

Present: Council President Domzal; President Pro-Tem Woodrow; Members: Downey, Koss, McCleary, Pfeifer and Taylor

Absent: None

Also Present: Village Manager, Murphy  
Public Works Director, Spallasso  
Assistant to the Manager, Pasioka  
Building Official, Byrwa  
Public Safety Director, Woodard  
Village Attorney, Ryan

President Domzal reconvened the meeting at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road following a 6 p.m. Council study session held to discuss planning issues. The Pledge of Allegiance was recited by all in attendance.

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

Motion by Pfeifer, second by Woodrow, to approve the agenda as published.

Motion passed.

#### **PUBLIC COMMENTS**

Irene McAdams of 16124 W. Thirteen Mile Road asked the Village to repair a loose manhole cover on Thirteen Mile Road east of Sheridan. Cars and trucks running over the manhole cover make loud noises all hours of the day and night.

Spallasso responded that federal money allocated for the Thirteen Mile Road reconstruction project has dwindled. As a result, a resurfacing project for Thirteen Mile Road improvements will be considered. Spallasso will investigate the location noted by McAdams to see if repairs can be made prior to doing the overall resurfacing.

Norm Downey of 23042 Nottingham Drive read excerpts of a letter he sent to Council members. He applauded the Council President for having residents' questions and concerns answered by the appropriate individual. N. Downey commented that Council should not allow a resident to come forward at a meeting and berate another individual. He asked that Council minimize or eliminate special Council meetings and suggested that the public be briefed on the May 10 special Council meeting.

N. Downey maintains that the Village does not have a balanced budget because it is spending more money than it is taking in. He proposed that administration review each budget line item for reductions. Downey proceeded to list a number of budgeted items that he thinks should be examined and reconsidered.

Domzal stated that Norm Downey and other residents with specific questions regarding budget items are welcome to talk to administration and receive an explanation of each item. Council is dedicated to try to reduce this budget further, which may require additional Council meetings. Study sessions will be posted and are open to the public. Council held a planning session earlier this evening to follow up on a number of issues.

The next Council study session is scheduled for Thursday, June 3 at 6 p.m. in the Council meeting room.

Kathleen Berwick of 31381 Kennoway Court asked if consideration has been given to merging the Beverly Hills Public Safety Department with the Bingham Farms and Franklin police departments or the Sheriff's Department in order to cut costs. Berwick voiced disappointment with the way two recent calls she made to the public safety department were handled.

Soter Art Liberty of 20850 W. Thirteen Mile Road understands that there is \$5,000 allocated in the 2004/05 budget for Strategic Planning Development Committee activities. Liberty commented on the activity at the last SPDC meeting and the lack of discussion on survey results in terms of the highest priorities indicated by residents responding to the questionnaire. He questioned the need for an implementation committee and to spend \$5,000 when the primary priorities of residents were set forth in the survey.

Murphy summarized the status of the Village's strategic planning process and the next steps to be achieved by the committee. Survey results have been reported back to the SPDC in a broad summary of data with more work needed to analyze that information. This is a strategic planning committee, not a survey committee. There is more input and research that goes into the strategic planning process before developing a final report that will be presented to Council later this summer.

Additional funds have been allocated in next year's budget to address any unknown variables that need further clarification as part of the implementation process. Council and the Personnel Committee will be considering the next step in order to keep the process moving forward.

#### **CONSENT AGENDA**

Motion by Woodrow, second by Pfeifer, to approve the consent agenda as follows with an amendment to correct a typographical error noted in the special Council meeting minutes of May 10:

- a. Review and consider minutes of a special Council meeting held on May 10, 2004.
- b. Review and consider minutes of a regular Council meeting held on May 4, 2004.
- c. Review and file bills recapped as of Monday, May 17, 2004.

Roll Call Vote:  
Motion passed.

