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**REGULAR MEETING of the PAINT CREEK TRAILWAYS COMMISSION**  
**Via Teleconferencing – GoToMeeting**  
**Access code: 928359869, or by phone 1-646-749-3122**

**CALL TO ORDER:** The Tuesday, August 18, 2020 Regular Meeting was called to order by Chairperson Blanchard at 7:00 p.m.

**Voting Members Present:** Rock Blanchard, Frank Ferriolo, Linda Gamage (*enter 7:12 p.m.*), Steve Sage, Dan Simon (*enter 7:08 p.m.*), Donni Steele, Jeff Stout, David Walker

**Voting Alternates Present:** David Becker (*voting until 7:12 p.m.*), Martha Olijnyk (*voting until 7:08 p.m.*)

**Non-Voting Alternates Present:** Robin Buxar, Theresa Mungoli, Clara Pinkham

**Village of Lake Orion Non-Voting Member Present:** None

**Voting Members Absent:** None

**Alternates Absent:** Chris Barnett, Chris Hagen, Ann Peterson

**Village of Lake Orion Non-Voting Member Absent:** Brad Mathisen

**Village of Lake Orion Non-Voting Alternate Absent:** Vacant

**Others Present:** Melissa Ford, Trail Manager, Chris Gray, Assistant Trail Manager, Sandi DiSipio, Recording Secretary

**PLEDGE OF ALLEGIANCE:** All rose and recited the Pledge.

**ANNOUNCEMENTS:** Chairman Blanchard explained the purpose of the electronic meeting is to maintain social distancing and comply with the Michigan Governor's Executive Order 2020-21. The Paint Creek Trailways Commission will provide reasonable and necessary auxiliary aids and services for individuals with disabilities with advance noticed. Please contact the Trail office at [manager@paintcreektrail.org](mailto:manager@paintcreektrail.org) or 248-651-9260 at least 72 hours in advance.

**APPROVAL OF AGENDA:**

**MOTION** by Becker, seconded by Stout, *Moved*, to approve the August 18, 2020 agenda as presented.

**Roll Call Vote:**

Ayes: Becker, Blanchard, Ferriolo, Olijnyk, Sage, Steele, Stout, Walker

Nays: None

**MOTION CARRIED.**

**PUBLIC COMMENT:** None

**CONSENT AGENDA:**

- a. Minutes – July 21, 2020 Regular Meeting, approve and file

b. Treasurers Report – July 2020, receive and file

**MOTION** by Steele, seconded by Simon, *Moved*, to approve the Consent Agenda as presented.

Roll Call Vote:

Ayes: Becker, Blanchard, Ferriolo, Sage, Simon, Steele, Stout, Walker

Nays: None

**MOTION CARRIED.**

**APPROVAL OF INVOICES:** Ms. Ford presented the list of invoices totaling \$4,297.51. In addition to the recorder's fee, this amount includes credit card charges for GoToMeeting for the August meeting and office supplies, payment for the 2019 Financial Audit, replacement of per diem check for Mr. Becker and reimbursement to Oakland Township Parks & Recreation Commission for the new audio sign supplies. Estimated unrestricted fund balance is \$90,000.

**MOTION** by Becker, seconded by Simon, *Moved*, that the invoices presented for payment are approved in the amount of \$4,297.51 and orders be drawn for payment.

Roll Call Vote:

