

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

Absent: None

Also Present: Village Manager, Hanlin  
Public Services Director, Spallasso  
Village Clerk, Marshall  
Assistant to the Manager, Pasioka  
Village Attorney, Ryan  
Building Official, Byrwa  
Director of Public Safety, Woodard

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

**ADMINISTER OATH OF OFFICE TO NEWLY ELECTED COUNCIL MEMBERS BY HONORABLE SUSAN M. MOISEEV, 46th DISTRICT COURT**

Kennedy introduced the Honorable Susan M. Moiseev of the 46th District Court. Judge Moiseev administered the oath of office to newly elected Council members Doyle Downey, Elaine Kennedy, and Todd Stearn.

**ELECTION OF COUNCIL PRESIDENT AND PRESIDENT PRO-TEM**

Kennedy opened the floor to nominations for Council President. Walsh nominated Elaine Kennedy. Buterbaugh nominated Andy Craig. The nominations were closed.

Roll Call Vote for Kennedy:

Buterbaugh - no  
Craig - no  
Downey - no  
Kennedy - no  
Lison - no  
Stearn - no  
Walsh - no

Roll Call Vote for Craig:

Craig - yes  
Downey - yes  
Kennedy - yes  
Lison - yes  
Stearn - yes  
Walsh - yes  
Buterbaugh - yes

Craig is unanimously elected Council President.

Kennedy yielded the chair to Craig who opened the floor to nominations for President Pro-Tem of Council. Downey nominated Paul Lison. Stearn nominated Elaine Kennedy. The nominations were closed.

Roll Call Vote for Lison:

Downey	- yes
Kennedy	- yes
Lison	- yes
Stearn	- yes
Walsh	- yes
Buterbaugh	- yes
Craig	- yes

Lison is unanimously elected Council President Pro-Tem.

#### **APPROVAL OF MINUTES**

MOTION by Buterbaugh, supported by Walsh, that the minutes of the regular Council meeting held on March 1, 1999 be approved as submitted.

Motion passes unanimously.

#### **RECOGNITION OF CUB SCOUT PACK 1024 FROM BEVERLY SCHOOL**

Cub Scout Pack 1024 from Beverly School entered the Council chambers and conducted a flag ceremony. Buterbaugh recognized the members of Pack 1024 and the den leaders. On behalf of the Village Council, he presented the Pack with a Certificate acknowledging their attendance at the Council meeting. Buterbaugh answered questions from some of the scouts about village government.

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

Sharon Fox of 20605 Glenhill Court announced that the Village Woman's Club will sponsor an Appreciation Day for the Public Safety Department on Wednesday, March 17. Fox reminded residents that the Woman's Club is accepting nominees for Grand Marshall of the Memorial Day Parade. Residents who would like to nominate a war veteran for this honor should call the Village office for further information.

Fox expressed the view as a taxpayer that the Village should exhaust all possibilities of obtaining grants for park projects before asking the taxpayers to finance master plan improvements. She understands that one of the positive aspects of developing a park master plan is that it enables the Village to apply for certain grants.

Norm Downey of 23042 Nottingham Drive thanked the Council members for giving of their time and talents for Beverly Hills. Downey distributed and read a statement regarding finances for the "pay as you go" program for sewer and road improvements in the Village. He stated that the current

program for sewer system improvements is under funded by a projected \$2.5 million. He suggests that Council request options and recommendations from the Finance Committee and Village staff on the funding of the sewer system program. Downey is asking that Council be receptive to increasing water and sewer rates to cover maintenance and repair of the sewer system and also be receptive to a millage rate increase or bonding within the next two years in order to complete the "pay as you go" program.

**SECOND ANNOUNCEMENT OF VACANCY ON THE PLANNING BOARD**

Walsh made the second announcement of a vacancy on the Village Planning Board. Residents interested in serving on the Planning Board can obtain an application at the Village office during normal business hours. The last day to submit applications will be Wednesday, March 31 at 5:00 p.m.

