

**VILLAGE OF FRANKLIN
VILLAGE COUNCIL
SPECIAL MEETING
June 3, 2014, 6:30 PM
AT THE VILLAGE HALL
32325 FRANKLIN ROAD
FRANKLIN, MICHIGAN**

WORKSHOP

I. Call to Order

Jim Kochensparger, President, called the meeting to order at 6:30 PM.

II. Roll Call

Present: Brian Gordon, Pam Hansen, Jim Kochensparger, Judy Moenck, Mike Seltzer

Absent: Tom Morrow, Ed Saenz

Also Present: Eileen Pulker, Clerk; David Murphy, Interim Administrator; John Staran, Village Attorney; Jim Creech, Village Administrator appointee; Tom Biehl and Ed Zmich, Hubbell, Roth & Clark, Village Engineers

Adoption of the Agenda

Motion by Seltzer, seconded by Gordon to approve the agenda as presented.

Motion carried.

III. Discuss Road Maintenance Program

Tom Biehl, Hubbell, Roth & Clark, Village Engineer, gave background of the last road bond project, (2000), how the Village roads got to their present condition, and how the Village can go forward and expeditiously use the funds the Village has on hand until the road bonds expire in 2016 and 2018. Biehl explained the methods and advantages of pulverizing and replacing roads and milling and overlaying roads. Reasons why roads deteriorate and the timing for repairs were discussed.

The different configurations of Road Maintenance Bonds were discussed.

Biehl stated that he could provide the Council with maps of Village roads that were and were not done in Phase 1 and Phase 2 programs in 2001-2002. Biehl reviewed his recommendations to the Council, pending closer examination of the current conditions of the roads.

IV. Discuss Road Right of Way (ROW) Obstruction Ordinance Revisions

Seltzer provided some background of the Ordinance, including the reasoning for it and the process the Council went through. Due to the negative responses from Villagers, he proposed a compromise that would put the liability of the non-compliant homeowners on the homeowners. The non-compliant homeowners would provide the Village with a certificate of insurance indicating that they, not the Village are liable for any incidents that occur in the Village's Road Right of Ways. If that can be accomplished, then the Village would remove the restriction for those non-compliant homeowners who had until mid-June to correct their

violation. The Village would then deal with this matter when the roadways are done in 2-4 years, rolling the cost of moving the ROW obstructions into the cost of doing the roadways. The benefit being that the Council believes it is a concern of public safety. Even though no incidents have happened, it is the Village ROW. The ROW Ordinance would affect any new developments and new landscaping since the Ordinance was adopted in January 2013.

Kochensparger explained that since the Right of Way is different for each road the Ordinance was an attempt to create a uniform and fair standard. Therefore, 3 ft. off the edge of the roadway was a compromise for all roads and rocks no higher than 4 inches.

Hansen emphasized and explained the due diligence the previous Administrator did before the Ordinance was written, checking with neighboring communities.

Staran provided a brief background on the subject, stating, among other things, that the Council has been discussing Right of Way risk management over the last 10 years, if not longer. By law, the Village has a duty to maintain rights of way in a safe condition. The proposal recognizes that if the Village is going to permit these encroachments or obstructions within the right of way that are placed there or are owned by the adjoining owner, there needs to be a shared responsibility. Thus, this proposed agreement would hold the Village harmless for any liability the Village incurs that is found to be tied to those rocks or stones or whatever the obstruction is in the right of way. He gave 2 circumstances within the Village which involved dangerous conditions. The Village entered into an agreement with the property owners which contained the appropriate harmless provisions and provided the Village with a proof of insurance. Each year the Village receives the certificates of insurance for both properties. (He acknowledged that the insurance market changes as to what can or cannot be insured and homeowners need to do some research on the subject). He believes that the concept is workable using a 2 step process: 1. A moratorium on the existing Ordinance and 2. A "Grandfathering" provision, whether it be with an appeal or an amendment to the Ordinance.

