

**PROCEEDINGS OF VILLAGE OF FRANKLIN
VILLAGE COUNCIL REGULAR MEETING
MONDAY, JULY 11, 2011, 8:00 PM
FRANKLIN VILLAGE HALL – BROUGHTON HOUSE
32325 FRANKLIN ROAD, FRANKLIN, MICHIGAN 48025**

I. CALL TO ORDER

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

ROLL CALL

Present: Lew Eads, Fred Gallasch, Brian Gettel, Bill Lamott, Steve Rosenthal, Mike Seltzer
Absent: Jim Kochensparger (excused)
Also Present: Amy Sullivan, Village Administrator
Eileen Pulker, Clerk
Tom Morrow, Treasurer
Patrick Browne, Police Chief
Tony Averbuch, Fire Chief
John Staran, Hafeli Staran Hallahan & Christ, P.C., Village Attorney
Vivian Carmody, Administrator, Main Street Franklin

II. ADOPTION OF AGENDA

Motion by Seltzer supported by Eads to approve the Agenda as submitted.

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

Absent: Kochensparger

Nays: None

Motion carried.

III. MINUTES

A. June 2, 2011 Village Council Workshop Meeting

Motion by Gettel supported by Eads to approve the minutes of the June 2, 2011, Village Council Workshop Meeting as submitted.

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

Absent: Kochensparger

Nays: None

Motion carried.

B. June 9, 2011 Regular Village Council Meeting

Motion by Seltzer supported by Rosenthal to approve the minutes of the June 9, 2011, Regular Village Council Meeting as submitted.

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

Absent: Kochensparger

Nays: None

Motion carried.

IV. REPORTS OF VILLAGE OFFICERS AND AGENTS

Patrick Browne, Police Chief: Browne provided an update as to recent activity in the Village noting that officers responded to 255 calls for service last month, the Department encourages property managers to advise tenants to not leave valuables close to windows due to increased visibility/vulnerability and encourages residents to secure property and activate alarm systems even if they will be absent from the property for a short period of time, the Department will be hosting a National Night Out event on August 2nd, and the Annual Report has gone out which shows a reduction in most types of serious crimes.

Tony Averbuch, Fire Chief: Averbuch referred to the submitted report and advised that annual apparatus testing is complete, thanked the church for the use of its parking lot, and noted there will be an open house on July 20th.

Thomas Morrow, Treasurer: Morrow referred to the submitted report and noted that current account balances are included in the packet and on July 14th, the refinancing of the three (3) bonds should be finalized which saved the Village approximately \$250,000.00 due to accessing lower interest rates.

Vivian Carmody, Administrator, Main Street Franklin: Carmody provided an overview of the first Farmer's Market (thanking the volunteers, vendors and residents who participated), the design charrette scheduled for August 9th through 11th, and upcoming public art events, and thanked the Fire Department for its assistance with a delivery truck.

V. SUBMISSION OF CURRENT BILLS

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

TOTALS

General Administration	\$ 41,109.13
Building	\$ 6,420.06
Insurance	\$ 35,291.20
Legal	\$ 3,657.00
Police	\$ 11,268.18
Pressure Sewer	\$ -
General Debt Service	\$ -
Major Roads	\$ 14,460.39
Local Road	\$ 20,394.51
Rubbish	\$ 18,348.60
Trust & Agency	\$ 5,200.00
Tax Fund	\$ 101.03
Waste Water	\$ 1,357.16
ALL FUNDS	\$ 157,607.26

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

Absent: Kochensparger

Nays: None

Motion carried.

VI. PUBLIC REQUESTS AND COMMENTS

- **Charles Dunn, Kirk Lane,** noted the wonderful venues occurring in Franklin are promoting community, receiving positive comments, and benefit the Village in many ways including the potential for real estate sales, expressed his concerns over the size of the Farmer's Market banner, noting it is too small and requested the size be reevaluated, inquired as to how information will be provided to the public regarding the Headlee override matter, and thanked Comerica for the use of its parking lot for the Farmers Market. Discussion ensued regarding the banner size with Sullivan advising she will review and Headlee override information with it being noted the website, informational mailing, Town Hall type meeting on August 23rd at 7 PM, and the Eagle will be utilized to disseminate information.
- **Chuck Moss, State Representative,** advised work is still being done in Lansing even though the Legislature is not in session and noted he advocated in support of allowing communities to opt out of a provision stating that public employees must pay 20% of their health care costs.