#### **BUSINESS AGENDA**

**REVIEW AND CONSIDER TENTATIVE AWARD OF DRINKING WATER REVOLVING FUND – RELATED CONSTRUCTION CONTRACT AND PART III APPLICATION SUBMISSION**

McCleary stated that bids were opened on May 5, 2004 for the construction of the 2004 Water Main Replacement Project. The Village is nearing completion of the application process for the State Drinking Water Revolving Fund (DWRf) loan program. The remaining tasks include tentative award of the construction contract by Council and the submittal of the Part III Application by May 19, 2004 to the Michigan Department of Environmental Quality, administrator of the DWRf loan program. Upon completion of its review of the information, the MDEQ will work with bonding counsel to complete financial arrangements and issue an Order of Approval for the project by June 8, 2004.

Questions and comments from Council were addressed by Spallasso and Murphy. Domzal reviewed that this program is a continuation of a multi-step process. The Village has locked into low rates for the water main replacement program and has amortized the costs over a period of time.

Motion by McCleary, second by Pfeifer.

Whereas, Village Council authorized Village administration to “make application to the Michigan Department of Environmental Quality for a low interest loan from the Drinking Water Revolving Fund for financial alternative No. 1 of the Project Plan”, and

Whereas, the Village wishes to construct improvements to its existing water distribution system, and

Whereas, the 2004 Water Main Replacement Project will be funded through the state of Michigan’s Drinking Water Revolving Fund (DWRf) program, and

Whereas, the Village has sought and received construction bids for the proposed improvements and has received a low bid in the amount of \$2,934,670.00 from Bricco Excavating Co., LLC, and

Whereas, the Director of Public Services has recommended awarding the contract to the low bidder, and

Whereas, with Council’s approval of the construction bid results, the Village may now complete the DWRf application,

Now, therefore be it resolved, that the Village Council tentatively awards contract for construction of the proposed 2004 Water Main Replacement Project to Bricco Excavating Co., LLC, contingent upon successful financial arrangements with the DWRf and upon contractor submitting all bonds and insurance coverage per contract specifications, and

Be it further resolved, that the Village Council approves the Part III application, and directs administration to submit said application, and

Be it further resolved, that Village Council approves the professional services agreements with Miller Canfield, HRC, and Bendzinski & Co. for legal, engineering, and financial expenses, respectively, incident to the costs of “acquiring and construction of the Project” and “the issuance and sale” of the bonds. Said expenses to be paid from the proceeds of the bond issue.

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

**REVIEW AND CONSIDER REPAIR TO FIRE APPARATUS**

Koss related that there is a mechanical problem with the Public Safety Department's secondary response pumper. It is proposed to replace a pressure relief valve with a spring-loaded mechanism, which will improve the ease of operation and adjustment and provide a similar system on all apparatus.

Quotes were invited for replacement of the pressure relief valve. It is the recommendation of staff to accept the low bid in the amount of \$1,960 from Smullen's Fleet Services. Money is available for this expenditure in the Public Safety Fire Truck Reserve.

Motion by Koss, second by Downey, that the Village of Beverly Hills award the purchase of one Pressure Relief Valve including installation in the amount of \$1,960 to Smullen's Fleet Services of Howell, MI. Funds are available for this purchase in the Fire Truck Reserve.

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

**DISCUSSION ITEMS**

**PLANNING BOARD – 14 MILE ROAD CORRIDOR STUDY**

Woodrow provided background on the Planning Board's review of the 14 Mile Road corridor, which began prior to the reconstruction of the road by the County. The purpose of the study is to identify improvements and possible land use recommendations for the 14 Mile Road corridor study area. The preferred tool recommended by the Planning Board for proactive planning of the area east of the water tower is an Overlay District.

An Overlay District allows a separate set of regulations to be placed "on top of" underlying zoning without changing the existing zoning designation. Additional density and height regulations would allow a developer to acquire and combine property and construct a multi-family dwelling such as townhouses. Caryn Wenzara from Langworthy Strader LeBlanc & Associates will give a presentation on the study and proposed language for a Fourteen Mile Road Residential Overlay District amendment.