Ayes: Becker, Blanchard, Ferriolo, Sage, Simon, Steele, Stout, Walker

Nays: None

**MOTION CARRIED.**

**DISCUSSION/APPROVAL: Trout Unlimited Paint Creek Habitat Restoration:** Mr. Eli Stanesa, 3321 Paddington Dr., Troy, MI 48084 and Mr. Joe Bruce, 1959 Blue Grass Ct., Rochester Hills, MI 48306, are here representing Trout Unlimited, Vanguard Chapter. Mr. Stanesa indicated a letter outlining the proposed consent was sent to Trail staff and the Condo Association. They have been working for a few years behind Dinosaur Hill, and would like to work in the river to create in-stream habitat structures to preserve the trout population and change the course of the river to centralize the flow and trap sediment to lower pollution. They have been working there for two years, and now propose to start working from the beginning of Tienken Road down to the beginning of Dinosaur Hill, about 1,700 feet. They are looking to get consent from the Commission and the Condominium Association to work in the river. That's part of their permitting process. Ms. Gamage thanked the applicants for all the work they have done in the river and on the trail. She is not familiar with what makes better habitat, and asked if they follow specific guidelines to determine what to do. Mr. Stanesa said their focus is to lower the pollution and create habitat for the brown trout. To decrease pollution, you create a central meandering stream rather than from each side – it channels the flow to the center. To do that you add log structures in the stream. The Michigan Departmental of Environmental Great Lakes and Energy have strict requirements about what can be done, how to do it, when to do it and are involved in the project. He also has hired a qualified environmental contractor to oversee everything and provide some of the material. Mr. Walker asked what type of permission is needed from the Condo Association. Mr. Stanesa said the same type of permission that is sought from the Commission – to do work in the river from bank to bank, it's part of their permitting requirement and it restricts them from doing anything outside the bank. They will bring in logs and anchor them to the bottom of the river. Mr. Walker asked if there is a formal document that needs be signed. Mr. Stanesa said yes read the letter that was sent to both consenting entities. They need permission for the work and a limited temporary limited easement. Ms. Gamage asked if staff received proper insurance and if we need any more information from the applicants. Ms. Ford indicated usually for any limited access we ask for a certificate of insurance and asked if Trout Unlimited would be able to provide this. Mr. Stanesa said they would not be doing anything on the trail, they are confined to the river. They have liability insurance and can provide if necessary. The City of Rochester did not ask for this when granting permission to work in Dinosaur Hill. This is the first time they have been asked for this type of information. Mr. Becker asked how long the easement will be in place. Mr. Stanesa indicated they wanted to begin work this year, but because of the circumstances they couldn't have meetings or get the permit in place for quite some time. They will try to do some of the work this year and finish up next year.

They will be out of the river by the time spawning season begins next fall. The DNR will exclude them from the river sometime in September. They received a grant from the national organization which expires next year. Chairman Blanchard asked the applicants to let staff know the dates they will be doing the work, and suggested that something could be put on our website asking for volunteers. Ms. Gamage asked if the verbiage provided was written by the applicants – to which the answer is yes. Mr. Stanesa hopes it satisfies what his department wants. Ms. Gamage asked staff if the verbiage is standard with our usual limited use permit. Ms. Ford said she will also have the applicant fill out the Commission's form, so everything is covered. Mr. Stanesa will coordinate the work dates with Ms. Ford. The Commission expressed appreciation to Trout Unlimited for all their work and asked them to share results of this project with the Commission.

**MOTION** by Gamage, seconded by Stout, *Moved*, to approve this project, contingent upon the applicants filling out the Commission's form and providing insurance information.

Roll Call Vote:

