

**PROCEEDINGS OF VILLAGE OF FRANKLIN  
VILLAGE COUNCIL REGULAR MEETING  
MONDAY MARCH 10, 2008, 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 Pro Tem Brian Coyer at 8:05 p.m. at the Franklin Village Hall, Franklin, Michigan.

**II. ROLL CALL**

Present: Brian Coyer, Mark Jahnke, Bill Lamott, Dominick Schiano, Amie Saltzman, Alan Harnisch (arrived 8:15 p.m.)

Absent: Fred Gallasch (excused)

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

Coyer expressed his condolences and that of the Council in Fred Gallasch's loss of his mother, which was the reason for his inability to attend the meeting.

**Motion by Lamott supported by Schiano to excuse Gallasch and Harnisch in their absences from this meeting.**

**Ayes: Coyer, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**

**Absent: Gallasch, Harnisch**

**Motion carried.**

**III. ADOPTION OF AGENDA**

**Motion by Lamott supported by Saltzman to approve the agenda as submitted and published.**

**Ayes: Coyer, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**

**Absent: Gallasch, Harnisch**

**Motion carried.**

**IV. MINUTES**

**A. February 11, 2008 Regular Village Council Meeting**

**Motion by Schiano supported by Lamott to approve the February 11, 2008 Regular Village Council Meeting minutes as submitted.**

**Ayes: Coyer, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**

**Absent: Gallasch, Harnisch**

**Motion carried.**

**V. REPORTS OF VILLAGE OFFICERS AND AGENTS**

Police Chief Patrick Browne referred the Council to his written report and reported on a number of instances including, a larceny in a home on Riverwood from which an item was taken by a worker in the home which has been recovered, a fraudulent check at the LaSalle Bank, and in Bingham Farms wallets or purses had been taken from office employees from their offices. Lt. Castro is working with neighboring departments which have seen similar incidences within their own communities. Browne stated that training is to continue jointly with Farmington and Farmington Hills throughout the next 4 (four) months. In response to questions, Browne and Jahnke reported that former councilman Sue Davis, who had been involved in an automobile accident, was improving but was seriously injured in the accident. The council shared their concern and wishes for a quick recovery.

Fire Chief Tony Averbuch referred the Council to his written report and added that the new rescue vehicle arrived a week ago and that the unit will be placed in service shortly following a few programming and servicing items.

Treasurer Thomas Morrow referred the Council to his written report and also reviewed the bills list, including debt service payments being made, and the purchase of a new SAD police vehicle, all of which are consistent with the approved budget. Morrow briefly reported on the interest yields of the Village's accounts. Morrow reported on the existing bonds, noting that he had conferred with the Village's bonding representative, ACI Finance and their review had found that none of the bonds would benefit, or be eligible, for refinancing citing their short duration, low rates, low par amount, and not to the call date. Mono-line insurers were discussed, and Morrow explained that the situation has no effect on the Village as this relates to purchasers or holders of bond issues.

Morrow asked if the item IX.C. regarding the Oakland County Drain commission Request to Transfer Funds could be moved in the agenda to be considered at this time.

**Motion by Schiano supported by Lamott to move item IX.C. Consider Oakland County Drain Commission Request to Transfer Funds to this current point in the agenda.**

**Ayes: Coyer, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**

**Absent: Gallasch, Harnisch**

**Motion carried.**

Morrow reported on the need to transfer funds noting that their had been a Deficit in the Sewage Disposal System account and the Oakland County Drain Commission (OCDC) had asked that the Village consider a transfer of funds from the Village Pump Replacement Reserve Fund as had happened in the past.

8:15 p.m. Harnisch arrived

**#2008-10 Motion by Jahnke supported by Saltzman to approve the request of the Oakland County Drain Commission to transfer funds from the Village Pump Replacement Reserve fund to the Village Sewage Disposal System account in order to eliminate the deficit.**

Discussion ensued regarding availability of funds, and Stoppels explained that the funds referred to were held by OCDC and would be transferred from within those funds and would not require any funds directly from the Village.