Planning consultant Caryn Wenzara stated that she has been working with the Planning Board on developing draft language in response to the 14 Mile Road corridor plan process. She emphasized that the only area subject to future redevelopment options are the single family lots fronting 14 Mile Road west of Greenfield to the water tower facility. Wenzara stated that there was much Planning Board discussion of various development options with consideration given to public input during the process.

A proposed Overlay District Ordinance Amendment has been drafted and reviewed by the Planning Board. The Planning Board is ready to set a public hearing on the draft ordinance after consideration by Village Council. Wenzara will present an overview of the ordinance and display site plan samples and photographs that will provide a visual representation of what a multiple dwelling might look like under the proposed ordinance.

Wenzara used a power point presentation to explain the purpose of the amendment, the amendment review and approval process, definition and structure of an Overlay District, components of the regulations, and offered visual examples.

The purpose of the residential overlay amendment is to enhance this particular segment of the 14 Mile Road corridor, address the issue of declining property values, and offer future opportunities for different development. If the property owners want to pursue another use for their property, they will have that flexibility. If that does occur and there is redevelopment in the area, the overlay amendment will ensure that it is consistent with the residential character of the district.

Wenzara defined an Overlay District. It allows a separate set of regulations to be placed “on top of” the underlying R-2 zoning without changing the existing zoning designation. An Overlay District imposes different, additional standards and regulations on the district. Types of additional regulations could include density, building height, setbacks, site design, landscaping, and architecture.

Property within this Overlay District has the potential of being developed for attached, single family housing or multiple housing with certain restrictions. Restrictions include a maximum two-story height limitation, setback requirements, maximum density of 15 dwelling units per acre, and design standards.

Wenzara commented that the design of the project will dictate the density. Standards were established to provide the developer with enough flexibility to work with the property. The existing dimensions of the lots and a two-story height limitation are likely to restrict the type of product proposed by a developer and result in a lower density design.

Wenzara displayed examples of site layouts and housing options that were thought to work well with the property and ordinance regulations. She discussed setbacks, orientation to 14 Mile Road, garage location and parking, building materials, streetscape planting, and screening from adjacent property to the south.

Council discussed the proposed Overlay District concept with questions and comments addressed by Wenzara. Council was interested in the reaction of the public to the Overlay District. It was suggested that Village fence ordinance requirements should be considered. A density of 15 dwelling units per acre was viewed as high by some members of Council.

It was noted that the proposed ordinance allows a maximum building height of 2.5 stories. Wenzara explained that the Overlay District would allow a two-story home. The 2.5 story maximum building height is proposed to allow additional flexibility for the design of the building or to allow additional attic storage space for the unit.

The maximum number of units per building was questioned. Wenzara explained that the draft ordinance limits the length of a building to 180 feet to assure that there is not a long row of buildings. She will suggest to the Planning Board that the ordinance address the number of units.

Domzal responded to communications he has received from residents regarding the 14 Mile Road corridor proposal by clarifying that no one will be encouraged to move from their existing homes on that portion of 14 Mile Road. The proposal is to overlay the existing zoning. Any multiple units proposed will be subject to a full site plan review by the Planning Board. Domzal believes that the overlay zoning and resulting high end housing will add value to neighboring residences.

Kathleen Berwick of 31381 Kennoway Court questioned whether homes on 14 Mile Road have code violations that have not been enforced by the code enforcement officer. She is uncomfortable with rewarding homeowners in this area with property that will be worth more. Berwick stated that she is opposed to tax dollars being spent on a planning consultant to work on an overlay district that will allow multiple housing.

Domzal stated that code enforcement has been an area of increased activity throughout the community over the past 12 months.

Bob Walsh of 20655 Smallwood Court asked how many lots would have to be purchased and combined in order to build a multiple dwelling. Wenzara answered that the minimum project size is one-half acre, which equates to about four or five lots.