**CONSIDER REQUEST BY THE JAYCEES TO HOLD ITS 10th ANNUAL EASTER EGG HUNT IN BEVERLY PARK ON SATURDAY, APRIL 3, 1999**

Council has received a letter from the Birmingham Area Jaycees announcing its Tenth Annual Easter Egg Hunt at 10 a.m. on Saturday, April 3 in Beverly Park. The Jaycees are requesting use of the pavilion on that day with the facilities opening at 8 a.m., traffic control support, and display of a fire truck in the parking lot. A liability insurance certificate has been submitted by the Jaycees.

MOTION by Lison, supported by Downey, to support the Birmingham Area Jaycees 10th Annual Easter Egg Hunt to be held on Saturday, April 3, 1999 at 10:00 a.m. at Beverly Park. Notice of the event will be displayed on the sign in front of the Village municipal building the week prior to the event.

Motion passes unanimously.

**CONSIDER COMMITTEE RECOMMENDATION TO FILL VACANCY ON THE FINANCE COMMITTEE**

Buterbaugh reported that a committee of Kennedy, Lison, and himself met prior to tonight's Council meeting to recommend an applicant to fill a vacancy on the Village Finance Committee. The committee reviewed one application submitted for this position and recommended the appointment of Gary E. Mach to fill a vacancy on the Finance Committee.

MOTION by Buterbaugh, supported by Walsh, to appoint Gary E. Mach to fill a vacancy on the Finance Committee.

At Stearn's inquiry, Buterbaugh outlined the qualifications of Mr. Mach for this position.

Motion passes unanimously.

**DISCUSS IMPLEMENTING PARK MASTER PLAN**

Council members received copies of a flyer this weekend called "Friends of Beverly Park". It was drafted by Pat Greening for the purpose of initiating the implementation phase of the park master plan which was approved last year by the Village Council.

Craig related that the total cost of implementing the park improvements outlined in the master plan is estimated at \$750,000-\$1 million. He commented that Beverly Hills cannot afford to undertake these projects in the foreseeable future knowing that there are a number of other pressing issues that demand the Village's finances. Funding options for park projects have been explored including forming a foundation and applying for grants. The park master plan is on file with the State of Michigan in Lansing and administration is pursuing grants.

At its March 4 meeting, the Parks and Recreation Board suggested establishing a Friends of Beverly Park committee as a means of soliciting voluntary contributions for park improvements with checks written to the Village of Beverly Hills allowing those contributions to be tax deductible.

Craig referred to an artist's rendering of a plan for a new park entrance designed by David Jensen which would separate the pedestrian entrance from the vehicle entrance to Beverly Park. This improvement is being proposed for safety and aesthetic reasons. Another priority project identified by the Parks and Recreation Board is paving and striping of the parking lot to render it more useable during the wet months and to accommodate more cars during park events.

The Parks and Recreation Board is requesting that Council approve the expenditure of up to \$2,000 for the printing and mailing of the Friends of Beverly Park pamphlet to all Village homeowners. The Board is asking that Council instruct administration to work with the Parks and Recreation Board to obtain cost estimates on the design and paving of the parking lot and pedestrian entrance. Council may be asked at some future date to match funds raised by the Friends of the Park program.

Phil Schmitt of 18103 Riverside, chairperson of the Parks and Recreation Board, recognized other Board members in the audience. Pat Greening has initiated the Halloween Hoot and Art in the Hills; Jack Harmon is the Board's arborist and has been in charge of the Park Clean Up for a number of years; Andrea Brink organized the winter carnival this year and worked on developing a plan for new playground equipment.

Schmitt stated that the Parks and Recreation Board is attempting to make the park more inviting and useable. A new gate and pedestrian entrance will provide a safer entranceway and a better visual impact as people enter the park. The park is currently difficult to use for several months of the year because of the muddy condition of the parking lot. The Parks and Recreation Board is asking the Village Council to support the Friends of Beverly Park concept. The Friends group will raise money to implement the new entrance plan. The Board is asking that Council commit to paving and striping the parking lot when three-quarters of the money is raised for the entranceway project.

Council discussed the fund raising proposal outlined by the Parks and Recreation Board. There were questions and concerns about the legalities of forming the "Friends of Beverly Park". Council members sought assurance that donations for park improvements would be tax deductible.

