

**VILLAGE OF FRANKLIN
SPECIAL COUNCIL MEETING
THURSDAY, JULY 23, 2020, 6 PM**

Held remotely via “ZOOM.us”, per the Governor’s Emergency Order #2020-154

I. CALL TO ORDER

The meeting was called to order by President Pam Hansen, at 6:00 PM, via ZOOM.

II. ROLL CALL

Present: Fred Gallasch, Brian Gordon, Pam Hansen, Bill Lamott, Ed Saenz, Mike Seltzer,
Mira Stakhiv

Also Present: Roger Fraser, Village Administrator
Eileen Pulker, Village Clerk
John Staran, Village Attorney
Dan Roberts, Chief of Police

Recognizing the public’s enthusiastic approval of the Streetscape project as demonstrated at other meetings and tonight’s anticipated comments, in addition to the deliberation and the approval vote on this issue at last week’s Council meeting and his confidence that the Council President could administer the Council’s vote in the best interest of the Franklin residents, Gordon, therefore, requested to make a motion for an immediate vote of adjournment.

Motion by Gordon seconded by Seltzer to adjourn the meeting according to Codified Ordinance of Franklin, Michigan, Chapter 220.01 Rules of Conduct, Rule 18, which states “A motion to adjourn shall always be in order (except when a vote is being taken or when a Trustee has the floor), provided that there shall always be some intervening business proposed between two motions to adjourn. Motions to adjourn, to lay on the table and to move the previous question, and all motions relating to questions of order, must be decided without debate.”

Hansen reminded Gordon that Council was subject to the Michigan Open Meetings Act, Public Act 267 and the Governor’s Executive Order #2020-154 which regulates public meetings and the public’s guaranteed participation in them. Staran confirmed Hansen’s explanation that before a meeting could be adjourned the public must be guaranteed the opportunity to comment. If not, this would be a clear violation of the Open Meetings Act.

Regarding Gordon’s inquiry about the subject matter of the public comments, Staran explained that the subject matter could not be controlled; however, when comments could be made in the meeting and a time limit of them could be. Gordon withdrew his motion.

III. ADOPTION OF AGENDA

Motion by Stakhiv, seconded by Seltzer to adopt the agenda, as presented.

Roll Call Vote

Seltzer Aye
Stakhiv Aye
Lamott Aye

Gordon **Aye**
Hanson **Aye**
Gallasch **Aye**
Saenz **Aye**

Motion carried.

Hansen reported that this Special Meeting was requested by Lamott and Stakhiv on July 21, 2020 and Council members were notified of the time date of this meeting on July 21, 2020. She proceeded by outlining the process for this meeting, including the muting of speakers until recognized by Pulker. This procedure was due to background noise heard during previous meetings. Council members would unmute themselves when they wish to speak. Comments were limited to two (2) minutes.

Stakhiv requested the Special Meeting because she had questions and wanted to make a statement which she read.

Stakhiv also stated there were things which concerned her and she wished to discuss them in a Closed Session before deliberation and/or action taken in the Open Session of this evening's meeting. Hansen advised that the Agenda had already been approved with the Optional Closed Session to be considered. Stakhiv followed up that she felt all her concerns which do not involve the Streetscape Project should be discussed in Closed Session. Hansen advised that she could make that motion after New Business.

IV. NEW BUSINESS

A. Should We Resume Streetscape Construction?

When Lamott saw the notice that a decision had been made to begin the streetscape construction which Council had voluntarily agreed upon and had told the court we were not going to do, he thought this decision was significant enough to have entire Council's input.

Eileen Harryvan, W. 14 Mile Rd., Southfield Township:

- Untrue that Streetscape risks Franklin's historic designation as one VC member has stated; HDC has researched and followed appropriate guidelines.
- Would like to see Streetscape begin; three (3) times the judge has denied a stoppage of the construction.
- Stated that one VC member, was part of the lawsuit and supported the FranklinFacts.org "group" which gives out mis- and half-truths.
- Degraded the same Council member as acting like a "child" by asking the same questions until he heard the answers he desired.
- Though she was not a resident, she and the public have spoken repeatedly about the dangers of crossing Franklin Road; she gave examples.
- Urged Council to move forward with construction.

