

**PROCEEDINGS OF VILLAGE OF FRANKLIN
VILLAGE COUNCIL REGULAR MEETING
MONDAY, AUGUST 9, 2010, 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.

II. ROLL CALL

Present: Fred Gallasch, Brian Gettel, Mark Jahnke, Jim Kochensparger, Bill Lamott, Mike Seltzer
Absent: Steve Rosenthal (excused)
Also Present: Eileen Pulker, Clerk
Patrick Browne, Police Chief
Tony Averbuch, Fire Chief
John Staran, Hafeli Staran Hallahan & Christ, P.C., Village Attorney
Vivian Carmody, Director, Main Street Franklin
Pat Burke, Secretary, Main Street Franklin
Tom Biehl, Hubbel, Roth & Clark, Village Engineer

III. ADOPTION OF AGENDA

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

Ayes: Gallasch, Gettel, Jahnke, Kochensparger, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

IV. MINUTES

A. July 12, 2010 Regular Village Council Meeting

Motion by Seltzer supported by Kochensparger to approve the minutes of the July 12, 2010, Regular Village Council Meeting as submitted.

Ayes: Gallasch, Gettel, Jahnke, Kochensparger, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

B. July 20, 2010 Special Village Council Meeting

C. July 28, 2010 Special Village Council Meeting

D. August 2, 2010 Special Village Council Meeting

Motion by Kochensparger supported by Jahnke to approve the minutes of the July 20, 2010, July 28, 2010, and August 2, 2010, Special Village Council Meetings as submitted.

Ayes: Gallasch, Gettel, Jahnke, Kochensparger, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

V. REPORTS OF VILLAGE OFFICERS AND AGENTS

Patrick Browne, Police Chief: Browne referred to his submitted report, reviewed recent activity in the Village, requested Villagers to notify the Department regarding any suspicious activity, noted that National Night Out had a successful turnout and thanked Hiller's Market for their contributions, the

Department is in the process of ordering the new leased vehicle, and provided an update as to the officer who was recently injured.

Tony Averbuch, Fire Chief: Averbuch referred to his submitted written report and advised that annual testing of equipment has been completed. Discussion ensued regarding the potential for training on the demolition of 30355 Rosemond. Gallasch noted the Fire Commission's annual meeting was recently held and extended appreciation to the firemen for their many accomplishments and service.

Thomas Morrow, Treasurer: Morrow referred to his submitted written report, noted that a list of current account balances and a retiree health care funding quarterly report are included, and recommended Jahnke be added as the 3rd signatory on the Village's bank account to replace Stoppels. Discussion ensued regarding signatories.

#2010-81 Motion by Gettel supported by Kochensparger to add Mark Jahnke as an authorized signatory on the Village's bank account until such time as the administrator position is filled.

Ayes: Gallasch, Gettel, Jahnke, Kochensparger, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

Main Street Franklin, Pat Burke, Secretary/Vivian Carmody, Director: Burke introduced Vivian Carmody, the newly hired Director. Carmody expressed her appreciation and noted she is excited to be working with the Village and stakeholders to move Main Street Franklin forward. Continuing, she provided a summary of recent and upcoming events, noting that the Concors d'Elegance Boat and Car Show was successful and a wrap-up meeting will be held Thursday, Main Street Oakland County (MSOC) will be conducting a visit focused on finances on September 8th, Downtown Michigan Conference in Bay City is September 13-14th, MSOC Managers Meeting will be held in the Village on October 14th, MSOC economic restructuring workshop to be held in Pontiac is scheduled for November, website, face book, and twitter accounts are up and running, a budget will hopefully be brought to the next Council meeting, and she is looking forward to meeting each stakeholder individually so Main Street can move forward with feedback in mind. Discussion ensued regarding her passion for the position, website, and submitted article for Villager.

VI. SUBMISSION OF CURRENT BILLS

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

TOTALS

General Administration	\$ 14,583.43
Building	\$ 9,117.44
Insurance	\$ 84,420.43
Legal	\$ 4,266.50
Police	\$ 26,683.14
Pressure Sewer	\$ 295,391.66
General Debt Service	\$ 149,545.00
Major Roads	\$ 4,638.00
Local Road	\$ 11,996.57
Rubbish	\$ 17,101.29
Trust & Agency	\$ 5,200.00
Tax Fund	\$ 65,389.11
Waste Water	\$ 711.50

ALL FUNDS

\$ 689,044.07

Discussion ensued regarding McKenna Associates, General Matters for June 2010 (contractual flat fee), State of Michigan Unemployment 12/31/09, and BS & A Software Annual Fee (building department portion only), Oakland County Clemis (County database), and Johnson Landscaping (expenditure corresponds with anticipated charge for drainage repair).

