

Present: President Craig; President Pro-Tem Kennedy; Members: Downey, Munguia, Pfeifer, Stearn and Walsh.

Absent: None

Also Present: Village Manager, Hanlin  
Assistant to the Manager, Pasieka  
Finance Director, Wiszowaty  
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.

**APPROVE MINUTES OF A REGULAR COUNCIL MEETING HELD ON MONDAY, OCTOBER 2, 2000**

On page 9, fourth paragraph from bottom of page, last line, change “capital projects” to read “cultural art and recreational projects”.

On page 3, add the following after the paragraph above the roll call vote: (See Manager’s Report on page 9).

MOTION by Kennedy, supported by Pfeifer, that the minutes of a Regular Council meeting held on Monday, October 2, 2000 be approved as amended.

Motion passes unanimously.

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

Patricia Greening of 19289 Riverside reminded everyone that the Halloween Hoot will take place this Sunday, October 22 in Beverly Park.

**CONSIDER REQUEST BY THE MICHIGAN CHAPTER OF THE NATIONAL MULTIPLE SCLEROSIS SOCIETY FOR USE OF VILLAGE SIDEWALKS AND BEVERLY PARK DURING THE 13th ANNUAL MS WALK ON SUNDAY, MAY 6, 2001**

MOTION by Stearn, supported by Kennedy, that Council approve the request by the Michigan Chapter of the National Multiple Sclerosis Society for use of Village sidewalks and facilities at Beverly Park during its 13th Annual MS Walk on Sunday, May 6, 2001. The fee for use of the park pavilion is waived. Proof of insurance is required.

Phil Schmitt of 18103 Riverside, speaking on behalf of the Michigan Chapter of the Multiple Sclerosis Society, stated that this walk held across the country every year is one of the major fund raisers for the National MS Society. He described the 12 mile walking course in this area. Beverly Park will be a rest stop with use of the pavilion and the rest rooms. Schmitt asked that the pavilion

rental fee be waived for this event. He noted that the Parks and Recreation Board unanimously supports this use of the park.

Roll Call Vote:

Motion passes unanimously.

### **DISCUSS PARK MILLAGE PROPOSAL**

Stearn stated that the Parks and Recreation Board is requesting that Council place a question on the March ballot asking the voters to authorize the Village to levy 0.25 mill for five years to be used to finance capital improvements for Beverly Park. The millage will raise enough money over five years to start funding improvements in the park including playground equipment, pedestrian entrance to the park, repairs to the sled hill, and parking lot paving. The cost to homeowners will be \$25-\$30 per household for a home valued at \$250,000. The Parks and Recreation Board is asking for Council discussion and a decision on whether to place this proposal on the ballot so that the citizens can vote on whether they want to improve Beverly Park.

RESOLVED by Stearn, supported by Kennedy, that Council include on the March 2001 Village of Beverly Hills General Election ballot the following proposal for a dedicated millage for Beverly Park:

Shall Section 9.1 of the Charter of the Village of Beverly Hills be amended by adding Section 9.1 (b) to read as follows:

#### **POWER TO TAX:**

Section 9.1 (b) The Village of Beverly Hills shall levy an additional 0.25 mill (25 cents [\$0.25] for each \$1,000 of taxable value) for a period of 5 years, the years being 2001 through 2005, inclusive. Such new millage, which is estimated to raise \$109,000 the first year, shall be used exclusively to finance capital improvements to Beverly Park.

Walsh voiced his opposition to Council placing this question on the March 2001 ballot. He reviewed that on March 2, 1998 Council unanimously adopted the Beverly Park Master Plan. He read a paragraph from the minutes of that meeting quoting the comments of the Council Liaison to the Parks and Recreation Board at that time: "Grinnan explained that a master plan for the park was meant to take a long range look at Beverly Park and determine in what direction the community would like it to go over a long time. A master plan would provide a coherent approach for utilizing gifts and donations made to the park. It is anticipated that there will be grants from public and private sources to upgrade and improve the park. This park plan is not a funding request. It is an opportunity for Council to approve the plan so that Beverly Hills will have a park master plan in place. A community cannot apply for certain benefits and grants if it has not adopted a master plan."

Walsh stated further that in late 1999 the Finance Committee was given the charge to prepare a five year capital plan for the Village. One of the items in the plan was to set aside \$15,000 a year for park capital improvements. Council referenced this document at meetings to promote a March 2000 ballot

proposal to increase the millage cap to 11 mills. The millage proposal failed by a two-thirds vote of the residents. Discussion following the millage defeat suggested that the people did not trust the Council or administration with discretionary spending.

On September 18, 2000 Council held a study session at which time there was a consensus of Council that it would not initiate a ballot proposal for the March 2001 election. Council now has before it a park millage proposal. There was discussion at this study session relative to the requirements for placing a question on the ballot by the public. A Charter revision can be placed on the ballot when an initiative petition signed by qualified electors equal to at least 20 percent of the total vote cast for president at the last preceding election is presented.

