

Present: Council President Downey; President Pro-Tem Domzal; Members: Mooney, Pfeifer, Schmitt, Stearn and Woodrow

Absent: None

Also Present: Village Manager, Murphy  
Public Services Director, Spallasso  
Assistant to the Manager, Pasieka  
Village Clerk, Marshall  
Village Attorney, O'Brien  
Director of Public Safety, Woodard

President Downey called the meeting to order at 7:33 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

#### **ADDITIONS TO AGENDA/APPROVE AGENDA**

Motion by Pfeifer, seconded by Mooney, to approve the agenda as published.

Motion passed (7 – 0).

#### **PUBLIC COMMENTS**

Michael Beacco of 20305 Plantation stated that a second petition is being circulated in Coryell Estates requesting the Village of Beverly Hills to establish a special assessment district for drainage improvements only in the subdivision. He indicated that 53% of the property owners in Coryell Estates have signed the second petition for improving drainage and not paving the roads. Seventeen of those residents had signed the original petition and are rescinding their vote on that petition by signing the new petition. Beacco mentioned that the language of the new petition was submitted to the Village and reviewed by Village legal counsel. The new petition will be submitted to the Village soon. Beacco has requested a copy of the cost estimate for paving and drainage improvements as well as the existing drainage plan.

Sharon Tischler of 21415 Virmar Court, Southfield Township Clerk reminded everyone that there will be a Primary Election on August 6, 2002. Applications for absentee ballots have been mailed, and there has been considerable participation from residents in the Township applying for absentee ballots for the August and November elections. Precinct workers are needed for the upcoming elections. Interested residents can contact the Township offices.

Tischler referred to a comment made at the last Council meeting regarding use of the Franklin mailing address on voter identification cards sent to Beverly Hills residents. Tischler offered background on this postal dilemma.

In 1985, the Township purchased a computer system and programs for voter records. That system was capable of differentiating municipal boundaries. At the time, the Beverly Hills mailing jurisdiction and ZIP code was designated as Birmingham 48009 or 48010. Beverly Hills residents did not voice any concerns about having Birmingham as their municipal jurisdiction.

In the early 1990's, the postal system moved mail delivery service from Birmingham to Southfield. The ZIP code for Beverly Hills was changed from 48009/48010 to 48025, a ZIP code always used by the Village of Franklin. The Township system at that time had the ability to accommodate the ZIP code change to designate Beverly Hills 48025, Franklin 48025, and Bingham Farms 48025.

In 1997, the Qualified Voter File System, a State of Michigan system, was applied to city and township governments throughout the State. It is the only system permitted for use by election officials, and the Township has no authority to change any programs. Requests for enhancements can be channeled through the Elections Division help desk, and they are aware of the Township's frustration.

Current programming allows for one jurisdiction and one ZIP code. Since Beverly Hills, Bingham Farms, and Franklin share the same ZIP code, the choices are Beverly Hills 48025, Franklin 48025 or Bingham Farms 48025. The State system is now programmed to have Franklin as its mailing jurisdiction. Another alternative would be to have Southfield Township 48025 as the mailing jurisdiction for the three municipalities.

When the State loaded our data into its files, Franklin 48025 was used. The Franklin mailing address has been on all documents produced by the Southfield Township office since 1997. Tischler stated that she is not responsible for ZIP code assignments. She can only work with the system provided and continue to request a ZIP code upgrade when available.

Richard Jeryan of 22129 Metamora brought up an issue that may influence Beverly Hills residents' concerns about having Franklin as their mailing address. He received an increase in his homeowner's insurance based on his Franklin mailing address because Franklin has a volunteer fire department.

#### **CONSENT AGENDA**

Motion by Mooney, seconded by Schmitt, to approve the Consent Agenda as follows:

- a. Review and consider approval of minutes of a special Council meeting held on June 24, 2002.
- b. Review and consider approval of minutes of a regular Council meeting held on July 1, 2002.
- c. Review and file bills recapped as of Monday, July 15, 2002.

Motion passed (7 – 0).

#### **BUSINESS AGENDA**

##### **PRESENTATION BY SMART REPRESENTATIVE DONNA SYKES REGARDING AUGUST MILLAGE PROPOSAL**

Pfeifer introduced Donna Sykes, representative from SMART (Suburban Mobility Authority for Regional Transportation), who will present information regarding the upcoming millage vote on August 6.

A SMART millage question will be on the ballot of the August 6 Primary Election. SMART will be asking voters in 28 Wayne County communities, 22 Oakland County communities and all of Macomb County to increase the millage for bus service from 0.33 mill to 0.60 mill for four years. This will cost a homeowner approximately \$60 per year for a home valued at \$200,000 or \$5 a month. Due to cuts in state funding and increases in operating expenses, the 0.27-mill increase is needed to maintain existing services. Without the additional millage money, SMART would have to cease operation within the next two years.

Sykes stated that this millage is not related to the Detroit Area Regional Transit Authority (DARTA) proposal currently being considered by the State. If DARTA becomes a reality and results in a transportation plan with money to fund it, the SMART millage will end.

Currently, SMART provides approximately 10 million trips a year for transit users, who consist primarily of seniors, disabled people, and entry level workers. Sykes outlined the programs provided by SMART with emphasis on programs that benefit senior citizens and people with disabilities. She requested the Village's support of this millage increase.

Sykes answered questions from Council about SMART and the millage proposal. She affirmed that, if the millage increase fails in a county, SMART will discontinue services to that county within a week. Sykes noted that increasing fares would decrease membership and would not raise the needed funds.