It was clarified that the Parks and Recreation Board is not suggesting that a foundation be established as a separate entity with a board of trustees. It is intended that "Friends of Beverly Park"

operate as a function of the Village under the direction of the Parks and Recreation Board. Checks will be written to the Village of Beverly Hills and deposited in a specific General Fund line item designated for park improvements only. Council will maintain authority over disbursement of those funds through its normal budgetary process and based on the priorities of the park master plan. The tax deductibility of the contributions will benefit fund raising efforts.

Buterbaugh commented that the Village currently has a mechanism in place for accepting gifts to the park. Ryan stated that Beverly Hills has not been as active as other communities, but it does accept donations for park improvements from time to time.

Buterbaugh made reference to a suggestion made by Jim McCook at a Parks and Recreation Board meeting that an interim measure to paving may be spreading gravel on the parking lot to alleviate muddy conditions. The Parks and Recreation Board may want to consider this.

Craig indicated that the Resolution creating the Parks and Recreation Board allows that body to oversee fund raising activities for the park. The "Friends of Beverly Park" is proposed to be an adjunct of the Parks and Recreation Board under its authority to solicit funds and donations.

Ryan read from the Resolution creating the Parks and Recreation Board of the Village of Beverly Hills, last amended on February 28, 1983. It states that seeking additional funding or donations and funneling such to administration with recommendations for its use is a function of the Parks and Recreation Board.

RESOLVED by Lison, supported by Downey, to acknowledge and support the Parks and Recreation Board's "Friends of Beverly Park" program; to authorize the expenditure of an amount not to exceed \$2,000 for printing and mailing of "Friends of Beverly Park" flyers to Village residents; to ask administration including Village Attorney Ryan to work with the Parks and Recreation Board to assure that the fund raising mechanism is established correctly; to consult with Village auditors to ensure that proper procedures are followed, and; to direct Public Services Director Spallasso to prepare plans for the parking lot design.

Council is aware that the Parks and Recreation Board may ask the Village to contribute towards paving the parking lot depending on how fund raising efforts develop.

Dorothy Pfeifer of 31287 Heath Court posed questions relative to the tax exempt status of the Friends of Beverly Park fund raising efforts by the Parks and Recreation Board. Ryan responded that the Village of Beverly Hills is a Michigan Municipal Corporation, and any payments made to the Village are deductible to the extent that the donor does not receive a service or good.

Roll Call Vote:

Resolution passes unanimously.

Craig thanked everyone on the Parks and Recreation Board for their efforts on this fund raising proposal.

**RESOLUTION SUPPORTING REMEDIAL ACTION PLAN OF THE ROUGE RIVER**

The original Rouge River Remedial Action Plan (RAP), a community-based watershed plan, was written in 1989, updated in 1994, and is currently being revised for the year 2001. The RAP Revision draft is being developed by the Rouge River Remedial Action Plan Advisory Council based on input from the local communities in the Rouge Watershed and will be the new blueprint for the Rouge River. The resolution was developed to reinforce community support for the process of revising the RAP and coordination of subwatershed efforts in cleaning up the Rouge River.

RESOLVED by Downey, supported by Kennedy, to adopt the following resolution:

**RESOLUTION OF THE  
VILLAGE OF BEVERLY HILLS  
SUPPORTING THE REMEDIAL ACTION PLAN OF THE ROUGE RIVER**

- Whereas, the Rouge River is a valuable natural resource;
- Whereas, the Michigan Water Resources Commission in 1985 adopted an ambitious goal of returning the Rouge River to beneficial uses by the year 2005;
- Whereas, local, state, and federal governments undertook a cooperative effort to develop the Rouge River Remedial Action Plan (RAP) from 1985-1990;
- Whereas, the RAP serves as a guide to assist local, state, and federal governments as well as private organizations and citizen groups in establishing priorities for implementing clean up plans and it has been nearly 10 years since the Rouge RAP was first completed;
- Whereas, although millions of dollars have been spent and tremendous progress has been made, current data indicates that full restoration of beneficial uses by the year 2005 is unachievable;
- Whereas, the RAP Advisory Council (RRAC) has accepted MDEQ's charge to develop revisions to the RAP;
- Whereas, RRAC has accepted the responsibility of involving stakeholders throughout the watershed, including all the municipal governments, in revision of the RAP, and recognizes the desirability of achieving consensus between local governments, state and federal agencies goals, recommendations, and priorities in the Revised RAP;
- Whereas, Most of the Rouge watershed communities are seeking coverage under Michigan's voluntary general storm water permit;

Whereas, watershed management plans developed under provisions of the General Storm Water Permit will help form the basis for revising the RAP;

Therefore Be It Resolved, that on Monday, March 15, 1999, the Village of Beverly Hills recognizes the need to revise the RAP, encourages RRAC to use the subwatershed management plans as the basis for the RAP revision; pledges to participate in the RAP process, and urges the RRAC to seek Beverly Hill's review and comment prior to finalizing RAP goals, recommendations, and schedule.