Kennedy commented on the positive energy that has been evidenced during the past four years that she has been on Council with respect to the condition of Beverly Park and the creation of a park master plan. The money allocated by Council for capital improvements to the park has not been in proportion to that interest. Available funds have been allocated for high priority items needed in the Village such as sewer and road repairs and now water mains.

Kennedy believes that the voters sent a message with the last election relative to discretionary spending. She thinks that this is a good time to put a single issue on the ballot. The voters know what they are voting for and park improvements are a need that has been expressed by many members of the community. Kennedy emphasized that Council did not initiate this proposed ballot proposal. It has come to the Council from the Parks and Recreation Board. Kennedy urged residents to look at the park to see what there is to offer and to review the park master plan. She thinks that residents should have a choice on whether or not to support improvements to the park.

Stearn supports a proposal that will let the residents decide whether they want to spend more money on the park. He stated that very little has been done to implement the park master plan. It has been estimated that it will take between \$800,000 and \$1 million to complete the improvements outlined in that plan. There are other maintenance items that are not included in the master plan that will have to be addressed. The ballot language is asking for about \$550,000, which will not cover all the projects in the plan. Stearn would like to let the residents decide whether this is the time to start working on the park and making it a better place to visit.

Craig clarified that there are two ways to place a proposal on the ballot. The legislative body by a two-thirds vote can place a charter revision on the ballot. Five of the seven Council members must vote in favor of placing the proposal on the ballot. Another means of placing a proposal on the ballot is through an initiative petition signed by qualified electors equal to at least 20 percent of the total vote cast for president at the last election. This would be about 1,500 people based on the last presidential election. The number of required signatures will be determined by the number of voters in the November presidential election.

Patricia Greening of 19289 Riverside, member of the Parks and Recreation Board, stated that she has been working for many years to make Beverly Park a better place for the community. A park master plan has been prepared and adopted. A plan was necessary in order to apply for any grant money.

Parks and Recreation has not been able to secure enough Village funding for capital improvements to the park at the rate that is needed.

Greening related that the Friends of Beverly Park organization raised over \$19,000 in donations in response to a community mailing. The group held a fund raising dinner and silent auction that netted over \$30,000. The Woman's Club initiated a drive to sell paving bricks to help finance the new park pedestrian entrance. The Parks and Recreation Board applied for a Clean Michigan Initiative grant that required the Village to commit the money raised through donations and funds budgeted by the Village in order to receive a matching grant. The grant application was not funded, but the Village has applied for the final round of CMI-Recreation Bond applications. With 0.25 mill, the Parks and Recreation Board will be able to proceed with the major improvement to the park - the gate and entranceway, paved parking lot, and new playground equipment.

Greening talked about the functions that are held in the park, which include the Winter Family Fun Day, Memorial Day Parade and Carnival, Easter Egg Hunt, Cub Scout Klondike Carnival, little league games, softball league play, cross country meets, summer concert series, Halloween Hoot, ice skating and sledding. These event are enjoyed by everyone in the Village on a regular basis.

Greening stated that the Parks and Recreation Board does not expect the Council to promote this ballot proposal. They are asking Council to place the question before the voters to decide whether to make Beverly Park a place that the community deserves.

Janet Mooney of 19111 Devonshire, Parks and Recreation Board member, was present speaking as the chairperson of the ballot proposal committee for Beverly Park. She understands that it was the consensus of Council at a recent study session not to initiate any ballot proposals for the March 2001 election. She explained that the Parks and Recreation Board had initially agreed to proceed with an initiative petition to put the proposal on the ballot without the support of Council. However, there were residents who indicated that they wanted to be heard publicly on this issue. For that reason, the board asked that the millage proposal be placed on the Council agenda.

Mooney commented on the support that has been received for this ballot proposal during the last two weeks. Over 800 signatures on the petitions have been obtained from residents in all areas of the Village. This is a strong indication that there is support for a park millage. The Parks and Recreation Board and supporters of this ballot proposal are asking Council not to underestimate the residents of this village. They understand the difference between a millage cap increase, a dedicated millage and a nominal park millage. The electorate is capable of looking at each proposed tax and making a decision based on its merits.

Mooney stated that the residents realize that money has been accumulated for Parks and Recreation capital expenditures, but that it is not enough to complete the projects established in the park master plan. Most of the residents she has talked to welcome the opportunity to pay this nominal amount to bring the park up to the standards that people expect in their own homes and in their neighborhood. She believes that there is support to get this passed. Council is being asked to give the voters the

opportunity to decide. The Parks and Recreation Board is looking for Council's leadership in this endeavor.

Drew Schmidt of 19096 Bedford commented that he appreciates Walsh's comments about fiscal responsibility. Schmidt does not think many of the residents know about the park master plan. He knows that the overwhelming majority of the residents do support the proposed improvements to the park. Schmidt does not think that thirty dollars a year per household for five years is much in terms of a tax increase. He urged Council to approve the request to place this proposal on the March ballot.