Motion by Pfeifer, seconded by Stearn, to adopt the following resolution.

**RESOLUTION  
SUPPORT FOR SMART MILLAGE**

**Whereas** SMART (Suburban Mobility Authority for Regional Transportation) is the bus system serving Beverly Hills along with Macomb County and portions of Wayne and Oakland Counties since 1993, and

**Whereas** the SMART bus service to Beverly Hills serves the needs of senior citizens, people with disabilities and individuals who have no other means of getting to work, and

**Whereas** in 1995 and 1998 the voters approved a 0.33-mill SMART tax to support the regional system and during this period SMART has partnered with Beverly Hills to provide funding to operate and maintain the two BASCC (Birmingham Area Senior Coordinating Council and Center) small busses, and

**Whereas** the SMART small bus service serves to take senior citizens and people with disabilities to doctor appointments, shopping centers, and to work while maintaining a balanced budget and paying off its \$20 million dollar debt in 2000, and

**Whereas** on August 6, 2002 the SMART millage question will be on the ballot requesting an increase in funding from 0.33 mill to 0.60 mill, and

**Whereas**, State of Michigan funding has been flat since 1998 and SMART is no longer able to continue to use federal capital funds as operating funds at the same dollar level, and

**Whereas**, coupled with the continuing rise in costs for standard business practices and the loss of State and Federal funding, SMART will no longer exist without the passage of this millage proposal,

**Now, Therefore, Be it Resolved** that the Village of Beverly Hills Council supports the August 6, 2002 proposal of 0.60 mill for the operation of SMART for four years from 2002 through 2005 and also supports the use of SMART Municipal and Community Credits within the community to provide a better quality of life for our seniors, handicapped, and others without means of local transportation.

Council members commented on the resolution and were generally in favor of this mass transit system. There was a question as to whether it is appropriate for a governing body to make a recommendation on something that is not localized to Beverly Hills.

In the interest of full disclosure, Domzal stated that he has represented SMART as legal counsel on financing associated with the acquisition of some of its fleet vehicles. He does not view this as being a conflict of interest but would abstain if requested to do so by the Village Attorney or members of Council.

Attorney O'Brien stated that Domzal's disclosure is sufficient unless there are objections from Council members.

Woodrow commented that it was his understanding that the SMART presentation would be made at this Council meeting but that Council would not consider a resolution supporting the millage proposal at this meeting. Consideration of this resolution was not an agenda item.

Pfeifer feels that this is a timely matter, and it is appropriate that the Village support this millage proposal. The next Council meeting will be held the day before the millage vote.

Chad Swain of 22822 Highbank questioned the affect of the 0.60 millage on the average homeowner. Sykes stated that the cost of the millage would be about \$60 a year for a home valued at \$200,000.

Roll Call Vote:

Stearn	- yes
Woodrow	- no
Domzal	- yes
Downey	- yes
Mooney	- no
Pfeifer	- yes
Schmitt	- yes

Motion passed (5 – 2).

### **REVIEW AND CONSIDER PATHWAYS REPORT**

Domzal reviewed that the Village Council approved the Pathways Plan at its October 1, 2001 meeting. The plan provides for the construction of pathways on most but not all of the major streets within the Village of Beverly Hills – Southfield, Greenfield, Lahser, 13 Mile Road, and 14 Mile Road. The intent of the plan was primarily to fill in the gaps on major streets within the Village and enhance safety for pedestrians and bicyclists.

The Pathways Plan prepared by the Village Planning Board was approved by Council with one exception. The segment of Evergreen Road between Riverside and Beverly Road was removed from the plan. Following approval of the plan, Council appointed an implementation committee.

The Pathways Advisory Committee was established and asked to do three things: 1) Prioritize the pathways identified in the Pathways Plan; 2) Estimate the cost of constructing the pathways; 3) Evaluate funding alternatives. Domzal thanked the committee for its hard work over a period of about eight months. Doyle Downey originally chaired the committee until he became Council President and Domzal stepped into that role. Committee members consist of Pamela Burbott, Ana Dan, Michael Freedman, Dennis Page, Michele Tillman, Paul Kleppert, and Stan Pasieka representing administration.

Domzal introduced Paul Kleppert, who will make a presentation taking the audience through the process followed by the committee to study the issues and reach its recommendations. Michele Tillman, Planning Board vice-chairperson, will discuss the recommendations of the Pathways Advisory Committee.

Paul Kleppert of 20855 14 Mile Road proceeded with a power point presentation of the report prepared by the Pathways Advisory Committee. He reiterated the mission statement set forth by Council for the committee. The committee's goals and objectives were to 1) Accept the Pathways Plan as amended, 2) Define a process and prioritize that plan, 3) benchmark pathway projects in surrounding communities; 4) Establish total cost and timing for the plan; and 5) Review funding alternatives and make a recommendation that will best implement the Pathways Plan of record.

Kleppert stated that the committee used the Pathways Segments Map to understand the development of the plan. The committee used the plan and map to segment the different features and locations of parks, schools, and businesses. It was helpful in gaining an understanding of the affect of particular pathways, what they connected, who was using them, etc. The committee worked on prioritizing the segments considering safety, destinations, right-of-way, and volume of traffic. At the conclusion, the committee consolidated the segments and began looking at implementation.