Ayes: Blanchard, Ferriolo, Gamage, Sage, Simon, Steele, Stout, Walker

Nays: None

**MOTION CARRIED.**

**DISCUSSION: Limited Use Permit, Dillman & Upton:** Ms. Ford said she's not sure if the Commission needs to discuss this item anymore because the applicant notified staff today that they are only going to repair the fence, not replace it. She is still waiting to hear from them on whether or not they need to access the trail side of the fence to complete the work, so we might not need to act on this request tonight. Chairman Blanchard suggested tabling this item until next meeting. Ms. Gamage commented the fence is in really poor shape and has been repaired several times. She asked what the delay is on fixing it and why they changed their mind on replacing it. Ms. Ford thinks they don't want to go through our permitting process. Ms. Gamage asked if the applicant indicated they are going to fix the fence correctly. Ms. Ford said they submitted paperwork today and the reason for their request is to repair the fence. Their plan is to straighten and repair it, and to remove overgrown brush. They also submitted pictures of the fence. Ms. Gamage has concerns because of the way they have repaired in the past – they lean things like branches, 2 x 4's and broken pieces of wood outside of the fence and into trail property. This has been an eyesore for quite some time, and likely a liability. The fence leans substantially, and is a huge fence. She wants to make sure the repairs are done correctly and we don't have to approach them for further repairs in the near future. Mr. Sage commented it's the middle of August, they have known about this issue since last year, and asked what kind of time-table we're going to set for them as he anticipates two months from now they will say winter is setting in and we'll try to get to it next year. Ms. Ford stated when she met with the retail manager last week, he said they had a post hole company coming in within the next few days to replace the fence. Now she's hearing that's not the case – they only are going to repair it. It appeared they were ready to proceed with the plan last week. Mr. Sage asked what the desired outcome should be, because this can be communicated to them. If they can't comply, then we have to assist them in a way that they will. Mr. Blanchard agreed and said the Commission could direct the manager to draft a letter with our wishes that they would replace the fence, or correctly repair it. Mr. Ferriolo asked if the Commission has had any bad experiences with the applicant in the past as that could frame how we proceed. Ms. Gamage said the applicant has been a good friend to the trail, donating benches and things for projects on the trail in the past. The fence has come into disrepair over the last few years and there has been trash blown over from their parking lot to our side of the fence. There is also the issue where the trees were cut down and Rochester is not replacing them because they are concerned about the applicant pushing snow and dirt onto where the trees should be replaced. They had plowed snow and junk right onto the trail proper, and we had received complaints about that. She agrees the applicant has been a friend to the community and to the trail in previous years, however the fence issue has gone on for several years. Mr. Becker

concur with Ms. Gamage's comments – maybe we have to do a better job of working with them. Mr. Ferriolo said he would not start with a letter – he suggested the Chairperson and the Trail Manager have a sit-down meeting with Mr. Upton. Mr. Blanchard agreed and suggested a representative from Rochester also attend. Mr. Stout agreed with what Mr. Ferriolo stated, however each municipality has minimal code requirements for installing any fence. How this fence is supported does not meet code. If the talks fail, maybe this is the next step, as there is a minimum standard and this fence does not meet these standards. Ms. Pinkham asked if we have any legal recourse if they don't clean this up – what can be done? Ms. Ford explained they have a license agreement with us, and if we request them to do maintenance and they don't comply within a certain time frame, we can do the work ourselves and bill them for it. Mr. Stout asked if this project would fall under this agreement. Ms. Ford stated she's not an attorney, so she doesn't want to say yes without our attorney reviewing the license agreement, but feels it would apply in this case. Mr. Stout said this agreement could be brought up in the meeting. Mr. Becker remembers that Rochester has a detailed fence ordinance, and suggested it be reviewed. Mr. Simon commented Dillman & Upton is the premier lumber yard in Rochester, and it would be a shame if they didn't step up and do the job right. Possibly the Rochester Building Department could go out, look at it, and report back to the Commission on what they think could be done to repair or rebuild it. Mr. Blanchard said this could be done after the meeting with the applicant to allow them a chance to step up. Mr. Sage asked that he be kept in the loop regarding this issue so he can involve the City if needed, and will provide staff with a copy of the fence ordinance. It is Mr. Ferriolo's opinion that a meeting should be scheduled without a list of demands up front, and that our attorney review the license agreement before the meeting to make sure we know where we stand. (tape cut out for a bit) .... Ms. Ford said the fence is on our property – they are licensing 20 feet of our right-of-way – the fence is the start of the 20 feet. Mr. Stout believes we are responsible for safety issues as the licensing agent for that easement, so if the talks don't prove fruitful, the photos of the fence could be sent to Rochester's Building Department as the next step. Ms. Gamage suggested the individuals involved in the meeting take a walk along the fence on the trail side to view the condition. She feels they are licensing 20 feet into prime trail property for a minimal amount, and losing the license would probably cause them a hardship. A meeting will be scheduled as soon as possible.