Ayes: Gallasch, Gettel, Jahnke, Kochensparger, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

VII. PUBLIC REQUESTS AND COMMENTS

- **Marcia Gershenson, Oakland County Commissioner, District 17**, commended Braxton Allred, who with the support of Dorchester Hills President, Tom Couvreur, recruited volunteers and performed clean up and related lamp post improvements as his Eagle Scout project and noted that Oakland County Department of Human Service Agency has a board appointed vacancy and is seeking interested candidates.

VIII. SPECIAL REPORTS

A. President's Report

Gallasch thanked Matthais Meyer and Steve Showers for the Concours d'Elegance Boat and Car Show and the Eagle and Oakland press for publicity.

B. Council Reports

1. Kreger House Report, Bill Lamott - Trustee

Lamott noted that electrical work will start within the next couple of weeks, planning is ongoing for the barn dance, and thanked Bob Smith for volunteering his time to benefit the Kreger Buildings

2. Legal Committee Report

Gallasch provided an update as to recent Committee discussions noting that Bingham Farms will be discussing the police sharing agreement this month and other items for discussion pertain to agenda items.

3. Finance Committee Report

Jahnke noted the Committee met last week with its discussions focused on the June 30, 2010 audit and the retiree health insurance funding report. Continuing, he noted that the accountant expects a similar time commitment to last year's audit and opined that the only open item is to nail down the Building Department account balance as of June 30, 2010. Discussion ensued with Gettel recommending his position on the Finance Committee be filled by Seltzer.

#2010-82 Motion by Gettel supported by Kochensparger for Seltzer to replace Gettel on the Finance Committee.

Ayes: Gallasch, Gettel, Jahnke, Kochensparger, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

4. Personnel Committee Report

Jahnke advised the Committee has not met since the Special Village Council meetings with all recent considerations handled during those meetings.

5. DPW – Road Administrator Committee Report

Gallasch inquired if meeting dates have been set yet with Pulker advising this is not finalized but is in process.

6. Website Committee Update

Pulker advised that there have been difficulties with the website but the expectation is that it will be up and running soon, within the next few days.

IX. UNFINISHED BUSINESS

A. Consider Appointment to Village Commission – Historic District Commission (HDC)

Gallasch noted that Council requested consideration of the second vacancy be postponed to tonight's meeting. Kochensparger nominated MaryAnn Liut for the vacancy.

#2010-83 Motion by Kochensparger supported by Seltzer to appoint MaryAnn Liut to the HDC.

Kochensparger provided a summary of Liut's qualifications, noting that she resides in the District. Lamott noted that HDC through its Chairman, Gary Roberts, had recommended the appointment of Beverly Neumann to the vacancy, and provided an overview of her experience and training. Discussion ensued regarding the appointment, current membership composition, and HDC recommendation. Pat Burke noted that the Village has 2 good candidates for consideration and Neumann's property touches on the HDC borders.

Ayes: Jahnke, Kochensparger, Seltzer

Absent: Rosenthal

Nays: Lamott, Gallasch, Gettel

Motion failed – tie vote.

Discussion ensued regarding time commitment, HDC recommendation, Commission composition, and process with the consensus being to take a second vote.

Ayes: Jahnke, Kochensparger, Seltzer

Absent: Rosenthal

Nays: Lamott, Gallasch, Gettel

Motion failed – tie vote.

#2010- 84 Motion by Jahnke supported by Gettel to postpone consideration of the appointment to the Historic District Commission to the September meeting.

Ayes: Gallasch, Gettel, Kochensparger, Jahnke, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

B. Consider Additional Repairs/Replacement of the Police Station Handrails

Gallasch provided an introduction on this matter and Lamott provided additional detail, referring to the Memorandum included in the Council packet. Discussion ensued regarding need for additional bids and process/requirements for submission of bids/quotes.

Motion by Kochensparger to postpone consideration of the additional repairs/replacement of the Police Station handrails to the September meeting when there will be more than one bid for consideration.

Motion died due to lack of a second.

Discussion ensued regarding time constraints and project scope with Brown advising that he will contact those names provided by Seltzer/Kochensparger for additional quotes and with the consensus being to postpone consideration to the September meeting.

X. NEW BUSINESS

A. Consider Demolition Application for the property located at 30355 Rosemond

Gallasch provided an introduction/overview. Discussion ensued regarding the property and incompleteness of submitted Checklist with Anthony McNeal, applicant, noting that he is not aware of any oil tanks on the property, that he will discuss the use of the property for training purposes with the Fire Department, and with it being noted the application was reviewed and is complete, however this was completed after compilation of the Checklist.