Phil Schmitt of 18103 Riverside, chairperson of the Parks and Recreation Board, clarified several misconceptions about the master plan for the park. Schmitt thinks that the timing is right to find out what the community wants to do in the park. The only way to learn whether there is support for park improvements is to put a question on the ballot and see what the residents have to say.

It has been said that the Parks and Recreation Board has not spent the money donated through fund raising efforts and the Village money budgeted for park improvements. Schmitt explained that this money is committed as part of a grant application to receive matching funds from the State. Schmitt contends that the Parks and Recreation Board has been very prudent, frugal, and fiscally responsible.

Money is spent by the Village on the maintenance of the park and the park is well maintained. There are certain facilities that need replacement. Schmitt stated that the board is not asking Council to support or vote for the ballot proposal; the board is asking Council to place the question on the ballot to determine what the community wants to do with the park.

Mary Ann McBroom of 22235 Nottingham Drive stated that she sells real estate in the area and talks to many people. People think that the proposed park improvements are a great idea. She thinks this town has a real jewel in the center of it, and the Village should take special care of Beverly Park. There have been tremendous increases in the property value in this community. Many people have been upgrading their houses because they want to remain in Beverly Hills. She requests that Council seriously place this issue on the ballot.

Raymond Lacroix of 20285 Coryell favors the resolution being passed to allow the millage proposal on the March ballot. He agrees with the comments made in support of improving the park now while the costs are realistic. He urges Council to unanimously agree to the resolution.

Andrea Brink of 19600 Riverside Drive, former Parks and Recreation Board member, stated that she moved into the community at the time the residents were coming together to discuss the park master plan. She thought that Beverly Hills was a dynamic community to include residents in planning for the community. The park master plan is a good idea, but it is not being implemented. There was a lot of effort and expectation on the part of residents that improvements would be undertaken. This ballot proposal will ask residents if this is the way they want to fund the ideas they gave to us.

Ann Woodman of 32475 Plumwood respects and appreciate the time that the Council members spend on behalf of the community. She hopes that Council feels that the residents deserve the right

to vote on this issue and that they are informed enough to make a decision on this millage. Woodman commented on the condition of the play structure in Beverly Park and the need for new playground equipment. There has been a band-aid approach taken in the park. It is time to let the residents decide if they want to do more and are willing to pay for it. She believes that there is support in the community for this proposal.

Gladys Walsh of 20655 Smallwood Court related a chronology of events in the Village that preceded this request to place a millage proposal on the ballot. She prefaced her comments by stating that she lauds the Parks and Recreation Board members for their work on improvements to the park. Walsh does not approve of the manner in which the park improvements are being pursued.

Walsh talked about the purpose of the Parks and Recreation Board. She related the history, duties, responsibilities, and scope of authority of the Parks and Recreation Board, an advisory board to the Council. She emphasized that a function of the board is to seek additional funding or donations and funneling such to the administration with recommendations for its use. Future development is also a task of the board.

In June of 1996 there was a joint meeting of the Council and Parks and Recreation Board to consider a park master plan. Walsh thinks that this plan is a good idea, but feels the Council must act in a reasonable, rational manner in order to meet the needs of our community. At a joint meeting held in November of 1997, the Council, Parks and Recreation Board, and Planning Board arrived at a consensus for a long range plan for Beverly Park. The master plan would help the Village allocate public funds and donations for park improvements.

At a March 2, 1998 Council meeting, the Council liaison to the Parks and Recreation Board stated that a master plan for the park was meant to take a long range look at Beverly Park and determine in which direction the community would like to proceed. She indicated that a master plan would provide a coherent approach for utilizing gifts and donations made to the park. A community cannot apply for grants without adopting a park master plan. Walsh contends that the residents were told that the park master plan was a vision and a plan that would be implemented step by step as money becomes available. It appears that the plan is now being used for a different purpose.

The purpose of the park master plan is a guide for the future development for Beverly Park. Walsh noted that the introduction to the plan acknowledges two schools of thought that exist relative to the park. There are those who are comfortable with the existing facilities and the uses versus those who want to turn the park into the center of community life. Walsh thinks that there are many who do not know what is proposed for the park. She questioned the priorities set for the park capital projects.

In reviewing Parks and Recreation Board minutes, Walsh maintains that it is clear that the board was aware of how improvements to the park would be financed. She referred to the fund raising activities of the Friends of Beverly Park and the Woman's Club and the recent grant application.

Walsh stated that it was the consensus of Council at a September 18, 2000 study session that it would not initiate a millage ballot proposal of any kind in March of 2001. She commented on what

the Village has to look forward to as far as infrastructure expense is concerned and where tax money needs to be going at this time. Currently the budget includes expenditures for ongoing maintenance costs for Beverly Park as well as \$15,000 a year for capital improvements to the park.

