancy will be issued until such time as the soil erosion measures have been installed and all other obligations are fulfilled by the contractor/homeowner and approved by the Building Official.

The applicant, Roberto Leao was present to answer the Council's questions. Building official Dinnan explained that the violation by the applicant, while not intentional, had been investigated by himself and the Village engineers, and Dinnan stated that the situation had been resolved to his satisfaction.

Mary Hepler of 30575 Rosemond Drive expressed her concern that the drainage for the property will now create a watershed over the driveway onto the property to the south.

Dinnan explained that the plan submitted solves that by creating a swale that will cause the drainage to the rear of the property. Stoppels added that the contextual zoning ordinance before the Council this evening would address grading issues, such as this property's, more effectively. Discussion ensued regarding enforcement of landfill permits throughout the Village. Dinnan added that this project will be examined upon completion to insure the compliance with the Council's decision.

#2004-112 Motion amended by Sosin, seconded by Harnisch, and agreed to by McElroy, to include the stipulations of the building official as follows: that no full Certificate of Occupancy will be issued until such time as an additional cash bond of five thousand dollars (\$5,000) to held until such time as permanent soil erosion control has been established and after all obligations [per site plan #1 (02-164) submitted and dated 12-06-04] are fulfilled by the contractor/homeowner and approved by the Building Official and an understanding

with the contractor/homeowner that no Temporary Certificate of Occupancy will be issued until such time as temporary soil erosion measures have been installed and all other obligations are fulfilled by the contractor/homeowner and approved by the Building Official.

Ayes: McElroy, Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Motion carried.

Trustee McElroy was excused at 9:20 p.m.

X. PROCLAMATIONS/RESOLUTIONS/ORDINANCES

A. Consider Ordinance to Amend Chapter 1265, Wireless Telecommunication Facilities, of Part Twelve, Title Four of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Modify Wireless Telecommunication Facility Regulations, Repeal Conflicting Ordinances, and Prescribe a penalty for Violations (second reading).

#2004-113 Motion by Coyer, supported by Lamott to approve the Ordinance to Amend Chapter 1265, Wireless Telecommunication Facilities, of Part Twelve, Title Four of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Modify Wireless Telecommunication Facility Regulations, Repeal Conflicting Ordinances, and Prescribe a penalty for Violations in the second reading.

Coyer explained that the amendments to the ordinance were as a result of an extraordinary response by Villagers to the applications of cellular carriers for facilities in the Village. Coyer thanked Jim Pikulas and all members of the Wireless Facility committee: Connie Ettinger, Rob Sickels, Mike Seltzer, Bill Lamott, Jim Stevens, Randy McElroy, and Rick Koslowski as well as the consultants McKenna Associates, Beier Howlett, and Kreines and Kreines.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

Jahnke introduced the next five items on the agenda, stating that these changes were the result of work by the Council and Planning Commission to ascertain those areas of the Village that needed to be looked at in order to maintain the intended planning as outlined by the Master Plan. Jahnke introduced Jim Stevens, Planning Commission Chairman and Mary Hepler Planning Commissioner and Chris Doozan of McKenna Associates all whom were present to assist Council in their discussions.

Stevens provided a brief overview of the many months of work and various public hearings that had been conducted over the last year, examining the current zoning districts and the impact the division of lots would have on various areas of the Village. The Council commended the Planning Commissioners for the diligence in resolving these important issues.

B. Consider Ordinance to Amend Sections 1248.02, 1250.01, 1250.02, 1250.05 and Appendix B of Chapter 1248 of Part Twelve, Planning and Zoning Code, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to

Create the R-M, Modified Low Density Residential District, to Establish Standards for the R-M District, to Repeal Conflicting Ordinances, and to Prescribe a Penalty for Violations (first reading).

#2004-114 Motion by Lamott, supported by Sosin to approve the Ordinance to Amend Sections 1248.02, 1250.01, 1250.02, 1250.05 and Appendix B of Chapter 1248 of Part Twelve, Planning and Zoning Code, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Create the R-M, Modified Low Density Residential District, to Establish Standards for the R-M District, to Repeal Conflicting Ordinances, and to Prescribe a Penalty for Violations in the first reading.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

- C. Consider Ordinance to Amend Chapter 1248 and the Zoning Map of Part Twelve, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Rezone the Property Described herein (in the area of Romany Way, east of Franklin Road) R-1 Single Family Residential to R-L Single Family Residential, and to Prescribe a penalty for Violations (first reading).**

#2004-115 Motion by Coyer, supported by Sosin to approve the Ordinance to Amend Chapter 1248 and the Zoning Map of Part Twelve, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Rezone the Property Described herein (in the area of Romany Way, east of Franklin Road) R-1 Single Family Residential to R-L Single Family Residential, and to Prescribe a penalty for Violations in the first reading.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

