

**PROCEEDINGS OF VILLAGE OF FRANKLIN
VILLAGE COUNCIL REGULAR MEETING
MONDAY, FEBRUARY 12, 2007, 8:00 P.M.
FRANKLIN VILLAGE HALL - BROUGHTON HOUSE
32325 FRANKLIN ROAD, FRANKLIN, MICHIGAN 48025**

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

Present: Mark Jahnke, Randy McElroy, Fred Gallasch, Bill Lamott, Brian Coyer (arrived 8:28 p.m.)

Absent: Alan Harnisch, Dominick Schiano

Also Present: Jon Stoppels, Administrator
Eileen Pulker, Clerk
Patrick Browne, Police Chief
Tony Averbuch, Fire Chief
Thomas Morrow, Treasurer
John Staran, Hafeli Staran Hallahan Christ & Dudek, P.C., Village Attorney
Jim Stevens, Planning Commission Chairman

III. ADOPTION OF AGENDA

Jahnke noted that having met with Stoppels he would like the Council to receive a brief a financial/audit report under Administrator report, item 2, that item MERS Retirement XI. B. should be moved to Special Reports, making it item number VIII. A., thus changing the rest of the Special Report item numbers accordingly.

Motion by Gallasch supported by McElroy to approve the agenda as amended.

Ayes: Gallasch, Lamott, McElroy, Jahnke

Absent: Harnisch, Schiano, Coyer

Nays: None

Motion carried.

IV. MINUTES:

A. REGULAR MINUTES OF JANUARY 8, 2007

Gallasch complemented Pulker on the inclusion of all of the comments provided at the meeting in regards to former Council President Jim Pikulas.

Motion by McElroy supported by Gallasch to approve the minutes as presented.

Ayes: Gallasch, Lamott, McElroy, Jahnke

Absent: Harnisch, Schiano, Coyer

Nays: None

Motion carried.

V. REPORTS OF VILLAGE OFFICERS AND AGENTS

Police Chief Patrick Browne referred Council to his written report noting that two (2) major incidences had occurred in the Village during the past month, both involved thefts from residences. Chief Browne also reported on the preliminary report numbers for the previous year, noting that there had been two (2) residential break-ins and one (1) attempted break-in during 2006 all of which a suspect has been identified for; that traffic violations had been increased 54% over the statistics for 2005; adding that the officers were doing an excellent job of performing service to the community. Browne also reported on the progress of training currently being undertaken by the department noting that Detective Sergeant Castro and his ten (10) week training program for which he has completed four (4) weeks, and that one more officer has completed the training offered by Farmington Hills Police Department, adding that now three (3) officers have completed that training. Browne also reported on the 12-hour schedules noting that no one has indicated a desire to return to the old schedule, which has resulted in approximately a 25% one officer on duty percentage, with an even lower number expected in the months ahead with the help of the auxiliary officers.

Fire Chief Tony Averbuch referred Council to his written report and thanked the council for including the Doc Roberts article on the new dispatch service in the latest issue of the *Quorum*. Averbuch added that as an update the dispatch service is working well, noting that it is currently planned to provide a unit at Maple and Telegraph if a unit is available, and if not, a unit will be posted at Long Lake and Telegraph in lieu of the Long Lake and Woodward location currently in use. Averbuch further reported that newly available intermediate airways equipment has been obtained and is in use at the department, and that the new ambulance with the level of licensure to allow for basic transport is also being pursued. Averbuch reported that many upgrades in radios have been obtained for use by the new dispatch service, and also provided an update on the new 800 MHz radios and system in development with Oakland County for which the antenna has been installed on the building, which required grounding changes for all of the equipment at the station, but due to technical difficulties the actual system inaction is still a few months off. Lamott thanked Averbuch for the presentation provided in January that showed the department's capabilities.

Treasurer Tom Morrow referred Council to his written report, noting that the bills list report includes totals of \$186,448.48 and stated that the month's expenditures include interest payments totaling \$62,485.63 for the 1999 road and drainage bond and the 2001 local road bond. Morrow added that the village has sufficient funds to meet its current and anticipated obligations, that a listing of accounts is included in their package, and that interest rates remain at between 4.84% and 4.91%, as they have since October 2006.

VI. SUBMISSION OF CURRENT BILLS

TOTALS	
General Administration	\$ 23,763.79
Building	\$ 14,330.07
Insurance	\$ 30,747.54
Legal	\$ 3,507.25
Police	\$ 12,266.03
Pressure Sewer	\$ 62,785.63
Major Roads	\$ 4,422.92
Local Road	\$ 5,178.93
Rubbish	\$ 15,298.06
Trust & Agency	\$ 12,100.00
Tax Fund	\$ 534.74
Waste Water	\$ <u>1,513.52</u>

ALL FUNDS

\$ 186,448.48

Motion by Gallasch supported by McElroy to approve the bills list as presented.

Ayes: Gallasch, Lamott, McElroy, Jahnke

Absent: Harnisch, Schiano, Coyer

Nays: None

Motion carried.

VII. PUBLIC REQUESTS AND COMMENTS

A. Marcia Gershenson, County Commissioner, District 17

Kathi Russell, the owner of the Snow House at 32635 Franklin Road, and a member of the Franklin Merchants Association, reported on the January meeting of the association, stating that the Association had recently participated in a number of events in the Village, including: 1) "Holly Days" at the Winterfest held in December 2006 during which approximately 5,000 people participated in several activities including visits with Santa, face painting, and bead working; 2) a tea at the Historic Snow House which was a part of the fundraising for the children's charities; 3) hosted tours of five homes in the Village. The Franklin Foundation joined in their support of a Home decorating contest for which prizes were awarded that had been provided by the local merchants. Ms. Russell thanked the Council for their support and especially thanked the Police department for their participation and help in directing traffic and the Fire Department for their participation in the activities that day.

Jim Stevens, 25700 Meadowdale, Planning Commission Chairman, stated that he was present to comment on the possible adoption of the revised Master Plan and asked if that item could be moved up for consideration on the agenda due to his need to work on another matter this evening.

Chuck Moss, newly elected State Representative, for the 40th District reported on the recent State of the State address provided by Governor Granholm and the budget deficit discussions that include a new 2% tax on services such as haircuts. Moss reported that he has been named to the Appropriations, K-12, Judiciary, and General Government Committees. Jahnke commented that Moss had been a judge at the recent annual Birmingham Youth Assistance Dog Show and thanked him for his participation in that successful community event. Discussion ensued regarding the Governor's plan to have communities "sing for their supper" for participating in shared services which Franklin has done for decades. Moss commented that the Michigan Municipal League (MML) will keep communities abreast of the upcoming votes on consolidation of services. Moss affirmed his support of each governmental entity deciding their own budgets and services.

Marcia Gershenson, Oakland County Board of Commissioners, District 17 reported on several items, as follows:

- 1) That the Hazard Mitigation Plan for the Village is in progress, once the County processes the documentation, the Village will be eligible to qualify for FEMA funding which would be available for funding planning and implementation of long term hazard mitigation measures.
- 2) The Village has \$1,290.19 designated for efforts to combat West Nile Virus.
- 3) The Oakland County Planning and Development service is offering a Planning Basics Workshop, a 1/2 day session on Saturday March 24, 2007 for Planning Commissioners, Zoning Board members, and elected officials.

- 4) A successful community service program offered by the Oakland County Sheriff's Department is a re-cycle program that takes bikes in need of repair and distributes them to individuals that need them, and that Gershenson is looking for additional bicycles, asking that if there are any available either she or the Sheriff's department should be contacted.
- 5) There is a free tax preparation service available to eligible County residents.
- 6) Southeast Michigan Council of Governments (SEMCOG) supports local government planning with regard to improving transportation, environment, community and economic development, and education will be hosting a Municipal Operations for Clean Water, focusing in on landscaping practices on February 15, 16, 27, 2007 which will address controls to reduce discharge of pesticides, herbicides and fertilizers.
- 7) The Institute for Local Government at University of Michigan Dearborn is hosting an evening seminar series on Local Budget and Service options for which the general topics will include Municipal Finance, Revenue and Cost Cutting options, cutting costs not services, health care financing options, and eminent domain issues.

Brian Coyer arrived at 8:28 p.m.

Gershenson reported that she had attended a meeting between the Oakland County Parks and Recreation department and the Village that had been attended by Stoppels that had provided an update on summer programs available to groups, at risk youths, youth, and children interested in camp, for which more information will be available in March.

VIII. SPECIAL REPORTS

A. Consider Retiree Health Funding Vehicle Uniform Resolution.

Treasurer Morrow stated that he had reviewed the options available to the Village and had a recommendation based on his research for the Retiree Health Funding Vehicle to be used by the Village. Morrow noted that the two programs reviewed had been a Self Directed Trust and the Michigan Employees' Retirement System (MERS) Retiree Health Funding Vehicle.

Morrow reported that the self directed trust would require that the Village would draw up the trust documents, be responsible for making certain that the documents comply with all applicable laws and regulations, would then establish and maintain the investments, and the Village would be responsible for all reporting requirements all of which perhaps could result in a higher rate of return being earned the cost for all of the research would be born by the Village.

Morrow stated that the other option would be the MERS option, which would be a much simpler option for the Village in which the Village would adopt the uniform resolution adopting the MERS program, the Village determines the contribution amount that it wants to set aside, the Village would receive quarterly statements from MERS, and the Village would direct MERS to pay the health care insurance out of this trust fund as the premiums were due. Morrow further explained that the monies are put into the MERS fund the investment objective being to achieve a reasonable growth in income while minimizing market volatility relative to the broader equity markets seeking returns of at least 3.5 % annually over the rate of inflation, and to exceed the actuarial assumption rate of 8 % annually adding that the portfolio has returned 9.19 % return over the trailing 10 year period ending June 30, 2005.

Morrow noted that the contribution amounts are solely at the discretion of the Village, therefore each year the Village can determine how much to fund into the trust account, and will be invested in the MERS Total Market Fund, which is the same fund that the pension monies are invested in and has a 10 year return of 9.19 % and a 15 year

return of 12.62 %. Morrow stated that the total assets in the fund are approximately \$5.3 billion as of September 30, 2006 and he provided a breakdown of the types of investments.

Morrow stated that it was his recommendation, upon review of the Village Attorney, that the Village adopt the MERS PA 149 Health Care Trust Fund, following the documentation of the Trust Fund the Village should invest the \$44,160 that was budgeted for the current fiscal year into the Trust Fund, and asked that a new Actuarial Valuation be prepared as of June 30, 2007 and every two years thereafter, although the village is required to do so every three years. It was determined that the cost of the Actuarial Study would come out of the General Fund and Morrow added that one consideration would be the timing of the payments for which he would recommend that the \$44,160 be divided by the number of months remaining in the fiscal year, and to pay that amount each month to the fund, and in subsequent years divide by 12 the entire amount, making that a monthly payment, which will serve to smooth out both the Village cash flow and to dollar average the investment, which is an equity investment and it will go up and down as the market goes up and down. Morrow illustrated the Forecasted Retiree Medical Obligations that were included in the Actuarial Report which showed that the premiums per year would grow at 7%, and showed that the amounts contributed should be sufficient; however, up to date actuarial reports will provide the necessary data to adjust the contribution amount if necessary. Morrow noted other factors that change the annual contribution to the fund: new hires that may be included in the plan or a better rate of return on the investment.

The fees that would be charged by MERS were discussed and Morrow stated that the fees charged are taken out before the quoted rates, and nothing in the material he reviewed explained the fees. Morrow outlined those materials necessary to be forwarded to MERS to begin the Village's participation in the plan which would be, as follows: the signed resolution; a copy of the minutes from this meeting; and a copy of the police contract, with the Administrator and the Treasurer listed as the contacts for the Village.

#2007-03 Motion by Gallasch supported McElroy to adopt the MERS PA 149 Health Care Trust Fund, Retirement Health Funding Vehicle, as provided (Attachment #1).