Walsh stated that she is not opposed to an initiative petition with the required number of signatures to place this proposal on the ballot. A signature from someone who signs the petition to place the issue on the ballot does not mean that they are going to vote for the millage increase. Walsh believes that it is through the petitioning process that this proposal should be placed on the ballot rather than by a vote of Council.

Jack Harmon of 32320 Bellvine, member of the Parks and Recreation Board, stated that there has been discussion about the reasons for this millage proposal. He thinks that the topic tonight is whether Council will place a question on the ballot that will let the residents decide whether they want to support park improvements.

Tami Wilms of 18250 Kirkshire commented that she has a small child and is interested in improvements to Beverly Park. She currently goes to a park in Birmingham because of the inadequacy of the play equipment at Beverly Park. Wilms circulated a petition on her street. Almost everyone she talked to signed the petition and said that they would be happy to support the park in this nominal amount. Wilms stated that people were charged with preparing a master plan for the park, and she is supporting that plan. She thinks that Council should let the people decide on this issue.

Bob Belaustegui of 32300 Lahser Road, Planning Board member, expressed the view that Council is over-reacting to a failed millage. It has become clear that Council asked for too much and that the explanation of the millage cap increase was not as clear as it should have been. He noted that there was little money in the millage cap increase proposal for discretionary projects.

Belaustegui commented on the relationship between the Village General Fund and the millage cap. The Headlee Amendment has been written in a way that forces communities not to hide behind property value increases to support discretionary expenditures. The effect of the Headlee Amendment is that the millage goes down and costs go up over time. The inflation rate does not equal costs. Belaustegui stated that a community can exclude services like trash pick up and library charges from its millage cap.

Residents are telling Council not to change the millage cap, but to manage within it. The millage cap is for major needs. Other projects that are more discretionary should be under the purview of "do the Village residents really want those things". The residents want a say in the discretionary projects. Belaustegui thinks that it is incumbent upon Council to take those things to the residents. Work has been done on a park master plan and the residents can judge whether to support park improvements.

Belaustegui stated that perhaps it was thought that most of the money to implement the park master plan would come as a donation. It is now clear that fund raising is not going to be enough. The Parks and Recreation Board and other residents are attempting to raise money for park improvements. The

board is pursuing grants. It is clear that it will not be enough to implement the park capital improvements in the master plan. Belaustegui believes that there are some things that will have to be removed from the park if money is not spent to upgrade the playground equipment and sled hill. There is a safety issue with the park entrance and an appearance issue with the fence along the front of the park.

It is evident to some that the interest in a viable community park has changed over the last few years. Belaustegui thinks that people deserve an opportunity to vote on this issue. It should be up to the residents and not the Council to decide on discretionary spending. It appears that the initiative petition will succeed easily.

Belaustegui commented that it has been said that the Parks and Recreation Board should wait for the outcome of the vote on Proposal A, a half-mill property tax for 10 years for regional cultural organizations and local arts and recreation groups. If it passes and a lot of money is coming to the Village, Belaustegui doubts that this ballot millage will pass in March.

John Mooney of 19111 Devonshire responded to comments made by Gladys Walsh, who spoke in opposition to the Council resolution to place the park millage proposal on the ballot. He referred to the comments quoted from former council member Grinnan, who said at the time that the park master plan was not designed as a funding mechanism. What the Parks and Recreation Board is doing is asking residents to act on a request for a funding mechanism to make improvements to Beverly Park.

Mooney read from the park master plan, which says that a park needs to be constantly updated to meet the needs of contemporary uses. As the makeup of the population changes, so must the facilities in the park change. In addition, ongoing equipment placement is necessary because of normal wear and tear, new safety standards, and new barrier-free regulations. The plan says that Beverly Park would benefit substantially from an annual capital improvements budget of \$100,000 for the next five years at minimum. Mooney stated that the ballot question is asking for \$500,000 over five years to help with capital improvements.

Council is being asked to allow the voters to decide whether or not to fund the improvements to the park. Mooney maintains that property values will increase if we make this park what it should be.

Pfeifer commented that she has always been supportive of the park. A review of the figures show that there is approximately \$119,000 in the capital projects fund reserved for Parks and Recreation. It includes the money raised by the Friends of Beverly Park and also about \$60,000 that has been allocated from the General Fund. In addition to those funds, Council budgeted \$24,000 in this year's budget for capital improvements to the park. The Woman's Club has raised approximately \$23,000 through the sale of paving bricks. Pfeifer believes that there is approximately \$166,000 reserved for park capital projects. In addition to that, there is the potential of receiving \$200,000 from a CMI grant. Pfeifer stated that the Parks and Recreation Board will probably have about \$365,000 at its disposal beginning in 2001. The ballot proposal would raise an additional \$500,000 over five years.

These amounts come close to the figures projected for the cost of the capital improvements outlined in the master plan.