The Pathways Committee compiled information to benchmark other communities with respect to sidewalk construction and repair, costs incurred, method of funding, type of plan, and what the best practices may have been. The data was compiled into a chart. Kleppert stated that the committee would like to thank the people of Bloomfield Township for their assistance in sharing recent costs and other information with respect to their aggressive sidewalk plan.

The total length of sidewalk installation included in the plan presented to the committee is 18,108 linear feet of five foot wide and four inch thick sidewalk. Benchmarking figures for those communities contacted indicated \$20-\$25/linear foot. Bloomfield Township’s actual cost to construct 25,000 feet of simple construction was \$21.50/ft. The actual cost of approximately 23,000 ft. of difficult construction averaged at \$72.30/ft. The cost of a couple of very difficult sections were as high as \$150/ft. of construction for 7,000 linear ft. Kleppert displayed examples of simple construction versus difficult construction in Bloomfield Township.

Estimates for construction of the Pathways Plan were prepared with the assistance of Public Services Director Spallasso. The estimated cost to implement the Pathways Plan under current pricing is \$800,000.

17,398 ft	(simple) @\$30/ft.	\$521,940
710 ft.	(difficult) @\$180/ft.	\$127,800
Crosswalk upgrades		\$ 20,000
Engineering/Contingency @20%		<u>\$129,948</u>
Total Cost		\$799,688

Funding options were considered thoroughly by the committee.

- Zoning Ordinance (the homeowner pays directly for the sidewalk abutting their property)
- Pathway funding committee (similar to Friends of Beverly Park group).
- Village Millage (all property owners pay)
- Special Assessment (benefiting property owners pay).
- Federal and State Grants (matching funds)

The Pathways Advisory Committee determined that the best funding plan is a five year millage of 0.35 mill for the entire Village, which would raise about \$160,000 a year. This would cost a property owner \$56 per year for a home valued at \$250,000. Kleppert stated the five year millage would allow the Village to take advantage of good pricing and commitments from contractors.

Kleppert outlined the proposed construction sequence by segments.

<u>Area #1</u>	
Crosswalks (8)	\$ 20,000
Lahser (13-14, connect the dots)	\$ 95,000
13 Mile (Old Stage to Lahser)	<u>\$ 64,845</u>
Total	\$179,845

<u>Area #2</u>	
Greenfield (13-14 to Pierce)	\$173,175

<u>Area #3 (two years)</u>	
13 Mile (Lahser to Evergreen)	\$277,980

<u>Area #4</u>	
14 Mile (Longbow to Old Post)	\$167,480
Riverside	<u>\$ 12,000</u>
Total	\$179,480

Michele Tillman presented the final recommendations of the Pathway Advisory Committee for implementation of the Pathways Plan. The committee is recommending that a millage question be placed on the ballot requesting 0.35 mil for five years. It is also recommended that the Riverside path be deleted from the plan until it has a connection. The committee recommends that the pathway on 13 Mile Road be moved from the south side of the street to the north side of the street. This will result in savings due to the fact that there is 1000 ft. of existing sidewalk on the north side of the street.

The committee has put forth additional recommendations. It is proposed to designate the pathways as “seasonal” as Bloomfield Township has done. That would mean the pathways are not cleared in the winter. The committee recommends implementing a repair plan whereby all existing sidewalk within the Village would be repaired during this process. This would cost approximately \$40,000 per year or \$200,000 total. The cost would equate to 0.1 mil, which would bring the total millage request from 0.35 mil to 0.45 mil.

The committee recommends that a policy be developed for sidewalk abutting commercial property. The committee also recommends that a policy be implemented to continue funding of sidewalk repairs so that homeowners are not responsible for repairing sidewalks. The last recommendation is that Evergreen Road from 13 Mile to 14 Mile Road be readdressed by the Village Council. Kleppert has estimated the cost of this pathway at \$250,000. Consideration could be given to extending the five year millage to a six year millage to install pathways on Evergreen Road in year six.

Tillman stated that it is the recommendation of the Pathways Committee that the Village Council adopt this recommendation as presented. The Committee believes that this recommendation embraces the desire and will of the residents of the community to have a walkable community. The Pathways Plan will enhance the desirability and livability of the community.

Domzal thanked Kleppert and Tillman for their presentations.

Stearn commended the committee on a well thought out presentation and thanked the members for their work. He requested clarification on a few items before Council moves to accept and file the Pathways Advisory Committee report. He questioned the thinking behind moving the pathway on 13 Mile Road from the south to the north side of the street.

Tillman stated that the rationale for moving the sidewalk to the north side of 13 Mile Road is to save money on sidewalk construction considering that there is about 1000’ of existing sidewalk in front of Groves High School. There is difficult terrain on both the south and north sides of the road. Kleppert suggests asking for bids for a sidewalk on both sides of the street.

Stearn posed questions on the sidewalk repair plan proposed by the committee. Kleppert explained the committee's perspective on sidewalk maintenance. Committee member Dennis Page made the comment that the sidewalk in front of a resident's house is useless to them. They need everyone else's pathway to get where they want to go. All the pathways in the Village need to be in good shape to keep the whole system functioning.

Pfeifer thinks the committee did an exemplary job. It did what Council directed it to do and did it very well.

Woodrow questioned whether the proposed sidewalk repair program would have the Village pay for repairs to all sidewalks that need maintenance.

Spallasso stated that sidewalk in need of repairs is ultimately the Village's responsibility. Beverly Hills initiated a program in 1989 that lasted three years and addressed every flag of sidewalk in the Village's right-of-way that needed repair. It was funded through a special assessment district whereby benefiting property owners paid the total cost of construction and administration.

