

Present: Council President Downey; Members: Domzal, McCleary, Mooney, Pfeifer, Schmitt and Woodrow

Absent: None

Also Present: Village Manager, Murphy
Public Services Director, Spallasso
Director of Public Safety, Woodard

ADDITIONS TO AGENDA – APPROVE AGENDA

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

Motion passed (7 – 0).

PUBLIC HEARING ON A REQUEST FROM JAHN CONSTRUCTION FOR CLUSTER OPTION APPROVAL OF A PROPOSED SIX UNIT HOUSING DEVELOPMENT LOCATED AT 32549 LAHSER ROAD

Before Council for consideration this evening is a proposal submitted by James Merritt, Principal of Jahn Construction, to develop a 3.597 acre site as a six-unit Single-Family Residential Cluster Development. The site is located on the west side of Lahser Road south of 14 Mile Road, bordered by West Valley Woods on the north and Village Pines on the south.

Domzal provided background on a land division and combination approved by Council last year that resulted in the creation of this parcel. He emphasized that the issue before Council tonight is whether these homes can be constructed under the cluster option of the Zoning Ordinance. One of the conditions for obtaining approval for cluster development is that the number of homes or density of the project cannot be increased by use of the cluster option. If Council approves use of the cluster option, the Planning Board will undertake a site plan review of the development and forward its recommendation to Council. There will be a public hearing on the site plan for this project before Council action is taken.

President Downey opened the public hearing at 7:35 p.m. James Merritt was asked to present a brief introduction of the Orchard Villas concept plan.

James Merritt representing Jahn Construction stated that a cluster development is proposed for this 3.5 acre property as opposed to a traditional subdivision for several reasons. It is a natural extension of the Village Pines community. The proposed development located on Lahser Road will not create an additional entrance to a public thoroughfare. There is a deeded easement accessing the private road in Village Pines. The parcel contains numerous mature trees that will be preserved with the use of the cluster development concept. Merritt displayed a drawing showing the trees that will be saved on the property.

Merritt commented that the cluster plan will result in a recognizable and substantial benefit to the new residents, surrounding residents, and all residents of Beverly Hills due to the uniform architectural features of the development as well as the extensive landscaping of the site. The size and quality of construction of the proposed six homes will be equal to or greater than those homes that exist in the area. The proposal will not have an adverse impact on any future

development in Beverly Hills because of its single family detached dwelling character and the contained vehicular traffic within the development itself. Jahn Construction feels that the proposed development is consistent with the intent and spirit of the cluster option because the open space provided for the preservation of numerous mature plantings.

Downey opened the floor for public comments regarding the use of the cluster option for the proposed development.

Joyce Lagore of 32451 Pines Drive in Village Pines stated that she lives directly adjacent to this property. In answer to a question, she was informed that one entry into the proposed development is planned off Lahser utilizing Village Pines Drive. Merritt indicated that the earliest construction will begin is the end of August. There will be several meetings of the Planning Board and Council to review the site plan and hold a public hearing. The existing house on the site will be demolished within the next two weeks weather permitting. Once final approval is received, protective fencing of the trees will occur.

Jeff Pynnonen of 31724 Allerton asked if there is sidewalk construction associated with the project. Spallasso stated that sidewalk construction will be required on Lahser Road. Merritt added that the development uses motor courts and that it would be detrimental to this type of development to add more concrete inside the development.

There were no further comments from the public. Downey closed the public hearing at 7:44 p.m.

PUBLIC COMMENTS

Downey recognized scouts from Troop 1024 present in the audience working on their communications merit badges.

CONSENT AGENDA

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

- a. Review and consider minutes of a regular Council meeting held on May 5, 2003.
- b. Review and file bills recapped as of Monday, May 19, 2003.

Motion passed (7 – 0).

REVIEW AND CONSIDER JAHN CONSTRUCTION REQUEST FOR CLUSTER OPTION APPROVAL OF A PROPOSED SIX-UNIT HOUSING DEVELOPMENT LOCATED AT 32549 LAHSER ROAD

Domzal stated that the developer James Merritt had the opportunity to answer questions from the public during the public hearing portion of the meeting. The planning consultant will address what is required under the Village of Beverly Hills Zoning Ordinance to qualify for a cluster development.

