

**VILLAGE OF FRANKLIN
VILLAGE COUNCIL REGULAR MEETING
MONDAY, JUNE 8, 2015, 7 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, Pam Hansen, at 7:00 PM at the Franklin Village Hall, Franklin, Michigan.

II. ROLL CALL

Present: Fred Gallasch, Brian Gordon, Pam Hansen, Judy Moenck , Tom Morrow, Mike Seltzer, Jim Kochensparger (arrived at 7:23 PM)

Also Present: Jim Creech, Village Administrator
Chief Dan Roberts, Police Department
Eileen Pulker, Village Clerk
Lance Vainik, Treasurer
John Staran, Village Attorney
Tim Currier, Attorney, Birmingham Area Cable Television Board

III. ADOPTION OF AGENDA

Motion by Seltzer, seconded by Moenck to adopt the Agenda, as presented.

Ayes: Gallasch, Gordon, Hansen, Moenck, Morrow, Seltzer

Absent: Kochensparger

Nays: None

Motion carried.

IV. MINUTES

A. Special Meeting of April 7, 2015

Motion by Morrow, seconded by Seltzer to approve the Special Village Council Meeting Minutes for April 7, 2015 as presented.

Ayes: Gallasch, Gordon, Hansen, Moenck, Morrow, Seltzer

Absent: Kochensparger

Nays: None

Motion carried.

B. Regular Meeting of May 11, 2015

Motion by Seltzer, seconded by Gordon to approve the Regular Village Council Meeting Minutes for May 11, 2015 as presented.

Ayes: Gallasch, Gordon, Hansen, Moenck, Morrow, Seltzer

Absent: Kochensparger

Nays: None

Motion carried.

V. REPORTS OF VILLAGE OFFICERS AND AGENTS

Lance Vainik, Treasurer, referred to his submitted monthly report and noted that the amounts on the Bills List are consistent with normal monthly spending. The expenditures are generally consistent with the FY2014-15 budget. It includes a large entry for

the first quarter of 2015 Cable Board Casting. The list provided of account balances is as of June 5, 2015 and held at Level One Bank. The Village has sufficient funds to meet its current and anticipated obligations.

Dan Roberts, Police Chief, referred to his written report, provided an overview of the submitted monthly report and highlighted that during May there were two (2) burglaries in Bingham Farms, all of which had been in the condominium complex off 13 Mile Road, East of Telegraph. He emphasized that they were daytime burglaries between 10 AM and 4 PM (Mon.-Wed.) and asked that residents be vigilant and report any suspicious activities. Neighboring communities are experiencing the same activities; two (2) of which happened today in Bloomfield Township. Other than that there wasn't much activity to report, with exception of the larceny from a vehicle (wheels and tires were removed) in Franklin. He noted the Franklin-Bingham Farms Police Department Annual Report had been distributed to the Council and would be on the Village website. Gallasch complimented the Chief on the publication and requested that a copy be placed at the front desk in the Village Office.

Tony Averbuch, Fire Chief, was not in attendance, but had provided a written report.

Katherine White, Main Street Executive Director, reported that on June 4th Main Street had its press conference and Accreditation Ceremony on the steps of the Franklin Community Church. She thanked Pam Hansen for her welcoming speech adding that it was well attended. Franklin was well represented by Pam Hansen, President Pro Tem; Judy Moenck and Mike Seltzer, Trustees; Jim Creech, Administrator; Eileen Pulker, Clerk; and many Main Street Franklin Board Members and supporters. She reminded Council that MSF is partnering with Birmingham-Bloomfield Art Center (BBAC) to host a public arts project/community day in Franklin. The event is titled, "Paint the Town: A Brush with Historic Franklin Village". Due to a conflicting even, the date has been changed to August 8, 2015. Next month's Merchant Mixer will be hosted by Déjà vu, Gem of the Night will be in the fall. Future events include Franklinstein Frenzy on October 24, and a Small Business event on Noember. 28. She also wanted to remind Franklin residents that MSF is always looking for volunteers to become involved. At the request of Hansen she remarked about the current retail-service mix and vacancies in the Village center.

VI. SUBMISSION OF CURRENT BILLS

Motion by Gordon, seconded by Mike to approve the Bill's List as presented.

Ayes: Gallasch, Gordon, Hansen, Moenck, Seltzer

Abstain: Morrow

Absent: Kochensparger

Nays: None

Motion carried.

TOTALS

General Administration

\$ 25,780.18

Building	\$	6,594.04
Insurance	\$	56,395.45
Legal	\$	589.00
Police	\$	13,089.88
Pressure Sewer	\$	-
General Debt Service	\$	-
Major Roads	\$	799.44
Local Road	\$	680.27
Rubbish	\$	17,519.94
Trust & Agency	\$	1,200.00
Tax Fund	\$	5,405.54
Waste Water	\$	228.69
ALL FUNDS	\$	128,282.43

VII. PUBLIC REQUESTS AND COMMENTS

A. Tim Currier, Attorney, Birmingham Area Cable Television Cable Board.

1. Consider Renewal of Comcast Cable Television Franchise.

Mr. Currier introduced himself, Mr. Frederick Eaton from Comcast, and Mira Stakhiv, Franklin's Cable Board Representative. Referring to his letter dated 6/3/2015, he explained that the current cable television franchise agreement with Comcast was due to expire 6/8/15. After several meetings with Comcast representatives, his firm discussed and negotiated several agreements pursuant to Section 13 of Public Act 480 of 2006. He detailed those changes and stated his recommendation was that Franklin approve the Michigan Uniform Video Service Local Franchise Agreement, effective 6/9/15, and Attachment 1 – Uniform Video Service Local Franchise Agreement, dated 6/3/2015, between Comcast and the Village of Franklin.

The impact of the new agreement and the attachment with the Village was discussed.

Mr. Eaton addressed questions about a possible merger and/or acquisition with Time Warner.

#2015-33 Motion by Morrow, seconded by Seltzer to approve the Michigan Uniform Service Local Franchise Agreement with Comcast effective June 9, 2015, and to approve the June 3, 2015 letter agreement.

Ayes: Gallasch, Gordon, Hansen, Moenck, Morrow, Seltzer

Absent: Kochensparger

Nays: None

Motion carried.

(Jim Kochensparger arrived at 7:23 PM)

VIII. SPECIAL REPORTS

A. President's Report

1. Proclamation to Honor E. Lewis Eads & Patricia Burke.

Kochensparger read the proclamation.

#2015-34 Motion by Seltzer, seconded by Moenck to approve the proclamation as follows, honoring E. Lewis Eads and Patricia Burke:

PROCLAMATION

E. Lewis Eads and Patricia Burke

In appreciation of their Public Service to the Village of Franklin

WHEREAS **E. Lewis Eads** has served as a Village Council Trustee, for three (3) years, from October 2010 until May 2013; and,

WHEREAS, **Patricia Burke** has served on the Village of Franklin Historic Commission, for seven (7) years, from November 2006 until July 2013; and

WHEREAS **E. Lewis Eads and Patricia Burke** have resided in the Village for twenty years; and,

WHEREAS **E. Lewis Eads and Patricia Burke** have served in many different volunteer positions within the Village, most recently with Main Street Franklin.

NOW THEREFORE BE IT RESOLVED, on this 8th day of June 2015, that the Franklin Village Council hereby publicly recognize, commend and thank Village Council Trustee E. Lewis Eads and Historic District Commissioner Patricia Burke for their service to the Village.

BE IT FURTHER RESOLVED that a copy of this resolution and expression of civic appreciation be presented to E. Lewis Eads and Patricia Burke on behalf of the undersigned.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer

Absent: None

Nays: None

Motion carried.

B. Council Report

Gordon voiced his concern that the Village needs to work on the concepts identified by the Master Plan and be become more pro-active and move forward with those things that

have a direct impact on the community, as proposed in Chapter 10 - Implementation Plan.

Gallasch reported on the recent article in the Eccentric about the Memorial Day Ceremony in our cemetery and complimented Judy Meade, Administrator of the Cemetery Association, for organizing the event.

C. Administrator's Report

Creech reported that he had held a pre-construction meeting with Midwest Paving. Construction and stated that the start date will be after July 1, 2015, thus, budget adjustments need to be made to the FY2015-2016 annual budget.

