

REGULAR COUNCIL MEETING MINUTES - TUESDAY, FEBRUARY 16, 1999 - PAGE 1

Present: President Kennedy; President Pro-Tem Buterbaugh; Members: Craig, Lison and Walsh

Absent: Mooney and Worrell

Also present: Village Manager, Hanlin  
Village Clerk, Marshall  
Village Attorney, Ryan

President Kennedy presided and called the meeting to order at 7:45 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

**APPROVE MINUTES OF A REGULAR COUNCIL MEETING HELD ON MONDAY, FEBRUARY 1, 1999**

A correction was made on page 12, second paragraph from bottom, to change the word “people” to read “homes”.

MOTION by Craig, supported by Lison, that the minutes of a regular Council meeting held on Monday, February 1, 1999 be approved as amended.

Motion passes unanimously.

**PUBLIC COMMENTS ON ITEMS NOT ON THE PUBLISHED AGENDA**

William Wogan Jr. of 17160 Birwood commented that he appeared before Council in August of 1998 following basement flooding in the Village and again in November. At those meetings he suggested what he thinks is a reasonable interim solution to the flooding problems experienced by residents in the Acacia Drain district during severe storms. Wogan gathers that there is no interest or support for his suggestion since it was not acted upon by Council. He remarked that he is not a member of the citizen group that is taking legal action against the Village for redress of the flooding situation.

Wogan stated that his proposal is for the Village Engineer to negotiate with plumbing contractors to arrive at the best possible price for check valves to be installed in those homes that were inordinately impacted by basement flooding in the Acacia District. He believes that the Village has a record of households that were severely impacted. He proposes installation of check valves as an interim measure until the sewer project is undertaken by the Village to relieve the Acacia Park district. Wogan asked Council to consider compensating residents for installing check valves by offsetting that cost on their tax bills over a period of five years.

Wogan maintains that the health of the citizens and the value of homes in the affected Acacia District should be protected. Whether a resident lives on the west or east side of Southfield Road should not make a difference.

Wogan understands that Council decided against accelerating the repairs to the Acacia District at its last meeting. He thanked Elaine Kennedy for attempting to steer the Council towards directing the Finance Committee to study alternatives for funding the Acacia Interceptor relief sewer. Wogan related comments made by Council members at the last meeting regarding whether it is cost effective to accelerate the Acacia District sewer repairs to alleviate flooding for approximately 150 homes. He quoted from newspaper articles that related to basement flooding and the affect on property values in the Village. He thinks that the Village should consider his proposal for installing check valves in the homes that request them to allow those 150 homeowners to be protected against the next storm.

Lawrence Needham of 15588 Kirkshire concurs with Wogan's comments. He thinks that the Village has an obligation to provide some form of relief to the residents in that area prior to the time when funds become available for the Acacia relief project. Check valves may be an interim solution.

Needham commented that he is disappointed with what he views as excess secrecy surrounding a pending lawsuit against the Village filed by residents who experienced basement flooding this summer.

Ryan explained that the municipal corporation of the Village of Beverly Hills is involved in a lawsuit and is entitled to the same rights, privileges and immunities as any other individual litigant. Any client is allowed to speak to their attorney in private to discuss the status and direction of litigation. That is all the Village Council is doing. Council members are the Village's representatives; they are the people that make the decisions in the best interests of the Village. He remarked that this is a very new lawsuit. There are certain discussions and offers that need to be considered in private with the Village Council.

Needham asked that the public be informed of everything relative to this pending litigation that will not jeopardize the negotiations.