Pfeifer is not in total agreement with pre-funding the park master plan with a dedicated millage. A park by its very nature is supposed to be a preservation of greenery and a place of serenity. She is concerned about overdevelopment of the 34 acre park. Council is being asked to agree with the approach of the park master plan without the option of reviewing discretionary spending in the park. She would rather progress slowly on the park master plan. Pfeifer cannot agree with the Parks and Recreation board ballot issue.

Pfeifer added that she has not heard whether the Parks and Recreation Board will withdraw the petition for a ballot proposal if the CMI grant is received and if Proposal A passes in November.

Stearn supports the resolution on the basis that the voters have a right to decide whether it is a priority for them to improve the park. He emphasized that the Council will have the opportunity to decide on expenditures for the park capital projects. Council will have public meetings to determine what the people in this Village want in the park.

Kennedy is asking for unanimous support from Council to give the residents the opportunity to tell Council how they feel about park improvements. She concurs that the Council will have ample opportunity to vote on each funding recommendation that comes from the Parks and Recreation Board.

Walsh commented that he will not support this tax increase. He thinks that a petition drive is the best way to approach this issue. If there is a strong interest by a large voter base to put a question on the ballot, than there is probably a base to pass it.

Downey affirmed that this is not a resolution about approving funding for the park. The resolution will place a question on the March 2001 ballot for the people to decide. He clarified that the park master plan would be funded a piece at a time. A plan is merely a guide that will be affected by the reality of the situation and the funding available.

Munguia agrees that the park needs updating. He thinks that there are ways to accomplish this other than taxing people. There are other innovative ways to look for money. Munguia stated that he would stand behind the ongoing petition drive to place this issue on the ballot.

Craig stated that he has long been a supporter of the park. He indicated at a recent Council study session that he was not in favor of initiating any ballot drive for a tax increase. He does not think Council is initiating this proposal. Craig commented that 800 people signed petitions to place this question on the ballot. If the resolution is not approved, he has no doubt that this petition will be on the ballot and be overwhelmingly approved.

The endorsement of placing this question on the ballot is not an endorsement of the park master plan although the Village Council at the time of the plan's adoption unanimously approved it. The Council will approve what goes in the park item by item.

Vote on Resolution:

Pfeifer	- no
Stearn	- yes
Walsh	- no
Craig	- yes
Downey	- yes
Kennedy	- yes
Munguia	- no

Resolution fails (4 - 3).

A recess was called at 9:47 p.m. The meeting was reconvened at 10:00 p.m.

**PRESENTATION OF JUNE 30, 2000 AUDIT**

Finance Director Wiszowaty introduced Joe Heffernan and Blake Roe from Plante & Moran, who will present the audit report for the year ended June 30, 2000. Council members have received copies of the financial statements and the auditor's letter of comments and recommendations.

Heffernan stated that the audit looks at the Village's internal control systems as it relates to the financial systems to make sure that the checks and balances are appropriate. The audit also looks at a sample of transactions and balances that are being reported in the general ledger to make sure that the accounting records of the Village are accurate. Plante & Moran expressed a clean opinion of the general purpose financial statements.

Roe displayed a series of graphs to present an overview of the financial health of the Village. Graphs were used to discuss General Fund revenue trends, expenditure trends, fund balance, and Water and Sewer Fund Operations. A summary of revenues in each of the Village funds shows that \$11.5 million passed through the Village in revenue in the current year. Council should recognize that this demonstrates that the office staff is running at good efficiency with the restrained manpower available.

Heffernan reviewed the letter of comments and recommendations. The material includes a comparative financial overview displayed in a series of graphs comparing the Village of Beverly Hills with the Michigan Municipal League's data base. Communities often find it helpful to compare key statistics against averages of other communities in the state. Heffernan indicated that the graphs do not answer questions; they provide generalizations that can be used to ask more focused questions.

Heffernan discussed the graphs and what he thinks they reveal in terms of Total General Fund Revenue & Expenditure per Capita, General Fund Revenue by Source, General Fund Expenditures

by Function, Fund Balance and Debt, and Salary Expenditures & Fund Balance as a percentage of Total Expenditure.

The comment letter refers to the 2000 census impact on State Shared Revenue. Heffernan discussed the formula for computing state shared revenue based on population increases. He related that the law states that the 2000 census count should be used for all distributions after October 1, 2000. The State has indicated that, due to the timing of the information, it will continue to use the 1990 population figures through April of 2001, but will then correct for population adjustments in June and will pay the 8% cap redistribution in August. As a result, the Village can expect to receive approximately \$50,000 less than expected in June 2001, but approximately \$100,000 more than expected in August. The Village should be aware that its cash flow is likely to be affected next year in August with those payments.

Heffernan informed Council that Public Act 245 of 1999 creates a new requirement for fees charged under the Construction Code Act. The new law requires that the Village calculate the costs of construction code activities, including overhead, and compare them to the revenues generated. As a result, footnote 12 has been added to the financial statements to represent the Village's calculation of construction costs and estimated overhead costs. It appears that the Village is well within the limits set by the act.