Gallasch stated that he wished to commend Treasurer Morrow, Stoppels, Staran, and the Village Staff for the effort behind this, adding that he was very proud of the Village for being so far proactive in this, noting that it means a lot to the police officers and the citizens of the Village.

McElroy added that we are among the very few communities that have enacted a plan to fund retirement benefits.

Morrow explained that while the contributions to the fund are entirely voluntary, the money that has been contributed can only be used to pay health insurance premiums and cannot be withdrawn for another purpose.

Jahnke noted that the under requirements of the new accounting standards the Village must record the liability; however the funding to be used is entirely up to the Village.

Morrow stated that this trust fund will allow the Village to maintain the excellent bond rating that we now have. A discussion ensued regarding the timing of the next actuarial evaluation and the three year requirement stipulated and it was decided that the timing of the next evaluation would be determined later in this fiscal year, to take place either in June 2007 or June 2008.

Ayes: Coyer, Gallasch, Lamott, McElroy, Jahnke

Absent: Harnisch, Schiano

Nays: None

Motion carried.

Jahnke, noting that the Planning Commission Chairman, Jim Stevens was present, asked if there were any objections to addressing the Village Master Plan Revision at this time. There were no objections, so Jahnke proceeded with this item.

X. B. Consider Adoption of the Village Master Plan Revision as referred by the Planning Commission.

Jim Stevens, Planning Commission Chairman explained that his report would be brief, due to the many former exchanges between the Council and the Planning Commission over the entire process of the Master Plan review. Stevens stated that he wished to thank the sub-committee of the Planning Commission: Pam Hansen, Mary Hepler, and Mike Hoyt, for their extensive work, all of whom had been the mode of force behind the entire Master Plan redevelopment, this being pretty much a complete rewrite of the earlier edition. Stevens further commented that some of the commissioners had started out writing their own parts, some of which was accomplished, others were passed on part way through to Chris Doozan and the staff at McKenna Associates, whom Stevens wished to thank also for their high quality work on the Master Plan.

Jahnke noted that he had not been able to attend the Public Hearing held the previous month due to a family commitment, but had heard many positive comments regarding the plan and clarified that the version to be approved was essentially the one presented at the Public Hearing.

Stevens replied that there were a few minor typographical types of corrections to be made in the document. Stevens added that this most recent Public Hearing was the second public hearing the first having taken place much earlier in the process to obtain citizen input, and this one was to provide the public an opportunity to comment on the final draft. Stevens added that at the meeting there had been many supportive comments and several questions regarding what was and what was not covered in a Master Plan. Stevens noted that there were no new issues, or any further re-considerations to be made, after which a discussion among the commissioners determined that the plan was ready to be adopted and referred to the Village Council for their determination.

Stevens thanked the Council for their review and the sometimes detailed comments obtained from the Council members.

#2007-04 Motion by Gallasch supported by Lamott to approve the adoption of the Village Master Plan Revision as referred by the Planning Commission.

Ayes: Coyer, Gallasch, Lamott, McElroy, Jahnke

Absent: Harnisch, Schiano

Nays: None

Motion carried.

The time and date for a joint meeting between the Council and the Planning Commission to discuss the Master Plan and its' implementation was determined to be Wednesday, March 7, 2007 at 7:00 p.m. unless it is found to not be an amenable time for the participants.

B. President's Report, Mark Jahnke, Village President

1. Status of Main Street Program, discussions and meetings with Oakland County Officials, including Marcia Gershenson and Bob Donahue.

Jahnke noted that preliminary, organizational discussions have been held with Bob Donahue, there will need to be set up a framework between Stoppels and Oakland

County Main Street staff, and meetings will be set up with the Village, Planning Commission and Historic Commission and Council. Donahue has also stated that the Main Street Oakland County staff would need to meet with the Village Merchants Association to discuss needs and objectives and to set goals, and that a town meeting led by Oakland County Main Street staff should follow for information gathering and to educate the public, and then the Main Street Mentoring program should again be discussed at the Planning Commission level. Jahnke stated that it was time to begin and work with Bob Donahue with Marcia Gershenson's assistance to begin the mentoring process. Jahnke added that he had attended the State of the County address and had obtained a copy of it, noting that he should pass it on to the Wireless Committee due to the large amount of information on the Wireless Oakland project.