Katherine Wyrosdick stated that Birchler Arroyo Associates reviewed the application for a cluster development and is recommending approval of the cluster concept plan submitted by Jahn Construction. Council will decide whether this proposal qualifies for development under the cluster option of the Zoning Ordinance. If approved, the applicant will proceed with preparing a

full site plan that will be reviewed by the Planning Board and considered by Council with a public hearing held to discuss site plan issues.

The concept review submitted to determine whether the project qualifies for cluster development allows the Village to look at six issues: a) benefit of the development to the community; b) utilities appropriate to the site; c) the overall density proposed; d) circulation and access to the site; e) extent or degree of modification from existing requirements and standards; and f) the relationship to adjacent developments.

In this case, the benefits would include the reduction of a curb cut on Lahser Road with the only access being from the existing Village Pines Drive. New single-family home construction can be viewed as a benefit to the Village along with the preservation of open space that would not occur with a conventional subdivision development. The issue of utilities appropriate to the site will be explored in detail during the site plan review. It is the planner's understanding that the site will be served with public utilities.

The overall density proposed is consistent with the current zoning. Six homes could be constructed on the site under a conventional subdivision plat; there are six homes proposed with the cluster development.

A traffic engineer from Birchler Arroyo reviewed the proposal with respect to circulation and access to the site and recommended the design presented to the Village, which eliminates an additional curb cut onto Lahser Road.

The proposal in concept form meets all of the cluster standards required and is consistent with many R-1 zoning standards in that it does not increase density, and the side and rear yard setbacks required in an R-1 district are mirrored in this proposal. The concept plan shows that the development relates well to surrounding developments. The connection to Village Pines Drive does not create any additional traffic in front of homes. The impact to existing development is minimal.

In making its determination as to whether the proposed development is qualified to be constructed under the cluster option, the Village Council must make at least one of five findings listed in the Ordinance. Birchler Arroyo feels that the proposal meets the qualification of preserving open space. The parcel also contains natural assets, which would be preserved through use of a cluster development. There is about 1.9 acres of open space that will be preserved using the cluster development as well as 17 existing trees that will be preserved in perpetuity according to the condominium documents that will be submitted with the site plan.

Council needs to find that the clustering plan meets the criteria outlined in the Ordinance. There must be a recognizable and substantial benefit to the direct users of the plan and to the community. The planning consultants think that clustering provides a better proposal than what could be developed under conventional standards. There is not an adverse impact on future development. The proposal is consistent with the intent and spirit of the ordinance. It preserves open space and it will create less of an impact than a conventional development. It does not impede the continued use or future development of surrounding properties. The property to the

north and south are developed similarly. The property to the west is a single family home that has access off of West Valley Woods Road. Birchler Arroyo would recommend approval of the concept plan.

Domzal concurred that the proposal represents a good plan for the site. It appears that much thought has gone into the project. The developer is well prepared and has addressed a number of comments from the public early in the process. The Planning Board held a public hearing and recommended Council approval of the concept plan for Orchard Villas.

Motion by Domzal, seconded by Pfeifer, to approve the request from Jahn Construction for cluster option development at 32549 Lahser Road based on the concept plan submitted and approved by the Planning Board and considering the plan's compliance with Section 22.26 Single-Family Residential Cluster Option of the Zoning Ordinance.

Pfeifer expressed the view that the cluster plan proposed will be more pleasing than a conventional subdivision development on this site. It accomplishes preservation of trees and eliminates an added entrance to Lahser Road. She noted that the plan increases the size of the setbacks from what is required by ordinance.

Schmitt commented that the plan satisfies the applicable requirements and it should bring in more revenue to the community.

Downey indicated his satisfaction with the efforts of Jim Merritt to provide the Village with concise information. He appreciates the large setbacks provided in this plan.

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

REVIEW AND CONSIDER SUBCOMMITTEE'S RECOMMENDATION TO FILL A VACANCY ON THE CABLE BOARD

Pfeifer reported that a subcommittee consisting of the herself as chair, Mooney and Schmitt met prior to tonight's Council meeting to review a number of applications from qualified candidates to fill a vacancy on the Birmingham Area Cable Board created by the resignation of Ray Lacroix. It is the recommendation of the subcommittee to recommend the appointment of Grant Pinkos to fill a term that will expire at the end of June this year. Pfeifer noted that Council will be recommending renewal of this term for a three year period in June.

