

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

Absent: None

Also Present: Village Manager, Murphy  
Public Services Director, Spallasso  
Assistant to the Manager, Pasieka  
Village Attorney, Ryan  
Director of Public Safety, Woodard

President Stearn called the meeting to order at 7:30 p.m. in the Village municipal building at 18500 W. Thirteen Mile Road. The Pledge of Allegiance was recited by all in attendance.

**APPROVE MINUTES OF REGULAR COUNCIL MEETING HELD ON FEBRUARY 4, 2002**

On page 6 under “Liaison’s Reports”, paragraph 2, line 2, correct date to read February 19.

Motion by Pfeifer to approve as amended the minutes of a regular Council meeting held on February 4, 2002.

Motion passed unanimously.

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

Ray Lacroix of 20285 Coryell commented that a large number of residents from the Coryell Estates area attended a joint Council and Finance Committee meeting in April of 2001 with an appeal that the Village address drainage and road conditions on their unimproved streets. Lacroix understands that Council budgeted \$130,000 to begin a ditching program and to fund an engineering study that would identify and prioritize the ditching and drainage needs on all Village streets. It was indicated that it would take about three to four months for the consulting engineering firm to complete the study. Lacroix asked for an update on where the Village stands with respect to the ditching program.

Spallasso responded that the ditching report is due at the end of April and will include a recommendation on prioritizing ditching that will be proposed throughout the Village. Lacroix will be informed when the information is available. It was noted that Council authorization to proceed with the engineering study did not occur until later in 2001 after budget approval. Additional direction was given to explore the possibility of available grants to offset costs.

Lacroix stated that residents are concerned about the amount of time that has passed without any activity on this issue. Area residents brought a petition to the Village requesting cost estimates for drainage and asphalt paving on Coryell. Property owners felt that the total estimated cost of the project was prohibitive for individual homeowners due to the cost of addressing drainage problems. They maintain that the burden of correcting drainage problems should be borne by the Village as a whole. Area residents have asked the Village to consider funding this project to a greater degree than was originally discussed.

Lacroix feels that the roads and drainage in this part of the Village have been deteriorating and have been neglected. Coryell Estates residents brought this to Council’s attention seeking relief

from conditions they are experiencing. Council decided to proceed with an engineering study to review drainage problems throughout the Village, which appears to be delaying the Coryell Estates project.

Spallasso stated that \$130,000 was authorized to address the re-ditching needs throughout the Village. The plan being prepared by the consulting engineers will serve as the engineering study for improvements and will be available for submission with a grant application for funding for ditching. The Coryell Estates area will probably be a number one candidate for a program if a grant is approved by the state. It is an additional part of what Council set out to do and needs to be completed by the consultant.

**PUBLIC HEARING REGARDING THE 2001 SPECIAL ASSESSMENT ROLL FOR THE SOUTHFIELD ROAD ASSESSMENT DISTRICT**

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.

Stearn opened the public hearing at 7:40 p.m. on the 2001 Special Assessment Roll for the Southfield Road Business Assessment District. No one wished to be heard; therefore, the public hearing was closed at 7:41 p.m.

**REVIEW AND CONSIDER THE 2001 SPECIAL ASSESSMENT ROLL FOR THE SOUTHFIELD ROAD BUSINESS ASSESSMENT DISTRICT**

Motion by Domzal to adopt the following resolution.

Whereas the 2001 maintenance cost for the Southfield Road Business District was \$4,251.50, and; whereas, the 2001 water cost for the sprinkling system for the Southfield Road Business District was \$5,113.32; therefore, be it resolved that the Village of Beverly Hills Council confirms the Village Business District Assessment Roll for Southfield Road maintenance for the 2001 season in the amount of \$9,364.82 as follows:

Beverly Hills Racquet Club	\$2,125.16
Bed, Bath & Beyond	730.72
Beverly Hills Grill	296.51
Petix	535.02
Emile's	962.28
Taco Bell	632.38
31333 Building	765.02
Beverly Venture	1,879.63
Vic's Fruit Market	1,438.10

Questions on the assessment roll were addressed by administration.

