

REGULAR COUNCIL MEETING MINUTES - MONDAY, AUGUST 16, 1999 - PAGE 1

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

Absent: None

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

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

MOTION by Walsh, supported by Downey, to amend the agenda to add item 4A: "Discuss Paul Lison's August 12, 1999 letter regarding a vacancy on the Public Safety Retirement Board of Trustees.

Motion passes unanimously.

Kennedy asked if it is appropriate to discuss the recommendation to fill the position on the Retirement Board without it being a published agenda item. Ryan stated that the agenda can be amended to include an item with the concurrence of Council.

**APPROVAL OF MINUTES**

MOTION by Stearn, supported by Kennedy, that the minutes of a regular Council meeting held on Monday, August 2, 1999 be approved as submitted.

Motion passes unanimously.

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

Michael Fox of 30879 Lincolnshire West stated that South Georgetown has no sidewalks, and there are families and children who walk and play in the street. Fox and others in the subdivision are concerned about speeding in the area and the fact that they have not seen any police presence this summer. He requested more police patrol in South Georgetown, particularly during the times when children are outside which is between 12 and 2 and between 5 and 8.

Craig stated that Director of Public Safety Woodard is in the audience and has acknowledged the request of Mr. Fox for increased enforcement in South Georgetown.

**UPDATE ON FUND RAISING EFFORTS FOR BEVERLY PARK**

Joan Jensen of 31130 Stafford presented an update on the efforts of the Friends of Beverly Park to raise \$50,000 for Phase 1 improvements to Beverly Park. Contributions will be used to create a

separate pedestrian and bicycle entrance into the park. A fund raising dinner and silent auction will be held on September 22 at the Birmingham Country Club. Residents will receive a personal invitation to the event in the mail some time this week. Jensen encouraged people to respond early as there are only 250 seats available for this function.

All Village residents have received a Friends of Beverly Park brochure which describes the proposed improvements to the park. Jensen thanked Council for making the mailing of the brochure possible. Donations have been received from the community to date in the amount of \$13,500 plus a promise of \$5,000 from the Village Woman's Club of Beverly Hills. Jensen thanked the residents who have responded to the brochure and thanked the members of the Village Woman's Club for their generous donation. She asked residents to do so if they have not had time to send in a contribution.

Jensen gave special thanks to the local business owners who have generously donated to underwrite the cost of the dinner. These donations will assure that at least \$100 from every ticket sale will go toward park improvements.

The Village Woman's Club is promoting the sale of paving bricks for the new entranceway as a fundraiser. The cost is \$100 for an 8" x 8" brick and \$50 for a 4" x 8" brick that can be engraved with a name and date.

Jensen thanked Council for its support and encouraged the entire community to be a friend of Beverly Park.

#### **DISCUSSION OF RETIREMENT BOARD APPOINTMENT**

Craig excused himself from this discussion. The Village Charter states that the Council President shall appoint the chairperson of the Retirement Board with the concurrence of Council. Craig has elected not to sit on the Retirement Board due to a conflict of interest. At the July 19, 1999 Council meeting, he asked President Pro-Tem Lison to bring before Council a replacement for Robert Benton. Craig left the room and Lison took the chair.

RESOLVED by Lison, supported by Stearn, to adopt the following resolution.

#### **Resolution to Fill Vacancy on Village of Beverly Hills Public Safety Retirement Board of Trustees**

Whereas a vacancy has occurred on the Village of Beverly Hills Public Safety Retirement Board of Trustees,

Whereas the appointment of this new member (a private citizen) is the responsibility of the Village of Beverly Hills Council President Pro-Tem, as the President has excused himself from such a vote,

Whereas the appointment is to complete the unfilled term of Robert Benton which ends on June 30, 2000,

Whereas the application deadline to fill this specific vacancy on the Village of Beverly Hills Public Safety Retirement Board of Trustees has closed,

Whereas the Clerk of the Village of Beverly Hills received one and only one application for this position,

Whereas our applicant is well familiar with the Village of Beverly Hills Public Safety Retirement Board, it's mission and the needs of the citizens of Beverly Hills,

Therefore I nominate and ask Council consent for the nomination of Mr. John G. Mooney to the Village of Beverly Hills Public Safety Retirement Board of Trustees.

Lison read two letters that were addressed to him and delivered to his home on August 13, 1999 by on-duty Beverly Hills Public Safety Officers. The same letters were distributed to every member of Council. The first letter is from Ronald E. Palmquist, Labor Relations Specialist for the Michigan Association of Police, an organization that represents the officers in the Beverly Hills Public Safety Department. Palmquist expresses concern with the Village's selection of a replacement for Pension Board chairperson Robert Benton. It is believed that Mr. Benton's replacement should be the most qualified person available and should be at least as knowledgeable and have as much experience in the financial investment field as Mr. Benton or even more.