Motion by Pfeifer, seconded by Mooney, to accept the subcommittee's recommendation and appoint Grant Pinkos to the Birmingham Area Cable Board for a term to expire on June 30, 2003.

Motion passed (7 – 0).

SECOND ANNOUNCEMENT OF A VACANCY ON THE ZONING BOARD OF APPEALS

McCleary made the second announcement of a vacancy on the Zoning Board or Appeals. The deadline for submitting applications for the appointment expiring June 30, 2004 is Thursday, May 29 at 5:00 p.m. A subcommittee of McCleary, Woodrow and Domzal will meet at 7:15 p.m. on Monday, June 2, 2003 to review applications and recommend an appointment to Council. Applications are available at the Village office and on the Beverly Hills web site.

SECOND READING AND POSSIBLE APPROVAL OF ORDINANCE NO. 313 AMENDING CHAPTER 41 OF THE MUNICIPAL CODE ENTITLED UNIFORM TRAFFIC CODE

Mooney conducted the second reading of Ordinance No. 313, an ordinance to amend the Village of Beverly Hills Municipal Code, Chapter 41, by adopting by reference the Uniform Traffic Code for cities, townships and villages, as amended, by the Village of Beverly Hills. The Uniform Traffic Code (UTC) was last adopted by the State of Michigan in 1982. Since that time, the Village has been required to pass a local ordinance updating the Traffic Code whenever changes occur to the Uniform Traffic Code. Because the State has now updated the entire Uniform Traffic Code, the Village will be required only to keep a copy of future changes on file and will not be required to pass a local ordinance.

A complete copy of the proposed ordinance is available for public review at the Village Clerk's office.

Motion by Mooney, seconded by Pfeifer.

Resolved to adopt Ordinance No. 313 amending the Village of Beverly Hills Municipal Code, Chapter 41, by adopting by reference the Uniform Traffic Code for cities, townships and villages, as amended.

Roll Call Vote:

Motion passed (7 – 0).

SECOND READING AND POSSIBLE APPROVAL OF ORDINANCE NO. 314 AMENDING CHAPTER 1 OF THE MUNICIPAL CODE ENTITLED COST RECOVERY

Mooney conducted the second reading of Ordinance No. 314, An Ordinance to Amend Chapter 1, Section 1.06, Penalties, of the Village of Beverly Hills Municipal Code. Cost recovery is now allowed by state law to defray some costs of prosecution, police time, vehicle time, and drug testing. The Village's current penalty clause will be expanded by this ordinance to allow the Village to treat these expenses as reimbursable.

Director Woodard stated that the Village will be able to invoice personnel hours involved, vehicle time, equipment time, and the prosecutor's time whenever there is a traffic arrest and processing of an impaired driver. An invoice will be submitted to the court shortly after the violation at the time of sentencing. The charges will be assessed to the person as a civil bill above and beyond the court costs in those case where there is a guilty verdict. It will be collectable as part of the probation process through the court.

A copy of the ordinance in its entirety is available for review at the Village Clerk's office.

Motion by Mooney, seconded by Pfeifer.

Resolved that the Village of Beverly Hills Council adopt Ordinance No. 314 amending Chapter 1, Section 1.06, Penalties, of the Village of Beverly Hills Municipal Code.

Director Woodard addressed questions on the ordinance amendment. Village residents will be notified of this ordinance in the next Villager newsletter.

Roll Call Vote:

Motion passed (7 – 0).

REVIEW AND CONSIDER CHANGE ORDER #1 FOR LACARIA CONSTRUCTION COMPANY REGARDING CONCRETE WORK

McCleary stated that Lacaria Construction Company has agreed to do this year's concrete road repairs at last year's unit prices. Public Services Director Spallasso recommends approval of Change Order #1 for a revised total contract price of \$441,215.00.

Motion by McCleary, seconded by Mooney.

Resolved to approve Change Order #1 to Contract R-00-2 (three years) to Lacaria Construction Company of Warren, MI for a revised contract price of \$441,215.00 for construction of the 2003 Concrete Repairs Program.