Patricia Greening of 19289 Riverside suggested that clean up costs should be part of the assessment district. She commented that the Beverly Venture strip mall parking lot is not well maintained.

Roll Call Vote:

Motion passed unanimously.

**DISCUSSION REGARDING COMCAST CABLE CONTRACT**

Domzal stated that there have been a number of concerns in the last six months from residents dealing with Comcast with respect to their high speed Internet service. He has experienced concerns himself and is proposing a resolution to publicly censure Comcast. He thinks that Comcast has done a particularly poor job in the area of high speed Internet service.

Domzal noted that this governing body does not have jurisdictional authority over Internet service, but it can respond to the concerns of its residents. He would like to call the public's attention to the fact that Council is aware that there is a major problem with Comcast high speed Internet service and refer the matter to the Birmingham Area Cable Board for consideration.

Motion by Domzal to adopt the following resolution:

**Whereas** Comcast is a franchise provider of cable television within the Village of Beverly Hills,

**Whereas**, Comcast is also a major provider of high-speed Internet services within Oakland County, including the Village of Beverly Hills,

**Whereas** Comcast cable television services are governed by a franchise agreement between Comcast, the Village of Beverly Hills, and several of its neighboring communities, and such services are monitored by a local Cable Board of which the Village of Beverly Hills is a member,

**Whereas** Comcast high speed Internet services are currently unregulated and not subject to the cable television franchise agreement,

**Whereas** Comcast has recently experienced significant problems in delivering high speed Internet access services including the following: (i) problems in conversion of existing customers to the Comcast system, (ii) long downtimes in which servers are not accessible, resulting in no service to a significant number of customers; (iii) lack of e-mail services to its new customers; (iv) lack of adequate bandwidth capacity to provide high speed service to a portion of its customer base;

**Whereas** during the time in which such difficulties have occurred, Comcast has maintained an aggressive marketing campaign to sign up new high-speed Internet customers;

**Be it resolved** that the Village of Beverly Hills finds that the current level of high speed Internet access service being provided by Comcast is inconsistent with its advertised claims as well as acceptable standards of service to its cable television services;

**Be it further** resolved that this Council directs its representatives on the Cable Board to refer this matter to such Board for further review and action as may be appropriate.

**Be it further resolved** that copies of this Resolution be forwarded to the governing bodies of Cable Board communities as well as to the Governmental Affairs Director of Comcast.

Craig commented that he is in favor of going on record stating the facts. However, the Cable Board is an autonomous body with a limited focus of activities. It was established to oversee the cable television franchise. High speed Internet service can be obtained through Comcast or other service providers. Craig is not sure if the Cable Board is the correct place to register this complaint. He will support the resolution on the basis that it states that, "Council directs its representatives on the Cable Board to refer this matter to such Board for further review and action *as may be appropriate.*"

Domzal agrees that the Cable Board does not have jurisdiction over Internet service, yet it is a contact point between Comcast and the community.

Pfeifer commented that the proposed resolution reaffirms in writing the frustration that the community has experienced with Comcast. There is nothing included in the Cable Ordinance or Franchise Agreement that governs the monitoring of Internet service. She emphasized that this is a matter of great concern to the Cable Board.

Pfeifer informed Council that the Cable Board directed its legal counsel at its last month's meeting to draft a resolution for Board consideration to be sent to elected officials at the state and federal level asking that local franchising authorities be given the authority to regulate Internet service and that guidelines and regulations be established to that end. The attorney was also asked by the Board to contact the Attorney General's office and ask for information on what action they are taking with regard to Internet service complaints.

Pfeifer noted that the Cable Board has been advised of a proposed merger of AT&T and Comcast, which will expand their service area.

Pfeifer commented that the Franchise Agreement and Consumer Protection Ordinance address defaults, which are described as a breach of agreement based on the standards of performance. A default is declared when a breach occurs. The Cable Board has been inundated with complaints regarding cable and Internet service. The Board has documented the cable service defaults in writing to Comcast. At the next meeting, consideration will be given to moving forward to economically penalize Comcast in terms of liquidated damages. At the same time, the Cable Board is working with Comcast representatives in an attempt to address recurring cable problems as well as Internet service issues.