**DISCUSSION/APPROVAL: Bridge 33.7 Stair Design:** Updated plans for the stairs are included in the packet. Ms. Ford indicated the design has changed based on her conversations with Mannik Smith Group (MSG) as well as talking to the neighbors in the area who weren't able to attend last month. The one point the neighbors were concerned about was the lack of access for their bikes – they wanted a way to get their bikes up and down onto the trail. In talking with Mr. Blanchard, it appears the stairs at Goldengate on the trail has a side ramp that's used for bikes, so MSG has incorporated this into the design on both sides of the stairs. Also included in the packet are answers to the questions brought up at the last meeting. Once this design is approved, MSG would be able to get the plans finalized to go out for bids within a few days. Mr. Becker feels the design is fine and the idea for the bikes is a great idea – he asked if the design is now a straight path going down, no more an L-shape or a curved design. Ms. Ford indicated yes, without a landing. If Mr. Becker was allowed to make a motion, he would do so, and Mr. Walker seconded. Ms. Olijnyk asked if they could have designed a straight path, why were they proposing a curve or a landing, when a straight one is so easy. Ms. Ford said MSG felt those designs went better with the topography of the land, and the price differential was negligible, so it was a design choice. Mr. Blanchard added that the only request by the neighbors was bike access, which could be accommodated with a straight path design. Ms. Pinkham said that because no stairway meets ADA requirements, is this an issue for any funding. Ms. Ford said the stairs are not ADA compliant, but there are certain ADA guidelines about the width and the height, and the design meets these guidelines. Mr. Ferriolo asked if we are sacrificing something

relative to erosion or anything else by not having a landing at the bottom of the staircase. Mr. Simon indicated they are using geo-fabric to hold the pea gravel in and according to their discussion, the flow of the water at that location won't be fast enough to do any damage. He feels confident the design looks good. Ms. Gamage asked if there was a concern with the top rail interfering with the bike handlebars. Ms. Ford said the bikes will have to be angled a bit to avoid the railings. As Mr. Becker can't make a motion, Mr. Sage agreed to make the motion.

**MOTION** by Sage, seconded by Walker, *Moved*, to approve the stairway design as presented.

Roll Call Vote:

Ayes: Blanchard, Ferriolo, Gamage, Sage, Simon, Steele, Stout, Walker

Nays: None

**MOTION CARRIED.**

**UPDATE/DISCUSSION: Moutrie Pollinator Garden:** Mr. Louis Carrio, President of the Friends Group, explained he revised the sign based on suggestions received at the last meeting. Photos of the sign are included in the packet and displayed on the screen. This is the sign proposal that will be turned over for professional production at the sign shop if the Commission likes the concept. The suggestions included some grammatical changes, making the sign colors align with the new trail signs that are in design and including some actual pictures of plants included in the garden. He was able to capture some plants that were being visited by pollinators. He tried to keep the sign simple, keeping in mind the objectives were to explain how pollination works, to encourage stewardship to educate viewers and to encourage them to develop their own pollinator gardens. The sign includes one QR code and that code will take people to the website that would then branch off to Rochester Pollinators or to Michigan State Extension. If the sign is OK'd, the next step would be the sign shop for a professional design appropriate for printing. A photo was displayed showing the sign against a TV screen for a visualization of the actual size. The last photo displayed was of the sign's possible location. Mr. Carrio suggested placing the sign in the center of the entrance to the pathway would accomplish a few objectives. It would discourage the rapid progression of bicycles into the trail, which often happens, and some of the bikes are traveling pretty fast. The angle of the entryway to the garden is an enticement to do just that. When fencing is installed, you won't be able to go anywhere easily, but you don't know that at the entrance. The widest part of the entrance is 11 feet, but narrows down to seven feet where the memorial stone is located. Somewhere between the entrance and the memorial stone, the informational sign could be placed that would still allow for ADA compliance of 36 inches. As you move into the pathway, the sign could be moved to the left and leave a minimum of 36 inches for passage on the outside. Mr. Ferriolo thanked Mr. Carrio for his work; the information is simple and direct, and is something to evoke interest for the reader. It's enough to excite someone to read it and move into the garden. He does not however, see the Commission's logo and feels it should be included on the bottom. Ms. Mungioli commented the logo is on the base of the stand. Mr. Becker thanked Mr. Carrio for toning down his concern about a negative comment on the last sign draft, and has no objection to the revised sign. Mr. Sage asked what the reasoning was to not place the sign on either the right or left side of the entranceway. Mr. Carrio originally thought of placing the sign on the side, but the thing with the bikes has become a real concern to the safety and damage of the plants. He's out at the garden a lot and has seen a lot of issues, but beyond that, for the sake of discussion – if we move the sign into the pathway approximately two feet, you have a place for people to stand and it will impede the progression of bicyclists. It's a natural place for people to stand, read the sign, and be invited into the garden. Mr. Sage asked what the fence does. Mr. Carrio said the fence doesn't (can't understand). Mr. Sage said the fence is around the garden to keep bikers out, right? Mr. Carrio said the fence is around the garden to keep bicyclists from entering from the side path. Mr. Sage asked why would someone ride their bike into something they can't get out of. Mr. Carrio explained they don't know they can't get out of it until they are in it. He sees bike tracks in there frequently where you see a skid where someone stops abruptly to turn around and go back. He also sees