Tillman stated that the Pathways Committee suggests that it is reasonable that the Village pay for the repair of residential sidewalk instead of the individual homeowner because that sidewalk enhances the entire community and not just that property.

Kleppert remarked that Beverly Hills is competing for other communities' dollars for people moving into our community. If the sidewalk is in great condition and the community has a pathway plan that works, people view the community as desirable.

Schmitt commented that the last time a sidewalk repair program was undertaken, the cost of a square of sidewalk was about \$55. He questioned today's price. It was indicated that the estimated cost to repair one flag without excavation is about \$18/linear foot or \$80-85 per flag.

Mooney questioned if the committee has recommended how the Village would continue to fund a sidewalk repair program at the end of the five or six year millage period. Kleppert commented that the 0.1 mil could be retained for sidewalk repair if approved by the electorate. There may be very few repairs that need to be done by that time.

Downey commented that the Planning Board did a fine job identifying the pathway needs of the Village and the Pathways Advisory Committee has done an excellent job executing the task outlined by Council. He mentioned that there was a major emphasis on safety during the development of this plan.

Chad Swain of 22822 Highbank feels confident in the movement on pathways and the fact that there is a prioritized plan to implement the program based on funding. Because people move in and out of the Village, maintenance of sidewalks is very important and should be part of the process for the plan to be effective. He thinks that moving the pathway to the north side of 13 Mile Road is positive considering the location of the schools. Most importantly, Swain suggests that the Village should make this Pathways Plan happen.

Tom Sheehan of 32805 Faircrest stated that he is pleased and proud of the people who put this plan together and proud of the Village for getting this far. He would like sidewalks to be considered on Evergreen Road, which is a dangerous road for pedestrians and bicyclists. Riverside is also a major road, and there is not that much sidewalk to install.

Norman Rubin of 31020 Rivers Edge Court thanked the Planning Board for its work on the Pathways Plan and thanked the Pathways Advisory Committee for doing a fine job of taking the general down to the specific. After going through the committee's recommendations, Rubin has questions, issues, and concerns he would like to share with Council. He asked to use the projector for his presentation.

Rubin expressed concern with the omission of Lahser Road south of 13 Mile Road in the Pathway Plan. There is approximately 1,400 ft. from 13 Mile Road to Sturbridge that is not included in the plan. There are 186 residents in that area without safe access to the core pathway system. He believes that this is an omission that should be corrected.

Rubin quoted from minutes of a joint Council and Planning Board meeting of September 29, 1997, when it was said that the Village Ordinance requires new development to include sidewalks on major roads and that the Planning Board and Council are reinforcing this direction. Rubin stated that there is 350 ft. of sidewalk missing on Lahser that should have been installed by a developer. He questioned why that sidewalk was not required of the developer.

Rubin disagrees with the Pathway Committee's recommendation to take Riverside Drive out of the plan. There is no sidewalk feeding this segment, but a sidewalk on Riverside would allow a pedestrian to walk to Riverside Park or take connecting interior routes to Beverly Park. There is value to constructing the sidewalk on Riverside Drive.

Rubin talked about the recommendation to construct sidewalk on the north rather than the south side of Thirteen Mile Road based on 1000' of existing sidewalk in front of Groves High School. What was overlooked in his view was the greater number of families living south of 13 Mile Road that will have to cross the road to reach the sidewalk. He mentioned that it appears that there will be additional cost to traverse the Rouge River flood plain.

Rubin related that there is a section of the Charter that places responsibility on homeowners adjacent to a sidewalk for snow removal. He contends that a "seasonal pathways" designation invites litigation by personal injury lawyers against the Village and property owners. If the sidewalk on major roads are designated as seasonal pathways, the Village should add protection that mitigates this section of the Charter.

Rubin commented on the cost estimates. In answer to inquiries, Spallasso indicated that the cost of sidewalk on the bridge over the Rouge River and restoration costs were included in the cost estimates. With respect to the cost of replacing damaged trees, Spallasso remarked that hundreds of feet of tree roots were chopped off during the 1989-1992 sidewalk repair program without damage to any trees. Rubin questioned the incremental Public Safety work load that will result from additional sidewalks in the Village. He was also concerned about the expense to the Village of clearing snow from sidewalks.

Rubin expressed the view that the only reason that sidewalk repair is recommended to be part of the new construction program is to encourage people who have sidewalks to vote for a millage proposal for new sidewalk.

Bob Walsh of 20655 Smallwood Court questioned the miles of existing sidewalks in the Village and how sidewalk maintenance will be funded when the five year millage period ends. Walsh believes that, if the Village assumes repair and maintenance of all sidewalks, it will also assume all liability for injuries on sidewalk throughout the Village.

In answer to an inquiry, Spallasso stated that the latest inventory taken by the Village shows that there is approximately \$200,000 worth of needs for sidewalk repair at this point in time.

Sharon Tischler of 21415 Virmar Court expressed concern and frustration over the fact that there were two instances where sidewalk was not constructed in conjunction with a new development along Lahser Road. That may have been a decision made by a previous council, but it was a decision that may be at the expense of the residents if that area is included in the sidewalk plan. Another instance is the bridge on 13 Mile Road. There was much discussion and resident input on that bridge reconstruction, which resulted in a Council decision not to construct the undercarriage that was considered road expansion by area residents. There was money available through critical bridge funding. Now the expense to construct bridge structure to handle foot traffic may have to be borne by the Village.