Roll Call Vote:  
Motion passed unanimously.

**DISCUSSION REGARDING CURRENT STREET RESURFACING POLICY**

Stearn asked that this item be placed on the agenda for Council consideration for the reason that the street resurfacing policy has come up occasionally over the last several months. He asked Spallasso to present a brief outline of how resurfacing is handled.

Spallasso stated that the current Village unwritten policy is to cold mill and asphalt cap over concrete when needed for segments of badly deteriorated concrete, which provides about 15 years of life expectancy on that surface. This reduces the cost compared to replacing large portions of concrete. This practice was discussed and agreed upon by Council a number of years ago, and confirmed in 1999.

In the last two seasons, Council has been able to budget additional dollars towards concrete road repairs. Progress is being made to catch up with needed patching of concrete roads with concrete. If Council can continue to budget money every year for the next couple of years, the Village will be in good shape with respect to the conditions of its concrete roads. Another concrete replacement program is anticipated for this season if Council allocates the amount requested for the coming year. Spallasso recommends reiterating the policy and placing this document in the policies and procedures file.

Council discussed the current policy with emphasis on the life expectancy of concrete versus asphalt roads. Members are in receipt of a cost analysis prepared by Hubbell, Roth & Clark comparing the cost to replace a section of concrete roadway versus the cost to mill the roadway and replace the surface. It was noted that the analysis does not include life-cycle costs.

In response to inquiries, Spallasso stated that the life expectancy of replacing concrete with concrete is 30-35 years. Concrete roads in subdivisions that were developed in the early to mid-1960's are approaching their lifetime expectancy. This is a reason for stepping up the repairs so that the roads do not reach a substandard state.

There was discussion on requesting that the cost comparison report be expanded to reflect actual experience level with respect to asphalt paving on Village streets in the last five years. A major issue in making a policy decision is the life expectancy of asphalt versus concrete. The life cycle of concrete is 30-35 years compared to the 15 year life of asphalt capping, depending on the thickness of asphalt and the use of the road.

Spallasso reiterated that there will be no need to cap long segments of roadway if the Village can afford to allocate enough money to local street funds to replace as much concrete as it replaced in the last couple of years. His recommendation would be to keep doing what we have been doing with the understanding that Council has to allocate money to replace and repair concrete in order to maintain Village roads in a decent condition.

Pfeifer stated that the Village never required concrete roads to be installed. They were initiated by developers and paid for by the property owners. She does not think that the Village is obligated to maintain roads as concrete if the concrete repair program cannot be sustained. Pfeifer suggested that residents could pay the difference if they want concrete road replacement.

Domzal commented that the problem is the practicality of the situation. The Village may reach a point when there is a deteriorated stretch of concrete where it makes sense to cap because the money is not there to replace the road with concrete. His concern is that there is an interim period

of time when roads are patched, which does not look good. Concrete should be replaced as it starts deteriorating.

Spallasso stated that there were a few years of no action whatsoever due to lack of funds. Council allocated enough money in the last couple of years to somewhat catch up. If enough money can be allocated this year and next year, the roads will be in an acceptable condition.

Downey commented that the voters he talks to want concrete roads. He does not see an enormous cost difference in terms of life-cycle costs between asphalt and concrete. Downey thinks that the Village policy should be to try to replace as much in kind as it can afford.

Craig concurred that the Village government should maintain what is there at the bare minimum. He suggests that the analysis be completed to work out the life cycle costs in order to make a proper policy decision. The numbers quoted by Spallasso are close to breaking even.

Ray Lacroix of 20285 Coryell commented that he and residents on Embassy, Plantation and Elwood travel on six inches of mud constantly. He asked if there is a dedicated plan for road maintenance and how these residents fit into the street resurfacing policy. Lacroix thinks his area is being underserved.