**PUBLIC HEARING TO REVIEW AND CONFIRM THE 1998 SPECIAL ASSESSMENT ROLL FOR THE VILLAGE BUSINESS ASSESSMENT DISTRICT**

MOTION by Buterbaugh, supported by Craig, that, whereas the 1998 maintenance cost for the Southfield Road Business District was \$4,164.00, and; whereas, the 1998 water cost for the sprinkling system for the Southfield Road Business District was \$2,456.60; therefore, be it resolved that the Village of Beverly Hills Council confirms the Village Business District Assessment Roll for Southfield Road maintenance for the 1998 season in the amount of \$6,620.60 as follows:

Beverly Hills Racquet Club	\$1,265.36
Creative Concepts in Advertising, Inc.	502.99
Beverly Hills Grill	196.01
Petix	368.28
Emile's	570.95
Taco Bell	435.28

31333 Building	579.45
Beverly Venture	1,293.78
Vic's Fruit Market	1,408.50

President Kennedy declared the public hearing open at 8:11 p.m. No one wished to be heard; therefore, the public hearing was closed at 8:12 p.m.

Roll Call Vote:  
Resolution passes unanimously.

**REFER REQUEST FROM BUCKLES & BUCKLES FOR SITE PLAN REVIEW OF 17845 W. 14 MILE ROAD TO THE PLANNING BOARD FOR RECOMMENDATION**

Walsh stated that Mike Buckles representing the law firm of Buckles & Buckles at 17345 W. 14 Mile Road has submitted a site plan for an addition to its existing building.

MOTION by Walsh, supported by Craig, to refer a request for site plan review from Buckles & Buckles, 17845 W. 14 Mile Road, to the Planning Board for its review and recommendation.

The Zoning Board of Appeals at its February 8, 1999 meeting heard an appeal from Buckles and Buckles for a variance from the Zoning Ordinance on two issues. The petitioner requested a variance from the maximum one story building height to allow a one and one-half story building height for an addition to match the existing structure. The second request for variance was to allow landscape screening in lieu of a six foot high screening wall. The ZBA granted both appeals.

Craig expressed the view that Buckles and Buckles has done a nice job remodeling an old residential site. He asked that the Planning Board address the off-street parking needs of the site.

Buterbaugh commented that the building is an outstanding example of transforming a run down residential building into an office building that is compatible with the character of the neighborhood.

Motion passes unanimously.

**SECOND ANNOUNCEMENT OF VACANCY ON FINANCE COMMITTEE**

Buterbaugh made the second announcement of an opening on the Finance Committee. He noted that no one has expressed an interest in this position to date.

MOTION by Buterbaugh, supported by Craig, to extend the deadline for receiving applications for the vacancy on the Finance Committee until Wednesday, March 10, 1999 at 5:00 p.m.

Motion passes unanimously.

**FIRST READING OF AMENDMENT TO THE ANIMAL CONTROL ORDINANCE**

Ryan remarked that the proposed ordinance is a result of discussions between the Village Manager and Township Supervisor. The Township is responsible for the animal control function in the villages of Beverly Hills, Franklin, Bingham Farms and the unincorporated areas of Southfield Township. Southfield Township is in the process of updating its animal control ordinance and requests that the three villages be in sync with their ordinances.

Ryan conducted the first reading of an ordinance to amend Chapter 14 of the Village Municipal Code relating to dogs and other animals; providing for the licensing thereof; regulating and keeping of dogs authorizing their destruction in certain cases; and to provide a penalty for violation thereof.

Ryan addressed comments and questions from Council. Township Clerk Tischler was able to explain the background and rationale for certain ordinance sections. She related that Township trustees are reviewing this ordinance and have expressed concern with language requiring authorization for residents to use live traps. The animal control people use live trapping as a source of removal for animals other than dogs. Ryan interprets the ordinance as permitting residents to use an approved trap in a humane fashion to dispose of the animal in a humane fashion.

Ryan stated that Chapter 14 of the Village Ordinance was expanded about ten years ago to regulate cats. That section would not be changed by this amendment. He suggested that the Village interface with the Township Board regarding a cat ordinance. Council members voiced their interest in preserving and enforcing the cat ordinance.

Tischler stated that the proposed ordinance is being reworked to incorporate concerns of the Township Board. It will be a topic of discussion at the March Southfield Township Board meeting. Ryan will contact the Southfield Township attorney about changes suggested by the Township trustees. The Village will work with the Township on drafting this ordinance amendment.