tracks through the garden out to the side trail where they can exit by jumping over a log. There is more than one reason to put the sign at the entry, but it can be moved to the side. Ms. Steele really likes the sign and appreciates what Mr. Carrio has done. She loves everything the garden represents; community and people slowing down to take a minute to reflect. She feels the Friends Group should be added to the list of donors because of the time and effort put forth. Ms. Olijnyk feels the sign is beautiful and thanked Mr. Carrio for all the work. She also feels putting the sign in the center as a deterrent to the bikes is a good idea, but wants to make sure it's inside far enough so that people aren't bunched up on the trail proper impeding other trail users. Ms. Gamage loves the sign, but is not sold on the placement in the middle of the entrance as it looks out of place to her. If the main reason is to deter bikes, she's not sure this will accomplish that. She's not sure what else can be done, but maybe someone else has an idea on how to deter the bikes. Mr. Sage suggested a bike rack could be installed next to the sign asking people to please park their bike before entering the garden. Mr. Blanchard really likes the sign but doesn't like the center placement – he would rather see it closer to the garden. He has talked to Mr. Carrio and Ms. Ford about a bike rack, but we have to decide what kind it should be. It is definitely needed there because people do stop and park their bikes, but there's no place other than the grass or the ditch to put them. The idea was to approach someone that wants to donate a bench to donate the bike rack – it could also be an Eagle Scout project. Mr. Carrio said we don't need to finalize the sign location tonight, but if everyone agrees on the sign, he can proceed to the sign shop for the design. When we approve the final design of the sign, we can agree on the exact placement. The sign will match the color codes of the new signage, the question is whether or not we want the framework of the sign to be of the same color or a slightly contrasting color. The Rochester Sign Shop is going to tell him whether they can match the paint, or how much more it would cost to do so if any.

Fence Discussion: Ms. Ford indicated at the request of Chairperson Blanchard she contacted the Community Foundation of Greater Rochester to see if we could apply for a grant to finance the cost of the new split rail fence. They were open to that idea, so she submitted an application and it was approved for \$2,000. We need a discussion as to whether to proceed with the wood split rail fence after she had the risk control visit with the insurance company. The risk control consultant came out a few weeks ago, looked at the garden and the dirt path, talked about the issues with cyclists, and made a few recommendations which are included in a memo in the packet. One of the recommendations is that the fence needs to be something that's visible so approaching cyclists can see it. A wood fence blends in with the natural surroundings and would not be easy to see from a distance. He recommends the fence be stained a bright color or painted white, or to select a different type of fencing that's more prominent to cyclists as they approach so they are forewarned. He also recommended we put hazard signs at the access points saying use dirt path at your own risk, uneven surfaces, no maintenance on dirt path. Mr. Becker feels the sign is silly and does not recommend putting it up. If we wanted to do this, a sign would have to be put up every half mile on the trail. He's been on many dirt paths in many places where there is no such warning. He hopes we can avoid these types of signs. He has no opinions about the other two things – the gates or the rocks inside. Mr. Ferriolo agrees with Mr. Becker – if we can avoid this, we should, but it depends on how stiff this demand is. Sometimes things like that happen because somebody doesn't get the whole picture, perhaps a little talking through can affect a change. We don't need to have these kinds of sign. However, if it comes down that all of a sudden there is a great insistence that we put them there, does it affect the grant. He feels we need to push back a bit. Mr. Sage agrees we don't need another sign, and the fence should only open into the garden. Unless the assessment has some more compelling argument to it, why shouldn't we keep the split rail fence a natural design – are we going to paint it a bright orange or neon green. This would detract from the beauty of the garden - the fence would become the focal point, not the garden. Mr. Blanchard sees some of the points the risk manager suggested, but