The comment letter contains information on road funding. Public Act 51, which provides cities, villages and county road commissions with a share of the State's Gas and Weight tax, was scheduled to sunset on September 30, 2000. The Governor appointed a task force a year and one-half ago to study funding distribution formulas for state and local road agencies. The task force arrived at a complicated formula that would have tried to tie the amount of money each community received to the perceived condition of the roads. Heffernan commented that that approach would separate the connection of the type of road to a community and result in a slow centralizing of the road services.

The process recommended by the task force was abandoned because there was not enough time before the sunset date of September 30 to make it happen. The Legislature passed legislation that eliminated the September 30, 2000 sunset on Act 51. Heffernan cautioned that the Governor is likely to bring this back onto the table as soon as he thinks that the political conditions are right.

Heffernan stated that the comment letter includes a recommendation on reconciling of investments. Currently the monthly investment listings are being prepared by the finance director and reconciled by him to the general ledger. The auditors think that it would strengthen internal controls to have a second individual involved with this process either as a preparer or reviewer. In answer to an inquiry, Wiszowaty stated that the Treasurer will be involved in the review process.

Heffernan noted that there are about \$17,000 of building bonds related to prior periods recorded as liabilities on the Village's books. Plante & Moran recommends that the Village look into some of the larger amounts and determine whether something should be done to return the unclaimed money to its appropriate owner or consult with legal counsel about whether to forfeit these funds under the state escheats laws.

Heffernan addressed comments and questions from Council on the audit report. Topics of discussion included the minimum and ideal size of the fund balance and alternative ways that communities are raising money other than through property taxes.

Council members commended Plante & Moran on the presentation of the audit report and congratulated Wiszowaty on a good audit.

### **CONSIDER PROPOSALS FOR LIABILITY INSURANCE COVERAGE**

Craig stated that the two primary general liability insurance carriers that offer pooled coverage have elected to drop full coverage for flood insurance, which has caused administration to look for alternate sources. Administration was hoping to receive additional information concerning available options before tonight's meeting. The Village's current insurance policy lapses at the end of this month. Council will most likely schedule a special meeting before the end of the month to address this issue.

Hanlin stated that she started the process of insurance renewal in June. In July, the Michigan Municipal League Liability and Property Pool decided to cap its sewer back up insurance to \$75,000 aggregate. The Michigan Municipal Risk Management Authority, which is the other major competitor in the state for pooled insurance coverage, had continued its full \$15 million coverage. The MMRMA wrote the City of Birmingham a policy in the month of July. Heavy rains down river in September resulted in significant flooding. This caused the Board of Directors of the MMRMA pool to reconsider their policy and offer limited sewer backup coverage. Hanlin noted that the MMRMA Board has not met to form an official policy.

In this state of flux, the MMRMA offered two proposals. One is a traditional proposal with \$250 or no deductible on a general liability policy. The second is a policy style that the Village has used previously whereby the municipality is self insured for the first \$75,000. Hanlin informed Council that the Village has a balance of \$87,174 in an account with the MMRMA from the early 1990's. This would cover the \$75,000 deductible for the first year.

The MML Pool also quoted a general liability insurance package. The premium would be \$66,727 per year, a little under last year's cost, with a traditional no deductible or \$250 deductible.

Hanlin stated that she has been contacting the largest insurance agencies in the country attempting to locate supplemental coverage for sewer backups. It appears that the Village is the first to ask for this supplemental insurance. This means that companies are requiring a lot of information and are slow to respond.

Hanlin hopes to have the necessary information to put together a package for Council's consideration within the next week. She will recommend entering into a one year policy given the state of uncertainty in the law.

**RESOLUTION SEEKING LEGISLATIVE ASSISTANCE FOR SEWER BACKUP LIABILITY**

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

**RESOLUTION SEEKING LEGISLATIVE RELIEF  
FOR MICHIGAN MUNICIPAL CORPORATIONS  
FOR CATASTROPHIC FLOODING**

WHEREAS, the citizens of Michigan and Beverly Hills in long standing urbanized areas have been attempting to deal with either combined sewer systems, which were state of the art when constructed by private developers, or with sewer systems that have been constructed by municipalities that were appropriate to standards when built; and

WHEREAS, the citizens of Michigan and Beverly Hills have been attempting to upgrade these older systems within the confines of a municipal budget and prudent fiscal municipal practices; and

WHEREAS, despite these investments, a number of problems remain to be resolved, including water quality, backup of sewer systems into lakes, rivers and residential basements; and

WHEREAS, it is fiscally impossible for a municipality to construct a sewer system that can handle the extreme rain event; and

WHEREAS, in Michigan two organizations were established by the legislature to provide insurance coverage at a fair and cost effective basis to Michigan Municipal Corporations, that is, the Michigan Municipal League's Liability and Property Pool (MML Pool) and the Michigan Municipal Risk Management Authority (MMRMA); and