Stearn responded that the current discussion is whether the Village will place asphalt cap over concrete or whether it will continue with concrete roads. He asked Lacroix to continue his comments during the public comment section of the meeting.

Stearn stated that he is concerned about placing asphalt over concrete. He thinks that concrete roads should remain concrete. He would like to see a policy where roads are replaced with like kind. It appears that this is what is being done as long as Council continues to allocate enough money in the local road fund. Stearn added that there is not that much difference in terms of cost when considering the life expectancy of a road.

Domzal thinks that Council should be aware of the immediate needs in terms of concrete repairs during the budget process when decisions are being made to allocate money for the local road fund. Allocating an adequate amount of money will prevent asphalt capping over concrete. Council has to make hard decisions during the annual budget process. Domzal agrees that Council should adopt a policy to support concrete repairs over concrete, but that does not answer all of the issues.

Walsh stated that the Village has 1 mill or \$400,000 a year to spend on roads, which will not go far with concrete. Money is an issue with the Village facing severe budget problems.

Motion by Craig that the policy of the Village should be to replace roads with like kind materials. The Director of Public Services will have the ability to request a deviation from this policy.

Ayes – Craig, Domzal, Downey, Munguia, Stearn and Walsh

Nays – Pfeifer

Motion passed (6 – 1).

## **DISCUSSION REGARDING DECORATIVE STREET SIGNS**

Stearn commented that decorative street signs in subdivisions is an issue that has come up a number of times over the past several months. He thinks there is a need to discuss signs on main roads.

It was agreed that there is a need to develop a formal policy on decorative street signs due to recent requests from subdivision associations to replace street signs. Spallasso has suggested proposed requirements and specifications for a policy in a memo dated February 11, 2002.

### **Requirements**

- Requests shall be submitted in writing to the Department of Public Services.
- If approved, the replacement shall be at no cost to the Village of Beverly Hills.
- The old signs (and posts if not utilized) shall remain Village property.
- Replacement/repairs of damaged signs and posts shall be the responsibility of the Association (the Village will temporarily replace damaged signs with standard signs and posts).
- The contractor performing the replacement shall submit proof of insurance coverage (liability, workers' compensation, etc.) prior to commencing work in the Village's public rights-of-way.
- The contractor shall be responsible to call MISS DIG prior to commencing work.
- If relocation is proposed (more than 36" from original location) a sketch/drawing shall be submitted.
- At intersections with major roads, replacement will not be allowed.

### **Specifications**

- Sign dimensions                      6" x length required by name
- Lettering                                4" high – legend and background shall be of contrasting colors and it should have a border. Signs shall be double-sided.
- Reflective                                Retro-reflective sheeting shall be used on flat background (minimum Class 1 as per AS/NZS 1906.1:1994).
- Height                                      The street name signs shall be placed 8 feet high.

There was consensus that street signs on major roads and at the entrance to the subdivisions should remain as the uniform blue and white Beverly Hills signs. The majority of Council members agreed that interior street signs that are replaced and maintained by neighborhood associations could be different. Stearn preferred that all street signs should be the uniform blue and white colors.

Craig stated that the signage should meet the minimum standards of the Public Safety Department. Director of Public Safety Woodard stated that these recommendations would be supported by the Public Safety Department. The required retro-reflective sheeting helps with locating streets in areas without street lights. He agrees that decorative signs should be no smaller than the current Village street signs.

Patricia Greening of 19289 Riverside Drive favored requiring blue and white signs throughout the Village to retain the identity of Beverly Hills.

Spallasso commented that the associations that have approached the Village with proposals to replace the current signage have indicated that one of their main objectives was to change the color of the signs.

Motion by Craig to adopt the policy on street sign replacement as outlined in the memo dated February 11, 2002 from Director of Public Services Spallasso.

Ayes – Craig, Domzal, Downey, Munguia, Pfeifer and Walsh

Nays - Stearn

Motion passed (6 – 1).