2. Master Plan Funding

Jahnke stated that work continues to find additional ideas to fund Master Plan implementation, including the bank account changes previously discussed, the possibility of changes in revenues and expenditures for the Cable TV, and the charges for the Master Plan work as performed by Chris Doozan and McKenna Associates as consultants need to be looked at and how much will be spent on a continuing basis, will there be less spent now that the Village is in the implementation stage.

3. Schedule Joint meeting with Planning Commission

Discussed previously in the meeting, with Wednesday, March 7, 2007 at 7:00 p.m. having been chosen as a likely date and time. Jahnke noted that a quorum for both the Village Council and the Planning Commission would be required, and additional people would be welcome. Clerk Pulker was asked to keep everyone apprised of the number of attendees.

C. Council Report

1. Wireless Committee, Wireless Oakland – Brian Coyer, Trustee

Coyer stated that the Wireless Committee had met on Friday February 9, 2007 and the Administrator and Clerk were also in attendance. Coyer added that the Wireless Committee is a standing committee of the Village Council and is a follow-up on a Wireless Technology Committee that was originally set up several years ago to review cell towers in the Village, and has since moved beyond that. Coyer reported that the reason that the committee had met was to review the documentation received from Oakland County for the Wireless Oakland Program and to also review technological developments in neighboring communities.

Coyer noted that many options for telecommunication and internet services are currently available to Villagers in addition to the newly developing Wireless Oakland; existing providers AT &T, and Comcast, both of whom are expecting to invest heavily in fiber optics. Coyer stated that the committee will be reviewing the various agreements being proposed for the Village that are being supported by an agreement between Oakland County and MichTel, the provider for Wireless Oakland being provided in the County and possibly also for Franklin.

Coyer added that Wireless Oakland is a program to bring wireless access to everyone in the County beginning in the year 2008, and the committee is considering a long list of items in connection with that. Coyer noted that several communities whose wireless access with the County is already in existence as they were pilot communities for the program, and while Franklin had applied to be a pilot community, we were not chosen.

Coyer explained the specifics of the system and the levels of service available and commented that the committee would be looking to see if Wireless Oakland would

be good for Franklin. Coyer stated that County representatives would be invited to speak with the committee and would be asked the following: What is the build out, how soon will this take place for the Village (later might be good for the Village as technology advances), and will the newer technologies be competitive with the other carriers?; Are there any unique characteristics that need to be taken into account, other neighboring communities contracts need to be reviewed (i.e. Troy, Beverly Hills), to see if there are provisions unique to their own communities that Franklin may use in their own agreements?; the contract itself, MichTel would have access to what we would call public assets which is vaguely defined in the contract, which could include some of the assets in the Village for NextG one of the private providers (which includes some bandwidth for the Village's own use), or the Village right of ways, and there is an opt out clause in the contract for MichTel that needs to be evaluated.

Coyer concluded by stating that reports would be made as needed, and will welcome any additional information that comes to the Village, and will probably meet on a monthly basis.

D. Administrator Report

1. Status of following agreements

- a. Fire Department Dispatch**
- b. DPW Agreement**
- c. Solid Waste Services Contract**

Stoppels provided an update of the three (3) pending agreements as follows:

- a. The Fire Dispatch contract is being reviewed by both the Village Attorney and Bingham Farms, as the County is requiring that the agreement be between the communities themselves, not the Fire Department Board and the agreement should be available for signing shortly.
- b. The DPW Agreement is for a shorter term, eight months, which should be the basis of a longer term contract to be used for bidding in the upcoming year, which is a flat rate fee for all public works services, and is in the process of review and signature by the contractor currently. Stoppels added that the current work being performed is as under the previous contract as agreed to in a public meeting.
- c. The Solid Waste Contract, which was just received, is being reviewed by Staran. Staran stated that here were just a few details to check out, including the fuel surcharge provision, and that he expects to have that ready for execution shortly.