Josondra Notter, Hersheyvale Dr.

- Her property is at the corner of Hersheyvale and Franklin Rd. and would lose a significant amount of property and privacy but would sacrifice for the sake of safety.

- She is a runner with two (2) young children and not safe to leave her street and access Franklin Road which does not even have a shoulder and listed other dangers, including a hill as the road goes south to 13 Mile.
- She thought the democratic process was not being followed in the Village, project was voted on and approved.
- She will fight for the safety of her family.

Connie Ettinger, River Drive

- Questioned why are “we” here again? A Council member’s resolution to stop the Streetscape Project was defeated.
- Echoed Harryvan’s comments regarding a Council Member’s “childish” behavior.
- 2 Master Plans have endorsed the idea of connectivity and walkability improvements in the downtown (2007 and 2016/15).
- She listed the disapprovals by a Council member and his attempt to rescind the project/resolution which failed.
- Let’s stop wasting time and move forward.

Brian Yassian, Dennison Road.

- Recently moved to the Village, was told by friend about the possibility of the Streetscape and sidewalks happening and a downtown improvement.
- Streetscape important for the community and children, ability for children to ride their bikes to friends’ house close to 13 Mile Road and Franklin Road without compromising safety.
- Improvements and investing money into Village was detrimental to the future of business in this city. Being a small business owner, he understood the importance of spending money now for the future.

Josh Lawton, Meadow Drive

- Clarified why there was a need to vote on this: Charter states Council should not have power to construct new sidewalks in residential areas; 2016 Charter amendment to construct sidewalks along arterial, major or collector roads failed, therefore, the proposed sidewalks were illegal and the reason five (5) Villagers were suing the Village.
- He quoted the Judge’s rulings on the three (3) cases, giving the last injunction some merit.
- Funding for the lawsuit defense was illegally borrowed and should be returned to the taxpayers.
- His proposal: Village should not move forward with today’s proposed plan but rather with a plan that was legal and not violating the Charter, and within the legal budget; limit the sidewalks to replacement or repair of current sidewalks.
- Later construct sidewalks in residential areas when there was a complete plan which had been approved by the residents.

Staran was guarded with his statements when responding to Hansen’s concern about the “assumptions” raised about the lawsuit. He stated the Village disagreed with those alleged illegal activity issues raised in the litigation and those questions were pending before the court. The Judge would decide.

Jim Kochensparger, Kirk Lane

- He questioned how the Village got to this point considering a priority of the Master Plan which was to improve auto and pedestrian circulation in the Village center? The Streetscape Plan was worked on by the Planning Commission, Historic District Commission, consultants, experts from Oakland County, and with input from all residents (Public Hearings) and all stakeholders in the Village.
- He thought it was a fair and complete process and accused one Council member of trying to sabotage it to delay or disable the progress of the Streetscape.
- He listed and detailed his allocations and his personal assumptions for the delay.
- He stated that he was very extremely disappointed. The Village belongs to everyone and not a very vocal small minority.

David Sahli, Meadow Drive

- He provided his legal interpretations of the law and injunctions rendered by the Judge.
- He supported construction to be resumed immediately.
- Personally, he wanted to protect the safety of all children in the Village.

Angelina Sulaka, Meadow Drive

- Is a member of the Health and Safety Task Force for the Birmingham Public School District.
- Children will only be in school at best 2 days/week. The pandemic has created many difficulties in the family life, including educational experiences, emotional, mental, and physical health.
- Dependence on the elderly population to help care for the children is a necessity.
- Sidewalks are crucial for the elderly and young to safely access the downtown. She noted health facts presented and supported by the American Academy of Pediatrics and the Association of Mature American Citizens (AMAC).
- In favor of resuming the Streetscape construction.

Lisa Dunn, Garden Way, speaking for Main Street Franklin (Jason Dickman, Executive Director)

- MSF Board is in support of resuming the Streetscape project and encourages Council to do so.
- MSF appreciates all the Council does to support MSF.
- Safety and security of customers of the retail community were important.
- The MSF Board was striving to improve the economic vitality of the Village.
- With new families moving into Franklin, the Streetscape project will increase awareness and the experience of the wonderful community with its accessibility for bikes, strollers, pets, and the elderly.
- Safety at night was a concern.
- Important to build a unique, vibrant, and historical shopping district.