Walsh expressed concern about a density of over 8-10 dwelling units per acre. In answer to an inquiry, it was stated that the height restriction on a proposed dwelling in the Overlay District will be 35 feet.

Bunker Kelly of 21526 Corsaut Lane questioned the amount of acreage from Greenfield Road to the water tower and was answered that it is about four acres. It was noted that there is a public right-of-way included in the 14 Mile Road frontage. Kelly expressed concern with density. He asked several questions prompted by an article in the Detroit News on the redevelopment of 14 Mile Road. He suggested that the overlay district proposal could be considered spot zoning. Kelly asked that administration make a presentation on how the Headlee Amendment and Proposition A intertwine between new development and additions to provide the community with an understanding of how new construction will help the bottom line of the Village.

Larry Needham of 15588 Kirkshire is opposed to the Overlay District. He noted that Royal Oak has created a nice looking segment on their identical piece of real estate. Needham is concerned about this plan being a repudiation of standards that the Village has had for 50 years. He referred to sections of the Zoning Ordinance and the Village Charter with regard to multiple housing, density, single-family residential character, and open space to emphasize his point. He is concerned that this proposal to allow townhouse construction is being pursued for revenue enhancement.

Leanne Toth of 21605 W. Thirteen Mile Road had comments and questions that were answered by Wenzara. Toth would like to see lower density if multiple buildings are constructed.

Dick Maxwell of 18701 Walmer Lane cautioned the Council and Planning Board from setting a precedent with this proposed Overlay District. He questioned whether an Overlay District will be proposed in other areas of the Village that may experience

economic blight in the future. He also urged Council to maintain low density requirements because what the Village ultimately decides is not what a judge may decide.

Ann O’Connell of 17500 Kirkshire stated that she is hearing “no” or “proceed with caution” from residents. She thinks that the proposal is likely to result in hodge-podge development. People are not going to put money into a house that might have a 2.5 story townhouse built next to their home. O’Connell maintains that the proposed overlay district concept is not a well thought out plan.

Jill Sickels of 17171 Kinross expressed concern that the homes in question may become more run down if an Overlay District is adopted. A developer will promote the building of upscale townhouses that will look nice and bring money into the community. Sickels thinks it is really about dollars that will go to the developers and to the municipality. She commented on negative aspects of multiple housing such as cement, parking, and lack of green space.

Domzal stated that the draft language for a Fourteen Mile Road Residential Overlay District amendment will go back to the Planning Board for further discussion on how to proceed. Public forums will continue on Fourteen Mile Road corridor planning. Domzal stated that the Planning Board and Council will proceed deliberately with respect to Fourteen Mile Road corridor matters. He thanked the residents for attending and expressing their opinions.

#### **PARKS & RECREATION BOARD – REPORT ON VILLAGE TREE POLICY**

McCleary reported that the Village’s Tree Committee met on May 1, 2004 to continue work on developing a Village-wide program to encourage the planting of trees. The committee members are Parks and Recreation Board member Jack Harmon, Council members Rosanne Koss and Dan McCleary, former Council members Janet Mooney and Phil Schmitt, and Assistant to the Manager Stan Pasieka.

The Tree Committee arrived at four recommendations for Council consideration. The first is that the Village of Beverly Hills become a “Tree City USA”. The Village will be able to meet the qualifications to be named a “Tree City USA” by the National Arbor Day Foundation, which would increase the Village’s ability to obtain tree grants without imposing undue burdens.

The Committee also took action to recommend that the Village implement an ordinance to require protection of trees during construction. They found construction standards for protecting trees in the Village to be inadequate.

A Beverly Park Tree Policy was proposed whereby an individual can donate \$300 to the Village to have a tree planted in Beverly Park. The donor’s name will appear on a plaque displayed in the park pavilion.