Dan McCleary of 17175 W. 14 Mile Road understands that he does not own the sidewalk in front of his house because it is on a county road. He questioned whether the Village has to maintain sidewalks in the road right-of-way on 13 Mile and Lahser Roads.

Murphy responded that the Michigan Supreme Court ruled in September that all sidewalks are the municipality's sidewalk whether they are in the county right-of-way or otherwise.

Randy Munguia of 31736 S. Verona commented that he was a member of the Council and one of two dissenting votes when the Pathways Plan was considered and approved by Council. He commented on what he believes to be glaring gaps in the Pathways Plan. Munguia commends the Pathways Advisory Committee for its work on the plan but feels that more work needs to be done. He added that funding of sidewalks require thoughtful consideration and input from the residents.

Nanci Freedman of 32460 Evergreen stated that, with all due respect to the Pathways Advisory Committee, she has questions on the recommendations of the committee. She noted that Riverside is the only non-major road being considered in the Pathways Plan. Freedman asked that Riverside remain out of consideration whether Evergreen is revisited or not. She sees many people walking and bicycle riding along Riverside. It is not the kind of road that invites the safety concerns of the other roads included in the plan. Freedman also questions whether 400 ft. of sidewalk on the side of her property facing Riverside could possibly be installed for under \$12,000 due to the significant change in grade and the large trees in the area.

Joan Brackenbury of 31411 Sleepy Hollow commented that residents have been trying to get sidewalks in the Village during the 30 years that she has lived here. She asked that the Village start the project and get sidewalks installed.

Cynthia Rubin of 31020 Rivers Edge Drive commented on the south side versus the north side of 13 Mile Road with respect to sidewalk construction. The students on the north side of 13 Mile Road attend Beverly Elementary and are bussed to school due to the distance. The children on the south side of 13 Mile Road attend Bingham Farms Elementary. Rubin also questioned why the 14 Mile Road segment is one of the last phases to be constructed when Berkshire Middle School students need some connecting way to get to school.

Dennis Page of 30470 Lincolnshire East responded to comments from Norman Rubin's presentation. The Advisory Committee was not asked to look at the liability issue. It was reviewed by the Village Attorney prior to the adoption of the Pathways Plan. Page stated that pathways exist; the Village is proposing to make them safer. Paving or putting other treatment on a pathway does not change the liability according to legal counsel. The issue of snow removal has also been examined by the Village Attorney. Any changes required in the Village Charter to deal with the seasonal pathway designation will be considered. Page is supportive of the plan and appreciates the positive comments that have been made with regard to the work of the ad hoc committee.

Lawrence Needham of 15588 Kirkshire understands that it is proposed to finance the Pathways Plan through a dedicated millage for five years. That is a departure from tradition. He estimates that 90% of the sidewalk in the Village was paid for by benefiting homeowners. Residents were required by the Village to pay for their damaged sidewalk about ten years ago. The rules are now changing. Needham mentioned that new sidewalk was installed on Beverly Road with 50% of the cost paid by the Village and 50% by the property owners. If the millage is passed, Needham will be asked to pay for a sidewalk that is no use to him. He maintains that sidewalks are a local improvement, and those who benefit should pay 100%.

Michele Tillman presented background on the development and revisions to the Pathways Plan. She thinks it is time construct sidewalks to connect the Village. Tillman encouraged Council to adopt the recommendation of the Pathways Advisory Committee as submitted and reconsider adopting a plan for sidewalk along Evergreen Road.

Jolie Kaufmann-Laker of 30720 Georgetown commented that Beverly Hills is a small community and any part of the Village is part of her village. She thinks we need to be a community.

Susan Plummer of 21300 W. Thirteen Mile Road commented that she lives on the north side of Thirteen Mile where there is rough terrain. She thinks it would be a problem to construct a sidewalk in that area. Plummer asked if the Village is going to assume legal responsibility for the sidewalks.

Murphy understands that, according to recent Supreme Court action last September, the Village of Beverly Hills has to take on that responsibility.

Kevin Burns of 18007 Kirkshire questioned whether the communities of Bingham Farms or Birmingham would share in the cost of sidewalk that overlapped their jurisdiction.

Spallasso responded that the abutting municipalities would not share in the cost of sidewalk construction, noting that the Village has had a difficult time convincing the school to pay for sidewalk repair.

Kleppert explained that the 14 Mile Road sidewalk is scheduled to be constructed later in the program because Bloomfield Township has constructed a new sidewalk from Lahser to Berkshire Middle School and created a crosswalk to the middle school. This sidewalk can be used part of the way until Beverly Hills constructs sidewalk on its side of 14 Mile Road.

Chad Swain stressed that this is a five year plan, and things could change. He suggested that a way to move this forward is to agree that the first year of the plan makes sense. The 13 Mile Road sidewalk could be re-evaluated in year three or four. Swain suggested leaving the Pathways Committee in place for the next five years to make sure the millage money is spent wisely and that the plan suits the best needs of the Village.

Domzal thanked the people who attended the Pathways Advisory Committee meetings, noting that an effort was made by the committee to accept the views of all people. The best plan is developed by considering all input.

Motion by Domzal, seconded by Pfeifer.

Resolved that the implementation report prepared by the Pathways Advisory Committee as presented to the Village Council on July 15, 2002 be accepted and filed.

Stearn supports the report in general, but would like to discuss the final recommendations in more detail. One of the areas he is concerned about is the repair plan. There is a difference between major and local roads in Beverly Hills. Major roads are used on a community-wide basis. He is not sure that the Village as a whole should be paying the cost of repairing sidewalk on local roads.