Pfeifer clarified that the new contract price reflects a cost of \$136,300 over the original contract price.

Domzal questioned whether Lacaria Construction has been prompt in responding to concerns from area residents relative to construction work. Spallasso answered that Lacaria has been responsive to problems and that he would not propose a change order if he was not satisfied with the contractor's performance.

Roll Call Vote:

Motion passed (7 – 0).

REVIEW AND CONSIDER RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BONDS

Before Council is a resolution authorizing the issuance and sale of Water Supply and Sewage Disposal System Revenue Bonds. This resolution is required in order for Beverly Hills to continue its application for a State of Michigan Drinking Water Revolving Fund Loan. The Notice of Intent Resolution will be published in the Eccentric newspaper. The Resolution is available for public review at the office of the Village Clerk.

Murphy clarified that the Notice of Intent Resolution will also apply towards a bond issue for a water main replacement program if the Village is not successful in its application for DWRP money. He addressed questions from Council on the Resolution.

Motion by McCleary, seconded by Mooney.

Resolved to adopt a Notice of Intent Resolution authorizing the issuance and sale of Water Supply and Sewage Disposal System Revenue Bonds.

Roll Call Vote:

Motion passed (7 – 0).

REVIEW AND CONSIDER PLANNING CONSULTANT CONTRACT WITH LANGWORTHY, STRADER AND LEBLANC

Domzal reviewed that Council invited proposals for planning consulting services for the Village and has received proposals from a number of consulting firms. A subcommittee consisting of Council members Downey and Schmitt and Planning Board Chairperson Jensen was established to consider planning consultant firms. The field was limited to three candidates including the current contractor Birchler Arroyo. A recommendation was made at a recent joint meeting with the Planning Board to retain the firm of Langworthy, Strader, LeBlanc and Associates (LSL). Council will consider approval of a contract with LSL this evening.

Domzal commented on the Village's intent to revise its approach with respect to contracting for planning services in an attempt to better manage costs. The proposed contract provides for three types of services, all of which are billed on an hourly basis. The development review service involves a situation where a petitioner submits a specific proposal that entails review of a site plan. Services are charged on an hourly basis and will be billed back to the petitioner. Another category of services will be regular services including attending Planning Board meetings as needed.

The third type of service will be additional services that are not related to a specific proposal such as drafting amendments to the zoning ordinance or reviewing a new project with the Planning Board. The contract provides the Manager with the discretion of requesting service up to \$1,000. Council approval is required for a project amount in excess of \$1,000. The contract can be terminated by either party upon 30 days notice. The consultant and Village Manager have agreed to include a six month review period in the contract to determine whether the contract is working out as proposed.

Domzal appreciates the efforts of the subcommittee, Village Manger and Village Attorney in preparing the draft contract.

Motion by Domzal, seconded by Schmitt.

Resolved to approve the Professional Services Agreement for Ongoing Planning and Zoning Advisory Services between the Village of Beverly Hills and Langworthy, Strader, LeBlanc & Associates, Inc. and to authorize the Village Manager to execute the contract.

Lawrence Needham of 15588 Kirkshire questioned the planning consultant's fee for attending a Planning Board meeting. He was informed that the rate for this service is \$80/hour.

Roll Call Vote:

Motion passed (7 – 0).

PUBLIC COMMENTS

There were no comments from the public.

REPORTS

MANAGER

The Beverly Park Clean Up held on Saturday May 10 was a great success with participation from over 120 residents. Murphy thanked everyone who came out and worked on the park. The Garden Club sale took place on Saturday, May 17 with a large turnout.

The installation of the base course has started in Coryell Estates Subdivision. The project should be complete by the end of June, weather permitting.

The Memorial Day Parade and Carnival will take place this coming Monday. The parade starts at 11:30 a.m. from Groves High School and runs along Evergreen and Beverly Road ending at Beverly Park. The Carnival in the park opens at the conclusion of the parade and continues until 3:00 p.m.

Downey mentioned that there was an individual present at the joint Council and Planning Board meeting who expressed concern that Beverly Hills is doing its part in terms of addressing the West Nile Virus problem.