Moenck inquired about the progress of Kreger House rentals.

IX. UNFINISHED BUSINESS

A. Consider Civic Event Permit for the Women for Humanity, 5K Run on October 3, 2015.

Kochensparger reminded Council about the open issues the police department had about the event. Police Chief Roberts reported that he had reviewed the additional information provided and gave the Department's approval.

#2015-35 Motion by Gordon, seconded by Seltzer to deny the Civic Event Permit for the Women For Humanity, 5K Run on October 3, 2015.

Gordon stated he was uncomfortable with this event because he did not know this group's connection/relationship to Franklin. Staran commented on a legal issue in regards to the permitting process and public access for groups. Seltzer commented that additional information had been asked for at the last meeting but not all had been provided.

Kochensparger noted that he would be in favor of reviewing the application again, after the necessary details were completed, for additional consideration.

Ayes: Gordon, Hansen, Kochensparger, Moenck, Seltzer

Absent: None

Nays: Gallasch, Morrow

Motion carried.

X. NEW BUSINESS

A. Consider Demolition Application for the property at 32890 Whatley.

Motion by Moenck, seconded by Seltzer to approve the Demolition Application for the property at 32890 Whatley.

Bryan Campbell, owner of Rock Homes, LLC. and owner of the property was able to answer some of the questions concerning the pool removal but not all, since blueprints had not been finalized.

Moenck withdrew her motion.

Motion by Moenck, seconded by Seltzer to delay approval of the Demolition Application for the property at 32890 Whatley until the next Council meeting.

Discussions ensued about motions “delaying approvals” vs. “approving motions with contingencies” and the timing of Department Official’s reviews and approvals.

Moenck withdrew her motion.

- **Connie Ettinger, River Drive**, expressed her concerns about the heavily wooded lot. She commented on the Tree Protection Ordinance under the Master Plan and her hope that it would be strongly enforced.

Campbell stated that he is well aware of the Tree Ordinance and Tree Permit Process by which he will abide. Current trees on the lot have already been surveyed.

Motion by Hansen, seconded by Moenck to approve the Demolition Application for the Demolition Application for the property at 32890 Whatley, contingent upon the striking the line “Bury the in ground pool” on the application and satisfactory completion of the entire Demolition Application Checklist.

Campbell clarified what was expected of him.

Hansen withdrew the Motion.

Applicant will return with a more accurate and complete application, including a completed Demolition Application Checklist.

B. Consider Modification to Police Chief’s Retirement Contribution.

Creech explained the issue.

#2015-36 Motion by Seltzer, seconded by Morrow to approve the Modification to Police Chief’s Retirement Contribution from 6% to 12% of salary.

Gallasch questioned if this issue had gone to the Personnel Committee and if not, why not. Creech responded stating that the matter had been dealt with administratively within the budgetary process.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer

Absent: None

Nays: None

Motion carried.

C. Consider Police Vehicle Lease.

#2015-37 Motion by Morrow, seconded by Seltzer to approve the Police Chief Vehicle Lease with Snethkamp Chrysler Jeep.

Chief Roberts explained that the Village received limited bid responses. The increase of the dollar amount is due to the increase of mileage. The previous lease was for only 10,000 miles and that was cutting it too close, so it was increased to 18,000 miles per year.

This item was included in the budget.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer

Absent: None

Nays: None

Motion carried.

D. Consider Main Street Franklin Extension of Letter of Agreement.

#2015-38 Motion by Seltzer, seconded by Gordon to approve Main Street Franklin Extension of Letter of Agreement.

Morrow inquired about the Annual Operating Budget and the Quarterly Financial Reports. MSF Executive Director White pointed out that the Annual Budget was included in the Council's March packet as was the Quarterly Financial Statement. All MSF Financial Statements are now on its website.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer

Absent: None

Nays: None

Motion carried.

E. Consider Appointments to Village Boards and Commissions.

#2015-39 Motion by Seltzer, seconded by Gallasch to confirm President Kochensparger's reappointment of Connie Ettinger, Peter Halick, and Calvin Cupidore to the Planning Commission.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer

Absent: None

Nays: None

Motion carried.

Kochensparger suggested deferring until the next Council meeting the reappointments of Eileen Harryvan, Laura Lynn Witty, and Mike Brassfield to the Historic District Commission and Randy Brakeman and Bill Couger to the Zoning Board of Appeals until he has contacted them individually to confirm his or her interest on continuing.

Hansen proposed that notification of open positions on the various commissions, even if they are reappointments, be posted on the Village website as has been done in the past, thereby adhering to the practice of “transparency” and inviting new community members to become involved.

F. Consider Civic Event Permit Application for “Music on the Green”.

#2015-40 Motion by Moenck, seconded by Gordon to approve the Civic Event Permit Application for “Music on the Green”.

Morrow commented that, although he is a financial contributor to this, he is aware that his money goes outside of the Village to the person who runs these events. His remarks centered around supporting those Village-run events. Discussion ensued and included re-iteration of the need to update the Civic Events Permit Application.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer
Absent: None
Nays: None
Motion carried.

G. Consider Tree Removal Service Proposals.

Creech explained that the Village asked and received only one (1) bid, that being from Dan’s Tree Service noting that he had also solicited a bid from Johnson Landscaping, our DPW contractor.

#2015-41 Motion by Gordon, seconded by Seltzer to accept the Administrator’s recommendation to extend the Tree Removal Service contract to Dan’s Tree Service for 2015-16 and 2016-17 at the rates submitted in the June 2, 2015 Memo from the Administrator to the Council.

Moenck inquired as to what had been budgeted, with Creech responding with \$40,000 spread between both the Local and Major Road funds.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer
Absent: None
Nays: None
Motion carried.

H. Consider Sealed Bids for Audit Services.

Motion by Moenck, seconded by Gordon to award the Audit Services to Abraham & Gafney for three (3) years (FY 2014-15 thru FY2016-17), as recommended by the Administrator.

Morrow opined that changing auditors can be very disruptive in the office, as was seen several years ago. He and Gallasch have some reservations about the change. Morrow also inquired if the issues the Village has with its current auditors, Janz & Knight, had been discussed with the firm.

Creech summarized each firm's realm of expertise. The term of a contract was discussed. **Moenck amended her motion to read that the contract would be for three (3) years with an option to terminate said contract after one(1) year.**

- Rana Emmons with PSLZ addressed the Council, stating that she would be the Partner-on-site if her firm was awarded the contract. Among numerous positives, she emphasized her close proximity and familiarity with the Village and stressed that if price was the determining factor, she, as a partner, was authorized to match the lowest submitted bid. She also pitched the additional support she could give the Village at no additional cost. She welcomed the Village to contact their numerous references and also mentioned that she had worked with Creech in the past.

Creech offered positive remarks about PSLZ.

Moenck withdrew her motion.

#2015-42 Motion by Morrow, seconded by Seltzer to authorize the Administrator to negotiate and enter into a contract with an auditor, not to exceed the rates proposed by the lowest bidder and include a one (1) year opt out clause. It will be at the Administrator's discretion as to which firm can meet those requirements.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer
Absent: None
Nays: None
Motion carried.

I. Consider Budget Amendments FY2014-2015.

#2015-43 Motion by Morrow, seconded by Moenck to approve the Budget Amendments FY 2014-2015 as presented in the June 5, 2015 Memo from the Administrator to Council, with the exception of the Waste Water Fund, which would be considered at another date.

Morrow asked and received from the Administrator a clarification concerning the negative balance in the Waste Water Fund.

Gallasch questioned the differing numbering system and the Administrator provided an explanation, noting that the current budget still used the old numbering system, and that the new budget beginning in July 2015 would use the newer numbering system that is common among communities using General Appropriations procedures.

Roll Call Vote:

Gallasch **aye**
Gordon **aye**
Hansen **aye**
Kochensparger **aye**
Moenck **aye**
Morrow **aye**
Seltzer **aye**

Motion carried.

J. Consider Freedom of Information Act (FOIA) Policy.

#2015-44 Motion by Morrow, seconded by Seltzer to approve the Freedom of Information Act (FOIA) Policy as set forth in the document, VILLAGE OF FRANKLIN FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES. (see attachment #1)

Staran provided a brief history of the Michigan law change and its passage and added that the new law goes into effect July 1, 2015. He also advised Council that the law states that once the policy is adopted it must be posted on the Village website so as to make it available to the public.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer
Absent: None
Nays: None
Motion carried.

K. Consider July Meetings

Motion by Seltzer, seconded by Hansen to schedule the Waste Water Management Board Meeting on August 10, 2015.

Creech suggested that the Waste Water Meeting be rescheduled for July 13 at 6 PM and be combined with a discussion about the Oakland County Water Resources rates on the proposed grinder technology upgrade.

Seltzer withdrew the motion.

#2015-45 Motion by Seltzer, seconded by Hansen to reschedule the Waste Water Management Board Meeting to July 13, 2015 at 6 PM.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer
Absent: None

Nays: None
Motion carried.

XI. ORDINANCES/RESOLUTIONS

A. Consider FY2015-2016 Budget Resolution.

#2015-46 The Village Council of the Village of Franklin Resolves:

Section 1: Title

This resolution shall be known as the Franklin Village General Appropriation Act.

Section 2: Chief Administrative Officer

The Village Administrator shall be the Chief Administrative Officer and shall perform the duties of the Chief Administrative Officer enumerated in this act.

Section 3: Fiscal Officer

The Clerk shall be the Fiscal Officer and shall perform the duties of the Fiscal Officer enumerated in this act.

Section 4: Public Hearings on the Budget

Notice of a public hearing on the proposed budget was published in a newspaper of general circulation on May 4, 2015, and a public hearing on the proposed budget was held on May 11, 2015.

Section 5: Estimated Revenues, Expenditures and Fund Balances

(As listed on attached pages)

- A. General Fund
- B. Police Fund
- C. Building Department Fund
- D. Major Streets Fund
- E. Local Streets Fund
- F. Rubbish Fund
- G. General Debt Service Fund
- H. Pressure Sewer Fund
- I. Waste Water Fund
- J. Fire Fund
- K. Library Fund

Section 6: Millage Levy

The Village of Franklin shall cause to be levied and collected the general property tax on all real and personal property within the Village upon the current tax roll an estimated amount equal to 7.3 mills as authorized under state law and approved by the electorate.

Section 7: Adoption Budget by Reference

The general fund budget of the Village of Franklin is hereby adopted by reference, with revenues and activity expenditures as indicated in Sections 5 and 7 of this act.

Section 8: Adoption of Budget by Cost Center

The Village Council of the Village of Franklin adopts the 2015/2016 fiscal year general budget by cost center. Village officials responsible for the expenditures authorized in the budget may expend village funds up to but not to exceed, the total appropriation authorized for each cost center, and may make transfers among the various line items contained in the

cost center appropriation. However, no transfers of appropriations for line items related to personnel or capital outlays may be made without prior Council approval by budget amendment.

Section 9: Appropriation not a Mandate to Spend

Appropriations will be deemed maximum authorizations to incur expenditures. The fiscal officer shall exercise supervision and control to ensure that expenditures are within appropriations, and shall not issue any order for expenditures that exceed appropriations.

Section 10: Transfer Authority

The Chief Administrative Officer shall have the authority to make transfers among the various cost centers (or line items) without prior Council approval, if the amount to be transferred does not exceed \$10,000. The Council shall be notified at its next meeting of any such transfers made, and reserves the right to modify, amend or nullify any such transfers made. Under no circumstances may the total general fund budget be changed without prior Council approval.

Section 11: Periodic Fiscal Reports

The fiscal officer shall transmit to the Council at the end of each of the first three quarters, and at the end of each month occurring during the fourth quarter, a report of financial operations, including, but not limited to:

- a. A summary statement of the actual financial condition of the general fund at the end of the previous quarter (month);
- b. a summary statement showing the receipts and expenditures and encumbrances for the previous quarter (month) and for the current fiscal year to the end of the previous quarter (month);
- c. a detailed list of:
 - i. Expected revenues by major source as estimated in the budget; actual receipts to date for the current fiscal year compared with actual receipts for the same period in the prior fiscal year; the balance of estimated revenues to be collected in the then current fiscal year; and any revisions in revenue estimates resulting from collection experience to date.
 - ii. For each cost center: the amount appropriated; the amount charged to each appropriation in the previous quarter (month) for the current fiscal year and as compared with the same period in the prior fiscal year; the unencumbered balance of appropriations; and any revisions in the estimate of expenditures.

Section 12: Limit on Obligations and Payments

No obligation shall be incurred against, and no payment shall be made from any appropriation account unless there is a sufficient unencumbered balance in the appropriation and sufficient funds are or will be available to meet the obligation.

Section 13: Budget Monitoring

Whenever it appears to the Chief Administrative Officer or the Village Council that the actual and probable revenues in any fund will be less than the estimated revenues upon which appropriations from such fund were based, and when it appears that expenditures shall exceed an appropriation, the Chief Administrative Officer shall present to the Village

Council recommendations to prevent expenditures from exceeding available revenues or appropriations for the current fiscal year. Such recommendations shall include proposals for reducing appropriations, increasing revenues, or both.

Section 14: Violations of This Act

Any obligation incurred or payment authorized in violation of this resolution shall be void and shall subject any responsible official(s) or employee(s) to disciplinary action as outlined in P.A. 621 (1978) and the Village of Franklin personnel manual.

Section 15: Council Adoption

Motion made by Seltzer seconded by Morrow to adopt the foregoing resolution. Upon roll call vote, the following voted aye: Gallasch, Gordon, Hansen, Moenck, Morrow, Seltzer. The following voted nay: Kochensparger. The President declared the motion carried and the resolution duly adopted on the 8th day of June 2015.

Eileen Pulker, Village Clerk

Roll Call vote:

Gallasch	aye
Gordon	aye
Hansen	aye
Moenck	aye
Morrow	aye
Seltzer	aye
Kochensparger	nay
Motion carried.	

Kochensparger explained that based on the fact that the complete budget was not in the Council packet he voted against its passage.

B. Consider 2015 Master Plan Resolution.

Motion by Gordon, seconded by Seltzer to approve the 2015 Master Plan Resolution.

Morrow questioned what exactly he was asked to approve since he had not seen the entire Master Plan. He also noted that he would have liked to have seen a “black line copy” of the document that Council approved for distribution compared to the one they were being asked to approve tonight.

Connie Ettinger, Chair of the Planning Commission, stated that the entire document was on the Village website under Planning Commission. She also mentioned that all the revisions were minor, ie. typos, a picture change, and other minor revisions. She thanked the Council for all its comments.

Hansen asked that at the next meeting Ettinger or someone from the Planning Commission could walk Council through the highlights of the Master Plan, especially those items which

Gordon stressed at the beginning of the meeting, ie. priority setting, what actions the Village needs to take and when, recommendations from the Planning Commission. Ettinger noted that Chapter 10 – Implementation Plan, especially page 117, does just that. Ettinger applauded Gordon’s comments and concerns.

C. Consider Planning Commission DTE Resolution.

#2015-47 Motion by Seltzer, seconded by Hansen to accept the Planning Commission DTE Resolution.

Kochensparger complimented the Planning Commission on its efforts to protect the Village’s trees, however, he was of the opinion that some of the points were unreasonable. He suggested a meeting with Franklin’s arborist and/or DPW contractor and DTE to establish a long term plan. The intent of the document was good but he would like to have an open dialogue with DTE and he was concerned that the document would not accomplish that.

Ettinger explained and supported the intent of Planning Commission’s resolution.

Moenck opined that this document sounds bureaucratic when we, as a village, have no jurisdiction and it sends an unusual contradictory message.

Staran shared several of his concerns about the document.

Seltzer suggested this item be re-visited after more research and discussions.

Kochensparger called the question.

Ayes: None

Absent: None

Nays: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer

Motion denied.

XIII. ADJOURNMENT

Motion by Moenck to adjourn the meeting.

Ayes: Gallasch, Gordon, Hansen, Kochensparger, Moenck, Morrow, Seltzer

Absent: None

Nays: None

Motion carried.

There being no further business, the meeting adjourned at 9:25 P.M.

Respectfully submitted,

Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk

James Kochensparger, President

Attachment #1

VILLAGE OF FRANKLIN FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES

Preamble: Statement of Principles

It is the policy of the Village of Franklin that all persons, except those who are serving a sentence of imprisonment, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they may fully participate in the democratic process.

The Village of Franklin's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes a request.

The Village of Franklin acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The Village of Franklin acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

The Village of Franklin will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The Village of Franklin's policy is to disclose public records consistent with and in compliance with State law.

Section 1: General Policies

The Village Council acting pursuant to the authority at MCL 15.236 designates the Village Administrator as the FOIA Coordinator. He or she is authorized to designate other Village staff to act on his or her behalf to accept, process and respond to requests for the Village's public records.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a Village spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

The FOIA Coordinator shall review Village spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with Village staff to develop administrative rules for handling spam and junk-mail so as to protect Village systems from computer attacks which may be imbedded in an electronic FOIA request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent

with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The Village is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other Village staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the Village on file for a period of at least one year.

Section 2: Requesting a Public Record

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by Village of Franklin must do so in writing. The request must sufficiently describe a public record to enable Village personnel to identify and find the requested public record.

No specific form to submit a request for a public record is required. However, the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Written requests for public records may be submitted in person or by mail to the Village office. Requests may also be submitted electronically by facsimile and e-mail. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, electronically mailed or other otherwise provided to him or her in lieu of paper copies. The Village will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by the Village of Franklin on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

A person who makes a verbal, non-written request for information believed to be available on the Village's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

Section 3: Processing a Request

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request the Village will issue a response. If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. The Village will respond to the request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request the Village needs an additional 10 business days to respond. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the Village's website.

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary are maintained on the Village's website, then a website link to those documents may be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If based on a good faith calculation by the Village, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the Village will require a good-faith deposit before processing the request. In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the Village to process the request and also provide a best efforts estimate of a time frame it will take the Village to provide the records to the requestor. The best efforts estimate shall be nonbinding on the Village, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the Village; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the Village President or seek judicial review in the Oakland County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

The Village shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect Village records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Village operations.

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

Section 4: Fee Deposits

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation by the Village, the requestor will be asked to provide a deposit not exceeding on-half of the total estimated fee.

If a request for public records is from a person who has not fully paid the Village for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:

- the final fee for the prior written request is not more than 105% of the estimated fee;
- the public records made available contained the information sought in the prior written request and remain in the Village's possession;
- the public records were made available to the requester, subject to payment, within the time frame estimated by the Village to provide the records;
- 90 days have passed since the FOIA Coordinator notified the requester in writing that the public records were available for pickup or mailing;
- the requester is unable to show proof of prior payment to the Village; and
- the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:

- the requester is able to show proof of prior payment in full to the Village;
- the Village is subsequently paid in full for the applicable prior written request; or
- 365 days have passed since the person made the request for which full payment was not remitted to the Village.

Section 5: Calculation of Fees

Consistent with the authority granted by statute, it is the intent of the Village to charge a fee for a

public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record so that its general fund and departmental budgets are not unduly burdened by the costs associated with processing FOIA requests.

A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Village because of the nature of the request in the particular instance, and the Village specifically identifies the nature of the unreasonably high costs.

The following factors shall be used to determine an unreasonably high cost to the Village:

- The particular request incurs costs greater than incurred from the typical or usual request received by the Village
- Volume or size of the public record requested.
- Whether the amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested exceeds 15 minutes.
- Whether public records from more than one Village department or various Village offices is necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The Village may charge for the following costs associated with processing a FOIA request:

- Labor costs directly associated with searching for, locating and examining a requested public record, if the failure to charge a fee results in unreasonably high costs to the Village.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed, if the failure to charge a fee results in unreasonably high costs to the Village.
- The actual cost of computer discs, computer tapes or other digital or similar media.
- The cost of duplication of publication, not including labor, of paper copies of public records.
- The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requester.
- The actual cost of mailing or sending a public record, including the least expensive form of postal delivery confirmation, as well as the cost of expedited shipping or insurance when such is asked for by requester.

Labor costs will be calculated based on the following requirements:

- All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
- The cost of labor directly associated with duplication, publication or transferring records to non-paper physical media will be charged in 6-minute time increments, with all partial

time increments rounded down.

- Labor costs will be charged at the hourly wage of the lowest-paid Village employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
- If using contract or outside labor to separate and delete exempt material from non-exempt material, the public body must clearly note the name of person or firm who does the work and the total labor cost may not exceed an amount 6 times the state minimum hourly wage.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The Village may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if the Village has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- In order to ensure the integrity and security of the Village's technological infrastructure, the Village will procure any requested non-paper media and will not accept non-paper media from the requestor

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non- standard sized sheets of paper will reflect the actual cost of reproduction.
- The Village may provide records using double-sided printing, if cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The Village may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless requested.

If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:

- Reduce the labor costs by 5% for each day the Village exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
 - The late response was willful and intentional.
 - The written request, within the first 250 words of the body of a letter facsimile, e-

mail or e-mail attachment conveyed a request for information.

- The written request included the words, characters, or abbreviations for “freedom of information,” “information,” “FOIA,” “copy,” or a recognizable misspelling of such, or legal code reference to MCL 15. 231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form

Section 6: Waiver of Fees

Absent a waiver by the FOIA Coordinator in whole or in part, all charges associated with processing a FOIA request shall be paid in full before the release of any public records. The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public.

In determining whether the general public is primarily benefited, the FOIA Coordinator shall consider the following factors, none of which shall be determinative:

- whether the public record being disclosed serves the public policy purposes set forth at Section 1 of the FOIA;
- whether the release primarily serves a private or commercial purpose;
- whether the release implicates the rights of third persons;
- whether waiver of the fee is in the best interest of the Village; and
- the manner in which similar requests have been treated.

The Village will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- indigent and receiving specific public assistance; or
- if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An individual is not eligible to receive the waiver if:

- the requestor has previously received discounted copies of public records from the Village twice during the calendar year; or
- the requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

The Village will waive the first \$20.00 of the processing fee for a request from a nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and

Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

- is made directly on behalf of the organization or its clients;
- is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931;
- is accompanied by documentation of its designation by the State.

Section 7: Appeal of a Denial of a Public Record

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial with the Village Council. The appeal must be in writing, specifically state the word “appeal” and identify the reason or reasons the requestor is seeking a reversal of the denial.

The Village Council will be considered to have received the appeal at its first regularly scheduled meeting following submission of the appeal. Within 10 business days of receiving the appeal, the Village Council will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial in part and uphold the disclosure denial in part.
- Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the Village Council may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal

Whether or not a requestor submitted an appeal of a denial to the Village Council, he or she may file a civil action in Oakland County Circuit Court within 180 days after the Village’s final determination to deny the request.

If the court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys’ fees, cost and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys’ fees, costs and disbursements.

If the court determines that the Village arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages up to \$1,000.

Section 8: Appeal of an Excessive FOIA Processing Fee

If a requestor believes that the fee charged by the Village to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction to the Village Council. The appeal must be in writing, specifically state the word “appeal” and identify how the required fee exceeds the amount permitted.

The Village Council will be considered to have received the appeal at its first regularly scheduled meeting following submission of the appeal. Within 10 business days after receiving the appeal, the Village Council will respond in writing by:

- waive the fee;
- reduce the fee and issue a written determination indicating the specific basis that supports the remaining fee, accompanied by a certification by the Village Council that the statements in the determination are accurate and the reduced fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA;
- uphold the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification by the Village Council that the statements in the determination are accurate and the fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA; or
- issue a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Village Council will respond to the written appeal.

Within 45 days after receiving notice of the Village Council's determination of a fee appeal, a requestor may commence a civil action in Oakland County Circuit Court for a fee reduction. If a civil action is filed appealing the fee, the Village is not obligated to process the request for the public record until the Court resolves the fee dispute.

If the court determines that the Village required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements.

If the court determines that Village has acted arbitrarily and capriciously by charging an excessive fee, the court shall also award the appellant punitive damages in the amount of \$500.

Section 9: Conflict with Prior FOIA Policies and Procedures; Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by Village Council or the Village Administrator these Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the Village Council or the Village Administrator, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the Village Council or the Village Administrator, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the Village Council of any change these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.

Section 10: Appendix of Village of Franklin FOIA Forms¹

- Request Form
- Denial Form
- Waiver of Fee Form
- Appeal Form
- Certification Form

¹The referenced forms are not attached, they need to be drafted.