- D. Consider Ordinance to Amend Chapter 1248 and the Zoning Map of Part Twelve, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Rezone the Property Described herein (in the area east of Inkster Road, west of Franklin Road, south of Irving, north of Crestwood) from R-1 Single-Family Residential to R-M Single Family Residential, and to prescribe a penalty for Violations (first reading).**

#2004-116 Motion by Coyer, supported by Gallasch to approve the Ordinance to Amend Chapter 1248 and the Zoning Map of Part Twelve, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Rezone the Property Described herein (in the area east of Inkster Road, west of Franklin Road, south of Irving, north of Crestwood) from R-1 Single-Family Residential to R-M Single Family Residential, and to prescribe a penalty for Violations in the first reading.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

- E. Consider Ordinance to Amend Chapter 1248 and the Zoning Map of Part Twelve, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Rezone the Property Described herein (in the area east of Romsey, west of Wing Lake, South of Fourteen mile and North of River Drive) from R-1 Single-Family Residential to R-M Single Family Residential, and the prescribe a penalty for Violations (first reading).**

#2004-117 Motion by Coyer, supported by Sosin to approve the Ordinance to Amend Chapter 1248 and the Zoning Map of Part Twelve, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Rezone the Property Described herein (in the area east of Romsey, west of Wing Lake, South of Fourteen mile and North of River Drive) from R-1 Single-Family Residential to R-M Single Family Residential, and the prescribe a penalty for Violations in the first reading.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

- F. Consider Ordinance to Amend Sections 1240.07, 1268.17 and Appendix B of Part Twelve, Planning and Zoning Code, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to adopt New Side Setback, Building Height, and Grading Regulations in the R-E, R-L, R-M, R-1, and R-2 Districts, to Repeal Conflicting Ordinances, and to prescribe a penalty for Violations (first reading).**

#2004-118 Motion by Coyer, supported by Gallasch to approve the Ordinance to Amend Sections 1240.07, 1268.17 and Appendix B of Part Twelve, Planning and Zoning Code, Title Four, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to adopt New Side Setback, Building Height, and Grading Regulations in the R-E, R-L, R-M, R-1, and R-2 Districts, to Repeal Conflicting Ordinances, and to prescribe a penalty for Violations in the first reading.

Stevens provided an overview of the proposed ordinance, stating that many communities have similar ordinances and that the Planning Commission had begun their look at the Floor Area Ratios of the Village and surrounding communities, citing the big foot problems faced by those neighboring communities. Hepler supplemented the overview and explained the current setbacks on large lots were what had been examined by the Planning Commission, that in order to preserve the rural character and keep open spaces, these changes were necessary. Hepler continued stating that three elements were involved in this amendment: side setbacks, building heights, and grade regulations and that contextual side setbacks were based on proportional options, basically building on 2/3s of a lot, while 1/3 remains as green space.

Discussion ensued regarding enforcement of grading issues, the time necessary to review plans and the appeal proceedings for those plans denied. Dinnan responded that the plan review may take more time, and that plans could be altered and resubmitted or appeals could be applied for through the Zoning Board of Appeals. Further questions were asked regarding the learning curve for builders and homeowners, and whether or not five foot grade changes would be possible over entire sites and still comply to which Dinnan responded that original

grade plans would need to be submitted by certified surveyors and those same plans would be adhered to. The council thanked the Planning Commission and Bill Dinnan for their work on this complicated issue.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

XI. BIDS/PROPOSALS

A. Consider Proposal for Historic District Commission GuideBook.

#2004-119 Motion by Lamott, supported by Coyer to approve the proposal as presented for the Historic District Commission to work with Ms. Wendler to develop the Historic District Guideline brochure, as proposed for \$2,500, not including publication.

Discussion ensued regarding setting a charge for the book, suggesting that copies be available to residents at no charge, but that builders or developers would be charged.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

B. Consider Proposal for Historic District Commission Consultant.

#2004-120 Motion by Lamott, supported by Gallasch to approve the technical support proposed by consultant Jennifer Wendler for the Historic District commission as would be necessary.

Motion amended to include, "for an amount not to exceed \$2,500" approved by Lamott and Gallasch.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

XII. ADJOURNMENT

Jahnke noted that he had spoken at two American Government classes at Birmingham Groves High School, explaining the workings of local municipal government.

Coyer stated that flu shots are now available to the general public and can be obtained during business hours at the various Oakland County Health Department facilities.

Motion by Sosin supported by Coyer to adjourn the meeting.

Ayes: Sosin, Gallasch, Lamott, Coyer, Harnisch, Jahnke

Nays: None

Absent: McElroy

Motion carried.

There being no further business, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Eileen H. Pulker, Village Clerk

Mark W. Jahnke, Village President