WHEREAS, the MML has recently limited this sewer coverage to only \$75,000 annual aggregate; and the MMRMA has limited sewer coverage to \$425,000 annual aggregate for its members for sewer backup coverage; and

WHEREAS, the market for private insurance for sewer backups is very expensive and provides only limited protection to municipalities; and

WHEREAS, the decision by the Michigan Court of Appeals in CS&P, Inc. v. City of Midland has significantly altered the prior standard applied in determining liability for sewer backups by making an exception to governmental immunity based on the legal principle of trespass nuisance; and

WHEREAS, municipalities are now being held to strict liability standards when a rain event can be classified as an "Act of God" and when municipalities have attempted to repair the system or improve the system; and

WHEREAS, multi-million dollar class action lawsuits have become common place across the State of Michigan; and

WHEREAS, the current state of the law assures that adequate insurance protection will continue to be difficult or impossible to purchase for municipal corporations;

NOW, THEREFORE, BE IT RESOLVED that the Village of Beverly Hills requests legislative relief, which will restore governmental immunity and/or adopt legislation, which will limit municipal liability for flooding.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to State Representative Patricia Godchaux, State Senator Gary Peters, and members of the Michigan House of Representatives, State Senate, Governor Engler, and neighboring communities.

Roll Call Vote:

Resolution passes unanimously.

**SECOND READING AND APPROVAL OF ORDINANCE 301 ELECTRIC FRANCHISE AND SECOND READING AND APPROVAL OF ORDINANCE 302 DTE ELECTRIC MARKETING ELECTRIC SUPPLY FRANCHISE**

RESOLUTION by Walsh to table the second reading and consideration of Ordinance #301 and Ordinance #302, Electric Franchise Ordinances for CMS Energy and for DTE Electric until such time that the Village receives confirmation or denial of the proposed franchise fee section of the ordinance.

Roll Call Vote:

Resolution passes unanimously.

**APPROVE MAINTENANCE CONTRACT FOR PUBLIC SAFETY HVAC**

The contract for maintaining the heating and air conditioning system (HVAC) at the Public Safety building is up for renewal on December 1, 2000. Director Woodard discussed the department's experience during the last year with maintenance of the system. Ten Air, Inc. holds the current contract and has provided this service for years, possibly since the building was constructed. There has been trouble with the heating and air conditioning system since its installation, which has resulted in large expenditures for repairs and maintenance.

Competitive quotes were invited from seven contractors. Four responded with bids after inspecting the facility and equipment. One of the bids is outside the range of the others and was not considered. The remaining three were reviewed on their merits. Woodard recommends that Council authorize administration to enter in a one-year contract with Temperature Engineering for maintenance and repair of the building HVAC system at the annual rate of \$2,980 or \$745 per quarterly visit from December 1, 2000 through November 30, 2001. This company has indicated that its representatives would look at the system and make suggestions for measures that could be implemented to improve or economize the system.

RESOLVED by Downey, supported by Pfeifer, that Council instruct administration to issue a written notification of cancellation to Ten Air, Inc. within the next two weeks and that the Village Council authorize the Public Safety Department to enter into a one-year contract with Temperature Engineering for the maintenance and repair of the building HVAC system from December 1, 2000 through November 30, 2001 at the annual rate of \$2,980 or \$745 per quarterly visit. Provision for this expenditure is included in Account #101-345-934 Public Safety: Building & Grounds.

Council questioned the ultimate goal if the new maintenance contractor is not successful in preventing excessive repairs. Woodard responded that there may be a need to refurbish or re-engineer the current system. A study done in 1996 of the efficiency of the system estimated that it would cost \$25,000-\$27,000 to improve the efficiency of the system within the basic existing structure. If a similar trend is experienced this year, Woodard will recommend a study of the system.

Craig suggested that Council may want to ask the Planning Board to prepare a five year preventative maintenance plan that would address the condition of all Village facilities including the Public Safety building HVAC system, the roof on the DPW building, and the ADA requirements of the restrooms at Beverly Park.

Sharon Tischler of 21415 Virmar Court suggested that it may be a wise expenditure to spend \$27,000 to correct the problem with the HVAC system rather than continuing to pay excessive maintenance costs.

Roll Call Vote:  
Resolution passes unanimously.

#### **APPROVE BILLS**

MOTION by Pfeifer, supported by Walsh, that the that the bills from the period of 10/3/00 through 10/26/00 be approved for payment in the following amounts:

\$438,953.89	General Fund
9,420.71	Major Road Fund
12,392.85	Local Road Fund
5,853.51	Sick Pay Fund
892.42	Capital Projects Fund
31,519.32	Dedicated Millage
66,324.29	Water/Sewer Operation Fund
<u>374.02</u>	Trust & Agency Fund
<u>\$577,887.58</u>	Total

Questions from Council and the public were answered by administration.

Motion passes unanimously.