Lison read a letter dated August 13, 1999 from Steven R. Standfest, President of the Beverly Hills Lieutenants & Sergeants Association, voicing the association's concern about the replacement of Mr. Robert Benton, Chairman of the Pension Board. Standfest hopes that the Village will examine the resume and qualifications of the candidate and set up an objective appointment process, as is done with all other appointed positions of this importance within the Village administration.

Lison asked the candidate, John Mooney of 19111 Devonshire, to come forward and discuss his qualifications for this position. Mooney asked if Council members had received a copy of his resume. They had not. Copies of Mooney's resume were distributed to Council members by the Village Clerk.

Mooney stated that he was administrator of a defined pension plan prior to being elected to the Beverly Hills Council. It was a pension plan containing a substantial amount of money, comparable to the Public Safety Department's pension fund at the time when he became a member of the Pension Board in 1988. Mooney served on the Retirement Board until 1990 and then again from 1993 to 1999. Mooney stated that he brought to the table an understanding of the Public Employees Retirement System Investment Act as it applied to the Public Safety Department.

Mooney asserted that, during his tenure on the Retirement Board, changes that occurred in the investment procedure led to various investments including diversification into the International Fund, the Small Cap fund, and REIT fund. He believes his involvement with this retirement plan along with the retirement plan in his office qualifies him with some understanding of the issues.

Mooney stated that he has criticized Munder Capital Management because they have not met the benchmarks which are indices that everyone who manages a fund for a pension is judged against. The benchmarks give an indication of whether or not the investment people are managing the money in an appropriate manner.

With respect to a financial background, Mooney stated that he has a working knowledge of all of the issues that were presented at any particular point in time during his tenure on the Retirement Board. He disagrees with the suggestion that a stock broker should be the person sitting on that board. There may be a conflict of interest in that situation.

Lison referred to the professional and governmental associations listed on Mooney's resume. He is a member of the State Bar of Michigan, the Oakland County Bar Association, and Washtenaw County Bar Association. He is an adjunct professor at Oakland University in the Public Administration Department and the Political Science Department.

Downey commented that the letter from Lison recommending the appointment of Mooney has no reference to the process for this appointment. He questioned the statement that there is only one applicant who has requested appointment to the Retirement Board.

Hanlin stated that she was hand delivered by the Director of Public Safety a business card and brochure of a gentlemen who apparently has pension experience. That was put in the Clerk's office. Hanlin clarified that the process for this appointment is defined in the Ordinance and does not follow the process of other Village board and committee appointments.

Ryan read from the Village Municipal Code, Chapter 3.08 (b) which pertains to the Department of Public Safety Retirement System. The Board of Trustees are appointed as follows: 1) The President of Council serves by virtue of his or her office. In this case President Pro-Tem Lison serves because of the conflict with Mr. Craig. 2) A Council person to be selected by Council to serve at the pleasure of Council. Mrs. Kennedy was appointed by Council; 3) **A citizen, who is an elector of the Village, and who is not eligible to participate in the retirement system as a member or retirant, to be appointed by the Village President by and with the consent of Council.** That is the point we are talking about this evening; 4) Two Public Safety Officers elected by the Public Safety Officers.

Downey understands that the process calls for Lison, acting as president, to make that appointment with the consent of Council. He does not feel comfortable moving on the recommendation at this time based on the amount of information received and the consideration of applicants. Downey asked if it is appropriate for Lison acting as the chair to make the motion.

Ryan responded that it is appropriate for Lison to make this motion since it is his appointment.

Walsh referred to the July 19 Council meeting at which time Craig announced Robert Benton's resignation from the Pension Board. Lison commented on the structure of the board and indicated that a financial background would be beneficial. There is a mention of a deadline for applications to

be submitted, yet there has been no deadline set for accepting applications. Council received a letter on Friday, August 13 from Lison stating that he made an appointment for a three year term. Walsh stated that the term for this appointment will expire in June of the year 2000.

Lison stated that the resolution on the table states that the term expires on June 30, 2000.

Walsh thinks that this vacancy should be publicized and applications be accepted. He thinks the individual selected should have a financial background. The Public Safety Officers and the Council people who sit on the Pension Board may not have that financial background. Council should have an opportunity to review all resumes that are submitted after a deadline is set.