#2010-85 Motion by Kochensparger supported by Jahnke to approve the Demolition Application for the property located at 30355 Rosemond Drive, provided the Clerk reviews the Checklist to ensure it is properly completed.

Discussion ensued regarding process for review of Checklist and HRC approval of route.

Ayes: Gallasch, Gettel, Kochensparger, Jahnke, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

B. Consider Proposed 2010 Road Rehabilitation Program.

Gallasch introduced this item, noting that Stoppels had provided several alternatives for rehabbing the Village's roadways, and referred to the submitted Memorandum.

Tom Biehl, Village Engineer, HRC, provided information via a power point relative to the cost-estimates for the Village's Road Rehabilitation Program, noting this is a multi-phase public bid preservation/rehabilitation program, with phase 3 deferrable until a new administrator is hired and phases 1 & 2 being implemented before late fall, which is his recommendation. Discussion ensued regarding estimates with it being requested to obtain quotes which include all phases and with the Village reserving the right to award all or select phases.

#2010- 86 Motion by Gettel supported by Seltzer to authorize HRC to solicit bids for the Proposed 2010 Road Rehabilitation Program on all phases as outlined in the discussion.

Discussion ensued regarding timing, process, phases, overlay over concrete as on Scenic, legislation that will enable local communities to provide local match to obtain Federal funding, and asphalt prices, with Biehl requested to provide information relative to the cost breakdown between Major and Local Roads and with Biehl advising that he will recommend a Special Meeting be called if time becomes problematic.

Ayes: Gallasch, Gettel, Kochensparger, Jahnke, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

C. Consider Village Administrator Separation Agreement

Staran referred to the submitted draft Agreement and noted that this has been discussed with Stoppels and the details will be added to paragraph 5 (compensation) after they have been confirmed. Discussion ensued regarding process with Staran advising that Council could conceptually approve the Agreement and authorize Gallasch and the Village Attorney to make any non-material necessary changes and add the details for paragraph 5.

#2010-87 Motion by Gettel supported by Seltzer to conceptually approve the Village Administrator Separation Agreement and authorize the Village Attorney and Council President to make any non-material changes that might be necessary and to add specifics to paragraph 5.

Discussion ensued regarding compensation details related to timing, insurance, vehicle, title, fuel, phone etc. and no disparagement and waiver/release clauses.

Ayes: Gallasch, Gettel, Kochensparger, Jahnke, Lamott, Seltzer
Absent: Rosenthal
Nays: None
Motion carried.

D. Consider Agreement to Engage Michigan Municipal League (MML) for an Executive Search for an Administrator

Gallasch referred to the submitted letter agreement from the MML. Discussion ensued regarding process, terms, fee, and potential to further discuss at tomorrow's meeting.

#2010-88 Motion by Seltzer supported by Kochensparger to consider the agreement for the engagement of the MML for an executive search for an Administrator and to discuss further tomorrow night, if necessary.

Ayes: Gallasch, Gettel, Kochensparger, Jahnke, Lamott, Seltzer
Absent: Rosenthal
Nays: None
Motion carried.

XI. PROCLAMATION/RESOLUTION/ORDINANCES

A. Consider Resolution Establishing a Moratorium on Medical Marihuana Facilities, Permits, Approvals, and Certificates.

Staran provided a brief overview/review and noted his recommendation is for Council to adopt the Resolution as submitted to ensure the Village has time to proactively consider land use issues relative to this matter. Discussion ensued with Jahnke noting typographical errors and with Staran advising those have been addressed in the most recent revision.

#2010-89 Motion by Jahnke supported by Seltzer to approve the Resolution Establishing a Moratorium on Medical Marihuana Facilities, Permits, Approvals, and Certificates, as follows:

MEDICAL MARIHUANA MORATORIUM

WHEREAS, on November 4, 2008, Michigan and Oakland County voters approved a state-wide initiative legalizing the medical use of marihuana; and

WHEREAS, on December 4, 2008, Michigan's Medical Marihuana Act ("MMMA"); MCL 333.26421 et seq, went into effect; and

WHEREAS, on April 4, 2009, the Michigan Department of Community Health promulgated rules to implement the MMMA; and

WHEREAS, there remains a great deal of uncertainty and different approaches among municipalities as to whether and how to regulate the medical use of marihuana and related activities, businesses and facilities; and

WHEREAS, the medical use of marihuana and related activities, businesses and facilities were not specifically contemplated or provided for in the Village of Franklin Zoning Ordinance; and