A General Tree Purchase Policy was recommended. The Village would take bids from contractors to purchase 100 trees. Residents can choose from a list of trees. There will be an option to purchase trees planted by a contractor and guaranteed at a cost of \$200, or another option to purchase trees at a lesser cost to be dropped off at the person’s house

and planted by the resident. Trees are encouraged to be planted in the road right-of-way or front yard.

Jack Harmon of 32320 Bellvine commented that the impetus for the tree planting program comes from the loss of trees in the community due to the emerald ash borer disease. About 300 ash trees have been cut down in Beverly Park. The program will make it easy for residents to replace dead trees. A list of ten replacement trees has been compiled, eight for use at residences and two additional trees appropriate for planting in the park. The proposal allows a resident to purchase a tree, which is then delivered, planted, mulched, and staked. At a lesser price, a resident can plant the tree themselves. At its last meeting, the Parks and Recreation Board recommended that this tree planting proposal be approved and implemented by Council.

Judd Hart, Village forester/contractor, will assist with implementation of the policy adopted by Council. The Village has received agreement from the City of Birmingham to order Beverly Hills' trees as part of Birmingham's group order this fall. This will present a cost savings to the Village. Hart commented that it is important that the Village maintain a wide variety of trees so it does not experience the same situation again as it has with emerald ash borer and Dutch Elm disease.

Phil Schmitt commented on the four recommendations proposed by the Tree Committee. The committee is asking Council to adopt the tree policies that have been recommended and direct administration to implement them.

Questions on the tree purchasing and planting recommendations were answered by Harmon and Hart. The list of trees being offered and their characteristics will be made available to residents, most likely through a circular describing the tree purchasing program. It was suggested to post the list of trees on the Village web site.

There was a consensus of Council to direct administration to proceed with the recommended policies and seek the assistance of members of the Tree Committee and Judd Hart when necessary.

Murphy will proceed on the four recommendations as part of administration's responsibilities. He announced that the Village has been notified that it will receive tree grants both from DTE in the amount of \$3,000 and \$17,000 from the DNR. The Village will seek Requests for Proposals for trees in connection with these grants.

Domzal thanked the Tree Committee and Parks and Recreation Board for doing an excellent job of preparing a tree planting program and additional recommendations. He mentioned that Council has discussed pursuing an ordinance amendment to address the required removal of diseased or dead trees. The current ordinance addresses the required removal of only diseased Dutch Elm trees. Council review of ordinance language dealing with a "Tree City" designation should consider any other outstanding tree issues.

Schmitt commented that Council at its February 17 meeting directed the Tree Committee to develop a program to encourage the planting of trees within the Village. The committee will be happy to look at other items.

## **REPORTS**

### **MANAGER**

The Beverly Park Clean-up was a great success with over 120 residents participating again this year. Murphy thanked the Beverly Hills Lions Club, local scout troops, Lawncrafter Lawn and Yard Maintenance, and all the volunteers for their hard work and attention that day.

Judd Hart is currently working on grinding ash tree stumps at Beverly Park and, weather permitting, hopes to have the work done before the Memorial Day Parade and Carnival.

The Village has been awarded an additional \$17,000 to replant trees lost to the emerald ash borer. The State is considering the use of Beverly Park as a backdrop when making its public media announcements because of the number of trees lost in the park.

The calendar states that the Little League All Star game at Beverly Park is scheduled for Sunday, June 20. It has been changed to Sunday, June 13. The north diamond will accommodate the Girls Softball All-Star game after the Church Softball League game starting about 3:30 p.m.

Murphy presented an update on the special Council Meeting of May 10. He related that the Village had received a report that a two abutting residences on Riverside Drive were experiencing a disturbance in their back yards. Considering the proximity of the Acacia Drain work and the behavior of the disturbance, concern was expressed that there might be a relationship between the damage experienced by the property owners and the Acacia Drain project. A visual inspection by the DEQ did not result in a conclusive decision on the cause of the situation. The Village proposed bringing in a consultant to conduct hydrological and geological work to determine whether the disturbance is a result of the Acacia Drain Project. A special meeting was called to address the issue in a timely manner. Council voted to authorize a study, which is proceeding.