Buterbaugh thinks it is inappropriate that the letters received by Council members from Steven Standfest and Ronald Palmquist were delivered by a uniformed Public Safety Officer driving a Village car. He noted that the letter from Steven Standfest states that the person to replace Mr. Benton will be responsible for the livelihood and well being of each one of the members of the Public Safety Department. Buterbaugh stated that this is not correct. While the Retirement Board advises Council, it is the Village Council that is responsible for the pension fund. Those pensions are guaranteed to the Public Safety Officers by their contract. Buterbaugh suggested tabling this appointment in order to accept additional applications to fill this vacancy on the Retirement Board.

Kennedy stated that it seems that Council is having a problem with the process and not with the candidate. She would be willing to table action on this item.

Stearn asked Ryan to reread the Ordinance language regarding the representation of the Board of Trustees. Stearn interprets this language as saying that the person acting as President of Council appoints a person and that person is discussed and voted upon. Ryan agreed with that interpretation.

Stearn maintains that this is exactly what has happened. Lison made an appointment and Council is discussing that candidate. This is not a regular board or committee where applications are reviewed by a selection committee and then voted on by Council. The process is outlined in the Municipal Code and is being followed. If the Council does not support the appointment of Mooney, it is their privilege to vote against the motion. Stearn expressed the view that Mooney has high credentials and has a commitment to the Village.

Stearn questioned the procedure that is followed if the Retirement Board finds that there is a problem with the fund manager.

Lison stated that the Board of Trustees has a fiduciary responsibility to manage the advisors. There is an actuarial advisory who reports on the system's funding progress and determines the contribution rate. The fund has a money manager whose function is to perform at certain minimum standards. The money manager is Munder Capital Management. If the money manager does not meet those requirements, it is the responsibility of the Board of Trustees to replace the money manager which can be done by a simple majority.

Sharon Tischler of 21415 Virmar Court stated that it was brought to her attention by the Public Safety Department that Council President Pro-Tem Lison wrote a letter to fellow Council members on August 12 informing them that he appointed John G. Mooney as a citizen member of the Beverly Hills Public Safety Department Retirement Board of Trustees for a new three year term. Mr. Mooney would replace Mr. Robert Benton as citizen member of the Board of Trustees after his recent resignation after serving more than 35 years on that Board.

Tischler stated that Lison's letter raises several concerns for her, for other electors in the Village, and for Public Safety Department employees. She questioned Lison's authority to make the appointment. Ordinance Section 3. 08 (b) provides the process by which a vacancy on the Retirement Board is to be made. She read this section.

Tischler questions whether there is any authority in the Village Charter or Code for the vote of Council to allow Lison to serve as Public Safety Retirement Board of Trustees member in lieu of the Village President. It is Ryan's opinion that Council has authorized Lison as a substitute for the President on the Pension Board despite the Ordinance provision that the President of Council serve and the fact that there is no provision allowing such a non-temporary appointment. Tischler does not recall Council voting to give President Pro-Tem Lison the additional authority in lieu of the President to appoint a citizen member of the Retirement Board.

Tischler stated that there is no authority for the president or president pro-tem of the Village to appoint a citizen member of the Pension Board without the consent of Council. This seems to have occurred within the context of Lison's August 12 letter to Council. The Village Council has not voted its consent to the appointment, and there was no published agenda item for such a vote posted for this meeting.

Lison stated in his letter that he has appointed Mooney to a new three year term as a Trustee. The Ordinance states that a Trustee vacancy on the Board is to be filled for the unexpired portion of the term.

Tischler contends that the policies and procedures for the Village appointment to boards and committees were not followed for this important appointment. Council did not make two announcements of a vacancy at a regular Council meeting or publicly announce a deadline for accepting applications for this position. A committee of Council was not appointed to review applications.

Tischler stated that many employees of the Public Safety Department and future recipients of the retirement benefit administered by the Board of Trustees are less than happy about the choice of John Mooney for the public citizen member of the Board. There has been confusion about Lison's action in this matter. Tischler questioned why Council would circumvent the accepted policies and procedures when Council knows that this particular appointment is controversial. If the procedures were followed and there was opportunity for additional applications for this position, Tischler believes that this Council would make an appropriate choice and select an individual who would add

inspiration to the retirement system. Tischler commented that she understands the Public Safety Department's concern for a somewhat conservative approach to the substantial investment.

Stearn responded that he is aware of the statute and believes that the statute was followed in this case. If there is a concern about the process Council is following, the proper thing to do would have been to lobby Council to change the procedure. Stearn asked Ryan to reread the section of the statute addressing the citizen representative on the Retirement Board.

Stearn stated that the Village attorney has provided his legal opinion which is that the Council President appoints a person who is discussed and voted upon by Council. This issue first came up on April 19, 1999 when Ryan gave Council his legal opinion that the President Pro-Tem could fill that role if the Council President is unable to perform that duty as member of the Retirement Board. A motion was made by Kennedy and supported by Walsh to excuse Council President Craig from serving on the Retirement Board and allow the President Pro-Tem to serve in his stead. The motion was passed unanimously. This means that the President Pro-Tem can take any action that the Council President would have taken if he sits as that member. Stearn thinks it is time for Council to choose someone for this position based on the procedures in place.

Ryan responded to Tischler's comments which he thinks might have been appropriate had Lison's letter gone out last week with nothing else occurring. Ryan stated that Lison as President Pro-Tem sitting on the Pension Board in the place of the Council President is appropriate. It was discussed in April and agreed upon by Council to appoint Lison to act in his stead. It was a temporary situation for Craig who would be president for at least one year. Ryan maintains that this is not an issue.

Ryan stated that he contacted Lison when he received a copy of his April 12 letter to Council. He informed Lison that this appointment has to be placed on the Council agenda and that there has to be four affirmative votes because the appointment is made with the consent of Council. That is what Council is doing tonight. Another issue is that the term of office can only expire when Robert Benton's term expired on June 30, 2000 which has been addressed in the resolution proposed this evening.

Lison does have the authority to act in the stead of the president. The only qualifications in the statute is that the candidate must be a citizen, an elector of the Village, and cannot be eligible to receive money from the system. It is on the agenda tonight to be voted on by Council.

Downey commented on the process and the concern about whether other candidates were considered. Council has not been kept informed on this procedure, and he would like additional time to consider the appointment.

Buterbaugh thinks the problem occurred with Lison's August 12 memo which raised questions about the process. After reviewing the documents tonight, Buterbaugh believes that Council did follow the appropriate policies in pursuing a candidate for this special appointment. There is no posting required and no period for a Council committee to consider applications. He suggests Council vote on this candidate tonight.

Walsh does not recall anyone at this table questioning Lison's authority to make the appointment. Lison was delegated by Craig in April to bring someone before Council. Walsh resents the fact that Council received a letter on August 12 stating that Lison had made the appointment for a three year term. He suggests tabling this appointment in order to set a deadline and accept applications for this important position.

MOTION by Walsh, supported by Downey, to table Council consideration of an appointment to fill the citizen vacancy on the Retirement Board to a future Council meeting.

There was Council discussion of the motion.

Kennedy commented that she has been assured that the process has been followed tonight. She is concerned about the lack of public notice of a vacancy on the Pension Board. The controversy has been about the process and not the candidate. She would like the opportunity for Council to make its decision on this appointment in a rationale manner.

Roll Call Vote:

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

Motion passes (4 - 2).

Dorothy Pfeifer of 160 Charrington Court questioned the date of the next Retirement Board meeting. She was informed that the scheduled August 24 meeting of the Retirement Board will be delayed to a date following the first Council meeting in September.

Pfeifer expressed the view that it appears that Council members are trying remove a privilege that Council has given to the person who is acting in the President's stead. The President Pro-Tem is allowed to make this appointment with Council's concurrence.

It was announced for the record that there is a trustee vacancy on the Village Retirement Board for the unexpired term of Robert Benton which will expire on June 30, 2000. It is a presidential appointment with the consent of Council. Applications are due in the Village office by the close of business on Monday, August 30, 1999. Lison will come back to Council with a candidate and Council will vote on the appointment of that individual. This will be an agenda item for the first Council meeting in September.

There was discussion on a request by Buterbaugh that the full Council receive copies of all applications and resumes received for this position.

Craig returned to the Council room and resumed the chair at 9:15 p.m. He stated that Council is following the procedures and will continue to follow the procedures as written unless there is a motion to change that process.

**ACCEPT PROPOSAL FOR PRINTING OF VILLAGE NEWSLETTER**

Ten printing contractors were invited to bid on printing of the Villager Newsletter. Four companies responded with the lowest bid being from Spencer Walker Press in the amount of \$816.00 for printing an eight page newsletter.

RESOLVED by Stearn, supported by Walsh, that Council award the printing of the quarterly publication of the Villager Newsletter to Spencer Walker Press in an amount not to exceed \$4,000 based on an eight page issue, which is \$1000 per issue.

Pasieka answered questions from Council on the printing of the newsletter. The contractor will provide services including set up, layout, art, scanning, tabbing, etc. which will enhance the quality of the publication. In answer to an inquiry, Pasieka reported on the status of the third quarter newsletter. The proof is being reviewed by staff.

Roll Call Vote:  
Resolution passes unanimously.

**CONSIDER COUNCIL MEETING DATE OF FEBRUARY 21, 2000**

RESOLVED by Lison, supported by Kennedy. Pursuant to scheduling Council meetings on the first and third Monday of each month, there is one date in the year 2000 that falls on a national holiday. On that date, the Village office will be closed for business during the day. President's Day, February 21, 2000 falls on the third Monday of the month and normally a Council meeting would be held that evening. In light of the fact that we do not hold Council meetings on Martin Luther King Jr.'s birthday nor on Labor Day, the second meeting in February 2000 will be held on Tuesday, February 22.

Roll Call Vote:  
Resolution passes unanimously.

**SELECT TRUSTEES FOR THE MICHIGAN MUNICIPAL WORKER'S COMPENSATION FUND**

RESOLVED by Buterbaugh, supported by Walsh, that the Village of Beverly Hills Council instruct administration to elect the seven incumbent Trustees who have agreed to seek re-election to the Board of Trustees for the Michigan Municipal Worker's Compensation Fund.

In answer to an inquiry from the audience, Craig listed the candidates for Trustees: Kenneth L. Babich, Mayor, City of Marlette; Tamara O'Brien Hanlin, Village Manger, Village of Beverly Hills; Thomas M. Markus, Chair, City Manager, City of Birmingham; Gerald R. Peterson, City Manager,

City of Marquette; Carole Pettijohn, Councilwoman, City of Grandville; John C. Thomas, Mayor, City of Ithaca; Karl S. Tomion, City Manager, City of Midland.

Roll Call Vote:

Resolution passes unanimously.

Craig asked that Council consider agenda item #9 before item #8 to accommodate two people in the audience who have been waiting for the discussion on retaining a computer consultant.

### **CONSIDER RETAINING COMPUTER CONSULTANT**

Before Council for consideration is a proposal to obtain computer consulting services for a network and workstation evaluation to determine the Village's hardware and software needs. Council is in receipt of a written proposal from Plante & Moran to provide this service.

RESOLVED by Lison, supported by Buterbaugh, that the Village of Beverly Hills Council authorize administration to retain Plante & Moran to provide computer consulting services to the Village of Beverly Hills in an amount not to exceed \$8,400.

Jeffrey Potter was present from Plante & Moran along with Village auditor Joe Heffernan. Plante & Moran has responded to the Village's request for services in computer consulting to analyze the Village's direction and current state of affairs as far as technology and to provide insight on what Beverly Hills should be doing in the future. The proposal outlines a two-phased approach.

The initial phase of the project will be to generate an accurate assessment of the existing computing environment. The information gathered will be used to ascertain the capabilities of the existing equipment and to gain a comprehensive understanding of the expectations and requirements of a Local Area Network (LAN) to support the Village's future requirements. The second phase will be to analyze that information and prepare a report detailing the findings and recommending future strategies and direction including budgetary numbers and costs.

Council comments and questions were addressed by Potter. He explained how Plante & Moran will assist the Village with network connectivity with County agencies and services. They will look at how the Village will post and manage its Internet site. It was clarified that Plante & Moran has not been asked to do a Y2K assessment of the Village. Potter explained that those items surface as they assess the existing computing environment.

Hanlin commented that this consulting service is needed to address the fragmented approach of the Village's existing equipment and to assist the Village with the looming technical advances with respect to the OakNet project from Oakland County and the new CLEMIS system in Public Safety. The specifications developed for this project are limited. The expectation is that Plante & Moran would conduct an assessment, interview appropriate people, and provide the Village with a working budgetary document for consideration at budget time. This information will be important in the context of the five year capital planning document. There is a possibility that this report will become dated quickly because of the pace of the industry.

Council members discussed the proposal and their expectations of the study. Plante & Moran will begin on this evaluation over the next couple of weeks and hopefully have a recommendation by the 30th of September. Potter will be the lead project manager on the job with two other people involved.

Roll Call Vote:  
Resolution passes unanimously.

**FIRST READING OF AMENDMENTS TO THE ZONING ORDINANCE**

Ryan was authorized by Council to prepare an ordinance that will amend the Village's zoning map to comport with resolutions adopted by Council and recommended by the Planning Board relative to rezoning of property. Ryan explained that there were a number of rezonings that occurred in 1986. The zoning map was never amended by ordinance which should have occurred at that time. There were appropriate public hearings by the Planning Board and Council and a public vote. This subject has been studied by Ryan and Bob Bliven.

Ryan presented for a first reading Ordinance 296, an Ordinance to Amend Chapter 22, being the Zoning Ordinance for the Village of Beverly Hills. Section 1.01 is a list of the actual properties that are being rezoned.

Ryan stated that it has come to his attention that the second item on the list which is a Gould Court property should be removed. There were originally five parcels under consideration on Gould Court to be rezoned from R-1 to R-3. It was the considered judgment of the Village Council to remove Parcel No. TH24-02-427-001 from the list of property to be rezoned on the basis that the parcel is 20,000 SF which meets the requirement for the R-1 zoning district. The other parcels on Gould Court were undersized.

Ryan read and identified the following properties:

- P & B to O-1, Medical Village Property, known as  
Parcel Identification No. TH24-02-426-009.
- R-1 to R-3, 18207 Gould Court, known as  
Parcel Identification No. TH24-02-427-002. *(Lot 2)*
- R-1 to R-3, 18199 Gould Court, known as  
Parcel Identification No. TH24-02-427-003. *(Lot 3)*
- R-1 to R-3, 18189 Gould Court, known as  
Parcel Identification No. TH24-02-427-004. *(Lot 4)*
- R-1 to R-3, 18181 Gould Court, known as  
Parcel Identification No. TH24-02-427-005. *(Lot 5)*

R-1 to B, 31645 Southfield, known as Parcel Identification No. TH24-02-427-007.	<i>(Invisible Fence)</i>
P to B, 31119 Greenfield, known as Parcel Identification No. TH24-01-477-011.	<i>(Back 1/3 of site of building North of Beverage Warehouse Carda' International Education Center)</i>
P to B, 15616 W. 13 Mile Road, known as Parcel Identification No. TH24-01-477-013.	<i>Kentucky Fried Chicken (was 013 now 028)</i>
R-2 to PP, 18500 W. 13 Mile Road, known as Parcel Identification No. TH24-02-478-003.	<i>Village offices</i>
R-1 to PP, 18500 W. 13 Mile Road, known as Parcel Identification No. TH24-02-451-019.	<i>Village Storage Yard</i>
R-1 to PP, 18500 W. 13 Mile Road, known as Parcel Identification No. TH24-02-102-009.	<i>Hidden Rivers</i>
R-1 to PP, 18500 W. 13 Mile Road, known as Parcel Identification No. TH24-03-426-004.	<i>Douglas Evans</i>

Section 2.01 states that public hearing has been held by the Planning Board and Village Council and that the provisions of this Ordinance shall take effect 20 days after publication.

Council questions were addressed by Ryan. The second reading will be held at the next Council meeting.

Sharon Fox, Planning Board member, requested that Planning Board members receive a copy of the Ordinance and the zoning map prior to the second reading.

#### **PRESENTATION OF PLANNING BOARD PRIORITIES LIST**

MOTION by Kennedy, supported by Buterbaugh, to table discussion of Planning Board priorities until the next Council meeting.

Motion passes unanimously.

#### **APPROVAL OF BILLS**

MOTION by Stearn, supported by Lison, that the bills recapped as of Monday, August 9, 1999 be approved for payment in the following amounts:

\$238,222.43	General Fund
15,812.56	Major Road Fund
8,489.13	Local Road Fund

234,645.20	Combined Sewer Overflow Fund
2,045.96	Dedicated Millage
50,747.08	Water/Sewer Operation Fund
8,228.50	Trust & Agency Fund

Questions from Council and the audience were addressed by administration.

### **STUDY/GOAL SETTING SESSION**

The agenda lists a study/goal setting session following a closed session of Council. Craig canceled this session with instructions to Council. He asked Council members to review the information on goal setting that was compiled in April to determine whether there are any goals identified by Council that should be captured in the five year financial plan with a cost attached to it. A joint meeting of the Council and Finance Committee is scheduled for August 30 to discuss the five year capital projects plan.

### **LIAISON'S REPORTS**

Stearn announced that Bobby Lewis and the Crackerjack Band will be performing at the last in a series of concerts held in Beverly Park on Sunday, August 22 at 4:00 p.m.

Craig commented that he received a letter from Andrea Brink who is resigning from the Parks and Recreation Board. She is expecting a third child but will fill her responsibility on the Board through October. Craig asked administration to place the first announcement of a vacancy on the Parks and Recreation Board on the agenda of the first Council meeting in September with the second announcement at the following meeting. Council will appoint a new member in October.

Kennedy stated that there was a meeting of the Birmingham Coalition board last week. They will be sponsoring a booth at the Woodward Dream Cruise.

Downey reported on two cases that were heard by the Zoning Board of Appeals at its August 9 meeting. One of the cases involved a request for variance to erect a gate in front of a residence along 13 Mile Road. The applicant's concern was with people making U-turns in his circular driveway. The Board denied the request. Downey brought this case to Council's attention because gates and fences continue to be a controversial subject in Beverly Hills. This applicant was dissatisfied with the process.

A request from Bed Bath & Beyond to allow a variance from the parking requirements of the Zoning Ordinance was heard by the Zoning Board of Appeals at this meeting. There has been concern expressed as to the resolution of Case No. 973. The Village attorney was asked to review the motions and opine on whether the Board's action resulted in a decision on the case. A Zoning Board of Appeals meeting has been scheduled for Monday, August 30 at 6:30 p.m. to discuss the case involving Bed Bath & Beyond.

Walsh stated that Infrastructure Committee meeting scheduled for 5:30 p.m. on August 30 will be canceled due to a conflict with other meetings. He will consult with committee members and set a meeting date.

Buterbaugh announced a Cablecasting Board meeting to be held Wednesday, August 18 at Baldwin Public Library at 7:45 a.m. The Board will continue to address the high volume of complaints received due to the turnover of the new cable system.

### **MANAGER'S REPORT**

Hanlin deferred to Spallasso to present an update on the various public works projects going on throughout the Village.

Spallasso reported that the shoring took place at the Evergreen Road North Bridge. He outlined efforts being made by the Village to pursue funding from the Michigan Department of Transportation (MDOT) for rehabilitation of this bridge. An MDOT committee will meet late in September or early October to review applications and decide on funding. Spallasso stated that load limitations have been posted and are being enforced by the Public Safety Department. He will be inspecting the bridge once a month until it is repaired. Spallasso addressed questions from Council on the bridge repair.

Spallasso informed Council that the 13 Mile Road bridge replacement is proceeding smoothly. The completion date may extend a few days past the scheduled completion date.

Spallasso reported on the progress of the critical structural sewer repairs that are proceeding on Kirkshire and Birwood.

A written report will be submitted at the next Council meeting on the status of the sidewalk on Beverly Road approaching Beverly School. He has been in contact with the principal of Beverly School and has new information on that project.

Craig interjected that a resident appeared before Council in June and requested a crossing guard at Beverly Road and Norchester on behalf of the residents of Beverly Woods subdivision. That individual was told that there was a possibility that a sidewalk could be installed before the start of school. He asked Spallasso for a further update on this.

Spallasso stated that he has learned that the proposed reconfiguration of the parking lot at Beverly School will delay the sidewalk installation until next year. It is the opinion of the principal of Beverly School that a crossing guard at Beverly and Norchester is not a priority based on the fact that there is a stop sign at that intersection and there are not many children who cross the street at Norchester.

Administration was asked to contact the gentleman who requested the crossing guard and inform him that the sidewalk will not be installed this year. Council will discuss the request for a crossing guard at its next meeting.

Spallasso reported on a hearing held in federal court this morning in front of Judge Feikins regarding the General Storm Water Permit which the Village will probably receive before the end of this month. He referred Council to the August 9, 1999 letter in the information packet for further information.

Stearn asked if there are any plans to close roads during the Woodward Dream Cruise. Director Woodard stated that there are no plans to close roads in the Village but that there will be traffic control points both at 14 Mile and Greenfield and 13 Mile and Greenfield.

### **PUBLIC COMMENTS**

Sharon Tischler of 21415 Virmar Court explained her rationale for speaking on behalf of the Public Safety Department relative to the Retirement Board appointment.

Tischler applauded the Public Safety Department for its efforts in controlling cut through traffic resulting from the 13 Mile Road Bridge repair and detour.

Tischler commented that she recently attended a Rouge River meeting at which time an individual from SOCRRA commented favorably about the restoration of the Douglas Evans nature preserve to its natural state.

### **COUNCIL COMMENTS**

Stearn remarked that he hears from residents about the fact that the City of Birmingham received a grant for \$450,000 which covers the cost of installing check valves for Birmingham residents. He asked the Village Manager to explain why Beverly Hills did not receive this grant.