doesn't know what happens if we don't do it and someone runs into the fence; but they are our insurance company. Mr. Simon agrees to keep it a split rail fence. They have been around for hundreds of years and are not painted. They age very nicely and would fit with the trail. The last point about the rocks and logs risk of collision – we've allowed electric bikes on the trail which reach weights of up to 60 or 70 pounds. If one of these bikes runs into the informational sign in the middle of the path at speed, there's going to be real damage to somebody or something versus moving the sign to the edge of the pathway. Eliminating the risk of a collision should be important in our consideration on where we place the sign. Mr. Blanchard thinks we need the signs on the side trail that say the trail is not maintained because we maintain the rest of the trail and ask member communities to fix any holes. No one watches or maintains the side trail, and if someone gets hurt, it's our property. It's not the garden's fault, these things have probably been happening all along. All it takes is one incident, and a lawsuit is filed because someone gets hurt because we didn't maintain it and it's our property – he feels it was a good suggestion by the risk manager to put up a couple of signs. He agrees with a split rail fence because he feels it fits into the rustic look of the trail. Mr. Becker is in favor of a split rail fence not painted any color. He asked how many reports of accidents on the side trail have been filed. Ms. Ford said Mr. Carrio and Mr. Blanchard witnessed a little girl fall, hit a rock and get injured; thank goodness for her helmet. Mr. Becker asked how many accident reports have been filed on the main trail, as he doesn't know of one. Mr. Blanchard knows of one and was involved in a lawsuit regarding erosion in Orion, but the Commission did not have to pay. He said the side trail isn't maintained, so the chances of there being more holes and erosion, is greater. Ms. Olijnyk suggested adding something to the sign post that indicates no maintenance. Mr. Sage would like to make a motion. **MOTION** by Sage, seconded by Simon, *Moved*, to agree to a natural split rail fence, not painted and to move forward on this.

Discussion: Ms. Ford asked if the members want to see a picture of the other fence. Mr. Blanchard said this fence is a lot more formal and visible. Ms. Gamage stated that because we consulted our risk management, we should give consideration to what they have to say. Were they saying that we should not do a split rail fence, or if we do, we should paint it? Ms. Ford indicated they were not in favor of a split rail fence, and said this is what the Commission was thinking. And he said if we were going to do that, it needed to be a color that stood out – painting it or staining it a color. His first choice was putting arborvitae around the whole garden so it was a natural barrier of plants. Ms. Gamage said to her personally, a split rail fence is visible. It's natural and seems fitting, but not if he says it doesn't stand out enough. She doesn't feel it will be aesthetically pleasing, but when we consult experts about this when we're trying to solve a problem, we do have a responsibility to listen to their suggestions. We can disagree with them, but we went to them for a reason, and one of them is the side trail. It's not the pathway into the garden and it's not the maintained trail, but they want a warning on this foot path that has been worn down by years of use from primarily Kings Cove residents. We went to them primarily because there was consideration for banning bikers from that section of the trail because of the risk to them, and to walkers because it is a deeply rutted trail. Putting something on the base of the information sign in the garden doesn't tell users of the footpath that the side trail is not maintained. That would not be following their recommendations and pointless to put the sign there. She asked if we asked the risk manager what would happen if we don't follow the recommendations – are we at any risk? Ms. Ford did not ask this question. Ms. Gamage asked Ms. Olijnyk if we are obliged to follow the recommendations. Ms. Olijnyk doesn't know what our policy says about that, so she can't answer. Mr. Sage said he would either amend his motion to paint the fence white, or he will retract it at the pleasure of the Commission. Mr. Blanchard is not in favor of painting the fence. **Mr. Sage retracted his motion for further discussion until we can come to a proper consensus on the fencing. Mr. Simon agreed.**