In response to questions from Council, Spallasso stated that the resolution commits the Village to support the effort of revising the plan because there are different needs today than there were in 1986. The Village is reaffirming its commitment to the Remedial Action Plan. The revised plan will be reviewed and approved by every community involved.

Roll Call Vote:

Resolution passes unanimously.

#### **SET DATES FOR SPECIAL COUNCIL MEETINGS**

A special Council meeting is proposed for Monday, March 22 at 6:00 p.m. to address three topics. Council will consider a resolution for the formation of an advisory committee for the Twelve Towns Drain Project. Council will go into closed session to discuss pending litigation. The closed session will be followed by a goal setting session with facilitator David Call.

Dates for budget discussion meetings were proposed for Monday, March 29 and Monday, April 12, with the second meeting being optional. The March 29 meeting is suggested to be a joint review session with the Village Finance Committee. There was a question as to whether the entire Council will be available for the March 29 meeting. Administration will coordinate a meeting date with Council members.

MOTION by Kennedy, supported by Walsh, to set a special Council meeting for Monday, March 22, 1999.

Motion passes unanimously.

#### **REVIEW AND APPROVE REQUEST FROM BUCKLES & BUCKLES FOR CONSTRUCTION VARIANCE EQUIVALENCY AT 17845 W. 14 MILE ROAD**

Walsh stated that the Buckles and Buckles law firm has submitted a site plan to the Village to expand its current building. The review process included a site plan review by the Planning Board and a hearing before the Zoning Board of Appeals on two variances requested by the applicant. The Zoning Board of Appeals granted a variance to allow a one and one-half story extension of the current structure. The Zoning Ordinance allows a maximum of one-story for an office zoned district with a maximum building height of 30 feet. A second variance was granted to allow a greenbelt to separate the nonresidential use from the residential zone district in lieu of a six foot wall.

The site plan shows an expansion of the existing building to the west lot line providing a zero lot line setback. While this does not violate the Zoning Ordinance, there are two building code violations. Section 705.2 of the BOCA National Building Code states that buildings with a business use that are constructed 0-5 feet from the lot line are required to have an exterior wall with a 2-hour fire resistance rating from both sides and the omission of all windows. The applicant has indicated that construction drawings will show that exterior wall construction will meet the requirement for a 2-hour fire resistant wall.

The site plan shows six windows on this wall. The BOCA code does not permit exterior wall openings for any walls with a fire separation less than 5'-0" from neighboring lot lines and buildings. The applicant is requesting a variance from immediate conformance to this requirement of the BOCA building code. Village Ordinance states that the Village Council is constituted as the Construction Board of Appeals and can consider a request for a variance from the building code

Joseph Philips representing Mike and Geri Buckles addressed the request for variance from the BOCA code. The applicant is asking to postpone complying with the code. Fire separation distances are required from property lines or between buildings on the same site. This separation is required to prevent fire from leaping from building to building. Philips stated that the building that is closest to the proposed west property line is well over 100 feet away. It is proposed that the Buckles be allowed to construct the wall with windows with the condition that the windows would be filled in if another building is constructed so close as to become a fire safety concern.

Philips stated that the proposed building is a combination of brick and wood siding intended to compliment the existing structure. The owners are proposing to submit the appropriate paperwork to be filed with the Village of Beverly Hills to assure future conformance to the building code should a building be constructed on the adjacent property to the west close to their addition wall and require a need for omission of the wall openings. A letter could be placed on file with the Village of Beverly Hills stating that the property owners will remove the existing west wall windows and close the existing openings with fire resistive construction matching that of the wall if a building should be constructed to the west and fire separation issues arise.