Secondly, he supports reconsideration of the Evergreen connector, but thinks that the estimated cost should be removed from the report. In addition, Stearn thinks there were legitimate concerns raised regarding the location of the 13 Mile Road sidewalk. He suggests that the Village needs to study this and keep its options open.

Stearn offered a motion to amend Domzal's motion to remove from consideration the three items he mentioned for further discussion. The motion failed for lack of support.

Domzal remarked that he has concerns about two of the three points mentioned by Stearn, which will be addressed in a subsequent motion.

Pfeifer clarified that acceptance of the report does not approve the report and its recommendations as submitted.

Susan Plummer of 21300 W. Thirteen Mile Road asked if there was a way to include Lahser south of 13 Mile Road to Sturbridge in the plan. Downey commented that the Planning Board's Pathways Plan did not include this segment; however, Council can add to the plan at any time.

Gladys Walsh of 20655 Smallwood Court thinks that the repair of sidewalks should not be a part of this document and recommendation. The committee was given a directive to prioritize and determine funding alternatives for the Pathway Plan. The issue is being clouded by including sidewalk repairs in the dedicated millage question. Walsh thinks that Council should determine whether the voters really want a Village-wide millage for pathways on major roads.

Roll Call Vote:  
Motion passed (7 – 0).

Domzal stated that his second resolution retains the Pathways Committee at least through the next election.

Motion by Domzal, seconded by Mooney.

*Resolved* that the term of the Pathways Advisory Committee be extended through March 10, 2003 and that the Committee be further requested to assist and advise Council on the following matters:

- Develop ballot language on any millage proposal, as directed by Council.
- Provide supporting information and other materials related to any millage proposal as directed by Council.
- Provide such other information as may be requested by Council from time to time related to implementation matters.

*Be it Further Resolved* that the current members of the Pathways Advisory Committee be polled to determine their willingness to serve during the extended term. Any new or substituted members would be selected by Council after two announcements are made at consecutive Council meetings. The Advisory Committee will continue to consist of one Council representative, one Planning Board representative, one former Finance Committee member and four at-large residents.

Roll Call Vote:  
Motion passed (7 – 0).

Domzal proposed a resolution addressing issues that have been raised by Council and audience members tonight and that are outside the scope of the Committee's mission. Domzal believes that these are policy issues that require more information and discussion.

Motion by Domzal, seconded by Stearn.

*Resolved* that Village Administration is directed to work with the Village Attorney to provide recommendations as to the following items, which recommendations shall be provided to Council within the next 60 days.

- A recommendation as to whether or not a pathway connecting Lahser to Evergreen on Thirteen Mile Road should be located on the north or south side of Thirteen Mile Road.
- A recommendation regarding designation of pathways that are located on major streets within the Village as being “seasonal” pathways.
- Development of a policy regarding requiring commercial property owners to be responsible for snow removal and repairs on adjacent sidewalks.
- Proposal regarding the sidewalk repair program, consistent with recommendations of Pathways Advisory Committee, i.e., assuming that \$40,000 in repair funds is available annually for the next five year period of time. This proposal would include a priority list of sidewalk repairs.
- Recommended policy regarding assumption of Village responsibility for all residential sidewalk repairs during the period in which the “repair millage” would be in effect.

Stearn questioned the intent of item #4 and asked if it will include a discussion of major versus local roads. Domzal responded that the intent is to look at the entire sidewalk repair program.

With regard to item #5, Domzal stated that the question has been raised as to whether the Village should assume the responsibility for residential sidewalk repairs. Since this is a policy decision, Domzal is looking for a recommendation from Administration and the Village Attorney in light of statutory and case law responsibilities.

Spallasso pointed out that item #1 will entail spending money on engineering to determine which side of Thirteen Mile is recommended for the sidewalk.

Gladys Walsh understands that the Village may have to acquire rights-of-way in some areas for sidewalk construction. She questioned how many properties would be impacted by acquiring these rights-of-way and whether the cost is part of the estimated cost.

Spallasso stated that, based on the Pathways Plan, it may be necessary to acquire some right-of-way on Thirteen Mile Road. There is no way of knowing how much right-of-way is needed before the preliminary engineering is done. Right-of-way acquisition is included in the overall contingency cost.

Roll Call Vote:  
Motion passed (7 – 0).

Domzal stated that his final resolution deals with a portion of the Pathways Plan that was removed by Council at its October 1, 2001 meeting. He proposes that the Evergreen Road pathway be placed back in the plan on the basis that a major gap in the plan does create a problem. Domzal added that the Village needs this portion of pathway in the plan for grant fund purposes.

Motion by Downey, seconded by Woodrow.

*Resolved* that the Pathways Plan as approved by Council at its October 1, 2001 meeting is hereby amended to include that portion of pathway previously removed, which is that portion of pathway on Evergreen Road between Riverside and Beverly.

Stearn thinks that a motion to reconsider is out of order. Removing the Evergreen Road portion from the Pathways Plan has been voted on twice, and a motion cannot be made to change the vote by a person who was in the minority at that time.

Attorney O'Brien asked if the motion on the floor is distinguishable from the previous motion or the same motion. Domzal commented that it is the same motion, but a different Council voting on it. He sees no reason why a different Council cannot take up the same issue and come up with a different result.

A recess was called at 10:10 p.m. The meeting reconvened at 10:18 p.m.