MOTION by Lison, supported by Buterbaugh, to hold the second reading of the proposed Animal Control Ordinance at the second Council meeting in March.

Motion passes unanimously.

#### **REVIEW AND POSSIBLE APPROVAL OF DRAFT REQUEST FOR PROPOSALS FOR AUDITING SERVICES AND DISCUSS DISTRIBUTION OF RFP**

Buterbaugh stated that the draft Request for Proposal was reviewed by the Finance Committee at its February 9 meeting. Committee members made suggestions which were incorporated by the Finance Director into a revised draft. The Finance Committee suggested additional firms to be sent a RFP.

The process for narrowing down the selection and conducting interviews will be decided at a future Council meeting.

MOTION by Buterbaugh, supported by Craig, to authorize administration to proceed with distribution of Request for Audit Proposals.

Motion passes unanimously.

**APPROVAL OF BILLS RECAPPED AS OF TUESDAY, FEBRUARY 16, 1999**

Buterbaugh explained the process for reviewing invoices by the Village staff and himself.

MOTION by Buterbaugh, supported by Walsh, that the bills recapped as of Tuesday, February 16, 1999 be approved for payment in the following amounts:

\$259,101.01	General Fund
16,490.19	Major Road Fund
6,645.48	Local Road Fund
90,344.51	Combined Sewer Overflow Fund
32,843.46	Water/Sewer Operation Fund
6,685.78	Trust & Agency Fund

A question from Sharon Tischler of 21415 Virmar Court was addressed by Hanlin.

Motion passes unanimously.

**LIAISON'S REPORTS**

Lison stated that the two new public safety vehicles are being retrofitted with a police package and will be on the road in a few weeks.

Walsh stated that the Planning Board will be reviewing the Land Division Ordinance at its next meeting. The site plan from Buckles and Buckles will be an upcoming agenda item. Doyle Downey has submitted his resignation from the Planning Board effective February 28, 1999. Downey is running unopposed for a seat on the Village Council.

Craig stated that there will be a joint meeting of the Council and Parks and Recreation Board this Thursday. There will be discussion on the park master plan and its implementation. The public is welcome to attend.

Buterbaugh stated that the Cablecasting Board will meet tomorrow morning, February 17, at 7:45 a.m. in the Rotary Room of the Baldwin Public Library. The status of the franchise negotiations with MediaOne will be discussed.

**MANAGER'S REPORT**

Hanlin asked Ryan to comment on telecommunications regulations for the Village.

Ryan referred to a letter distributed to Council from MediaOne expressing its interest in offering telephone services over its Broadband network in certain communities. The Village's current Cable Ordinance does not allow them to do that. Ryan discussed this matter with the Village Manager and with Tim Currier, attorney for the City of Birmingham. Neither Beverly Hills nor Birmingham have a Telecommunications Ordinance. MediaOne and other providers would like uniformity in local

telecommunications ordinances. It is in the Village's best interests to join with Birmingham, Franklin, and Bingham Farms to arrive at a mutual telecommunication ordinance which will protect our rights-of-way and cover other aspects of protection for consumers in those communities. Ryan noted that the communities can refer to sample ordinances.

It was the consensus of Council to authorize Ryan to enter into discussions with Birmingham, Bingham Farms, Franklin and Southfield Township to draft a telecommunications ordinance for Council consideration.

Ryan presented background information and updated Council on the status of the fire damaged Ha-Lo building on Southfield Road. He reported on the outcome of the pretrial hearing held on February 11, 1999. Ryan outlined the terms and conditions agreed to by the owner of the Ha-Lo building, Linden Nelson.

Following the court hearing, the rubble around the building was cleaned up and cosmetic repairs were made to the outside of the building. Mr. Nelson indicated that he has a tenant for the building and expects a preliminary site plan to be submitted to the Village prior to the first of March. The Village could then begin its site plan review process for renovation of the building which would render it a productive property on the Village tax rolls.

