

REGULAR COUNCIL MEETING MINUTES - TUESDAY, SEPTEMBER 7, 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 7:00 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road.

RESOLVED by Lison, supported by Kennedy, to go into closed session to discuss pending litigation.

Roll Call Vote:  
Resolution passes unanimously.

Council left the room to meet in closed session. The meeting was reconvened in the council chambers at 7:47 p.m.

**APPROVAL OF MINUTES**

MOTION by Kennedy, supported by Stearn, that the minutes of a regular Council meeting held on Monday, August 16, 1999 be approved as submitted.

Motion passes unanimously.

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

Buterbaugh introduced members of a Boy Scout Troop from St. Hugo Catholic School who were present to earn their "Citizenship in the Community" badge. Council thanked the scouts for joining the meeting.

Pat Greening of 19289 Riverside observed that someone dumped broken concrete in Beverly Park. She asked if there is a phone number people can call to learn where to dump this type of construction material.

Spallasso responded that he will provide residents who contact him at the Village office with the phone number of places where broken concrete can be dumped. There may be a charge involved.

Dick Kazmier of 31834 Nixon was present on behalf of the Beverly Woods Homeowners Association and in particular Larry Smith who has appeared before Council with a request for a

crossing guard at Beverly and Norchester Roads. Kazmier understands that there were other options being considered, one of which was to extend the sidewalk on Beverly Road from the park to Beverly School. Kazmier was informed that this topic is on the agenda for discussion this evening.

Director of Public Safety Woodard stated that Council authorized the Department to hire a public safety officer at its August 2, 1999 Council meeting. Woodard presented background information on the individual recently hired to fill this position. He introduced Howard Shock who stepped forward and talked briefly about his background, education, and experience and indicated his pleasure at working for the Village of Beverly Hills. Council welcomed him.

Woodard invited everyone to attend the Beverly Hills Public Safety Open House that will be held on Sunday, September 19 from 1:00 p.m to 4:00 p.m. This will be an opportunity for residents to take a look at the public safety department facility and equipment, talk to personnel, and see interesting exhibits on police, fire, and EMS topics demonstrated by the Village's department and neighboring departments.

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

Patricia Greening, Parks and Recreation Board member, asked Village residents along with Council and Board members to join in a fund raising dinner and silent auction that will be held on September 22 at the Birmingham Country Club for the purpose of raising money for improvements to Beverly Park. The tickets are \$150 per person. Many items have been donated for the silent auction including art work, sports equipment and memorabilia, jewelry and more. A wonderful evening is planned.

#### **SECOND READING AND POSSIBLE ADOPTION OF ORDINANCE #296 AMENDING THE ZONING ORDINANCE**

Ryan reviewed that zoning changes were made on certain parcels of property in the Village in 1986 by resolution of Council. The zoning map was not amended to reflect those changes at that time. Ordinance No. 296 will bring the Village zoning map in sync with the proper zoning of property in the Village of Beverly Hills.

Ryan read the Ordinance No. 296, an Ordinance to amend Chapter 22 being the Zoning Ordinance for the Village of Beverly Hills. The Planning Board and Village Council have had public hearings, and Ryan recommends approval of this Ordinance.

Downey thanked the Planning Board, administration, and Bob Bliven in particular for cleaning up the zoning map. Walsh thanked Bliven for doing an excellent job of bringing the Village zoning map up to date.

RESOLUTION by Downey, supported by Walsh, that the Village of Beverly Hills Council approve Ordinance No. 296, an Ordinance to Amend Chapter 22 being the Zoning Ordinance for the Village of Beverly Hills.

ORDINANCE NO. 296

AN ORDINANCE TO AMEND CHAPTER 22, BEING THE ZONING ORDINANCE FOR THE VILLAGE OF BEVERLY HILLS.

The Village of Beverly Hills Ordains:

Section 1.01 That Chapter 22 of the Village of Beverly Hills Code, being the Zoning Ordinance, the same is hereby amended by amending the Zoning Map attached hereto, incorporated by reference and made a part hereof, that the following described property is changed from:

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.

R-1 to R-3, 18199 Gould Court, known as  
Parcel Identification No. TH24-02-427-003.

R-1 to R-3, 18189 Gould Court, known as  
Parcel Identification No. TH24-02-427-004.

R-1 to R-3, 18181 Gould Court, known as  
Parcel Identification No. TH24-02-427-005.

R-1 to B, 31645 Southfield, known as  
Parcel Identification No. TH24-02-427-007.

P to B, 31119 Greenfield, known as  
Parcel Identification No. TH24-01-477-011.

P to B, 15616 W. 13 Mile Road, known as  
Parcel Identification No. TH24-01-477-013.

R-2 to PP, 18500 W. 13 Mile Road, known as  
Parcel Identification No. TH24-02-478-003.

R-1 to PP, 18500 W. 13 Mile Road, known as  
Parcel Identification No. TH24-02-451-019.

R-1 to PP, 18500 W. 13 Mile Road, known as  
Parcel Identification No. TH24-02-102-009.

R-1 to PP, 18500 W. 13 Mile Road, known as  
Parcel Identification No. TH24-03-426-004.

Section 2.01. Public hearing having been held by the Planning Board and Village Council, the provisions of this Ordinance shall take effect 20 days after publication.

Made and passed by the Village Council of the Village of Beverly Hills this 7th day of September, 1999.

**REPORT ON CROSSING GUARD AT NORCHESTER AND BEVERLY ROADS**

Spallasso reviewed that Larry Smith representing the Beverly Woods Homeowners Association addressed the Council this summer asking for their consideration of a crossing guard at Norchester and Beverly Roads. Spallasso had suggested that the best solution might be to complete the sidewalk on the south side of Beverly Road extending from Beverly Woods Subdivision to Beverly School. Since that time, Spallasso has learned that the Birmingham School District proposes to reconfigure the parking lot at Beverly School which would delay the sidewalk installation until next year. When the parking lot work is completed, the sidewalk on the south side of Beverly Road will be connected from the existing sidewalk along Beverly Park and Allerton to the new parking lot.

Spallasso and Hanlin met with the Principal of Beverly School, Robert Cope, who indicated that he would advise Spallasso when the design stage of the parking lot improvements begin. Cope assured Hanlin and Spallasso that he will be monitoring the intersection and will consider a safety there if he feels there is a need. It was noted that the Beverly and Norchester intersection has a three-way stop.

Craig stated that a sidewalk constructed on Beverly Road now would lead to a driveway which is dangerous for children to cross. The planned improvements include moving the driveway away from the fence line and running the sidewalk back to the school. It would make sense to construct the connecting sidewalk at a time when it would tie in with the proposed improvements to the parking lot. Cope will watch that intersection this year.

Hanlin drew a distinction between a crossing guard and a safety patrol student. A crossing guard is a paid adult. She assumes that a safety is a fifth grade student.

Richard Kazmier, representing Beverly Woods Subdivision, questioned whether using a student as a crossing guard would be adequate to alleviate parents' concern about the safety at that intersection. He requested a police presence in the area during the morning and afternoon hours to give credibility to the stop signs.

Council and administration offered suggestions with respect to possible measures that could be used to assure pedestrian safety at the Beverly and Norchester intersection. These include painting a crossing stripe, installing signs warning people of children crossing, and attaching red flags or flashing red lights to the existing stop sign. Spallasso stated that the Village can enhance the controlled intersection which is already a three-way stop to make it more visible.

Craig concluded that a concern was brought to the attention of Council and investigated. The Village will extend the sidewalk on Beverly Road after the Beverly School parking lot is reconfigured. Administration will talk to the Director of Public Safety about a higher police visibility in the area of Beverly and Norchester as part of the road patrol during school beginning and ending hours. Spallasso will report back on actions taken at that intersection.

**DISCUSSION OF FISCAL YEAR 1998/99 FUND BALANCE DESIGNATION**

Stearn reported that the unaudited fund balance for fiscal year 1998/99 shows that revenue exceeded expenses creating a unanticipated surplus of \$294,000. The purpose of this agenda item is to decide how to use this amount or whether to retain it as part of the fund balance.

It has been brought to Council's attention that the Village Council adopted a policy regarding fund balances in 1984 establishing a target level of 13-15 percent of budgeted expenditures as the desired fund balance in the General Fund and in the Major and Local Street Funds combined. Stearn remarked that the Village would have an additional \$570,000 available to spend if 15 percent of budgeted expenditures were retained in the fund balance at this time.

Buterbaugh recalled that a more recent Council resolution relative to the fund balance policy was adopted in about 1992. He believes that Council increased the recommended level to the 15-20 percent range.

Buterbaugh questioned whether discussion on allocation of this surplus should be tabled considering that revisions to the financial forecast discussed at the joint Council and Finance Committee meeting of August 30 will be completed in a day or two. The recommendations in this report may influence Council's decision on this allocation.

Craig explained that the Village is faced with the possibility of having to cover the cost of rehabilitation of the North Evergreen Road Bridge if state funding is not approved. Council set the local road fund budget in May and allocated one mill for resurfacing streets. When Council became aware of the deterioration of the Evergreen Bridge, the decision was made to reserve the money allocated to pave local roads to cover the bridge expense until there was resolution on availability of grant money for bridge rehabilitation. The Village now has a surplus of \$294,000 in the General Fund that will cover bridge repairs. The question before Council is whether to allocate budgeted funds to complete the resurfacing project agreed to in the spring before Council was aware of the rapid deterioration of this bridge. Craig suggests that the surplus available for 1998/99 be transferred to the Road Fund and authorization be given by Council to continue with the resurfacing program that was suspended.

Craig questioned the impact of waiting a couple more weeks to make this decision. If Council does not take action tonight, it may be too late to take advantage of a change order to resurface streets before the end of the paving season. Spallasso would like to have a change order signed by the contractor as quickly as possible to retain the unit prices from the 1998 contract. He estimates that approximately three miles of road could be resurfaced with \$294,000.

Council questions were addressed by Spallasso. He assured Council that using this surplus for repaving streets will in no way jeopardize funding that the Village may receive from the state for the bridge replacement. The state will base its funding decision on availability of funds and the critical need to replace the bridge.

Stearn had reservations about whether Council should put all of this surplus into resurfacing roads or whether consideration should be given to reserving a portion of this surplus for unforeseen problems that may arise.

Spallasso commented that the longer the Village waits to resurface roads, the costlier it will be. Craig added that prices increase if reconstruction is necessary in lieu of spot repairs which is why it is a good policy to maintain a road repair program.

Downey commented that Council is considering significant financial impact based upon infrastructure issues. It is difficult to decide if three miles of road should be paved this year or whether it would be more appropriate to direct that money towards other activities. As a member of the Infrastructure Committee, Downey stated that he would rather work from a more sound understanding and a recommendation to Council.

Kennedy stated that Council and the Finance Committee met recently in a study session to review a financial plan for capital projects including infrastructure. Wiszowaty and Buterbaugh are revising that plan based on input received at the joint meeting. She would like to see the five year plan carefully thought out with the input of the Infrastructure Committee rather than proceeding in a fragmented approach.

Walsh expressed the view that Council should move forward on approving a certain level of spending tonight on road repairs to get back on track. This was part of the obligation from the 1997 dedicated millage.

Buterbaugh stated that there has been no resurfacing done this year which was part of the original plan agreed upon by Council. He thinks that Council is almost obligated to proceed with the road repairs now that funding is available. Buterbaugh will not support tabling this item which will delay initiation of a change order to resurface streets this season.

Dorothy Pfeifer of 160 Charrington Court stressed that the infrastructure repair program has been a work in progress for years. It was well represented and planned in the approach to ask for 2 mills for a dedicated millage. A portion of that dedicated millage is supposed to be spent on roads. Pfeifer asked that Council spend this surplus on road resurfacing.

Deborah Lowmaster of 16201 Amherst commented that she has been working in the construction industry for about 20 years. The Village may be able to resurface roads this year with a change order, but a project for less than \$300,000 is unrealistic in her view. Lowmaster talked about the time needed to administer the contract, noting that the asphalt factories shut down in November.

RESOLVED by Buterbaugh, supported by Walsh, to authorize the Public Services Director to enter into a Change Order on Contract R-98-4 for road resurfacing in an amount not to exceed \$294,000.

There was further Council discussion on this action.

Roll Call Vote:

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

Resolution passes (5 - 2)

**INTERIM AGREEMENT WITH McLEOD USA FOR RIGHT-OF-WAY PERMIT**

Before Council for consideration is an agreement with McLeod USA, the designated vendor that has been selected to construct a Wide Area Network (WAN) for the Oakland Schools. McLeod is also constructing a Metro-Area Network/Wide Area Network for Oakland County. Manager of Government Relations for McLeod USA, Gary Jones, was present.

An exhibit was distributed showing that Southfield Road and West Thirteen Mile Road are involved. Jones related that it has been McLeod's position to seek the approval of the municipality to utilize the right-of-way on a county road such as Southfield Road to promote good relations with local units of government.

Village Attorney Ryan was asked to comment on the contract. Ryan stated that the Village has authority over its rights-of-way under the Michigan Constitution. Council is being asked to approve a proposed agreement to permit construction of a fiber optic network informational system in the rights-of-way on Thirteen Mile Road and Southfield Road. All the work will be aerial on existing utilities. This will be a county-wide project.

The Village does not have a telecommunications ordinance in place at this time. Jones has suggested an interim agreement until the Village passes a telecommunications ordinance. The contract provides for payment of a fee; it provides that the Village be added as a named party insured; it provides that the contractor will replace any damaged roads. There are some reservations of rights which are appropriate under the Michigan law, the Telecommunications Act of 1995, and the Federal law that they are assuming the risks, and that they will go through the Village's ordinance procedure if and when it passes a telecommunications ordinance.

Council is being asked to approve an interim agreement to allow McLeodUSA to utilize Village rights-of-way in this fashion. Ryan commends this agreement to Council. A fee should be determined and included in the agreement.

Comments and questions from Council were addressed by Jones, Ryan and Spallasso.

Jones explained that McLeodUSA is constructing a Wide Area Network for the Oakland intermediate school district. It is a network which connects the administration building in Pontiac

with one building in each school district in Oakland County for high speed learning, Internet access, video classrooms, etc. McLeodUSA is concurrently constructing the Oakland County Government Wide-Area network which will connect Oakland County information technology to the municipalities for CLEMIS and other data base sharing.

McLeod will maintain the wire system. Spallasso added that it is in their best interest to keep the wires clear. The poles are owned by Detroit Edison which has maintenance requirements.

It was determined that the fee for use of the rights-of-way are typically \$.15 per lineal foot, paid on an annual basis. The number is based on the fixed variable cost of the right-of-way.

RESOLVED by Walsh, supported by Kennedy, that the Village of Beverly Hills Council authorize the Village President to sign the Interim Agreement dated April 12, 1999 with McLeod USA for right-of-way permits to include above ground fiber optics along Thirteen Mile Road between Southfield Road and Lahser Road. The agreement will include a fee of \$.15 per lineal foot or approximately \$800 per year to be paid quarterly to the Village.

Roll Call Vote:

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

Resolution passes (6 - 1).

The agreement with McLeodUSA is available for public review at the Village office.

**CONSIDER RECOMMENDATION TO FILL VACANCY ON THE BEVERLY HILLS PUBLIC SAFETY RETIREMENT BOARD OF TRUSTEES**

Craig excused himself from this discussion. President Pro-Tem Lison has been asked by Craig to bring before Council a replacement for Robert Benton. Lison offered a resolution at the August 16 Council meeting to nominate and ask Council consent for the nomination of John G. Mooney to the Village of Beverly Hills Public Safety Retirement Board of Trustees. Council voted at that meeting to table consideration of an appointment to fill the citizen vacancy on the Retirement Board.

Council members are in receipt of a memo from Lison which is an update on this nomination. Lison reopened consideration of the appointment of Mooney.

Council members individually commented on the qualifications of John Mooney for this appointment and expressed their opinion on whether he is the best candidate for the position. Some members of Council discussed the qualifications of John Grant, another candidate who applied for

the position. Lison reminded Council that the issue before them is to either confirm or deny the nomination of John Mooney. If Council chooses not to support that nomination, the process starts over.

Stearn read a letter that he received from a concerned resident William W. Wogan of 17160 Birwood who indicates his opposition to the candidacy of John Mooney to serve on the Public Safety Pension Board.

Ron Palmquist from the Michigan Association of Police representing the Beverly Hills Public Safety Officers referred to a letter that he sent to Council at their last meeting. He explained that the letter was written on behalf of the public safety officers because of concerns they had that the proper person be appointed to the Pension Board position. Palmquist stated that he had no knowledge or information as to who the nominated person was going to be at the time the letter was written. The purpose was to make Council aware that the employees wanted the person appointed to be someone with knowledge equal to the person who had been in the position previously. The members are concerned that the funds are there when they retire.

Palmquist mentioned a comment made by Council member Buterbaugh at the last meeting regarding the use of pension system funds to fund health care for retirees. Palmquist stated that this is not the current agreement between the Village and employees. Those funds are strictly for the funding of the pension benefit and not for funding of health care.

Lison restated the resolution made at the August 16 Council meeting.

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 (it was extended later),

Whereas our applicant is well familiar with the Village of Beverly Hills Public Safety Retirement Board, its 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.

Roll Call Vote:

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

Resolution fails (4 - 2).

Craig entered the Council chambers. He stated that Lison will come back with another nomination for this position at the next Council meeting.

Craig commented on several remarks made earlier by Mr. Palmquist. Craig discussed what he views as deficiencies in Council's process of filling a vacancy for a volunteer position.

Kennedy took exception to the fact that, after Craig excused himself from discussion of this issue, he returned to the room and made comments on the same issue. Craig responded that he believes he can comment on the process and not the qualifications of the candidates.

There were further comments from Council members on the appointment process that has been followed for this position.

#### **ACCEPT RESIGNATION AND MAKE FIRST ANNOUNCEMENT OF VACANCY ON THE PARKS AND RECREATION BOARD**

Council has received a letter from Andrea Brink resigning from the Parks and Recreation Board due to family obligations.

MOTION by Stearn, supported by Kennedy, to accept the resignation of Andrea Brink from the Parks and Recreation Board with deep regret.

Motion passes unanimously.

Stearn made the first announcement of a vacancy on the Parks and Recreation Board. He described the Board's activities and asked that interested residents make application at the Village office. The deadline for accepting applications will be September 24, 1999.

**RESOLUTION PROVIDING INTENT FOR BEVERLY HILLS TO FUNCTION AS PRIMARY PUBLIC SAFETY ANSWERING POINT FOR 911 SERVICE PLAN**

RESOLVED by Lison, supported by Kennedy, that, pursuant to Section 307 of the Emergency Telephone Service Enabling Act, the Village of Beverly Hills shall function as a Public Safety Answering Point (PSAP) within the 9-1-1 service district of the Tentative 9-1-1 Service Plan adopted by resolution of the Board of Commissioners for the County of Oakland on August 5, 1999.

Director Woodard explained this issue and answered questions from Council members. As part of the preparations for final consideration of a revised 9-1-1 Service Plan, each current Public Safety Answering Point (PSAP) within the plan must communicate its intent to continue operations under the new plan. The Beverly Hills Department of Public Safety is registered at this time as a primary PSAP with Oakland County and is the first agency that receives calls for police/fire/EMS emergencies within the Village of Beverly Hills. Action must be taken by the local unit of government in order to continue this ability to act as the primary PSAP.

Roll Call Vote:  
Resolution passes unanimously.

**PRESENTATION OF PLANNING BOARD PRIORITIES LIST**

Kennedy asked for Council's approval of the Planning Board's priority list for 1999/2000. The priority projects outlined by the Planning Board are as follows: 1) Minor Zoning Ordinance text amendments; 2) Bikeways, walkways and pedestrian safety study; 3) Residential site design and redevelopment standards; 4) Village entranceway signs; 5) Southfield Road redevelopment plan and implementation of the site development handbook into the Zoning Ordinance. The Planning Board would like to move forward on these items in 1999-2000.

Council approved funding in this year's budget for minor text amendments to the Zoning Ordinance and the bikeways, walkways and pedestrian safety study. The other items could be considered for funding in next year's budget. Kennedy indicated that the Planning Board with the assistance of Birchler Arroyo is currently moving forward with the minor text amendments.

Kennedy described each of these projects which was followed by comments and questions from Council.

Kennedy related that the Southeastern Michigan Council of Governments (SEMCOG) will be conducting a "walkable communities" survey in the Village next week for the purpose of providing the Village with a general idea of what it should look for with respect to a community-wide safety

path plan for the future. The findings from this study could be incorporated into the Planning Board study of walkways and pedestrian safety.

Council members expressed concern with the Village setting residential site design and redevelopment standards that dictate conditions such as color and style of buildings. It was clarified that the intent of this item is to address the potential impact of "big foot" redevelopment in the Village. This issue relates to the expansion of house sizes on small lots. Further conversation among Council members revealed some concern with "big foot" development and an interest in studying the implications for Beverly Hills before it becomes a problem as it has in Birmingham. Stearn suggested that the Planning Board review regulations on maintaining rental homes as part of this issue.

Council commented favorably on Planning Board member Robiner heading a committee to look into beautification of the Village entrance identification signs.

The redevelopment of Southfield Road is being brought to the forefront with the County commitment to accelerate the recapping of Southfield Road to next year. A boulevard will not be considered for several years. The Planning Board is interested in the Village staying involved and in communication with adjoining communities regarding plans for Southfield Road redevelopment. Council concurred with the Planning Board priorities for 1999-2000. Kennedy asked administration to request that Birchler Arroyo prepare cost estimates for the projects that have not received funding from Council.

Planning Board member Bliven commented that the Board is currently working on the projects that have been approved for funding. The Planning Board will request Council approval for funding of the remaining projects in the next fiscal year budget.

**ACCEPT RESIGNATION AND MAKE FIRST ANNOUNCEMENT OF VACANCY ON THE CABLECASTING BOARD - DISCUSS FILLING THE VACANCY ON A TEMPORARY BASIS**

Buterbaugh asked that Council accept the resignation of Thomas Eley who was appointed to the Cablecasting Board on August 2. Eley has decided not to serve on the Board. He attended no meetings.

MOTION by Buterbaugh, supported by Walsh, to accept the resignation of Thomas Eley from the Cablecasting Board.

Motion passes unanimously.

Buterbaugh made the first announcement of a vacancy on the Cablecasting Board and asked interested residents to make application for this position at the Village office.

Buterbaugh related that there may be significant votes forthcoming on the Cablecasting Board with regard to approval of a new franchise agreement and adoption of a Cable Ordinance. There will only be two appointed members of that board representing the Village of Beverly Hills.

Buterbaugh indicated that the current Cable Ordinance states that Council can appoint a temporary person to vote with the appointed Beverly Hills representatives to the Cablecasting Board. The Council President also has the ability to appoint an ex-officio member. The attorney for the Cablecasting Board has investigated this point and opines that an ex-officio person cannot vote.

Buterbaugh suggests that Council appoint someone to represent the Village until the vacancy on the Board is filled. That person would be able to vote on upcoming issues before the Cablecasting Board. Buterbaugh will accept this position if there are no other candidates.

Ryan stated that Chapter 5 of the Village Charter says that no elected officer may be appointed to any Village office or be employed by the Village during the term of office for which elected.

Buterbaugh informed Council that the proposed Cable Ordinance to be adopted by the consortium communities states that the liaison from each community can vote for that community should one of the appointed members be absent. It appears that this language conflicts with the Village Charter.

Buterbaugh suggested assigning someone from administration to attend Cablecasting Board meetings on a temporary basis and cast a vote for the Village. Council members were concerned that this could be perceived as appointing someone who is influenced by Council's views. If Council is prohibited from serving on that body, it may not be appropriate to appoint an employee to serve on their behalf.

Craig stated that this vacancy cannot be resolved before the September 15 Cablecasting Board meeting. Council can consider a temporary appointment at its first meeting in October. The announcement of a vacancy on the Cablecasting Board was expanded to announce that Council is looking for a volunteer who will sit on the Board on a temporary basis.

**RESOLUTION OPPOSING HOUSE BILL 4777**

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

VILLAGE OF BEVERLY HILLS, OAKLAND COUNTY, MICHIGAN  
RESOLUTION

WHEREAS, a bill recently introduced in the State House of Representatives by Representative Robert Gosselin, House Bill 4777, would prohibit local units of government from enacting ordinances without the express authority of the state legislature; and

WHEREAS, the authority to adopt ordinances and govern at the local level is expressly granted in the State Constitution and the Home Rule Act. To erode the authority of local government as HB 4777 proposes would be an unconstitutional act; and

WHEREAS, the reason people move to individual communities is their ability to have a voice in how they're going to live; local zoning ordinances provide that voice of the community; and

WHEREAS, this bill is a very serious attack on the right of local communities to make decisions which protect the health, safety and welfare of its residents and representatives of the Michigan Municipal League have dubbed the bill "The Destruction of Local Government Act of 1999".

NOW, THEREFORE, BE IT RESOLVED, that the Village of Beverly Hills Village Council strongly opposes House Bill 4777 and urges the members of the state legislature to reject any proposed legislation which would erode local home rule.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to Governor John Engler, Lieutenant Governor Richard Posthumus, Senator Gary Peters, Representative Patricia Godchaux, Speaker Charles Perricone, House Minority Leader Michael Hanley, Senate Minority Leader John Cherry, Senate Majority Leader Dan DeGrow, the Michigan Municipal League, SEMCOG and local governments in southeast Michigan.

Roll Call Vote:  
Resolution passes unanimously.

#### **APPROVE PURCHASE OF PHONE SYSTEM FOR PUBLIC SAFETY DEPARTMENT**

RESOLVED by Lison, supported by Walsh.

Whereas, the Department of Public Safety 1999/2000 capital budget calls for an expenditure of funds for the purchase of new telephone software and equipment to replace the existing system which is incompatible with Year 2000 issues; and

Whereas, the Village of Beverly Hills is entitled to participate in the Extended Purchasing Plan Program, a cooperative purchasing program operated by the State of Michigan;

Therefore, be it resolved, that the Village of Beverly Hills Council authorize the Public Safety Department to purchase the specified Northern Telecom's Norstar PLUS Modular Integrated Communications System at a cost of \$ 19,478.95 with funds from Account #101-900-980, Capital Purchases: Public Safety Equipment.

Questions from Council and the audience were addressed by Director Woodard. Council noted that the proposal is \$5,000 under the budgeted amount allocated to complete the phone system upgrade which started at the municipal offices and extended to the public safety building.

Roll Call Vote:

Resolution passes unanimously.

### **APPROVAL OF BILLS**

MOTION by Stearn, supported by Buterbaugh, that the bills recapped as of Tuesday, September 7, 1999 be approved in the following amounts:

\$209,256.65	General Fund
39,847.00	Major Road Fund
30,793.51	Local Road Fund
226,631.32	Dedicated Millage
31,613.32	Water/Sewer Operation Fund
2,635.48	Trust and Agency Fund

Questions on the bills were answered by administration. Stearn asked administration for closer monitoring of the phone bill and operating supplies.

Motion passes unanimously.

### **LIAISON REPORTS**

Stearn reminded everyone that the Friends of Beverly Park is sponsoring a fund raising dinner and silent auction at the Birmingham Country Club on Wednesday, September 22. Stearn thanked Craig on behalf of the Parks and Recreation Board and the Village for his commitment to the fund raising efforts of the Friends of Beverly Park. He thanked everyone on the Parks and Recreation Board for their work on this event, particularly Pat Greening. Tickets are \$150 each to support the park.

The fourth and final concert was held in Beverly Park on August 22. Stearn thanked the Village Lion's Club for supporting Beverly Hills through sponsoring events and fund raising.

There was a joint meeting of the Council and Finance Committee on August 30 to review the five year financial forecast. Council is looking for input from residents on the capital projects and methods of raising revenue. The next joint meeting will be held in the Council meeting room on September 30 at 7:30 p.m.

Kennedy quoted from a magazine article written by a SEMCOG Chairperson regarding aging roads and infrastructure. She stated that the Beverly Hills Council has been and is continuing to look ahead and address infrastructure needs.

A walkable communities seminar sponsored by SEMCOG will take place in Beverly Hills on Thursday, September 16 from 8 a.m. to 12:00 p.m. SEMCOG will be looking at safe paths in the community.

A Teen Night Out will be sponsored by the Birmingham Coalition on September 25 from 7:30-11:00 p.m. at the Beverly Hills Club. It is a substance-free event. Kennedy hopes to see a lot of Beverly Hills teens there.

Kennedy asked Hanlin to convey her view to SOCRRA that the organization should go out for competitive bids before considering renewal of its contract with Waste Management.

Kennedy informed Council that there will be a workshop on Naturescaping for the Rouge River on Saturday, September 25 from 9:30 until noon at the Cranbrook House. It is a session for elected officials and municipalities.

The second Summit of the Birmingham Community Coalition will be held on Friday, October 8 from 8:00 a.m. until 2:30 p.m. Kennedy hopes that members of the Council and administration will attend this meeting.

Downey stated that the Zoning Board of Appeals reheard a request from Bed Bath & Beyond at a special meeting held on August 30, 1999. The parking variance was denied at that time. Bed Bath & Beyond has resubmitted a request for variance which will be heard on Monday, September 13 before the Zoning Board of Appeals in the Village office at 7:30 p.m.

Walsh stated that the Infrastructure Committee will meet on Monday, September 27 at 5:30 p.m.

#### **MANAGER'S REPORT**

Hanlin reported that the walkable communities seminar conducted by SEMCOG will take place on Thursday, September 16 from 8 a.m. to noon. SEMCOG prefers groups of no more than about 20 people to join in the walk. The participants will meet at the Village offices and receive preliminary information from SEMCOG. Planning consultant Birchler Arroyo has outlined critical areas of the Village that will be visited. Hanlin asked that interested individuals coordinate their participation through the Village office since the number of participants is limited. Hanlin thanked Pasieka for his work on this.

Hanlin announced that Pasieka entered the Beverly Hills Winter Family Fun Day in the Michigan Municipal League Achievement Awards competition. The Village will receive recognition for this event either in the category of honorable mention or first prize. The announcement will be made at the annual MML convention in Grand Rapids. Hanlin thinks it would be appropriate if a member of staff and one of the community volunteers who took a lead in this program would attend the luncheon.

Buterbaugh mentioned that Elaine Kennedy observed at the last MML convention that Beverly Hills has sponsored events that are eligible for this recognition. It was at her suggestion that this event was entered into the competition.

Craig thanked Spallasso for doing a fabulous job on overseeing the construction of the Thirteen Mile Road Bridge.

Kennedy commented that there were two Village policies cited this evening with regard to the general fund balance. She appealed to administration to develop a policy manual for this type of information.

Hanlin agrees that the Village should have a policy manual. She experiences frustration at times with not being able to locate historical information easily. Hanlin informed Council that administration met with Plante & Moran this week to discuss the first phase of the computer study. It was acknowledged that the Village needs to consider acquisition of an indexing system that would search files and retrieve data using key words.

### **PUBLIC COMMENTS**

Sharon Tischler of 21415 Virmar Court referred to comments made by Craig during the Council Comment portion of the August 16 Council meeting. She responded to his comments relative to the Public Safety Retirement Board appointment. Tischler made the point that any person in the audience who speaks at a Council meeting feels that their public comments are worth saying. Tischler also responded to a comment from Lison on the same topic.

Craig responded to Tischler's remarks in an attempt to clarify points she raised about the Pension Fund and the process for selecting a Retirement Board member.

Dorothy Pfeifer of 160 Charrington Court expressed the view that what transpired at this meeting with respect to a recommendation for appointment to the Retirement Board was not something that Council should be proud of. While the Council may not have appreciated the manner in which Lison proceeded with the appointment, the Charter allows him to proceed as he did. Council's role was to agree or disagree with his selection. Pfeifer did not think it was necessary for individual comments to be made about the candidate.

Pfeifer commented on the "big foot" development and asked questions addressed by Craig.

### **COUNCIL COMMENTS**

Downey stated that comments were made at the August 16 Council meeting by Michael Fox of South Georgetown about speeding and police presence in that neighborhood. Downey reported that he has seen public safety officers on his street since this time.

In response to an inquiry, Spallasso stated that a count of volumes and speeds is being taken in South Georgetown. He will report on traffic in that subdivision at the next Council meeting.

Downey requested a list of islands that are mowed by the Village which will be furnished by Spallasso.

MOTION by Kennedy, supported by Buterbaugh, that the meeting be adjourned at 11:13 p.m.

Motion passes unanimously.

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

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