Mr. Blanchard would like to ask the risk manager one more time about what happens if we don't follow the recommendations. He doesn't think we should paint it. Mr. Becker doesn't agree with a painted fence, but asked Ms. Ford when talking to the risk manager, if she would also ask if we put up the signs, does it really absolve the Commission of any responsibility. It's his impression if you put up a sign that says use dirt path at your own risk, uneven surface, no maintenance – and we're still responsible, it does nothing at all to (???) us of things we should be doing if we should be doing it, and if we should not be doing it, the sign is not necessary. He asked that Ms. Ford check this status. Mr. Carrio suggested the risk is at the two ends of the garden, and suggested Ms. Ford talk to them about having arborvitae at the ends where the risk is the greatest. Once you're going around the garden, you're not going to make a sharp turn to run into the fence. Mr. Simon said if we put up a cedar fence, there is a gray stain you can apply to help encourage it to weather out and turn gray. A gray stain would stand out more than flowers, trees or green bushes. It would not have to be maintained, it's just a head start. Something like this would fit into the natural beauty we're trying to preserve. At the end of each fence, you could put rails that go down into the dirt like the cabling on telephone poles. Mr. Stout doesn't want the members to think he's not safety conscious because he is, but feels we're barking up the wrong tree. He feels the proper question to ask is if we are properly insured as a trail and municipalities, because all the signage in the world will not keep us from getting sued. Risk managers also want you to fill out incident reports every time you administer a band-aid to an individual. He suggests not asking them for potential scenarios, because we'll get the doomsday one, which is not what we want to see. At some point, use trail at your own risk will come into play. Signage is not necessarily a bad thing, but will not keep us from getting sued and will not keep bicyclists from going where they shouldn't go. (Ms. Mungioli's statement keep cutting out – this is what I heard) Ms. Mungioli's opinion is that once you ... the risk manager about something and he's given you advice, if you ignore it, what does it do .... and are we covered. That whole ... beg for forgiveness than ask for permission – well we've already asked and are now on the other side. If you ignore, what are the implications to us and our liability. Lawsuits happen regardless of ..... paper it's written, or the signs that are posted, especially if they think you have deep pockets. .... Now that we have asked for permission first, we need do due diligence on the asking part so that we don't find ourselves at a liability because we ignored the advice that was given. She asked Ms. Ford to go back to them and get clarification for us about what happens to our policy, are we still liable if people still do things if we ignored the advice of risk management. As a legislative body, we have a responsibility to the taxpayers and communities we represent to make sure we are not putting our organization in a liability area and then have to be worried about being sued and/or ..... our communities ... with deep pockets. Now we need to take necessary precautions because we've asked. She asked that Ms. Ford to go back to the insurance carrier, find out what our liability is, how we have opened ourselves up to this, people can ... what they may ... but as long as we have covered our liability aspect of it, our lawyers can defend us and that's very important.

**MOTION** by Steele, seconded by Stout, *Moved*, to approve a split rail fence painted to not be a natural color, and move forward with this project and be done with it.

Discussion: Mr. Ferriolo agrees the split rail fence is fine, and thinks Mr. Simon's statement about coloring it is appropriate. However, he agrees with Ms. Mungioli – we may have crossed the line here, and would like to make sure that we don't have what we are saying tonight come back and hit us in the future, even though it would be a rare occurrence, because it doesn't seem like having a sign up is going to make much of a difference. He can't support the motion as it stands based on getting a final determination, at least on the split rail fence with a color, and the appropriate markers. He wants to see if we can get an OK from the risk manager on that. The signs might not make much of a difference in terms of our liability – that should be asked of the risk manager as well. If we do ignore it, it's going to be the kind of element that if someone is going to sue us, it's going to be flashed in our face. Mr. Simon asked that Ms. Steele consider