Lisa Dunn, Garden Way, owner of Déjà Vu, speaking for business and property owners

- Nowhere else would the owners rather have their businesses.

- Streetscape would encourage more and new business opportunities and success for Franklin. It would help keep Franklin thriving with its historic charm.
- Pandemic has not helped the business situation and, in fact, has added to the detriment of the existing businesses.
- The loss of some businesses, such as, the Market Basket, prior to the pandemic impacted the ability to lure foot traffic into the Village center.
- She listed all those businesses supporting her comments.

Kate Bevins, Hersheyvale Dr.

- She supported Dunn's comments.
- With people not shopping as much this would be the perfect time to tear up the street to make it more beautiful.
- Lives at the end of Hersheyvale, because the school buses cannot drive down the road the bus stop is at the corner of Hersheyvale and Franklin Road. Sidewalks would help for safety reasons.

Katelyn

- Was in favor of re-starting the Streetscape Plan.
- Has a small daughter, uses those sidewalks where available; however, in addition to the sidewalks, having lighting would be advantageous and safer for more outdoor activities.

Lamott stated that in the view of the court's statement that there might be a likelihood success on the merits of this case he would propose the Village continue the suspension of the Streetscape project.

Motion by Lamott, seconded by Stakhiv to continue the suspension of the Streetscape Project.

Stakhiv clarified that her second was predicated on the purpose of having a discussion.

Stakhiv stated she was not against the Streetscape Project. She supported all the Main Street businesses. She understood that families wanted sidewalks for their children. She supported 90% of the project. If the courts overturn the project the Village might owe money. If the Village wanted to continue with the project before receiving some court rulings, she agreed with Lawton's idea of starting with the repair or replacement of the existing sidewalks. Again, she had questions which she thought would be more appropriate in a closed session.

Gallasch agreed with a lot of what Stakhiv had stated. He would like to hear from Staran as to what was going on and what had changed since his last opinion. Staran noted it would be irresponsible to talk about legal strategy or advice on a pending case outside of a closed session.

Seltzer stated this was a repeat of what had been discussed ten (10) days prior with a similar percentage of pros vs. cons and nothing had changed. It was out of courtesy to the process that the Streetscape was stopped. A timeline for the completion of this project was by the end of the year to avoid penalties, late charges, and additional expenses. The public has spoken numerous

times. He acknowledged that there should not be any speaking or litigating of this and he thought Council was wasting its time. He was in favor of continuing with the process as planned.

Everything Gordon heard at this meeting had been stated previously. He suggested the motion be amended to allow the Council President to handle the re-start of this project based upon the information council had received from Staran and the contractors. It would be done when the President felt it to be appropriate. He felt this was an administrative function. He hoped the maker of the motion would consider revising it.

Staran stated a technical procedure matter. Gordon should make a motion to amend Lamott's motion which would be seconded; Council would have a discussion, vote on motion to amend. If that motion to amend passed, then that would be the question before Council.

Motion by Gordon, seconded by Seltzer to amend the motion on the table to allow the Council President to handle the re-start-up of the project based upon the information and counsel she gets the Village attorney and the contractors as to when she feels it appropriate.

Gordon felt it to be an administrative function. Let the President do her job. He would hope that the maker of the original motion would allow the President to do just that.

Hansen commented that as a Council person she had the right to speak to this issue. She has confidence in the Streetscape and there wasn't one thing she would do differently. Since 2005 she has heard the residents requesting connectivity and safety travel on Franklin Road. She was concerned about cost and if the project was not finished the road might be ripped up over the winter. If the plan was altered, it would be considered "rework" and costly. With due respect to the Judge and with the consultation with Staran and Administration, her opinion was to proceed with caution, being mindful of what everyone has said. She has seen a lot of "Grand Standing" going on and it was her desire that the public have access to facts which would be put on the website. The misinformation that has circulated throughout the Village was very troubling. The fact that one Council member was continuing with this was also troubling. The Council has spoken. She asked Lamott to consider amending his motion.

Staran interjected that the Public Comment Section was over, and he requested that all those not on Council to mute themselves as some of the conversations had been lost.