Hanlin stated that Beverly Hills did apply for the same funding as Birmingham. The money became available in this way. There was a presidential declaration of a disaster in Michigan. When this happens, the entire State is eligible to apply for Federal Emergency Management Agency (FEMA) funds. The allocation depends on the disaster which is determined at the federal level. Any time the President of the United States declares a disaster, 10% of the FEMA funds become available to any mitigation program in the entire state. This declaration in question was related to tornados in northern Michigan and not to the flooding that occurred in this region. Birmingham applied for these funds.

The State Emergency Management Department decides who receives the money. There is a 12 member board that reviews each application. There was a policy decision made in Lansing not to fund the type of project that the Village submitted and to fund projects such as check valves and emergency alarms. As a policy matter, the State does not like to fund in-the-ground sewer types of projects. Hanlin stated that the criteria changes with each disaster. There were at least five other communities who applied for similar projects and were also turned down.

Stearn will bring a proposal before Council soon to separate the bills between General Fund and Public Safety bills. It is his suggestion to have the Finance Committee liaison review the General Fund bills and the Public Safety liaison look at Public Safety Department bills.

Kennedy received a question from a resident about the plants that were placed in the Beverly Park pond. His concern was that the plants would die and clog the pond.

Pasieka explained that the plants were a donation to the Village by a resident. The Parks and Recreation Board considered this offer at its July meeting and agreed to accept these plants. They will be monitored.

On behalf of the Planning Board, Kennedy asked Hanlin to contact SEMCOG and question whether the Village is scheduled for a walkable community study.

Lison encouraged Manager Hanlin and Director Woodard to think about how Council could expedite the review of invoices.

Downey referred to an article on grant opportunities in a recent SEMCOG newsletter. He encouraged administration to pursue a sustainable development challenge grant. The grant pertains to projects to promote environmentally and economically sustainable development. Downey stated that there has been a lot of discussion at the Planning Board level about development on the far east side of the Village and the infrastructure on that side of Beverly Hills.

Downey mentioned that there has been discussion on future repairs to the Evergreen North Bridge. He noted that Evergreen Road has been designated as a Natural Beauty Road in that area. He suggests that the replacement of that bridge include considerations for a more aesthetically pleasing guard rail.

Downey commented that he has taken pictures of skid marks on the roads in South Georgetown which appear to indicate speeding in the area. Buterbaugh stated that the garbage trucks are making the skid marks by abrupt braking. Downey responded that some of the repairs made to the cracks in the roads are being damaged by that practice.

Downey commended Craig for his discussion of a sidewalk along Beverly Road. A concerned resident came before the Council, and it is appropriate that Council follow up on those citizen concerns.

Downey commented as a former Planning Board member on the Bed Bath & Beyond request for a parking variance in order to locate in a vacant building on Southfield Road. He read two sections from the Village Master Plan. The Master Plan often talks about maintaining residential character and refers to Beverly Hills as a low density community. It is Downey's view that comparing the Village ordinances with other communities is not sufficient to override the intent of the Village.

Walsh questioned a memo received by Council from John Prymack of Great Lakes Waste Services. The contractor is currently picking up trash from Monday through Thursday in the Village. The letter proposes switching Monday's section to Friday. Walsh questioned when the Friday trash would be picked up if it cannot be picked up on that day for some reason.

Lison stated that the letter from John Prymack was in response to a meeting held about six weeks ago between the Village and Great Lakes representatives. If trash is not picked up on Friday, it would be collected on Saturday. Mr. Prymack was going to come back to the Village with a proposal to do this.

Buterbaugh commented that much of the credit for restoration of the Douglas Evans nature preserve goes to Paul Thompson who is now deceased. He collected seeds from valuable prairie plants and flowers for replanting at a later date.

Buterbaugh stated that many residents have contacted him about the Bed Bath & Beyond proposal to locate in the Village. They have suggested that there is not nearly the traffic associated with Bed Bath & Beyond that the Village seems to think there is. He pointed out that, although the character of the Village is residential, Southfield Road is the community's business district.

Craig expressed his disapproval of Public Safety Officers hand delivering material to him at home and with contacting him at his office for non-emergency reasons.

RESOLVED by Lison, supported by Buterbaugh, to go into closed session with the Village labor attorney to discuss a legal opinion.

Roll Call Vote:

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

Resolution passes (6 - 1).

A recess was called at 10:50. The meeting reconvened in closed session at 11:02 p.m.

RESOLVED by Lison, supported by Kennedy, to return to open session at 11:25 p.m.

Roll Call Vote:

Resolution passes unanimously.

MOTION by Buterbaugh, supported by Stearn, to adjourn the meeting at 11:27 p.m.

Motion passes unanimously.

**Andrew Craig**  
**Council President**

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