### **APPROVAL OF BILLS**

MOTION by Pfeifer to approve bills for payment in the following amounts from a period of 2/05/02 through 2/19/02:

\$75,243.47	General Fund
14,626.96	Major Road Fund
26,322.45	Local Road Fund
56,372.19	Water/Sewer Operation Fund
<u>6,760.96</u>	Trust & Agency Fund
<u>\$179,326.03</u>	Total

Questions on the bills were addressed by administration.

Craig noted that the Village Manager is authorized to spend up to \$1,000 without Council approval. He suggested that Council consider changing its bill approval policy to review only bills in amounts over \$1,000. This modification would be beneficial from a paperwork standpoint and would be consistent with conversations held during Council study sessions.

Motion passed unanimously

### **LIAISON'S REPORTS**

Domzal stated that the Parks and Recreation Board will meet this Thursday, February 21, 2002 at 7:30 p.m. The Finance Committee will meet on Tuesday, February 26 at 7:00 p.m.

Downey reported that the Pathways Advisory Committee held its second meeting on Tuesday, February 12. He is encouraged by the work of the Committee. There is a diverse range of ideas and active discussions with a focus on safety. Downey stated that specific tasks have been assigned to members with respect to segmenting the plan, setting priorities, and reviewing funding issues. Progress is being made. The next meeting is scheduled for Tuesday, March 12.

Pfeifer stated that the Cable Board will meet in the Beverly Hills Council chambers on Wednesday, February 20 at 7:45 a.m. The meeting will be aired live on Channel 15.

Pfeifer referred to a letter addressed to the Beverly Hills Village Council from Leslie Helwig, General Manager of Bloomfield Community Television, in which she explains the reason for recent disruptions to the live broadcasts of Council meetings.

Pfeifer reported on a Birmingham Area Seniors Coordinating Council (BASCC) board meeting held earlier today. The organization has new chairs in its computer room, thanks to funding from Beverly Hills. Pfeifer provided information on a Spell Down to determine the senior center

championship for Southeastern Oakland County, which will take place tomorrow as the BASCC center. She mentioned that BASCC is looking for volunteers for its meal delivery program.

Pfeifer informed Council that BASCC is experiencing serious financial problems with cash flow. The organization is looking for other sources to meet its monthly bills. BASCC will be having a fund raiser, “BASCC in the Glow”, on April 25.

Walsh reported that the Retirement Board will meet on Tuesday, February 26 in the public safety building at 7:30 p.m.

Munguia stated that the Zoning Board of Appeals met on Monday, February 11 and heard five cases.

### **MANAGER’S REPORT**

Council may want to hold a special study session to review and discuss policy matters that are included in the budget narratives recently distributed to members. If Council is interested, a study session will be arranged for Monday, February 25.

Village staff recently attended the SEMCOG training session regarding the new Municipal Liability for Basement Flooding legislation. Council has been provided with a summary of the bill. The new legislation is not perfect but is an improvement over the current “strict liability” interpretation. Village staff expects to review and amend current, related policies and will review and amend the current contract with Oakland County regarding our maintenance agreement with them in order to meet with the requirements of the new legislation. The updated policies and contract will come before Council for review and consideration. This action will have to be completed by December 2002 to comply with the law.

The League of Women Voters is hosting a “Meet the Candidates Night” on Tuesday, March 5 at the Village hall at 7:30 p.m. The forum will be broadcast live on cable Channel 15 and will be replayed on a daily basis from March 6 through March 10.

The Michigan Municipal League is hosting a “Basics for New (and veteran) Elected Officials” training session on Tuesday, March 19 in Lansing. The program is designed to provide newly elected officials and veterans with information regarding the role and responsibilities as an elected office. Village staff will likely register in advance for two seats to the day-long session unless there is more interest from Council.

### **PUBLIC COMMENTS**

Sharon Tischler of 21415 Virmar Court commented that Council referred to a memo when discussing decorative street signs. She was provided with a copy of that memo regarding street sign replacement policy. Tischler stated that current street signs have been in place for many years. Posts or signs are not replaced unless they disappear or they are vandalized or damaged. Some of the signs are showing wear and need to be maintained by the Village.