VII. SPECIAL REPORTS

A. President's Report

Gallasch thanked the Police Department and Mobile Watch, expressed a tribute to Jim Gardner, noted how effectively Chief Browne utilizes the unpaid reserve officers, thanked Diane Burke for her recent article on the Garden Walk in the Eccentric, and referred to the correspondence included in the packet from Madeline Haddad regarding Franklin Grill signage.

B. Council Report

Rosenthal commented that the Village received many positive comments from the participants in the baseball tournament. (Charles Dunn was recognized at this point in time for a public comment which is included under Agenda Item VI.)

VIII. NEW BUSINESS

A. Consider Tabulated Bid Recommendation for 2011 Road Rehabilitation Program

Sullivan provided a brief overview noting this is the second part of the Program, sufficient funds exist in major/local road funds to cover the costs, and Tom Biehl of Hubbel, Roth & Clark "HRC" was present to answer any questions. Discussion ensued regarding benefit of rebidding, clarification of cost, and procedure.

#2011-69 Motion by Rosenthal supported by Gettel to award the 2011 Road Rehabilitation Program contract to Asphalt Specialists, Inc. with an estimated project budget of \$130,000.00 as outlined in correspondence from HRC dated July 6, 2011.

Biehl noted HRC will impress upon the contractor the need to complete the majority of the work prior to the start of the school year. (Representative Chuck Moss was recognized at this point in time for a public comment which is included under Agenda Item VI.)

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

Absent: Kochensparger

Nays: None

Motion carried.

A. Consider Helman Woods Subdivision Proposal

Gallasch introduced and noted due to precedent setting concerns, Council is not supportive of the proposal to acquire additional property as a gift from the neighborhood. Discussion ensued with it being noted Council will continue to provide support via zoning classification enforcement as a second line of defense.

B. Consider Appointments to Planning Commission (PC).

Gallasch provided an overview.

#2011-70 Motion by Seltzer supported by Eads to appoint David Goldberg, Mike Heisel, and Karen Couf-Cohen to the Planning Commission for the term beginning in July 2011 and ending July 2014 as described in the memorandum dated July 8, 2011 from President Gallasch.

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

Absent: Kochensparger

Nays: None

Motion carried.

C. Consider Appointments to Historic District Commission (HDC)

Gallasch provided an overview.

#2011-71 Motion by Lamott supported by Seltzer appoint Gary Roberts and Garrett Keias to the Historic District Commission for the term beginning in July 2011 and ending in July 2014 as described in the memorandum dated July 8, 2011 from President Gallasch.

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

Absent: Kochensparger

Nays: None

Motion carried.

A. Consider Appointments to Zoning Board of Appeals (ZBA)

Gallasch provided an overview.

#2011-72 Motion by Gettel supported by Seltzer to appoint Sam Dabich, Dean Moenck, and Harold Stein to the Zoning Board of Appeals for the term beginning in July 2011 and ending in July 2014 as outlined in the memorandum dated July 8, 2011 from President Gallasch.

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

Absent: Kochensparger

Nays: None

Motion carried.

B. Consider Scheduling Public Hearing for the Demolition at 30609 N. Greenbriar

Sullivan provided a brief overview noting the structure has been deemed a dangerous structure after two (2) hearings and was ordered to be demolished. As the time-period for compliance with the demolition order has passed, Sullivan advised the next step, procedurally, is for Council to schedule a public review hearing for the property owner to show cause as to why the structure should not be demolished with notices and letters of the hearing date being transmitted to all impacted property owners.

#2011-73 Motion by Lamott supported by Gettel to schedule a public hearing at the August 2011 Council meeting for the Demolition at 30609 N. Greenbriar as outlined in the memorandum dated June 27, 2011 from the Village Administrator.

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

Absent: Kochensparger

Nays: None

Motion carried.

C. Consider Stonegate Road Dedication

Sullivan provided a brief overview noting this is a formality as the Village has received ACT 51 funds for this road for many years.