Jahnke asked that we move ahead with all deliberate speed to finalize and execute these contracts.

2. Audit Financial Report

Stoppels reported that the audit management letter had three (3) basic recommendations to follow up on, as follows:

- a. Budget amendments need to be made if expenditures exceed or income exceeds what was agreed to in the budget and that quarterly assessments are to be made and a quarterly report has been prepared and amendments will be presented to the finance committee for their review.
- b. Monthly account reconciliations are now part of a check list that the finances clerk has to complete each month for interfund transfers.
- c. Bank reconciliations which are performed monthly will continue to be so with any outstanding items to be resolved by the aforementioned checklist.

IX. PUBLIC HEARING

- A. PY 2005 Community Development Block Grant (CDBG) Funds to receive citizen participation and review of the Review of the Request to Change Description/Reprogram of Program Year 2005 CDBG funds in the amount of \$4,000 for the Senior Center to replace the refrigerator/freezer at the BASCC Senior Center; the remaining funds will purchase computer equipment as planned.**

Jahnke opened the Public Hearing (at 9:10 p.m.) asking for public comments on the CDBG funds, the notice of which was published and properly noticed, and explained that the grant funds are provided to the Birmingham Area Seniors Coordinating Council and Center (BASCC) and the Birmingham Youth Assistance Commission (BYAC) and we are currently asking that the funds allocated to BASCC for 2005 be reallocated for the purpose of replacing the refrigerator/freezer at the BASCC facility.

There being no comments, Jahnke closed the public hearing at 9:12 p.m.

X. NEW BUSINESS

- A. Consider Request to Change Description of PY 2005 fund in the amount of approximately \$4,000 for the Senior Center to replace the refrigerator/freezer at BASCC Senior Center.

#2007-05 Motion by Coyer supported by McElroy to approve the request the change description of PY 2005 fund in the amount of approximately \$4,000 for the Senior Center to replace the refrigerator/freezer at the Birmingham Area Seniors Coordinating Council and Center (BASCC).

The procedure for payments and reimbursements were discussed, including the administrative costs incurred by the Village which are also reimbursed.

Ayes: Coyer, Gallasch, Lamott, McElroy, Jahnke

Absent: Harnisch, Schiano

Nays: None

Motion carried.

- C. Discuss February 13, 2007 meeting with Village Merchants.

Lamott stated that he had received some feedback at the last Village Merchant Association meeting that he had attended, and as such arranged to meet with those members of the Historic Commission, Planning Commission, and Village Council on February 13, 2007 at 7:00 p.m. to ascertain those concerns that the merchants would like to see the Village Council address.

Jahnke opined that he had not been involved in the planning for this meeting; had another commitment that night, would consequently be unable to attend and wished to offer his apologies to the merchants for his absence; and had offered to discuss such a meeting at this Village Council meeting to determine when a good time to meet would be and what the agenda would be.

Kathi Russell of 32635 Franklin Road thanked Bill Lamott for putting together this meeting, as the merchants have a number of items that they wish to discuss with the Village government and added that she looks forward to a continued dialogue on these issues.

Coyer added that this would just be an informal beginning of this dialogue which will hopefully enhance the awareness of the downtown area, and will clarify what kind of businesses and how can we enhance the existing businesses, and also expressed his apologies as he is also unable to attend this meeting.

Gallasch stated that he too was unable to attend the meeting due to an earlier commitment, but supports the meeting being held, as long as the Council is kept well informed adding that his own expertise is available to the merchants if needed for marketing.

McElroy added that this has been tried before by past Councils and their efforts were resisted by the absentee landlords, but the Council was willing to make another attempt.

XI. PROCLAMATIONS/RESOLUTIONS/ORDINANCES

- A. Consider Ordinance to Amend Sections 1042.03, 1042.04 and 1042.11 of Chapter 1042, Sewer use and User charges, of Part Ten, Title Four of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to incorporate therein Amendments to the Code of Federal Regulations Regarding the Discharge of Wastewater into Wastewater Collection and Treatment Systems which are Binding Procedures for Compliance with the Aforementioned Federal Amendments and for Improvement of the Efficiency, Operation, and Implementation of the City of Detroit Water and Sewerage Department's Industrial pretreatment Program, and Repeals Conflicting Ordinances (first reading).