amending her motion to say staining or painting the fence. Ms. Steele said Mr. Carrio has done an excellent job and that we give him the ability to make the decision to either stain or paint the fence appropriately to accommodate all these discussion points. We should give him the onus to follow through appropriately; especially based on everything he's already proven that he's capable of doing and we don't need to micro-manage it. Her motion stands. Mr. Blanchard is not in favor of painting it white, and thinks we need to go back to risk management for clarification. Ms. Ford indicated the risk manager's recommendation was to plant flowering bushes that would fill in and be a natural barrier so if someone hits it, it would be softer and any injury would be less severe. She asked if the Commission was open to doing this instead. Mr. Sage suggested an amendment to the motion – natural split rail fence on the outside, so that it is not on the inside of the garden with safety signs to alert someone that is passing the fence that it is a fence, and it would not detract from the interior of the garden. Ms. Steele asked for Mr. Carrio's opinion. Mr. Carrio indicated there is a 500-pound boulder that could not be more natural right in front of the little path and nothing was said about that. He likes the idea of the split rail fence with some shrubs around it at critical points that would serve as a buffer. The idea of having some signs tacked up – maybe you could incorporate the warnings for the trail in those signs. Ms. Ford indicated the risk manager suggested removing all the boulders, or that they must be on the inside of the fence. As long as they are on the inside, they are fine with it. Ms. Steele and Mr. Stout agreed to amend the motion. Mr. Ferriolo is in agreement, as long as the insurance agency signs off on it as being satisfactory to their needs, but can't support the motion without this. The Commission thanked Ms. Ford for writing the grant for the fence and being awarded the funds. If we have to stain the wood and purchase shrubs, there will be additional costs. There is also a cost for the installation of the fence. Mr. Becker suggested keeping the Moutrie family informed of any aesthetic changes to the garden. Mr. Blanchard indicated nothing from the way the garden was designed will be changed. Mr. Carrio keeps the family aware of what is happening.

Amended Motion as Voted on:

**MOTION** by Steele, seconded by Stout, *Moved*, to approve a split rail fence outside of the rocks, stained or painted to a color that's not extremely natural, to the Paint Creek Trail Friends color of choice, to include trees and bushes and move forward with this project.

Roll Call Vote:

Ayes: Sage, Simon, Steele, Stout, Walker

Nays: Blanchard, Ferriolo, Gamage

**MOTION CARRIED.**

**MANAGER'S REPORT:** In addition to the written report, Ms. Ford indicated the new audio sign is up at the bridge, thanks to Oakland Township Parks & Rec for the installation. The parking lot resurfacing will start this week, the lots were closed today, the stone should be delivered tomorrow, and WCI will be working on it Thursday and Friday. It should be finished this week. Some photos of the new bridge at Clarkston and Kern are included in the packet, and Ms. Steele forwarded a video to share with the members. Mr. Simon asked how much the bridge cost. Ms. Steele is not sure what the cost to install the bridge was, she was never given an exact answer to where she could compare this bridge to our new bridge. Ms. Ford played the video, but there is no audio. She will forward the link to the video to everyone for their viewing.

**COMMISSIONER REPORTS:** Mr. Simon reported another log jam is planned, but doesn't have the date. Ms. Steele reported the bathroom at Clarkston and Kern is open. Ms. Munglioli thanked the Commission for their commitment to the trail.

**ADJOURNMENT OF REGULAR MEETING TO ENTER INTO CLOSED SESSION:**

**MOTION** by Sage, seconded by Gamage, *Moved*, to adjourn the Regular Meeting and enter Closed Session at 9:10 p.m.

Roll Call Vote:

Ayes: Blanchard, Ferriolo, Gamage, Sage, Simon, Steele, Stout, Walker  
Nays: None

**MOTION CARRIED.**

Return to Regular Meeting at 9:30 p.m.

**ADJOURNMENT OF REGULAR MEETING:**

**MOTION** by Gamage, seconded by Stout, *Moved*, to adjourn the Regular Meeting at 9:31 p.m.

Roll Call Vote:

Ayes: Blanchard, Ferriolo, Gamage, Sage, Simon, Steele, Walker

Nays: None

**MOTION CARRIED.**

**NEXT REGULAR MEETING: October 20, 2020 at 7:00 p.m. – Paint Creek Cider Mill**

Respectfully submitted,

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MELISSA FORD, Trail Manager

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DAVID BECKER, Secretary