Downey recalled that mowing of cul-de-sacs by resident volunteers in lieu of a Village crew was discussed at a budget session as a possible cost saving measure. He asked the status of this matter.

Murphy responded that it was determined at the budget session that it would be best if Council actively sought volunteers to take on that function considering that administration is in the business of enforcement.

### **COUNCIL**

Pfeifer reported that the Birmingham Area Cable Board will meet tomorrow morning, May 19, at 7:45 a.m. in the Council meeting room. The Cable Board budget for the 2004/05 fiscal year will be presented, copies of which will be distributed to each consortium community. The Cable Board will consider a draft resolution to urge regulation of cable television rates and forward the resolution to its member communities for adoption. Consideration of this resolution could be an agenda item for the June 1 Council meeting.

Woodrow attended the Michigan Fallen Heroes Memorial Dedication Ceremony on May 14 near Oakland County Circuit Court. It is a ceremony designed to memorialize and recognize fallen officers in the State of Michigan. The first stage of the memorial has been completed. Woodrow also attended the Oakland County Sheriff's Department annual awards ceremony. He commented on the number of awards presented, which demonstrates how many people are putting their lives on the line for citizens every day. Woodrow stated that he was glad to be a part of these events and hopes the officers know that they are appreciated.

Taylor related the slate for the Southfield Township elections. Raymond Mills is unopposed for the position of Township Supervisor. Sharon Tischler is unopposed for Township Clerk. Incumbent Nancy Buschmohle and newcomer Joanne McCleary are running for Township Treasurer. Jack Fahlen and Whitfield Jones are incumbents for the office of Township Trustee. Also vying for those seats are Janet Mooney, Randy Munguia, Philip Schmitt, and Robert Walsh.

Taylor commented that the Zoning Board of Appeals met recently and that the members are doing a fine job.

McCleary announced that the Parks and Recreation Board will meet on Thursday, June 3 in the Beverly Park pavilion at 7:30 p.m. He hopes to see everyone at the Memorial Day parade.

Downey stated that the Retirement Board will meet at 5:00 p.m. on Tuesday, May 25. The Personnel Committee has tentative plans to meet on June 15.

Downey commented that input from residents is important; however, Council should try to keep residents focused on the issues at hand and not engaging in hearsay or attacking each other's words.

Downey suggested that Council focus on safety issues that are addressed regularly. He has mentioned crosswalk markings in the past. In response to a comment this evening, Downey explained that grinding sections of protruding sidewalk is a key safety issue.

Downey attended the Rouge Green Corridor Tour on Saturday, May 15. This was part of the Rouge River Initiative addressing water quality and river basin improvements.

Downey stated that the Village spends \$10,000 a year mowing public property. He encouraged residents and fellow council members to contact local subdivision associations and encourage participation in this task. Downey asked residents to follow the rules and keep their dogs leashed to protect wildlife in the Douglas-Evans nature preserve.

Downey mentioned that the Beverly Hills Lions Club supported the Beverly Park Clean-up. Downey thanked resident Bob Bliven for his service on the Beautification Committee and welcomed another Planning Board representative to the committee, George Ostrowski.

Council received a Public Safety Department report for April today. Downey mentioned a few highlights from the report.

Downey stated that Council members received an item in their meeting material regarding a lawsuit against the Village and action that administration will follow unless directed otherwise. Downey would prefer having a short closed session of Council to discuss lawsuits and provide direction to administration.

Domzal reported that State Senator Gilda Jacobs has accepted an invitation to appear at the June 1 Council meeting. This will be an opportunity for Council and residents to ask Senator Jacobs questions about the State budgetary situation.

Motion by Pfeifer, second by McCleary, to adjourn the meeting at 10:19 p.m.

Motion passed.

**Dave Domzal**  
**Council President**

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

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