Council members questioned whether the property owner to the west has been informed of the proposed addition. Philips stated that Mr. Buckles has talked to that property owner. It is not known whether the neighbor to the west has indicated approval of the plans for an addition. Byrwa added that the Ordinance does not require a public hearing on site plans for a building addition.

Byrwa stated that the intent of the building code is to recommend that buildings be constructed a minimum of ten feet apart. That distance provides a reasonable amount of safety from fire jumping from one building to the next or fire plumes jeopardizing occupants in buildings. The window issue is not a problem until the neighbor builds within 10 feet of the existing building. The nearest building to the west is presently 150 feet away. The applicant is stating that he will have a letter on file with the Village indicating that he will seal the windows and maintain the requirements of the building code if the neighbor's construction should ever come within 10 feet of his property. Byrwa

is satisfied with the proposal presented by the applicant if there is an irrevocable letter of agreement filed with the Village that runs with the land.

Council discussed the request for a variance and how to enforce future conformance to the code. Financial reassurance that the property owner will comply with BOCA requirements was also an issue. Members of Council preferred the appearance of the building with windows on the west wall but were not comfortable with the administrative responsibility of having to enforce the building code at a later time.

Ryan asked the architect about products on the market such as fire shutters or fixed windows that are fire rated. Installing fire rated windows at the time of construction would alleviate any future concerns about enforcing the building code. Philips responded that these materials are available but costly. He did not have costs on fire rated windows.

MOTION by Buterbaugh to table the request for construction variance at 17845 W. 14 Mile Road until the next regularly scheduled Council meeting to allow the applicant an opportunity to research the cost of fire rated windows.

Philips agreed to do this.

Ayes: Buterbaugh, Craig, Downey, Kennedy, Lison, Walsh

Nays: Stearn

Motion passes (6 - 1).

Council discussed whether to address the Buckles and Buckles site plan at this time or defer that agenda item until the next meeting when the construction variance is reconsidered.

Philips thought that Mr. Buckles would like to receive favorable approval of the site plan this evening.

MOTION by Downey to table the site plan from Buckles and Buckles for office expansion at 17845 W. 14 Mile Road until the next regularly scheduled Council meeting.

Ayes: Buterbaugh, Craig, Downey, Kennedy, Lison, Walsh

Nays: Stearn

Motion passes (6 - 1).

### **APPROVAL OF BILLS**

MOTION by Buterbaugh, supported by Walsh, that the bills recapped as of Monday, March 15, 1999 be approved for payment in the following amounts:

\$206,616.21	General Fund
50,394.81	Major Road Fund
16,352.26	Local Road Fund

300.00	Drug Law Enforcement Fund
75,836.69	Drains At Large Fund
1,652.97	Dedicated Millage
103,335.09	Water/Sewer Operation Fund
6,914.09	Trust & Agency Fund

Sharon Tischler of 21415 Virmar Court asked questions on invoices which were addressed by Council members and Director Woodard.

Motion passes unanimously.

### **LIAISON'S REPORTS**

Lison reported that the new fire apparatus is in the process of being designed according to Public Safety Department specifications. It is on target to be delivered this autumn.

Craig asked Council members to submit their preferences for liaison assignments by next Monday. He requested Hanlin to poll the boards and committees on their preferences for Council liaison.

### **MANAGER'S REPORT**

On behalf of the Village of Beverly Hills Council and administration, Hanlin expressed condolences to Dave Byrwa on the loss of his father.

Hanlin congratulated Village Clerk Ellen Marshall on another flawless election this year.

Craig asked Hanlin to comment on the status of the fire damaged building on Southfield Road since the owner Linden Nelson agreed to apply for a demolition permit by March 15. Hanlin stated that the demolition work on the front part of the building was to have started tomorrow. The Village is in possession of a letter of credit from Comerica Bank in the amount of \$50,000. The Village will execute the letter of credit and complete the demolition on the front part of the building in the event that Linden Nelson does not proceed with the work.

**PUBLIC COMMENTS**

Patricia Greening of 19289 Riverside Drive thanked Council for supporting the Parks and Recreation Board proposal for fund raising activities to implement the park master plan. She asked if there will be a Council liaison at the Thursday Parks and Recreation Board meeting. Craig will attend the meeting.