**Ayes: Coyer, Harnisch, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**

**Absent: Gallasch**

**Motion carried.**

**VI. SUBMISSION OF CURRENT BILLS**

<b><u>TOTALS:</u></b>	
<b>General Administration</b>	<b>\$27,759.51</b>
<b>Building</b>	<b>3,719.49</b>
<b>Insurance</b>	<b>38,031.54</b>
<b>Legal</b>	<b>5,145.84</b>
<b>Police</b>	<b>42,624.22</b>
<b>Pressure Sewer</b>	<b>45,268.51</b>
<b>General Debt Service</b>	<b>83,285.00</b>
<b>Major Roads</b>	<b>7,866.96</b>
<b>Local Roads</b>	<b>6,355.69</b>
<b>Rubbish</b>	<b>15,860.37</b>
<b>Trust &amp; Agency</b>	<b>10,500.00</b>
<b>Village Hall &amp; Grounds</b>	
<b>Tax Fund</b>	<b>2,548.06</b>
<b>Waste Water</b>	<b><u>978.00</u></b>
<b>ALL FUNDS</b>	<b>\$289,944.09</b>

**Motion by Jahnke supported by Harnisch to approve the bills list as submitted.**

Discussion regarding a building bond refund and the recent police vehicle purchase for the Special Assessment District (SAD), for which a check has been received from Bingham Farms.

**Ayes: Coyer, Harnisch, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**

**Absent: Gallasch**

**Motion carried.**

## **VII. PUBLIC REQUESTS AND COMMENTS**

Lee Peddie, 17540 Kinross, Beverly Hills, Michigan spoke in response to care provided to her mother by the Franklin Fire Department and Police Department, and praised them for the professional help they afforded on two (2) occasions in the same week.

Marcia Gershenson, Oakland County Commissioner, reported on several items including that March was Women's History Month for which Birmingham Groves High School will be hosting a display of memorabilia from the American Association of University Women; the Jewish Family Services has received a grant to offer a Caregiver Series for those caring for aging parents; the Southeast Oakland County Urban Trail Network is hosting a meeting on promoting non motorized traffic (bikers, walkers) in our communities for the use of the interconnected, existing trails; an upcoming hockey tournament for men over 35, and women to take place on April 10, 2008. Further information on any of the above mentioned items can be obtained by contacting Gershenson.

Diane Lake, 27310 Crestwood, commented on the plastic sign in front of Market Basket, not in compliance with the Village sign ordinance. She commented on recent Village Council deliberations regarding the sign, and knew that that sign was not approved, and asked why it was allowed to be displayed. In response, Stoppels stated that temporary approval had been granted to accommodate a temporary sign for specific times until such time as the work on the revised sign ordinance, by both the Historic District Commission and Planning Commission, could be completed which will allow the use of temporary signage on occasion. Discussion ensued regarding the type of sign to be used.

Jane Polan, 27340 Willowgreen Ct., stated that the Birmingham School District Garage Sale was to take place on Saturday April 5, 2008 with donation drop offs on April 3, & 4, 2008 at Berkshire Middle School for which both donations and volunteers are needed.

## **VIII. OLD BUSINESS**

### **A. Fire Board of Appeals Appointment**

Coyer explained that as recommended by both Rick Koslowski and Fire Chief Tony Averbuch, the state certified Fire Inspector, Pete Kelly has agreed to serve on the Village's Fire Board of Appeals. Mr. Kelly is not a Village resident, and that is not a requirement to serve on the board, but he is very familiar with the Village and the responsibilities of serving on the board.

**#2008-11 Motion by Harnisch supported by Lamott to appoint Pete Kelly to the Village of Franklin Fire Board of Appeals.**

Pulker will contact Mr. Kelly for the required swearing in.

**Ayes: Coyer, Harnisch, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**

**Absent: Gallasch**

**Motion carried.**

**B. Consider Finance Committee Recommendations for Budget Amendments FY2007-2008**

Stoppels reported that it had been an arduous task to compile records, and he thanked staff Angie Wicke, Kelda London, Andrea Paulsen, and Eileen Pulker for their efforts, all of which still requires review by the Finance Committee and noted that the amendments are due primarily due to the downturn in applications for the Building Department. Stoppels stated that the report compiled was important for budget planning for the upcoming year. Discussion ensued regarding several items covered in the report including: the more accurate accounting for Building Department Fund and the fund balance required in that fund; the pension issues already provided for; and the remaining fund balance in the Village General Fund which is still at 27% of the annual General Fund expenditures for one year. It was determined that an additional review by the Finance Committee is warranted, and following that, the amendments will be referred to the Village Council.

**IX. NEW BUSINESS**

**A. Consider the application for Special Land Use for Huda School, 32220 Franklin Road, and possible referral to the Planning Commission.**

Coyer explained the purpose of the item as described on the agenda, noting that this was not an official public hearing, that nothing substantive would occur, and that any fact finding or threshold questioning would be the task of the Planning Commission. Coyer stated that this application was one (1) part of a two (2) part process:

1. Special Land Use Permit
2. Site Plan Review

The applications will require Planning Commission review and a Public Hearing to obtain comments from the applicant and public, and after referring back to the Village Council with a recommendation from the Planning Commission, will require Village Council review and a Public Hearing.

Staran stated that this is a multi-step process, and explained the somewhat unique aspect for the Village that required Village Council to first refer the application to the Planning Commission. Staran added that this can be a long process in that both the Village Council and Planning Commission only meet once a month.

Discussion ensued regarding the receipt of the application and what would determine whether or not the application were to be referred to the Planning Commission.

Staran noted that the next Planning Commission (PC) meeting would be the first substantive review of the application and that the Village Council's referral was not one that would require that review prior to the referral. Staran explained the Village Ordinance that dictated this procedure, and opined that in the future it may be amended to allow these applications to be submitted directly to the Planning Commission.

The ownership of the property was discussed and whether or not that would be considered a "threshold" question to be resolved before referring to the PC.

Staran cited the review already completed by the Village Planner, Chris Doozan of McKenna Associates that already noted some additional information to be required. Staran stated that he had spoken to the Huda School attorney and had been assured that that information was forthcoming and that fact finding would be done in PC meetings. Staran added that the application would probably not be reviewed until the April PC meeting to allow time to gather the additional information.

**Motion by Lamott supported by Harnisch to refer the Special Land Use Application to the Planning Commission for Huda School at 32220 Franklin Road for their consideration and recommendation, pursuant to the Village Ordinances.**

Coyer explained to those present that the Council would be discussing the item at this time and that public comments would follow.

Staran in response to a question, stated that the relationship and governing structure of the school required clarification, at least some level of detail for each of the activities listed in the application. Staran further explained that the Village Ordinances state specifically what is required for an application, and additional information requirements will arise from the PC review and public comments gained therein.

Discussion ensued regarding how quickly PC's review would begin, possibly not until their April meeting, and the need to allow the application to move forward in the process and allow the substantive review to begin.

Stoppels noted that the applicant is aware of the information requested.

**Public Comments:**

Bruce Gershenson, 26645 Irving, stated his concern of the position the Village finds itself in and questioned the amount of irregularities in the application, citing the nature of the Village in that it is mostly residential, and had remembered a number of mixed use projects that were turned down, in order to keep the Village nature as it had been, and added that the building expansion was a bigger issue, along with the increase in traffic.

Gershenson urged the Council, as elected officials representing the Village, to maintain the quality of the Village as it is.

Charles Dunn, 30870 Kirk Lane, commented that with this topic, the Village should have chosen to hold the meeting in a bigger place, but that the school is entitled to apply for the Special Land Use, but impacts on the Village are to be considered and that it was important to go through it and let everyone see the application and what the impact will be.

John Hoffecker, 26057 Romany Way, referred to the newsletter available on the school website and noted many of the details stated in that, among them that the building is a multi-use facility, not just a school, for the use of all of Oakland County and that the Phase three (3) referred to involves a third building on the site. Additional Hoffecker cited increases in student population, loss of trees, and opined that this was the largest issue before the Village.

Steve Rosenthal, 26091 Romany Way, stated that in his own experience the incomplete items on the application, such as the ownership information would have caused his own application to be “kicked back” to him for completion before it was referred to any of the Village boards or commissions. He further commented on the building use in that it is daytime and nighttime and noted that it was incumbent upon the Village to ascertain the specifics of the uses.

Christopher Pray, 26011 German Mill, reiterated Rosenthal’s remarks and noted that the information was trickling out, that the Historic District Commission (HDC) items are unresolved and that this entity is being treated differently than other applicants.

Marilyn Green, 26006 Carol, cited the ongoing construction and questioned equipment on the site as well as the needed approvals from the HDC for lighting and suggested delaying the referral to the PC. She further asked who would stop the construction if it were to go on at inappropriate times.

Discussion ensued regarding enforcement of Village ordinances and clean up at the site and it was suggested that questions could be posed to the Village Administrator who could then reply at a later time after getting into more detail and further investigation.

Stoppels stated that he had provided reports to the Village Council and Planning Commission outlining various code and nuisance violations that had occurred over time and the solutions provided, noted that the first portion of project had been under a State of Michigan Building Permit and that the Village remained in constant contact with their office, while following up with the school on various violations and potential problems at the site. Stoppels continued noting that the school has a temporary certificate of occupancy, and as such, is still completing the requisite work for that permit. As Staran had stated earlier, the Village Building Official has the capability to stop work on this and any other project ongoing in the Village, should any inappropriate or contrary to the Ordinances occur. Stoppels also stated that he had held Friday morning information

coffees for several weeks with very few attendees, but he would be happy to reinstate and hold them again should there be an interest.

Enid Brown, 30666 Oakleaf, stated that she had been in contact with the State of Michigan and had been told that there was no permit. She also referred to Village ordinances noting that an application was required to be signed by an owner, and without that, there was no application to refer. She added that work continues and the Village does not know who the owners are.

Bill Finnicum, 25885 German Mill, stated that he agreed with Brown's comments in that the application needs to be 100% complete before it proceeds, and that the site plan and special land use application need to be addressed simultaneously.

Discussion ensued regarding Village practices in obtaining signatures for applications, to which Staran replied that representatives sign as applicants in many instances and without a reason to question the veracity are usually able to continue with it, adding that the site plan application for Huda School had already been received and referred to the Planning Commission, last fall. Staran added that the site plan and special land use applications are entwined and will be addressed simultaneously.

Bruce Milen, 25450 Franklin Park Drive, addressing the Council, thanked them for performing their thankless jobs, cited his concern for enforcement and asked the Council to declare their thoughts on whether or not they approved or disapproved the application before them, asking the Council for advice on whether or not the neighbors should proceed with a lawsuit.

Staran replied that the application was at the front end of the process and that it would be highly unlawful for the Council to opine on an approval or disapproval at this time, noting that Public Hearings would be conducted at the appropriate times in the process. When all of that is complete and the time to make such decisions occur, each of the Council members will decide publicly at a meeting.

Discussion ensued regarding the public's confusion regarding the State of Michigan control over building permits for schools, and that the State would inspect and enforce building codes during the course of the building improvements. While work continues under the state issued building permit, Staran added that the considered additions are what are being applied for and ultimately decided by the Council, after review and recommendation by the Planning Commission, as required by state law.

Staran added that traffic impacts, noise, lighting and other issues will be ultimately decided during the site plan and special land use process.

Connie Ettinger, 25600 River Drive, questioned the completeness of the application and ownership of the property, who had signed the application and whether or not there were multiple owners and opined that the Village Council should not refer the Special Land Use Application to the Planning Commission.

Mike Seltzer, 27160 Scenic Drive, opined that Council was trying to give benefit of the doubt, when the school has already violated 24 hours, for seven (7) days a week , 365 days per year, continually pushing without complying with requirements, not clear why that is, and asked the Council to stand firm, to require complete information to then make a careful decision..

Pat Burke, 32965 Franklin Ct., Historic District Commissioner, stated that the Historic District Commission did not approve the application for Phase 2 of the project, having determined that it did not comply with United States Department of the Interior for Historic District Standards for renovation for Historic Districts.

Coyer added that minutes for both the HDC and PC are available on the Village website and can be reviewed.

Robert Carson, Andover, Bloomfield Hills, stated that he had no interest in delaying substantive review or process for review, asked if there were any purpose for this to come to the Council before referring to the PC, should be signed by owner which is deficient on its face; need to have a clear record. If you are to refer application for special use permit multiple uses, what use or uses conducting all of these uses for different entities, each to be applied for, for what use, for existing or future uses should all be identified.

Diane Lake, 27310 Crestwood, stated that she had been on Planning Commission for many years, and knew that legal issues were not their purview.

Linda Deutsch, 26345 Evelyn Ct. asked when Phase 2 takes place, as stated previously, who would stop her if she starts to build before it is approved. She also asked if letters and e-mails submitted were being reviewed.

Nena Downing, 30645 Bruce, also questioned who enforces when rules are broken.

Staran replied that the Building Official would issue a stop work order if work is begun before site plan and special land use is approved, followed by a court action, which would be an injunction to stop work.

Discussion ensued regarding the complexity of the construction, the special land use applicable for religious institutions and schools, and that the Village can only deal with what is before them, what uses are appropriate, safety issues, including a large hole to be filled in.

Staran cautioned that while he understands the Villagers frustrations, this process is only just beginning, many of these issues will be discussed and addressed at other meetings, and in more depth as the process continues and further, public hearings will be held.

Stoppels, in response to questions, responded that the State of Michigan has issued the permit for the work in Phase 1, and will issue the building permit for the Phase 2 if it is to

proceed upon the requested approvals for site plan and special land use that may be provided by the Village. Stoppels continued stating that stop work orders are not uncommon in the Village, and working without a permit is not unique to the Village; it happens in every community, and when violations have been noted at the school, State building officials have been contacted and have responded appropriately.

Discussion continued regarding the work that was supposed to be completed without a permit, which it was commented that while sidewalks have been installed without approval, the school is aware that they may need to be removed should they fail to be approved in the site plan proposed.

Glenn Barnes, 26258 Vincennes, stated that the transformer box, was not approved by the Village and sidewalks were installed without prior approval.

Coyer stated that many people continue to look at enforcement issues, and any possible violations.

Jahnke reiterated, as follows:

- site plan that was received in the fall, the architect was the applicant
- part and parcel of the Special Land Use Application; identify the applicant which would be a perfunctory as referred in ordinance and should be compared to State of Michigan records and should be addressed before referring to the Planning Commission. Volunteers rely on Village Attorney and staff for information
- Ask Dykema Gossett to ask their client, who is the owner.
- we are dealing with the architect, ownership is a threshold issue, and is different than sewer and drainage specifics to be reviewed by PC.

Schiano stated that the issue on the ownership is a valid one but only delays the process, adding that he would like to begin the review in a substantive way, according to the prescribed process through the PC & HDC.

**Motion by Schiano to offer an amendment to the previous motion, subject to due diligence to ascertain the correct ownership of the property within 2 (two) weeks, and that signatures be obtained before a referral to Planning Commission.**

Lamott stated the real issues are: hours of use, the size of the facility, traffic, property maintenance, Historic District preservation, and the only way to negotiate and reach agreement with the school is to do so with a special land use application. Lamott continued noting that he agreed with Schiano, in that there should be no further delay, once the ownership question is resolved.

Schiano added that the point now is the referral response, and to get beyond procedural items, PC review on their merits as does HDC and approve or deny them based on the Village Ordinances.

Harnisch stated that there is no interest in delaying further and is concerned with the identification of the ownership on the application, and it needs to be clarified, and does not understand why is it not clear on the application. Many people are affected by this application and needs to be referred to the PC in order to allow the questions and concerns to be addressed.

Jahnke, three brief comments 1) internal construction of building is not in our control; 2) accepting the application and referring the application PC is within our control; 3) it is the threshold issue and will frame the entire discussion.

**#2008-12 Motion by Harnisch supported by Schiano to amend the previous motion to refer the Application for Special Land Use for Huda School at 32220 Franklin Road to the Planning Commission, subject to the applicant revising their application to identify who the applicant is and what relationship the signatory has to the applicant, to be received by the Village and in accordance with the Ordinances and Charter of the Village, by a date to be determined by staff.**

Stoppels stated that proper notification is required for Planning commission meetings and would like to allow the appropriate time for that to occur.

Lamott stated that he was in agreement with the amendment.

Coyer stated that the site plan and the special land use reviews will occur concurrently, and asked if the ownership information is clear on the site plan. Coyer added that he was speaking in favor of the motion, noting that further delay will serve no one, but the connection between the use and the ownership need to be explored by the Planning Commission and the application needs to go forward in order to look at the substantive matters before the Village. Coyer stated that the motion allows that the application will not move forward without satisfying the question of ownership.

**Ayes: Coyer, Harnisch, Lamott, Schiano, Saltzman**

**Nays: Jahnke**

**Absent: Gallasch**

**Motion carried.**

**B. Consider Application for the Civic Event Permit for the Women's National Farm & Garden Association, Franklin Branch, to conduct the Garden Walk on June 11, 2008, and permitting a banner across Franklin Road.**

**#2008-13 Motion by Schiano supported by Lamott to approve the Application for the Civic Event Permit to allow the Women's National Farm & Garden Association, Franklin Branch, to conduct the annual Garden Walk on June 11, 2008 and to allow the banner to be hung across Franklin Road announcing the event.**

**Ayes: Coyer, Harnisch, Jahnke, Lamott, Schiano, Saltzman**

**Nays: None**  
**Absent: Gallasch**  
**Motion carried.**

**X. SPECIAL REPORTS**

**A. President's Report, Fred Gallasch, Village President**

In Gallasch's absence, Coyer had nothing to report.

**B. Council Reports**

**1. Wireless Oakland**

Coyer reported that Wireless Oakland is still moving forward, and that the Village's Wireless Committee would be meeting the following day, with updates to be provided at the next Village Council meeting.

**XI. ADJOURNMENT**

**Motion by Lamott supported by Schiano to adjourn the meeting.**

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

There being no further business, the meeting adjourned at 10:28 p.m.

Respectfully submitted,

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Eileen H. Pulker, Clerk

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Brian Coyer, President Pro Tem