#2011-74 Motion by Seltzer supported by Eads to adopt the following resolution:

Whereas the Village of Franklin did on July 14, 1995 acquire title to Stonegate Drive and

Whereas it is necessary to furnish certain information to the State of Michigan to place this street within the Village Street System for the purpose of obtaining funds under Act 51, P.A. 1951 as amended.

Now therefore be it resolved that:

- 1. Stonegate Drive is described in the final plat for Stonegate at Franklin.**
- 2. That said street is a public street and is for public street purposes.**
- 3. That said street is accepted into the Village Local Street System and was open to the public on October 16, 1995.**

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

Absent: Kochensparger

Nays: None

Motion carried.

D. Consider Waste Management Proposal for Single Day Collection

Brian Conaway, Area Manager Community Affairs, Waste Management, provided an overview of the single day collection option. Discussion ensued regarding benefits, timing of implementation, and notification to residents with it being noted the website, mailing, flyers in recycling bins, and the Villager will be utilized to disseminate information. Residents will now be able to use their own 32 gallon trash cans for recyclables or they may continue using the 18 gallon bins available at the Village offices. The effective date of the one day pickup will be September 19th, 2011. All rubbish will be picked up on Monday.

#2011-75 Motion by Gettel supported by Eads to accept the proposal for Single Day Collection from Waste Management to begin on Monday, September 19, 2011.

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

Absent: Kochensparger

Nays: None

Motion carried.

E. Consider Tri Party Funding Project, Road Commission Oakland County (RCOC)

Sullivan provided an overview noting the mill and overlay of 13 Mile Road from Inkster to Franklin was the only option deemed viable by the RCOC. Discussion ensued regarding other options, cost, pros and cons of moving forward with this option or waiting, jurisdiction, funding, potential to delay payment until the next fiscal year, and a general overview of the tri-party program.

#2011-76 Motion by Eads supported by Gettel to postpone consideration of this item to the August 2011 Council meeting.

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

Absent: Kochensparger

Nays: None

Motion carried.

F. Consider Headlee Override Article in Franklin Community Association Publication

Sullivan advised the Village is looking for ways to cost-effectively disseminate information to Villagers regarding the Headlee override matter, referred to the submitted draft article developed for the summer FCA newsletter, and noted Trustee Lamott requested this be added to the agenda for consideration as he is concerned with the potential of politicizing an organization that has not been political. Discussion ensued regarding the article with it being noted facts are non-political, suggestions regarding content, information is needed by the Villagers, and the potential to offend the FCA. Staran advised that public funds cannot be utilized to advocate for or against a candidate or issue, but the Village can put forth a factual, unbiased, balanced statement of the issue noting he has reviewed the draft and is satisfied that from a legal perspective it is unbiased and objective.

Shari Sparks, Evelyn Court, opined that a concern is that the fire millage override is included with the General Services millage override. Discussion ensued with it being noted information presented can only deal with the facts.

IX. ORDINANCES/RESOLUTIONS/PROCLAMATIONS

A. Consider Medical Marihuana Moratorium Resolution.

Gallasch introduced this item and Staran provided a brief summary noting the law has been in a state of flux since the Medical Marihuana Act was approved by voters in 2008 with new amendatory legislation

introduced in the State Legislature, Federal government new directives issued, various court cases working their way through the court system, and recent Attorney General pronouncements.

#2011-77 Motion by Gettel supported by Rosenthal to adopt the Medical Marihuana Moratorium Resolution as provided below:

WHEREAS, on December 4, 2008, the Michigan Medical Marihuana Act (“the Act”), MCL 333.2642 et seq, became effective; and

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

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

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

WHEREAS, the Act does not specify that locations(s) where a qualifying patient or primary caregiver may lawfully grow or cultivate marihuana; and

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

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

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

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

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

WHEREAS, the Franklin Village Planning Commission has had numerous meetings and discussions about medical marihuana in a effort to understand and develop a recommended course of action for the Village; and

WHEREAS, on July 19, 2010, the Franklin Village Council adopted a 180-day moratorium on all land uses relating to the medical use of marihuana in the community and directed the Planning Commission to study, deliberate and recommend to the Village Council whether and to what extent the Village should regulate medical marihuana land uses, activities, businesses or facilities; and