Domzal withdrew his motion for two reasons. He would like Village legal counsel to provide an opinion regarding what Council may or may not do with respect to the Evergreen Road portion of the Pathways Plan. Because it is an issue that generates a great deal of interest, Domzal proposes considering the Evergreen Road pathway as an agenda item so that any and all interested individuals can come forward and be heard. Woodrow withdrew his support.

Motion by Schmitt, seconded by Mooney, to direct Administration to present Council with several options for a continuous pathway along Evergreen Road between 13 and 14 Mile Roads and along 14 Mile Road between Evergreen and Old Post Road and, further, that the plan include cost estimates and be completed within 30 days.

Council discussed the motion.

Paul Kleppert remarked that preliminary engineering for the Evergreen Road connection was done by Hubbell, Roth and Clark in 1998. He has reviewed the detailed drawings to arrive at the cost estimate included in the Pathways Advisory Committee's report.

Chad Swain suggested that Council get started with the first segment of the plan and look at the Evergreen Road connection at a later time.

Sharon Tischler questioned what Council is looking for with respect to a pathway along Evergreen Road that is different from the original plan proposed by the Planning Board.

Schmitt responded that the prior plan included a portion of Evergreen Road between 13 and 14 Mile Road and not the entire stretch.

Dennis Page assumes that the items being discussed by Council relate to adding items to the plan and do not interfere with what has been adopted. Discussions will move forward on proceeding with areas one and two. It is understood that the Pathways Plan is a minimalist plan as presented and adopted.

Michele Tillman thanked Council for the work they have done on this Pathways Plan and for its efforts to reconsider the Evergreen Road pathway. She maintains that the pathway system without Evergreen would result in a big gap in the middle of the Village. She is confident that the Village will implement a pathway plan along Evergreen Road that will maintain the natural beauty of that road.

Nanci Freedman of 32460 Evergreen commented that she was member of the Natural Beauty Road committee. That portion of Evergreen Road designated as a Natural Beauty Road was seen as a beautiful, serene place in the Village of Beverly Hills that should be maintained exactly as it was. It was made a safer road, but the point of declaring it a Natural Beauty Road was to establish some parameters beyond which the road could not be changed.

Gladys Walsh commented that the business agenda for tonight's meeting indicates, "Review and consider pathways report". She does not think it is appropriate for Council to introduce another agenda item at this time.

Roll Call Vote:

Mooney	- yes
Pfeifer	- no
Schmitt	- yes
Stearn	- yes
Woodrow	- yes
Domzal	- yes
Downey	- yes

Motion passes (6 – 1).

**SET NECESSITY HEARING DATE OF AUGUST 19, 2002 FOR HUMMEL COURT AND CORYELL ESTATES**

Domzal stated that the Village has received petitions from both Hummel Court and Coryell Estate residents with respect to constructing roadway and drainage improvements. The next step in the process is to conduct a Necessity Hearing, at which time the estimated cost of the project are presented in a public meeting. A vote is taken by Council at that time on whether to proceed with the project. If Council takes action to proceed, area residents are subject to being assessed for the associated costs. Spallasso will receive plans and specifications and project costs prior to the proposed hearing date of August 19.

It has been brought to Council's attention that another petition is being circulated with respect to Coryell Estates, which might bear on this particular issue. Domzal believes that Council should proceed with the public hearing and take up the issue of a second petition at that time. A decision will be made at the public hearing on how to proceed with the Coryell Estates special assessment district. A separate public hearing will be held for the Hummel Court special assessment district.

Motion by Domzal, seconded by Pfeifer, to set a Necessity Hearing on Coryell Estates and Hummel Court road and drainage improvements for the regularly scheduled Council meeting of Monday, August 19, 2002.

Council discussed the motion. There was agreement to proceed with scheduling a Necessity Hearing on the Coryell Estates improvements. The public hearing can be postponed if there is a need.

Michael Beacco of 20305 Plantation stated that there is a legitimate petition being circulated, and it will be submitted to the Village shortly. He questioned the process once the petition is submitted and asked how the second petition will be weighed against the original petition in light of people signing both petitions.

Downey responded that competing petitions is not a usual occurrence. A legal opinion will be sought from the Village Attorney. He commented that it is the intent of this Council to honor the will of the people.

Beacco asked if there has been any determination on how the grant money for drainage improvements will be tied into the overall cost of the project. Murphy responded that a determination on the distribution of grant money is expected soon.

Beacco recommended that the necessity hearing date be put on hold until the second petition is submitted in the near future.

Ray Lacroix of 20285 Coryell stated that he received several pages of information that were distributed throughout the Coryell Estates neighborhood by a group that is not in support of the previous petition for drainage work and paving. The information being relayed to the residents who signed the original petition contains distorted facts. The material states, "There was no maximum cost or cap on cost. Estimates from 2001 to date have ranged from \$8,000 to \$30,000 per household, but there is no guarantee that even \$30,000 per home will cover the costs."

Lacroix thinks that honesty and integrity should be foremost when distributing information to residents on a topic of this nature. People are making decisions based on this material. The incorrect information being circulated is confusing residents if they are changing their opinions from the original petition. This type of information is absolutely incorrect and a retraction would be in order. Lacroix asked Council to reject the incoming petition based on the fact that it was presented under false conditions.

Murphy stated that the most recent cost estimate per household for the drainage and paving project is \$12,120, which is a very solid number.

Julie Abear of 20305 Plantation remarked that there were a number of comments made in connection with first petition that was circulated and validated. For example, a comment was made that the Village was using toxic chemicals on the gravel roads, which was proved to be false. There have been loose statements made in the circulation of the original petition, which bears on the fact that people signed it.