Murphy related that the Village has been placing larvicide in its catch basins and also in the pond at Beverly Park as well as other areas where there is known standing water. Ditch improvements are continuing. The Village will be conducting an educational campaign on what citizens can do about West Nile Virus through the Villager Newsletter and on the Village web site citing recommendations from Oakland County and the Center For Disease Control and Prevention.

COUNCIL COMMENTS

McCleary commented that the contractor has completed the ditches and swale construction in Coryell Estates and is preparing to do driveway approaches and restoration in the area.

Mooney attended the Birmingham Youth Assistance Dinner on May 8 with Director Karl Woodard and Public Safety Department representative Officer John Milliron. The event acknowledged middle school and high school students for their volunteerism in the community. There were 27 students honored with top honors going to Beverly Hills senior Megan McNeil. As a result of her achievements, Megan received the Jane Parker Ward Scholarship Award.

Proposed improvement plans for Birmingham elementary schools are on display in the school lobbies. An upcoming bond issue is in the planning stages.

Beverly Community Ed Council is hosting its second annual bicycle clinic on Saturday, May 24 from 10 a.m. until noon at the Beverly Elementary School parking lot. There will be a Beverly Hills Public Safety Department representative in attendance. People can register their bicycles with the Department. They can have their bikes checked and their helmets properly fitted by a

children's hospital representative. Helmets will be on sale at cost. Kids can decorate their bikes to ride in the Memorial Day parade.

Mooney thanked everyone who attended the Annual Park Clean Up on Saturday, May 10. The park looks great and all age groups seem to be enjoying Beverly Park.

Pfeifer stated that there will be a meeting of the Birmingham Area Seniors Coordinating Council Board tomorrow at the BASCC Center at 1:30 p.m. The Birmingham Area Cable Board will meet on Wednesday, May 21 at 7:45 a.m. in the Beverly Hills municipal building. Pfeifer welcomed newly appointed member Grant Pinkos to the Cable Board.

Pfeifer read a report on the Park Clean Up and learned that individuals from a number of communities come to help clean up Beverly Park. She referred to the questionnaire included in the Villager Newsletter on the preferred use of the tennis and basketball courts in the park. Pfeifer encouraged residents who have an opinion on whether to repair these courts or change the use to respond to the survey.

Schmitt recognized the Lions Club for providing refreshments at the Annual Park Clean Up. He thanked Frank and Laverne Cleary for organizing boy scout participation. Thanks go to individuals from cub scout packs 1007, 1009, 1016, 1029, 1049, and 1085 and boy scouts from Troops 1001, 1024, 1029, and 1031. Jack Harmon was thanked for organizing the event.

Schmitt suggested that it is time for residents to let their local representatives know that they do not want further cuts to local revenue sharing. There will soon be a link on the Beverly Hills web site (www.villagebeverlyhills.com) to State Representative Shelly Goodman Taub and State Senator Gilda Jacobs. There will also be information on the emerald ash borer available on the Village web site.

Schmitt informed residents that animal control for the Village is handled through Southfield Township (248/540-3420). However, the Township is not disposing of crow cadavers. Residents will have to dispose of dead crows themselves. Information on dead crows is being collected by Oakland County.

Domzal reported that Council met jointly with the Planning Board on May 14. A decision was made at this meeting to proceed with plans to consider redevelopment of the 14 Mile Road Corridor between Pierce and Greenfield.

Domzal stated that the Personnel Committee met tonight and reviewed the slate of candidates for reappointment to Village Boards. Council will consider reappointments of Board members whose terms expire on June 30 at its next Council meeting.

Woodrow stated that the Retirement Board will meet tomorrow night at 7:30 p.m. in the Public Safety Building.

Downey mentioned that Officer Dan Gosselin is retiring from the Public Safety Department. Gosselin is a member of the Retirement Board.

Downey is in receipt of a CD-ROM issued by the 46th District Court that contains pertinent court information. He would like to have a CD-ROM storing Beverly Hills information such as Ordinances, the Charter and possibly the annual budget.

Downey noted that the Eccentric Newspaper contained an editorial last week commending Council on its work related to the State Drinking Water Revolving Fund.

Motion by Schmitt, seconded by Mooney, to adjourn the meeting at 8:40 p.m.

Motion passed (7 – 0).

Doyle Downey
Council President

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary