

REGULAR COUNCIL MEETING MINUTES - FEBRUARY 22, 2000 - 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 Building Official, Byrwa
Director of Public Safety, Woodard
Village Attorney, Ryan

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 Kennedy, supported by Stearn, to adjourn to closed session to discuss pending litigation and labor negotiations.

Roll Call Vote:
Resolution passes unanimously.

Council left the room to meet in closed session. The meeting was reconvened in the council chambers at 7:45 p.m.

APPROVE MINUTES

On page 4, paragraph 2, third sentence should read: "Fourteen Mile Road will be widened from two lanes to three lanes from Southfield to Greenfield Road." On page 5, third paragraph, last sentence, correct spelling of "Berkley".

MOTION by Kennedy, supported by Buterbaugh, that the minutes of a regular Council meeting held on Monday, February 7, 2000 be approved as amended.

Motion passes unanimously.

Craig asked for a motion to remove item #7 from the agenda, "Ratify contract for health care consulting services". Additional information is needed for consideration of this contract.

MOTION by Kennedy, supported by Buterbaugh to amend the agenda to remove "Ratify Contract for Health Care Consulting Services".

Motion passes unanimously.

PUBLIC COMMENTS ON ITEMS NOT ON THE PUBLISHED AGENDA

Director Woodard introduced Officer Charles Caruana who was hired by the Beverly Hills Public Safety Department as a result of Council's decision to retain an officer in anticipation of an expected vacancy. Woodard provided background information on Caruana who then stepped forward and introduced himself. Caruana thanked Council for the opportunity to pursue a law enforcement career with the Village of Beverly Hills.

PUBLIC HEARING TO REVIEW AND CONFIRM THE 1999 SPECIAL ASSESSMENT ROLL FOR THE SOUTHFIELD ROAD BUSINESS ASSESSMENT DISTRICT

Stearn explained that the Village maintains the public right-of-way along the Southfield Road business district. The cost of landscaping maintenance and water for the sprinkling system is assessed to the property owners on the west side of Southfield Road. A copy of the maintenance and water cost breakdown for the Southfield Road Business District was distributed to the audience. The total 1999 maintenance cost for the right-of-way was \$4,212.00 and the cost of water was \$2,931.23 for a total cost of \$7,143.23.

Craig opened the public hearing at 7:55 p.m. on the 1999 Special Assessment Roll for the Southfield Road Business Assessment District. No one wished to be heard; therefore, the public hearing was closed at 7:56 p.m.

RESOLVED by Stearn, supported by Walsh, that the Special Assessment Roll for the Southfield Road Business District be approved as submitted by the Village Clerk.

Hanlin remarked that the sidewalks in the business district are not consistently plowed after snow storms. It is the Village's intention to expand the special assessment district next year to include snow removal service. Businesses have the option to opt out and take that duty on themselves.

Kennedy suggested the creation of an informal association of business owners for the purpose of addressing this type of situation before it becomes a problem.

Roll Call Vote:
Resolution passes unanimously.

TELECOMMUNICATIONS RIGHT-OF-WAY PERMIT FOR METRICOM

This item was tabled at the last Council meeting in order to incorporate changes suggested by Council and the Village Attorney into a revised agreement with Metricom. Walsh reviewed that Metricom, Inc. is requesting a Right-of-Way Use Agreement with the Village that would permit the company to install radio transmitters on approximately 40 street lights or utility poles within Beverly Hills.

This is technology that will provide wireless Internet and e-mail service and local area network access. The transmitter units are nine inches long and have a 22-inch antenna extending from the bottom. It was noted that about 95% of the installations will go on existing Detroit Edison poles. If a pole designated for a transmitter is on private property, the company would have to arrange a lease agreement with that property owner.

MOTION by Walsh, supported by Downey, to remove the Right-of-Way Use Agreement with Metricom from the table for discussion.

Motion passes unanimously.

Walsh questioned the language in the agreement that provides the Village with the ability to terminate the contract. At Council's request, the contract was revised to allow the Village a 180 day termination clause without cause. Walsh referred to the clause on page 2 entitled "Term". It states that the Use Agreement shall extend for a term of nine years commencing on the installation date, unless it is terminated by either party upon a default upon any material covenant or term. It states further that the Use Agreement is renewed automatically for three successive terms of five years unless either party notifies the other party of its intention not to renew not less than 180 calendar days prior to commencement of the relevant renewal term.

By approving this contract, the Village agrees to allow Metricom to install and operate its mobile digital data communications radio network in Beverly Hills for a nine year term. The contract can be terminated by the Village without cause by notifying Metricom of its intention not to renew six months before the end of that nine years or before the end of a renewal term.

Robert Starkman representing Metricom stated that the company cannot provide a 180 day notice escape clause during the initial nine-year contract. Metricom is making capital investments in the communities it is entering, and everyone is going to be locked into an initial nine year term. Starkman related that Metricom has determined that a nine year period is sufficient to determine whether or not the venture is going to be successful. He added that Metricom has not left any community it has entered. The longest it has been in a community is 13 years.

RESOLVED by Walsh, supported by Downey, to approve a Right-of-Way Use Agreement with Metricom, Inc. dated February 16, 2000 to install a mobile digital data communications radio network known as Ricochet.

Norman Rubin of 31070 Rivers Edge Court expressed concern about the nine year life of the contract given that the telecommunications landscape will not be recognizable in about ten years. He outlined provisions that he believes should be included to protect the Village and to protect the users of this service.

Ryan clarified that this is not a franchise agreement. It is a permit whereby the Village allows this company to use its rights-of-way. The company makes an arrangement to serve its customers; people can use the system or not. It was indicated that the agreement includes a clause that requires Metricom to remove its equipment if it leaves the area.

Roll Call Vote:

Downey - yes

Kennedy - yes

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

Resolution passes (6 - 1).

RATIFY CONTRACT FOR JANITORIAL SERVICES AT PUBLIC SAFETY BUILDING

RESOLVED by Lison, supported by Kennedy, that the Village of Beverly Hills Council approve the appointment of Sunset Maintenance as janitorial service vendor for the Village of Beverly Hills public safety building in the amount of \$595/month.

Council is in receipt of a Request For Quote document prepared by Director Woodard including a description of items that are expected of the vendor to bid on this contract.

Craig clarified that this contract has already been signed by the Village. It was brought to Council's attention for informational purposes. It is an agenda item today because members of Council think that a contract in this amount should come before the Village Council for approval.

A memo dated February 16, 2000 from Director Woodard explains that there was a change in the quality of janitorial service from the current contractor with no efforts to improve that performance when the department's dissatisfaction was brought to their attention. Woodard learned that there was no written contract for this service nor was there a written record of what was expected of the vendor. It was decided that the undocumented relationship would be terminated and other requests for service proposals would be sought. Four proposals were received.

Woodard stated that Sunset Maintenance is the second lowest bidder. Because this company provides janitorial service to the Village and the Township offices, he believes that Sunset Maintenance will be motivated to maintain a consistent level of service throughout the campus.

Council members asked administration to prepare a spreadsheet listing every contract in the Village and its termination date. This information should be passed on from one council to another so that members are always aware of contract expiration dates. This knowledge will be useful during annual budget deliberations. It was also suggested that a Request For Quote be available for review in order to evaluate the actual expectations of a service contract.

Hanlin stated that administration has this report available in draft form. It will be distributed to Council before budget discussions begin in approximately a month.

Roll Call Vote:
Resolution passes unanimously.

PERFORMANCE GUARANTEE FOR BED BATH & BEYOND

On October 4, 1999, the Village Council approved a site plan for the Bed Bath & Beyond building to be located at 31535 Southfield Road. The issue before Council tonight is to consider requiring a performance guarantee from Bed Bath & Beyond in accordance with Village Ordinance 22.08.310 to assure compliance with the approved site plan for exterior work.

RESOLVED by Kennedy, supported by Lison, that the Village of Beverly Hills require a Performance Guarantee of \$107,000 in accordance with Ordinance 22.08.310 for Bed Bath & Beyond to complete the concrete, asphalt, utilities, landscaping, and screening according to site plan requirements.

Craig commented that the property owner's delay and unwillingness to board up and renovate a fire damaged building in a timely manner provides a history on this site that causes concern to Council and administration. That is the reason for requiring a financial guarantee that the work be completed according to the approved site plan. It was indicated that the Village has until a Certificate of Occupancy is issued to ask for a performance bond.

There was considerable discussion on the coverage required considering the maintenance and guarantee bonds for utilities that have been requested and received to date by Public Services Director Spallasso. It was determined that clarification is needed on the amount of the performance guarantee requested before Council takes action on this item.

MOTION by Kennedy, supported by Lison, to table discussion of a Performance Guarantee for Bed Bath & Beyond.

Motion passes unanimously.

SET PUBLIC HEARING DATE OF MARCH 6, 2000 FOR GRANT APPLICATION FOR PARK IMPROVEMENTS

Stearn stated that the Council, Parks and Recreation Board, and administration are in the process of applying for State money to make improvements to Beverly Park in accordance with the park master plan. Approval of the park master plan by the Michigan Department of Natural Resources was the first step in the process of applying for the Clean Michigan Initiative Local Recreation Bond Program. This step has been successfully completed due in large part to the efforts of Pasieka.

There is \$50 million available through this State program to be distributed to municipalities for improvement of cities and villages. The next step is to file a grant application. If the grant is approved, the State will match every local dollar allocated for park projects with up to three dollars. The grant process requires that the Village demonstrate public involvement in its application. It is proposed that the Council and Parks and Recreation Board hold public hearings to notify residents and receive public comments on the Village's intention to file a grant application for park improvements. The Parks and Recreation Board set a public hearing date for March 16, 2000. The deadline for submitting this grant application is April 1, 2000.

RESOLVED by Stearn, supported by Downey, to set a public hearing date of Monday, March 6, 2000 to give the public an opportunity to be heard on the Village's intention to submit a grant application for park improvements.

Craig stated that the Village will be asked to commit approximately \$100,000 of existing funds towards park improvements in order to receive matching grant funds. This amount represents money that has been privately raised for the park along with money from the park capital improvement fund reserved from prior budgets. He emphasized that Council is not going to be talking about committing new dollars to the park.

Council members voiced their support of the grant application. Pasieka was commended for his efforts in the grant application process.

Roll Call Vote:
Motion passes unanimously.

ACCEPT MICHAEL CLARK'S RESIGNATION AND MAKE THE FIRST ANNOUNCEMENT OF VACANCY ON THE ZONING BOARD OF APPEALS

Michael Clark has submitted his resignation as a member of the Zoning Board of Appeals. Downey made the first announcement of a vacancy on that board. Applications are available at the Village municipal building.

MOTION by Downey, supported by Walsh, to accept the resignation of Michael Clark from the Village Zoning Board of Appeals.

Motion passes unanimously.

Council thanked Clark for his service to the Village and wished him good luck with his move.

CONSIDER REQUEST BY THE MICHIGAN CHAPTER OF THE NATIONAL MULTIPLE SCLEROSIS SOCIETY FOR USE OF VILLAGE SIDEWALKS AND BEVERLY PARK DURING THE 12TH ANNUAL MS WALK ON SUNDAY, MAY 7, 2000

MOTION by Stearn, supported by Lison, to approve the request from the Michigan Chapter of the National Multiple Sclerosis Society for use of Village sidewalks and Beverly Park during the 12th Annual MS Walk on Sunday, May 7, 2000. Appropriate proof of insurance has been provided.

Motion passes unanimously.

CONSIDER PROPOSALS FOR PAINTING CENTER LINES AND EDGE MARKINGS ON VILLAGE ROADS FOR THE 2000 SEASON

Walsh stated that two bids have been received for painting of the centerlines and crosswalks. The low bidder is R.S. Contracting, Inc. for an amount not to exceed \$9,600 during FY 1999/00 and FY 2000/01.

RESOLVED by Walsh, supported by Downey, to approve the contract with R.S. Contracting, Inc. for FY 1999/00 and FY 2000/01 in the amount of \$9,600 for painting center lines, edge markings, and crosswalks.

Questions from Council were addressed by Spallasso. He stated that the lines are usually painted twice a year, depending on conditions. This contract includes crosswalk improvements that will make them more visible to motorists.

Roll Call Vote:
Resolution passes unanimously.

FORUM FOR COUNCIL CANDIDATES

Council candidates were given an opportunity to speak for five minutes. Names were drawn to determine the order of speakers. The following candidates spoke: Hildreth Buterbaugh, Dorothy Pfeifer, Randy Munguia, Robert Walsh, Andrew Craig, and Sherwin Zamler.

APPROVAL OF BILLS

MOTION by Stearn, supported by Downey, that the bills from a period of 2/8/00 through 2/22/00 be approved for payment in the following amounts:

\$147,812.33	General Fund
16,777.10	Major Road Fund
10,279.75	Local Road Fund
594.89	Dedicated Millage
22,734.79	Water/Sewer Operation Fund
<u>7,062.43</u>	Trust & Agency Fund
<u>205,261.29</u>	Total

LIAISON'S REPORTS

Downey attended the Parks and Recreation Board meeting last week as alternate Council liaison. Three announcements were made. The fund raiser scheduled for March 17 at the Beverly Hills Club has been canceled. The Parks and Recreation Board is planning to hold a carnival in the park on July 23 in conjunction with the Sunday concert. The Parks and Recreation Board set a public hearing date of Thursday, March 16 on the grant application for park improvements.