WHEREAS, during that six-month period, the Michigan legislature did not revisit and amend the Act to address the current Act’s shortcoming and render the Act more workable for local

government and the general public to provide a framework enabling local communities to properly, safely and consistently implement the intentions of the Michigan Medical Marihuana Act approved by voters in November 2008, and the Village Council therefore extended the moratorium another 6 months until August 4, 2011; and

WHEREAS, the State Legislature has still not amended the Michigan Medical Marihuana Act to provide the framework to allow the Village Council to make a decision about medical marihuana land uses, but several bills proposing amendment of the Act have been introduced; and

WHEREAS, letters recently issued by the U.S. Attorneys' offices in various states have created uncertainty over the federal government's stance on the legality of medical marihuana land uses and have stated state and local officials will not be immune from prosecution under federal laws; and

WHEREAS, in June, 2011, a state circuit court determined the Act is preempted by federal law and is of no effect, which although not precedentially binding adds further uncertainty to the state of the medical marihuana law in Michigan; and

RESOLVED, that in the interest of promoting and protecting the health, safety and welfare of the public, and in view of the need for clarification of the Act, and the resulting need for further study and analysis by the Planning Commission and Village Council in order to determine whether and how to appropriately regulate medical marihuana land uses, businesses and facilities in the Village, the Franklin Village Council hereby extends the moratorium regarding medical marihuana land uses for an additional 12 months, until August 4, 2012, with the understanding the moratorium is not intended to prohibit a qualifying patient's personal use of medical marihuana in his/her private residence in accordance with the Act.

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

Absent: Kochensparger

Nays: None

Motion carried.

- B. Consider an Ordinance to Amend Section 1042.03 of Chapter 1042, Sewer Use and User Charges of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Modify the Definition of "Watercourse", Repeal Conflicting Ordinances and Prescribe a Penalty for Violations (*second reading*).**

Gallasch introduced and provided a brief overview.

#2011-78 Motion by Seltzer supported by Eads to adopt an Amendment to Section 1042.03, Sewer Use User Charges of the Codified Ordinances of the Village of Franklin to Modify the Definition of "Watercourse", Repeal Conflicting Ordinances and Prescribe a Penalty for Violations .

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

Absent: Kochensparger

Nays: None

Motion carried.

- C. Consider an Ordinance to Amend Section 1040.10 of Chapter 1040, Wastewater Management District, of Title Four, Part Ten, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Require Septic System Inspection in Connection with Wastewater System Operating Permit Issuance and Pump-Out Every Three Years, Repeal Conflicting Ordinances and Prescribe a Penalty for Violations (*second reading*).**

#2011-79 Motion by Gettel supported by Eads to adopt an Amendment to Section 1040.10 of Chapter 1040, Wastewater Management District, of Title Four, Part Ten, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Require Septic System

Inspection in Connection with Wastewater System Operating Permit Issuance and Pump-Out Every Three Years, Repeal Conflicting Ordinances and Prescribe a Penalty for Violations.

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

Absent: Kochensparger

Nays: None

Motion carried.

D. Consider an Ordinance to Repeal Chapter 1420 of Title Two, Part Fourteen, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, and Replace it with a new Chapter 1420, State Construction Codes, Repeal Conflicting Ordinances, and Prescribe a Penalty for Violations (*second reading*).

#2011-80 Motion by Seltzer supported by Eads to adopt an Ordinance to Repeal Chapter 1420 of Title Two, Part Fourteen, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, and Replace it with a new Chapter 1420, State Construction Codes, Repeal Conflicting Ordinances, and Prescribe a Penalty for Violations .

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

Absent: Kochensparger

Nays: None

Motion carried.

X. ADJOURNMENT

Motion by Seltzer supported by Eads to adjourn the meeting.

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

Absent: Kochensparger

Nays: None

Motion carried.

There being no further business, the meeting adjourned at 9:06 P.M.

Respectfully submitted,

Lori Rich, Recording Secretary

Eileen H. Pulker, Clerk

H. Frederick Gallasch, President