Dorothy Pfeifer congratulated the new Council members and Messrs. Craig and Lison on their appointments as Council President and President Pro-Tem and looks forward to working with them. Pfeifer asked that the dates for the Council budget sessions be posted on the marquee sign in front of the Village office.

Sharon Tischler of 21415 Virmar Court questioned the status of the improvements that are scheduled to be made on the bridge on Thirteen Mile Road between Wendbrook and Lahser. Spallasso responded that plans are being prepared and bids will be let on this project in April. He will present Council with the plans and information on the project, including plans to close 13 Mile Road to traffic at the end of the school year so that it can be reopened by the first week in September. Tischler was concerned with cut-through traffic during construction.

**COUNCIL COMMENTS**

Stearn thanked everyone who voted for him and commented that he will do the best job he possibly can do. He received an announcement from the Center for Joint Public Services on the second annual SEMCOG Joint Public Services Awards Program to honor local government units, school districts, and private or non-profit organizations that are working together in providing outstanding joint public services within Southeastern Michigan. Anyone who is interested should contact him.

Lison thanked Council for the vote of confidence in electing him pro-tem president.

Buterbaugh congratulated the new Council President and President Pro-Tem.

Downey thanked the citizens who cast votes in the last election and stated that he will do his best not to let anybody down. He congratulated Craig on his election to the position of Council President and Lison as President Pro-Tem. Downey thanked Kennedy for conducting many professional meetings.

Kennedy congratulated the new Council members. She expects this to be a very productive year for Beverly Hills and looks forward to working with this Council.

Kennedy wished Ron Miller, President of the Birmingham Coalition, a speedy recovery from heart surgery. Kennedy attended a large meeting of the Coalition of Healthy Communities last week. Sheriff Bouchard was the Master of Ceremony and talked about the importance of supporting the Birmingham Coalition.

Kennedy stated that Oakland County Executive Brooks Patterson has asked the communities to observe the Severe Weather Awareness Week, March 28 through April 3.

Kennedy referred to a letter from George Kuhn dated February 24, 1999 regarding County refunding bond issues. Craig added that the Village has two outstanding bonds that were funneled through Oakland County. The County is taking advantage of low interest rates and refinancing those bonds. They expect to save a significant amount of money in interest expense for the County at large. The Village will see some reduced interest expenses.

Walsh welcomed the two new members to the Council and congratulated Craig and Lison on their new positions. He asked administration for an update on the March 3 meeting with the Oakland County Road Commission.

Spallasso reported that the Village can look forward to the possibility of Southfield Road being capped in one and one-half to two years. The County anticipates attaining funding for this temporary fix.

Hanlin spoke with the manager of Lathrup Village subsequent to the meeting with the Road Commission and learned that Lathrup Village has developed engineering drawings to boulevard its section of Southfield Road. There has apparently been some movement on the part of the Road Commission to consider this improvement, and there may be potential funding to move forward in conjunction with Lathrup Village to make that happen. The manager of Lathrup Village has proposed a meeting for March 31 with Hanlin and representatives from Beverly Hills and Southfield to talk about what can be done by coordinating efforts with respect to Southfield Road.

Spallasso estimates that it will take four or five years to secure funding for the reconstruction of Southfield Road as a boulevard or to replace the existing road. He does not think Southfield Road can stand another four or five years between 13 and 14 Mile Road without repairs. Capping the road will provide 10-12 years of service during which time the County can prepare plans and apply for federal funding for a boulevard or reconstruction of Southfield Road.

Craig stated that the Village is delivering a copy of the Beverly Hills Master Plan to the Road Commission to affirm that the Village wants a boulevard for traffic calming purposes.

Craig thanked the 314 voters who voted in the March 8 Council election. He congratulated Downey and Stearn for joining Council. Craig thanked Elaine Kennedy for her last year of service as Council President. She devoted enormous time to the presidency and did a tremendous job last year. Craig commented on the major time commitment involved with being Council President and hopes he can step up to the challenge. Craig is proposing a team approach on this Council and is looking for support.

MOTION by Buterbaugh, supported by Walsh, that the meeting be adjourned at 10:02 p.m.

Motion passes unanimously.

**Andrew R. Craig**  
**Council President**

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