Staran explained that this ordinance was more of a housekeeping issue in as much as the language changes were not substantive but were required of the Detroit Water and Sewerage Department to provide the terminology used in their own ordinances. Jahnke added that the Village does not really have a choice in approving or not approving these changes as they are required by the City of Detroit.

#2007-06 Motion by Gallasch supported by Coyer to approve the Ordinance to Amend Sections 1042.03, 1042.04 and 1042.11 of Chapter 1042, Sewer use and User charges, of Part Ten, Title Four of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to incorporate therein Amendments to the Code of Federal Regulations Regarding the Discharge of Wastewater into Wastewater Collection and Treatment Systems which are Binding Procedures for Compliance with the Aforementioned Federal Amendments and for Improvement of the Efficiency, Operation, and Implementation of the City of Detroit Water and Sewerage Department's Industrial pretreatment Program, and Repeals Conflicting Ordinances in the first reading.

Ayes: Coyer, Gallasch, Lamott, McElroy, Jahnke

Absent: Harnisch, Schiano

Nays: None

Motion carried.

XII. CLOSED EXECUTIVE SESSION – To meet with the Village Attorney to discuss a written attorney/client privileged communication.

Jahnke explained that this meeting was necessary due to the Village's receipt of a lawsuit regarding property in the Village located at Northwestern Hwy. and Inkster Road, that a hearing date was coming up in the next week at Oakland County Circuit Court, and that the Village Attorney would be providing information regarding the strategy of the defense.

#2007-07 Motion by McElroy supported by Lamott to go into a closed executive session.

Roll Call vote:

McElroy yea

Gallasch yea

Jahnke yea

Coyer yea

Lamott yea
Absent: Harnisch, Schiano
Motion carried.

Jahnke declared the session closed at 9:25 p.m.

The meeting resumed at 10:07 p.m.

XIII. ADJOURNMENT

Motion by McElroy supported by Coyer to adjourn the meeting.

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

There being no further business, the meeting adjourned at 10:07 p.m.

Respectfully submitted,

Eileen H. Pulker, Clerk

Mark W. Jahnke, President

Attachment #1

**RETIREE HEALTH FUNDING VEHICLE
UNIFORM RESOLUTION**

Village of Franklin

(Participating Employer)

Municipal Employees' Retirement System of Michigan

1134 Municipal Way

Lansing, MI 48917

517-703-9030

Restated: November 15, 2005

**(Adopted: May 14, 2003 and
amended December 17, 2004)**

VILLAGE OF FRANKLIN

UNIFORM RESOLUTION ADOPTING THE MERS

RETIREE HEALTH FUNDING VEHICLE

(Excluding Plans Governed by Internal Revenue Code Section 401(h))

WHEREAS, the Municipal Employees' Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 36(2)(a)); and the Municipal Employees Retirement Act of 1984, Section 36(2)(a) as amended by 1996 PA 220, MCL 38.1536(2)(a);

WHEREAS, the Board has previously authorized MERS' establishment of a retiree health funding vehicle ("RHFV" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees;

WHEREAS, the Board has established a governmental trust under Section 115 of the Internal Revenue Code (the "Trust Fund") to hold the assets of the RHFV, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator;

WHEREAS, 1999 PA 149, the Public Employee Health Care Fund Investment Act, MCL 38.1211 *et seq.* ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries;

WHEREAS, a MERS health care trust fund constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the health care trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code;

WHEREAS, adoption of this Uniform Resolution (the "Uniform Resolution") by the Eligible Employer is necessary and required in order that the benefits available under the MERS Retiree Health Funding Vehicle may be extended;

WHEREAS, this Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, MERS Plan Document Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Board "shall determine . . . and establish" all provisions of the retirement system. The MERS RHFV shall not be implemented with respect to any Eligible Employer unless in strict compliance with the terms and conditions of this Resolution, the Trust Document, and Trust Agreement.