Tischler provided background information relative to dirt roads in the area of Embassy and Coryell. A paving project took place a number of years ago in South Berkshire and Kennoway. A substantial amount of the residents on Coryell at that time preferred the gravel roads and did not want their street improved or to incur that expense. Tischler mentioned that there was interest on the part of the Village at one time to address drainage issues and provide paving with curbs and

gutters, which would add to the cost of the roads. Since that time, property owners have changed and there has been interest expressed by some of the residents in that area to pave their roads.

### **COUNCIL COMMENTS**

Craig encouraged everyone to vote in the upcoming election. Residents will be able to read the League of Women Voters brochure and the Eccentric newspaper interviews and watch the Candidates Night on Cable Television.

Domzal commented that it was good that Council addressed policy issues tonight and thinks that Council should challenge ourselves to deal with policy issues on a regular basis. He would like to see a consent agenda used for Council meetings starting at the next meeting. He suggests that a list be developed and reviewed at every meeting for agenda items for the next meeting.

Domzal reported that Murphy and he attended a South Oakland Mayors' Conference and had the pleasure of meeting a couple of local high school students who serve on the Farmington/Farmington Hills Youth Council. He was impressed by the program, which provides an opportunity for youth to become involved in a number of governmental activities including serving on boards. He suggests that this may be something that the Village should consider. Domzal will obtain additional information on the program as a means of involving the youth of the community in local government.

Domzal commended the Road Commission for Oakland County on the improvements made at its site at 13 Mile and Lahser Roads which includes a new sign and retaining wall.

Domzal remarked on the positive contacts he experiences when calling the Village municipal office. One of the functions that Council provides is to recognize service. He suggests that Council look for opportunities from time to time to recognize Village employees who have done a particularly good job.

Downey encouraged people to involve their pre-schoolers (children scheduled to begin Kindergarten in the fall) in the annual "Safety Town" program. The two weeks of fun and instruction put on by the Birmingham/Bloomfield Women's Club covers topics like the meaning of street signs, safe and proper use of bicycles and talks dealing with strangers and stranger awareness.

Downey referred to an article in the CLEMIS Times publication regarding the latest finger printing system. There have been a number of cases whereby people have been apprehended due to this new fast recognition finger printing system.

Pfeifer stated that a recent SOCRRA report indicates that recyclable collections are down. Until now Beverly Hills has been one of the leaders in terms of recycling. SOCRRA is initiating an educational program at the end of February. Pfeifer suggests that it may be time to re-educate Village residents relative to recycling.

Pfeifer commented that she prefers holding Council meetings on Tuesdays and will continue to pursue changing the meeting date from Monday to Tuesday.

There was consensus to hold a special Council meeting on Monday, February 25 at 6:00 p.m. to review budget policies.

Munguia made favorable comments on the new Midfield Terminal at Detroit Metropolitan Airport. He thinks that the new facility will have a positive effect on the entire southeastern Michigan area.

Stearn referred to a Free Press article indicating that the Mayor of the City of Warren has threatened a lawsuit against the City of Detroit for the reason that the Detroit Water and Sewerage Department will be raising its rates again. Stearn referred to recent documented reports regarding misconduct of Detroit Water Department staff. He thinks municipalities should let Detroit know that they are upset by this and that they are considering legal action. Whether this Council should join in this lawsuit will be an item of discussion for the next Council agenda.

Stearn asked residents to vote in the upcoming election and wished all the candidates luck on March 11.

The Village is involved in a lawsuit against the Birmingham School District. Stearn stated that he read recently that many communities are working on cooperative agreements with school boards. This is something for Beverly Hills to consider.

Motion by Craig to resolve to go into closed session to discuss pending litigation, Schmitt vs. the Village of Beverly Hills et al.

Roll Call Vote:

Motion passed unanimously.

There was a brief recess before Council went into closed session at 9:40 p.m. Council returned to open session at 9:50 p.m.

Motion by Walsh to adjourn the meeting at 9:50 p.m.

Motion passed unanimously.

**Todd Stearn**  
**Council President**

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

**Susan Bernard**  
**Recording Secretary**