#### **LIAISON'S REPORT**

Pfeifer stated that the Cablecasting Board will meet this Wednesday. The Finance Committee met last Tuesday, October 10 to review the audit report. The Finance Committee proposes that it is time to review and update the Village's five year financial plan with direction from Council. This will be a Council agenda item for consideration.

Stearn stated that the Parks and Recreation Board will meet this Thursday at 7:30 p.m. He announced that the Halloween Hoot will take place in Beverly Park this Sunday, October 22. He urged people to come out and have some fun.

Kennedy stated that the Greenfield-Beverly homeowners association will have a new display at the Halloween Hoot this year. Kennedy attended the Birmingham Youth Assistance breakfast last week. She invited anyone who would like to serve as a volunteer mentor to join the program.

The Birmingham Community Coalition will hold its Summit 2000 on Friday, November 3, 2000 from 8:00 a.m. to 12:00 p.m. Kennedy invited Council members or administration to participate.

Walsh reported that the Planning Board met last week. One of the agenda items was discussion of the "big foot" housing issue. The planning consultant presented a comparison of the Beverly Hills zoning regulations within its smaller lot single-family home districts with those of surrounding communities that are similar in size or have a well established downtown area. A chart provided an overview of standard residential building setbacks, height, lot coverage, and lot sizes in order to identify areas in zoning standards that may permit or prohibit "bigfoot" housing to occur. It was the sense of the Planning Board that there is no need to pursue the "bigfoot" housing issue further based on the Village's Zoning Ordinance restrictions. This will be a topic of discussion at the November 8 joint meeting of the Planning Board and Council.

The Planning Board briefly discussed an upcoming study of the 14 Mile Road corridor. Walsh reminded everyone that there will be a public discussion of the Pathway Plan held on Wednesday, October 25 at 7:30 p.m. in the Village municipal building.

Munguia reported that the Zoning Board of Appeals met last week.

### **MANAGER'S REPORT**

Hanlin informed Council that Charles Ferguson passed away on October 5, 2000 at the age of 82. He was the original Village Clerk who served until the early 1980's.

Another sad piece of news concerns the recent fire at Huntley Square Apartments. The Public Safety Department did a stellar job of fighting the fire. However, a victim of that fire, Jack Johnson passed away. Mr. Johnson had worked for Troelson Excavating on projects in the Village. Our thoughts and condolences go to the families of both of these men.

Walsh questioned how Public Act 245 will effect the BOCA Code. Ryan responded that the BOCA code will be revised to incorporate the new state law.

Munguia questioned the Village's policy for flying the flag at half mast in front of the Public Safety Department building and at Beverly Park. Hanlin will address this in writing to Council.

### **PUBLIC COMMENTS**

Sharon Tischler of 21415 Virmar Court questioned the status of the Stafford and Embassy/Coryell road improvements. The Village was going to provide further cost estimates to residents. Hanlin will discuss this with Spallasso and inform Tischler.

Tischler commended Bob Wiszowaty for the work that he and his department does on maintaining the financial records of the Village and on preparing for the annual audit.

Tischler commented on the substantial amount of time this evening that was spent discussing a proposed ballot question. She thinks council members are entitled to their opinions. Council did not vote to place a park millage proposal on the ballot. Residents have an opportunity to circulate petitions and have the question placed on the ballot.

### **COUNCIL COMMENTS**

Munguia commented that he will be representing the Village at the Southeastern Oakland County Mayor's Association Dinner with Manager Hanlin.

Pfeifer distributed material to Council with information on the "Let Local Votes Count" ballot initiative.

Downey stated that the Planning Board will be having a public discussion about pathways in the Village at its Wednesday, October 25 meeting. He urged people to participate in this exchange of ideas.

Kennedy commented that a family in Beverly Hills has a lot to rejoice about. Sailor Paul Riddle aboard the crippled USS Cole in the Red Sea was found to be safe. Seventeen sailors died in the suicide bombing of the Navy destroyer. Kennedy thanked Riddle for serving his country and rejoiced with his family that he is safe.

Craig commented on some of the inappropriate actions of an individual who spoke in favor of the park ballot proposal tonight. Craig apologized to Gladys Walsh for this person singling her out in his comments rather than directing his remarks to the Council. Craig added that Mrs. Walsh showed great courage to stand up in a room full of people who were on the other side of the issue.

Daylight Saving Time starts in two weeks. Craig reminded everyone that this is the time to test the batteries in their smoke detectors and carbon monoxide detectors.

Craig reminded Village residents that the Halloween Hoot will be held in Beverly Park this Sunday. Craig stated that he has been attending meetings of each Village board and committee and suggests that it would be appropriate for other Council members to attend an occasional board or committee meeting. He noted that the boards do a tremendous job for the Village.

MOTION by Kennedy, supported by Walsh, to adjourn the meeting at 11:46 p.m.

Motion passes unanimously.

**Andrew Craig**

**Ellen E. Marshall**

**Council President**

**Village Clerk**