Buterbaugh reported that the Cablecasting Board has recommended approval of the franchise renewal documents to the municipalities. The new cable ordinance and franchise renewal agreement will come before the Council for approval after the documents are properly formatted for Beverly Hills.

Stearn stated that he will donate \$100 to purchase a park paving brick in honor of his new daughter, Paige Roslyn.

Kennedy stated that the Planning Board met on February 9 and entertained a public discussion to ascertain and quantify the need for sidewalks, bikeways, crosswalks or pedestrian safety paths in the Village. She hopes there will be more discussion and input at future Planning Board meetings as the Planning Board continues its study. There was discussion and finalization of the Planning Board 2000/01 priority list, which will be forwarded to Council for consideration.

MANAGER'S REPORT

Hanlin stated that Ryan requests authorization from Council to commence work on changing Village ordinances to decriminalize certain criminal offenses and make them civil infractions.

Ryan recommends taking advantage of changes in state law to decriminalize Village ordinances where appropriate. This action would decriminalize specific zoning and building ordinance issues so that people who violate these ordinances are not given the stigma of a criminal offense. Ryan will prepare a list of ordinances to be considered and a cost estimate for this work.

Hanlin updated Council on the Village web site. Bob Belaustegui has volunteered to work on getting a Village of Beverly Hills web site up and running. The Village is very fortunate to receive the assistance of someone with his experience and resources. We expect to see results very soon.

Craig commented on the importance of residents filling out census forms for Census 2000 coming up on April 1. The data collected in the 2000 Census is used by planners for the entire decade. Representation at the state and federal level is based on these numbers. Beverly Hills receives some of its revenue from the federal government on a formula based on population. Everyone needs to be counted so that the community is properly represented.

PUBLIC COMMENTS

Norm Downey of 23042 Nottingham commented that the Village is planning to mail a newsletter to all residents outlining the reasons for a 2-mill increase in the millage cap. He is concerned that the information be accurate and forthright. Downey understands that 50% of this millage increase is needed for the water system on the east side of the village, and 33% of the 2 mills is needed to make up the \$3.1 million shortfall in the "pay as you go" sewer rehabilitation program that is underway. The remaining 17% will go towards other capital items that were discussed by Council.

COUNCIL COMMENTS

Council members congratulated Todd Stearn and his wife Terri on the birth of their daughter Paige Roslyn.

Downey commented on the recent public discussion held by the Planning Board on safety paths, noting that sidewalks are a sensitive issue in the community. The Planning Board is commencing a study on sidewalks, bikeways, crosswalks and pedestrian safety paths for the Village. The public

hearing was held to engage public discussion on safety or accessibility issues in the community. The Planning Board is looking for input from residents on where they think a sidewalk is needed.

Downey gave two examples of places where he thinks sidewalks are needed. A sidewalk is needed to access a crosswalk at Dunblaine and Southfield on the right-of-way to Southfield Road. This is a safety item where a few feet of sidewalk can be an improvement. These types of improvements need to be identified. Downey added that he thinks sidewalks should be connected along 13 Mile Road between Lahser Road and the Georgetown North Subdivision. It is unsafe for people to walk in that area.

Buterbaugh related the method whereby cable subscriber complaints are recognized and addressed by the Cablecasting Board and the cable company. People who have problems with cable service can address them to the Cablecasting Board, P.O. Box 165, Birmingham, 48012. Subscriber comments and complaints are received by cable administrator Kathryn Hagaman and are brought up for discussion at monthly Cablecasting Board meetings.

Stearn wished luck to all candidates running for Village Council. Stearn thanked Lison for the past year he served with him on Council. Stearn asked residents to attend the next Council meeting on March 6 at Berkshire Middle School when there will be a public discussion of the millage proposal.

Kennedy thanked Hanlin for the memo to Village boards, committees, and community organizations on the beautification awards committee. Kennedy received a call from a member of the Village Woman's Club who informed her that their group decided to present a landscaping award this year to a Beverly Hills business. Kennedy looks forward to having a beautification awards committee formed within a couple of weeks. She hopes to have a member of the Woman's Club serve on this committee.

Kennedy congratulated all of the candidates who spoke tonight. She is proud that this Village has so many qualified candidates coming forward to seek office. She urged residents to vote on March 13.

Craig commended the Public Safety Department on its handling of a recent break in on the east side of the Village. The department's quick response and the apprehension of the individual will make someone think twice about attempting a robbery in Beverly Hills.

MOTION by Buterbaugh, supported by Walsh, to adjourn the meeting at 9:38 p.m.

Motion passes unanimously.

Andrew Craig
Council President

Ellen E. Marshall
Village Clerk