Robert Sklar, Woodlore Rd., had general comments and concerns. He stated that when there is a proposal for a variance within 1000 ft. of his home, something that directly affects him, he is notified in writing, which was not the case for this issue. He challenged Seltzer's earlier comment that the 175 homes affected is a very small minority of villagers. In his (Sklar's) opinion, that number is not an insignificant number. The majority of the residents were not aware of the Ordinance because if they had been, the Council would have seen/heard a larger response to the proposed resolution. He checked with his insurance company and was told they would not issue such a policy. He had been informed that the reason for the Ordinance was to accommodate emergency vehicles. To his knowledge there has not been any such incidence in the Village. If this is the reasoning, then most of the mailboxes should be removed.

Robert Goodman, Willowgreen, asked if the Council had spoken with insurance companies to secure any insurance and if so, could the affected homeowners participate in it. He advised that most insurance companies will not insure the right of ways. In the beginning he heard that it was a public safety issue and tonight he's hearing that it's a liability issue. He

suggested that if the Village has liability insurance then Villagers could get theirs through the Village.

Staran explained that the public safety issue and the liability issue are one and the same. As for using the Village's insurance carrier for the affected Villagers, he explained that the Village's carrier is self-insured and all parties need to be a government entity to participate. He gave very specific scenarios of public safety issue incidents. He isn't hearing this from Council, but he would strongly recommend against the Council taking a position that "...anything goes..." in the right of way and the resident merely giving the Village a piece of paper stating that the resident holds the Village harmless.

Shoki Konja, Woodside Dr., has been in his house since 1999 and has never had any incidents on his property. If he didn't have the boulders, drivers would hit one of his huge trees.

Robert Sklar, Woodlore Rd., stated that there are more dangerous situations along the roads than rocks.

Fred Gallasch, Rosemond Dr., asked what the proposal for the mailboxes will be. If the Village asks for insurance, is there a process in place to track the yearly policies? Answer to the mailbox issue is that the Council is dealing with one issue at a time.

Lisa Panourgias, attorney representing several (at least 15) residents, made several comments. She stated that she had asked her own insurance company (Auto Owners) and they won't issue a policy for such a situation. She also checked with an insurance broker and was told that it would be a case by case basis determined at the home office. Her clients view the boulders as a safety issue in terms of protecting their children and/or pedestrians walking along the street. This is not a landscaping issue for them. She addressed the subject of "grandfathering" and the 2 instances in Franklin that were addressed on a case-by-case basis. She hopes that the Council will consider a stay of the enforcement, pending a resolution that would "grandfather" those non-compliant homeowners, with the understanding that most have insurance coverage.

Staran led a general discussion about what homeowners insurance policies will or will not cover.

Staran suggested that this issue be put on the agenda for the next VC meeting for further discussion. He, with the help of the Murphy and Kochensparger, will craft a proposed resolution of a stay of enforcement and give direction and guidance as to types of additional steps that need to be looked at and researched and possible ordinance amendments regarding "grandfathering".

V. Discuss Village Boards and Commissions, terms expiring

Kochensparger will contact members on Historic District Commission (HDC) and Zoning Board of Appeals (ZBA) whose terms are expiring. Hansen will contact those members on Planning Commission (PC).

Hansen urged the Village staff to publicize these vacancies on the Village website A.S.A.P. She also suggested that the Chairs of each commission be contacted for their input.

Nena Downing, Bruce Lane, organizes the “First Friday” program for Seniors with Jane Polan. She commented that 90% of those Seniors (70+ yrs.), who received a letter from them (280 homes), don’t use email. Posting it, mailing something, or putting the info on the TV would be beneficial. She urged everyone to keep in mind that some, including younger people in the Village, don’t have cable.

VI. Consider Whether to Convene in Closed Session Immediately Following the Special Council Work Session to Discuss Negotiation Strategy Relating to a Collective Bargaining Agreement

#2014-52 Motion by Seltzer supported by Hansen to Convene in Closed Session immediately following the Special Council Work Session to discuss negotiation strategy relating to a collective bargaining agreement.

Roll Call vote:

Seltzer **yea**
Moenck **yea**
Kochensparger **yea**
Hansen **yea**
Gordon **yea**

Nays: **None**
Absent: **Morrow, Saenz**

Motion carried.

VII. Adjournment

Motion by Seltzer, seconded by Hansen to adjourn the meeting.

Motion carried.

There being no further business, the meeting adjourned at 8:10 PM.

Submitted,

Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk

Jim Kochensparger, President