Regarding a technical procedural matter, Staran clarified that technically when a motion was made and seconded, the motion no longer belongs to the "mover". It belonged to the Council. Gordon made a request to the "mover" if he would consider changing the motion; however, the correct procedure would be for Gordon to make that request in the form of a motion to amend. If the motion on the table to amend is seconded Council could have a discussion on that and then vote on the motion to amend. If that motion to amend passed, then that was now the question before the Council.

Understanding the procedure, Gordon made the following motion:

Motion by Gordon, seconded by Seltzer to amend the motion on the table to allow the Council President to marshal this project that has been approved and by resolution has been funded, to allow her to make the decision as to when and how much of this project to restart based on the advice she’s getting through Counsel and the contractors and to allow her to do her job as the Administrator/CEO of the Village.

Lamott stated that if this were approved, he would give up his responsibility to represent the people. This was a big, big issue that he felt the residents needed to express their opinions on. He did not support the motion. He added that in 2009 he was a major proponent of sidewalks and put together a plan and the voters voted it down. In 2016 there was another referendum and the voters said “no”. He was troubled with moving forward with this plan when the voters said not to. He was sympathetic towards a compromised plan and even stated he understood the danger as he has walked along Franklin Road for 11 years with his grandchildren. He also thought it important to listen to the people and not to do something contrary to what they had voted on.

Seltzer responded that the people had spoken several times in the the last ten (10) days. This was the “Grand Standing” that Hansen referred to. It was nothing but political theater. “Stop! Let’s take a vote.”

Gallasch requested that Staran clarify exactly what they were voting for. Staran stated that the motion was to amend the motion that was on the table. As he understood Gordon’s stated words it was to direct and authorize the Village President to manage and determine the timing of the commencement of construction (of the Streetscape Project) based on input she received from legal counsel, the Village Administrator, the contractor, and any other relevant consultants.

#2020-56 Motion by Gordon, seconded by Seltzer to amend the motion on the table to direct and authorize the Village President to manage and determine the timing of the commencement of construction (of the Streetscape Project) based on the input she receives from legal counsel, the Village Administrator, the contractor, and any other relevant consultants.

Roll Call Vote

Seltzer	Aye
Stakhiv	Aye
Lamott	Nay
Gordon	Aye
Hanson	Aye
Gallasch	Aye
Saenz	Aye

Motion carried. (6-1)

Gallasch voted in favor; however, he requested the President continue giving Council updates, including the financial expenditures.

Staran explained that what was just approved was the amendment on the floor. Now there needed to be a vote on the amended motion.

#2020-57 Motion by Gordon, seconded by Seltzer to direct and authorize the Village President to manage and determine the timing of the commencement of construction (of the Streetscape Project) based on the input she receives from legal counsel, the Village Administrator, the contractor, and any other relevant consultants.

Roll Call Vote

Seltzer	Aye
Stakhiv	Aye
Lamott	Nay
Gordon	Aye
Hanson	Aye
Gallasch	Aye
Saenz	Aye

Motion carried. (6-1)

V. OPTIONAL CLOSED SESSION

A. Consider Whether to Convene in Closed Session to discuss Confidential Attorney/Client Privileged Communication.

Stakhiv still had some questions which she needed answered in private.

#2020-58 Motion by Stakhiv, seconded by Gallasch to convene in Closed Session to discuss Confidential Attorney/Client Privileged Communication.

Roll Call Vote

Seltzer	Nay
Stakhiv	Aye
Lamott	Nay
Gordon	Nay
Hanson	Aye
Gallasch	Aye
Saenz	Aye

Motion failed. (4-3)

Staran explained that under the Open Meetings Act, 5 out of 7 “Aye” votes was needed to approve the motion to go into a Closed Session.

VI. ADJOURNMENT

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

Roll Call Vote

Seltzer	Aye
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Stakhiv **Aye**
Lamott **Aye**
Gordon **Aye**
Hanson **Aye**
Gallasch **Aye**
Saenz **Aye**
Motion carried.

There being no further business, the meeting was adjourned at 6:57 PM.

Respectfully submitted,

Gail Beke, Recording Secretary

Eileen H. Pulker, Clerk

Pamela Hansen, President