It was established at a previous Council meeting that, once a special assessment district is established, the residents are responsible for the total cost. Even though there is an estimated cost, that is no guarantee as to what the actual cost will be. That is the information being circulated to the residents.

Roll Call Vote:  
Motion passed (7 – 0).

**REVIEW AND CONSIDER COMMITTEE RECOMMENDATION FOR APPOINTMENT TO THE PLANNING BOARD**

A committee of Schmitt as chair, Downey and Domzal met earlier this evening to review applications and candidates to fill a vacancy on the Village Planning Board. The committee recommends that Daniel McCleary of 17175 W. Fourteen Mile Road be appointed to the Planning Board for a term to expire on June 30, 2005.

Motion by Schmitt, seconded by Mooney, to appoint Daniel McCleary to the Village Planning Board for a term to expire on June 30, 2005.

Motion passed (7 – 0).

**REVIEW AND CONSIDER APOINTING REPRESENATIVE AND ALTERNATE TO THE MICHIGAN MUNICIPAL LEAGUE ANNUAL BUSINESS MEETING**

MOTION by Stearn, seconded by Mooney, to appoint Dorothy Pfeifer as the official representative of the Village of Beverly Hills and Brian Murphy as the alternate to the Michigan Municipal League annual business meeting to be held September 11-13, 2002 in Dearborn.

Motion passed (7 – 0).

**REVIEW AND CONSIDER PROPOSALS FOR ROAD SALT NEEDS FOR 2002/2003 SEASON**

Quotes were solicited for the 2002/2003 salt needs and bids were received from Morton Salt and Detroit Salt. Morton Salt submitted a quote of \$29.51/ton and Detroit Salt quoted \$32.32/ton.

Motion by Domzal, seconded by Stearn, to accept and approve the quote from Morton Salt in the amount of \$29.51 per ton of salt delivered to the Village's DPW yard for the 2002/2003 seasonal needs. The estimated tonnage is 700 tons.

Motion passed (7 – 0).

### **PUBLIC COMMENTS**

Ray Lacroix of 20285 Coryell commented that there are residents of Coryell Estates who want drainage upgrades and who want to live on a paved road. They want to improve the quality of their property and the neighborhood and went about it in a very professional and honest manner. Some people who are opposed to the improvements are making false presentations about why the project should not go forward. That is the problem. Lacroix presented Council with a copy of the erroneous information being circulated to area residents.

### **MANAGER'S REPORT**

Murphy stated that the Medford water main project is installed. He reminded the residents that the Village is under a mandatory odd/even water restriction. Questions regarding this requirement were addressed by administration.

### **COUNCIL COMMENTS**

Woodrow stated that the playscape in Beverly Park has been completed. The Parks and Recreation Board meeting for July was rescheduled to Thursday, August 1 in order to receive information that will be discussed at that meeting.

Schmitt congratulated Dan McCleary on his appointment to the Planning Board. Schmitt reminded Council that the Planning Board and Council will meet next Wednesday, July 24 at 7:00 p.m. in the municipal building to walk the Southfield Road corridor. This will be posted as a joint meeting of the Council and Planning Board.

Pfeifer reported that the Birmingham Area Cable Board will meet on Wednesday, July 17 in the Village municipal building at 7:45 a.m. Pfeifer alerted residents who are subscribers of Comcast cable television that coupons for free pay-per-view movies will be included in their July cable bills. She explained that subscribers do not need a cable box in order to use the coupons.

Pfeifer mentioned that in addition to the free pay-per-view movie coupons and an opportunity to receive upgrades if they are interested, additional credits have been awarded to those customers who have experienced serious problems with Comcast. The amount that Comcast has distributed to customers in this consortium area was in excess of \$105,000. Comcast will also mail a customer service survey to all subscribers in late July or early August.

Pfeifer stated that the next meeting of BASCC will be held this Wednesday at 1:30 p.m. at the BASCC headquarters.

Mooney welcomed Dan McCleary to the Planning Board.

Stearn stated that he will present an issue at the next meeting for Council consideration of a Village ordinance that prohibits carrying a concealed weapon in its parks. State law currently allows people to carry a concealed weapon in public parks. The City of Ferndale passed an

ordinance prohibiting people from bringing concealed weapons in public parks. Council will receive copies of the Ferndale ordinance.

Stearn asked if there is anything in Village ordinances that allows for criminal prosecution for distributing misleading information to residents in connection with circulating petitions. Murphy will follow up on this.

Domzal was not present at the last meeting and expressed disappointment with the vote to disband the Finance Committee. He thinks it sends the wrong message to Village volunteers. In addition, the Village Council will be looking at a number of critical financing issues and would benefit by the advice and counsel of people who are experienced in the area of finance.

Downey received a Birmingham School packet that includes requirements for school signs. He asked Schmitt to pass this along to the Planning Board.

Downey noted that the timeline established by the Planning Board for meetings on the 14 Mile Road corridor plan is posted on the Village web site.

Downey attended an Oakland County tour of gardens in our area sponsored by the United States Garden Conservancy. He visited the garden of Bruce and Denise Wayne, Toni and Joe Grinnan and Suzanne Kreugar and Dave Rider. Downey mentioned that three out of seven gardens in Oakland County were in Beverly Hills.

Motion by Pfeifer, seconded by Mooney, to adjourn the meeting at 11:25 p.m.

Motion passed (7 – 0).

**Doyle Downey**  
**Council President**

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

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