Nelson will post a \$50,000 letter of credit with the Village. He has agreed to have a demolition permit pulled by March 15 and begin demolition of the front part of the building the next day to be completed by April 2, 1999. Ryan stated that the case has been adjourned until April 5. If Mr. Nelson accomplishes the demolition and clean up by April 2, it is the Village's intention to dismiss the ticket and release the letter of credit. If he does not do what he said he would do, the Village will proceed to trial on this matter, execute the letter of credit, and complete the demolition on the front part of the building. If all goes well, there will be a new, improved building on that site by June or July of this year.

Kennedy mentioned that the former Sara Lee store at the Thirteen Mile and Southfield Road shopping center needs attention. Hanlin stated that Byrwa will talk to the owner and ask him to have the outside repainted as soon as possible.

### **PUBLIC COMMENTS**

Dorothy Pfeifer of 31287 Heath Court referred to the Village's Cat Ordinance and suggested that the Township include cat regulations in its animal control ordinance.

Pfeifer commented on the remarks made by William Wogan earlier in the meeting. She does not think it is the business of Council to make recommendations to contractors. If there is enough interest in the area where flooding occurs, homeowners can locate a contractor to install check valves.

Pfeifer recalled when residents were under order from the Village to tie their sump pumps into a common drain going into the storm sewer. While the Village paid for one-half the cost of fittings,

each homeowner had to bear the cost of connecting the pipe from their property to the drain. That area was larger than the Acacia Park District and those residents did not receive a break on their taxes.

Sharon Tischler of 21415 Virmar Court remarked that there will be some resistance to adopting a cat ordinance from Bingham Farms and Franklin.

### **COUNCIL COMMENTS**

Craig urged residents who have an interest in serving the community to fill out an application for the vacant position on the Finance Committee.

Craig commented on Mr. Wogan's remarks. It is Craig's opinion that check valves just push the problems onto a neighbor. He does not think check valves are a short or long term solution to basement flooding problems.

Buterbaugh commented on the poor condition of Southfield Road north of 13 Mile Road in front of the Corners Shopping Center. It was mentioned that Village officials will be meeting with representatives from the Road Commission of Oakland County on March 3 at 3:00 p.m.

Buterbaugh mentioned that mail addressed to Council members and received at the Village office is not always able to be distributed and acted upon in a timely fashion unless Council members pick up their mail. It was indicated that mail received at the Village office is delivered to Council members every Friday.

Kennedy stated that Finance Committee meeting minutes are not distributed until they are approved by the Committee at a regular meeting. This distribution process has been requested by the Finance Committee. There was information in the December meeting minutes that would have been helpful in discussions Council has had over the past couple of months. Kennedy suggests that Finance Committee meeting minutes be distributed in a more timely basis. This will be discussed with the Finance Committee at its March 16 meeting.

Kennedy commented that it has come to her attention that there has been a drop in the amount of recyclables the Village brings to the SOCRRA facility. Buterbaugh suggested that this may be due to the collector placing the recyclables in the wrong bin. Newspaper may be going in with the regular trash.

Hanlin reported that there have been increased complaints about the Village's current provider handling recyclables inappropriately. In addition, the entire SOCRRA community is experiencing a decrease in the recycling effort, particularly in the area of magazines. She reminded people to recycle magazines. Recycling reduces the cost of processing the Village's regular trash. It was noted that second recycling bins are available to residents at \$10 each.

Kennedy referred to Mr. Wogan's remarks at this meeting. She affirmed that Council is going to do everything possible to discern how the Acacia District sewer improvements can be escalated. The

Village will be monitoring the sewer repair plan and look for every opportunity to accomplish that project in the appropriate way.

Kennedy asked everyone to vote in the Village Election on March 8. There will be a cake and coffee reception to honor outgoing Council members Mooney and Worrell immediately following the March 1 Council meeting.

MOTION by Lison, supported by Craig, that the meeting be adjourned at 9:40 p.m.

Motion passes unanimously.

**Elaine Kennedy**  
**Council President**

**Ellen E. Marshall**  
**Village Clerk**