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution, its administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the MERS RHFV or its Trust Fund; or to continue administration.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts the MERS PA 149 Health Care Trust Fund as provided below.

SECTION 1. MERS RHFV PROGRAM

EFFECTIVE February 12, 2007, the MERS Retiree Health Funding Vehicle is hereby adopted by the Village of Franklin.
(MERS municipality or court or other eligible employer)

CONTRIBUTIONS shall be made only by the Eligible Employer, remitted to MERS by the Eligible Employer, and credited to the Eligible Employer's separate fund within the trust subfund for MERS RHFV. As this Plan is funded solely by employer, on a cash or actuarial basis as determined by the employer, there is no requirement for a Participation Agreement establishing the schedule of contributions.

INVESTMENT of funds accumulated and held in the Fund shall be held in a separate

reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Investment Act ("PERSIA"), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

THE ELIGIBLE EMPLOYER shall abide by the terms of MERS RHFV, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS AS RHFV INVESTMENT FIDUCIARY AND TRUSTEE

- (A) The governing body of this Eligible Employer desires that all assets placed in its MERS RHFV (as a sub-fund within all pooled Trust Funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under Public Employee Retirement System Investment Act, PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.
- (B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS RHFV Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all funds held in trust for all Eligible Employers.
- (C) All monies in the MERS RHFV Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of "Eligible Employees" who shall constitute "qualified persons" who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund its MERS RHFV Trust sub-fund to provide funds for health care benefits for "Eligible Employees" who shall constitute "qualified persons." Participation in and any coverage under RHFV shall not constitute nor be construed to constitute an "accrued financial benefit" under Article 9 Section 24 of the Michigan Constitution of 1963, nor shall any contribution method for Eligible Employer funding other than "pay as you go" cash funding be required or imposed, and all benefits, rights, and obligations conferred by or arising under RHFV shall be as provided under the RHFV documents.
- (E) The Eligible Employer generically designates the following groups of persons as "Eligible Employees" who shall constitute "qualified persons," to receive retiree health care benefits subsidized under the MERS RHFV trust sub-fund. Groups may include any dependent(s) as specified in your bargaining agreement and/or personnel policy (provide copies of any governing agreement or other policy): *For example "non-union employees"*
Police Department Union Employees
- (F) Village Administrator &/or Treasurer (Use title of official, not name) shall be the Eligible Employer's RHFV Coordinator; **shall direct payment of fund monies for the benefit of the Eligible Employees** identified in (E) under any MERS (or non-MERS) retiree health care benefit program, including, but not limited to, MERS HCSP, or MERS Premier Health; make investment allocations of the Employer's sub-trust fund within MERS-approved portfolios; receive necessary reports, notices, etc.; shall act on behalf of the Eligible Employer; and may delegate any administrative duties relating to the Fund to appropriate departments.

SECTION 3. EFFECTIVENESS OF THIS RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36(2)(a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS' determination that all necessary documents have been submitted, MERS shall record its formal approval upon this Resolution, and return a copy to the Eligible Employer's RHFV Coordinator as identified above.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

I hereby certify that the above is a true copy of the Resolution Adopting the MERS Retiree Health Funding Vehicle adopted at the official meeting held by the governing body of this municipality:

On _____, 20_____
(Signature of authorized official)

**RECEIVED AND APPROVED BY THE MUNICIPAL EMPLOYEES'
RETIREMENT SYSTEM OF MICHIGAN**

Dated: _____, 20_____
(Authorized MERS signatory)

Please send MERS fully executed copy of:

1. Retiree Health Funding Vehicle Uniform Resolution
2. Certified minutes stating Governing Body approval; and
3. Union contract language and/or personnel policy

**MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM
RETIREE HEALTH FUNDING VEHICLE
CONTACT INFORMATION**

Employer Name Village of Franklin
Address 32325 Franklin Road
City Franklin, MI Zip 48025
Contact Person and Title Jon E. Stoppels, Village Administrator
Phone (248) 626-9666
Facsimile (248)626-0538