WHEREAS, the Village of Franklin desires to determine a reasoned, appropriate and effective approach to the medical use of marihuana consistent with the MMMA and the Michigan zoning Enabling Act in order to protect and promote the public health, safety, and welfare; and

WHEREAS, the Village desires to explore whether and how to best regulate the medical use of marihuana and related activities, businesses and facilities, which will require thorough study and possible amendment of the Village's Zoning Ordinance and Master Land Use Plan pertaining to land uses, zoning classifications and other requirements; and

WHEREAS, the Franklin Village Council believes that while this subject matter is under consideration and study, no new or expanded uses, activities, businesses or facilities relating to medical use of marihuana, and no zoning or building permits, approvals or certificates for such uses, activities, businesses or facilities should be allowed, established, processed or permitted to proceed; and

WHEREAS, the Village Council concludes further that during the course of review and consideration of possible zoning ordinance amendments, all application for zoning or building permits, approvals or certificates for uses, building, facilities or properties related to medical use of marihuana should be deferred; and

WHEREAS, the process of exploring, developing and adopting an amendment to the zoning ordinance and/or master land use plan for land uses relating to medical use of marihuana, including proceedings and hearings before the Planning Commission and Village Council, may take up to 180 days.

THEREFORE, IT IS RESOLVED by the Franklin Village Council that:

1. A moratorium is hereby declared effective immediately for a period of 180 days.
2. During this moratorium, there shall be no consideration or action by the Village of any Village board, commission, official, employee and/or agent on any proposal to establish a land use, activity, business or facility relating to the "medical use" (as defined in MCL 333.26423(e)) of marihuana in the Village, nor shall the Village accept, process or act on any application for a zoning or building permit, approval or certificate for such a land use, activity, business or facility; nor shall medical marihuana land uses, activities, businesses or facilities be permitted in the Village.
3. The Village Planning Commission, with assistance from the Village's Planning Consultant, Building Official, City Attorney, Village Administrator and Police Department, shall study, deliberate and recommend to the Village Council whether, how and where medical marihuana land uses, activities, businesses or facilities should be permissible in the Village and under what conditions or circumstances.

Discussion ensued regarding process with Browne advising he is in agreement and with Staran advising, if the Resolution is approved, the Planning Commission, with the assistance of consultants, will study the issue and provide a recommendation to Council, per the terms of the Resolution.

Ayes: Gallasch, Gettel, Kochensparger, Jahnke, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

B. Consider Ordinance to Revise Chapter 248 – Village Administrator (first reading).

Gallasch introduced the item. Staran advised that language has been added which would authorize Council to delegate Administrator responsibilities in the event there is a vacancy in the Village Administrator position or the position is filled by an Acting Administrator.

#2010-90 Motion by Gettel supported by Jahnke to approve the Ordinance to Amend Chapter 248, Village Administrator, of the Codified Ordinances of the Village of Franklin, Oakland County, Michigan, to Authorize the Village Council to Reserve or Delegate Village Administrator's Duties While the Office of Village Administrator is Vacant or Occupied by an Acting Village Administrator, and Repeal Conflicting Ordinances subject to the striking of "specified term" from Section 248.03 and waive second reading.

Discussion ensued with Jahnke noting, if approved, this authorizes Council not individual Council Members and with Staran recommending a change (strike "specified term" from Section 248.03) not requested by the Legal Committee, with Gettel amending his motion accordingly.

Ayes: Gallasch, Gettel, Kochensparger, Jahnke, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

C. Consider Ordinance to Approve the Editing and Inclusion of Certain Ordinances and a Resolution as Parts of the Codified Ordinances (first reading).

Staran introduced and advised this is rather perfunctory as it is necessary each time the latest codification is received.

#2010-91 Motion by Jahnke supported by Gettel to approve the Ordinance to Approve the Editing and Inclusion of Certain Ordinances and a Resolution as Parts of the Codified Ordinances and waive second reading.

Ayes: Gallasch, Gettel, Jahnke, Lamott, Seltzer

Absent: Rosenthal

Abstain: Kochensparger

Nays: None

Motion carried.

XII. ADJOURNMENT

Motion by Jahnke supported by Kochensparger to adjourn the meeting.

Ayes: Gallasch, Gettel, Jahnke, Kochensparger, Lamott, Seltzer

Absent: Rosenthal

Nays: None

Motion carried.

There being no further business, the meeting adjourned at 9:44 P.M.

Respectfully submitted,

Lori Rich, Recording Secretary



Eileen H. Pulker, Clerk

H. Frederick Gallasch, President