

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

Absent: None

Also Present: Village Manager, Spallasso  
Assistant to the Manager, Pasieka  
Public Safety Director, Woodard  
Village Clerk, Marshall  
Village Attorney, Ryan  
Building Official, Byrwa

President Domzal called the meeting to order at 7:32 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road. The Pledge of Allegiance was recited by those in attendance.

**ADDITIONS TO AGENDA/APPROVE AGENDA**

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

Motion passed.

**PUBLIC HEARING – REPROGRAMMING OF 2002 & 2003 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

Koss reviewed that money was allocated for Planning Services from the CDBG Program Years 2002 and 2003 with the description including expenses for the Southfield Road Corridor Study. Also for Program year 2002, funds were allocated for the Senior Center with the description including equipment for the Birmingham Area Seniors Coordinating Council (BASCC) Senior Center.

It was anticipated that the Village planning consultant would be providing assistance on the Southfield Road Corridor Study, but that did not occur during Program Years 2002 and 2003. The same is true for the balance of money allocated for the Senior Center equipment. BASCC would like to purchase an item that is not covered under the current activity description. Council will consider action to reallocate this money so that the Village will not lose funds allocated through the CDBG program.

Domzal opened the public hearing at 7:38 p.m. on the reprogramming of 2002 and 2003 Community Development Block Grant Funds. No one wished to be heard; therefore, the public hearing was closed at 7:38 p.m.

**PUBLIC COMMENTS – CONSENT AGENDA AND ITEMS NOT ON THE BUSINESS AGENDA**

Norm Downey of 23042 Nottingham Drive requested answers from Council and administration to questions regarding the 8% increase in Village water and sewer rates. He was asked by President Domzal and Attorney Ryan to limit his comments to items not on the business agenda. Public questions on water and sewer rates will be heard and

addressed as part of the audit report by Plante & Moran, which is the first item on the business agenda.

Bunker Kelly of 21526 Corsaut Lane responded to comments made by members of Council at recent Council sessions. The topics raised by Kelly included budgetary items; non-resident attendance at the Halloween Hoot; the composition, function and management of the Strategic Planning Development Committee; leadership with respect to saving money; request that residents receive a report on the recent Michigan Municipal League convention; request that all Council sessions be broadcast on cable television; limitations on use of audio visual equipment at meetings by residents; the legality of the library survey bid with respect to the Village Charter and the need for a survey.

Domzal stated that the Strategic Planning Committee will be presenting its report to Council sometime in November or December, and it will be an agenda item at a regularly scheduled meeting. Kelly's objections to the composition and function of the Committee have been duly noted by Council. Domzal asked that Kelly hold off on further comments on this topic until the Committee report comes before Council for consideration at which time there will be public discussion.

#### **CONSENT AGENDA**

Motion by Pfeifer, second by McCleary, to approve the consent agenda as follows:

- a. Review and consider minutes of a regular Council meeting held on October 5, 2004.
- b. Review and file bills recapped as of Monday, October 18, 2004.

Motion passed (7 - 0).

#### **BUSINESS AGENDA**

##### **PRESENTATION OF JUNE 30, 2004 AUDIT BY PLANTE & MORAN**

Joe Heffernan and Stacey Reeves from Plante & Moran presented the audit report for the year ending June 30, 2004. Council members have received a copy of the general purpose financial statements of the Village and the auditor's letter of comments and recommendations. The financial statements are a product of the Village Finance Director Wiszowaty and the individuals who work with him. The auditor's job is to test those numbers on a sample basis and compile them into a financial report. Heffernan stated that the Village has received a clean opinion, which means the Village's accounting records are in good shape and are representative of how the Village did for the year.

Heffernan noted an addition to the audit that will be an ongoing element due to a statute change as of January 1, 2004. In addition to looking at the numbers in the accounting records, auditors are responsible to look for specific types of fraud and bring them to the client's attention. Heffernan stated that the auditors do not have anything in their comments letter to report to the Village.

Heffernan presented an overview of the Village's financial condition with the use of graphs. A summary of governmental net assets shows that taxpayers have funded the full cost of providing services. Other graphs depicting statement of activities compare the resources provided in 2004 to the cost of providing services in 2003. Village revenues are broken down into General Property Tax Millage and separate Infrastructure Millage. There was a slight increase from \$4.89 million to \$4.99 million in 2004. State shared revenue decreased for the third year in a row from \$966,000 to \$887,000. Heffernan related that the State has indicated that state shared revenue will be frozen for the 2004/05 year.

The third graph looks at where the money is being spent. The graph shows the gross amount spent versus the net cost to Village residents. There is a small amount of revenue coming in for General Government and Public Safety that does reduce the cost to the taxpayers. Public works was unusual this year in that there was a decrease from \$1,992,000 to almost zero net cost of program revenue due to one-time contributions and grants received during the year. The Village is bearing most of the cost internally of Community and Economic Development as well as Library costs.

An exhibit showing Village Water and Sewer Fund Activities compares revenues to expenditures both for this year and for the prior year. Expenditures went down considerably in 2004 for the reason that repairs and maintenance and one-time expenses were down.

Heffernan made a few overview comments regarding water and sewer rates. He emphasized that money coming from residents for water and sewer fees stays in the Water and Sewer Fund and must be used according to law for Water and Sewer Fund purposes. To the extent that rates were set too low, it would cause next year's rates to be higher. Setting the rates too high would cause them to be lower in the future.

The second thing that is important when looking at water and sewer rates is the methodology for setting rates. The Southeastern Council of Governments (SEMCOG) is doing a study through its water quality consortium group in an attempt to develop a basis for all local units of government in southeast Michigan to use in setting rates. SEMCOG has been working on this for about three years. It is difficult to come up with a consistent methodology for setting water and sewer rates. SEMCOG would like to get to a point where it would have a recommended best practice to report rates so that the information provided would be consistent. They are also striving to have consistency in the calculation of how to set the rates.

Heffernan related that setting water rates involves more than consideration of operating expenditures for the current year. Consideration must be given to replacement of the system. If a community finances replacement of the system through the municipal bond market, it still has to be able to pay the debt on the bonds. Some communities that have faced replacement of their system have had to ask for property tax millage to underwrite the cost of replacing lines.

Heffernan has had discussions with Village administration on the methodology that has been used to calculate water and sewer rates. The Finance Director intends to go back to using the MDEQ model for setting water rates for the year that will begin July 1, 2005 with the hope that it will be more understandable and easier to debate. The MDEQ model splits the costs between the current operating type costs versus the debt versus capital. It will be more informative in terms of enabling Council and the public to have a discussion about how rates are set.

Reeves reviewed the Plante & Moran letter of comments and recommendations addressed to Council. The primary purpose of this letter is to update the Village on any relevant legislative issues as well as any accounting matters encountered during the audit. The first item is State Shared Revenue. The trend of decreases is expected to continue but not as significantly as has been experienced over the last three years. Updated revisions will be communicated to Council by the auditors.

The paragraph regarding Major Street Fund Transfers is a matter for Council consideration for a potential alternative funding source for its local road projects. The last page of the letter addresses a new accounting standard implemented this year entitled *Consideration of Fraud in a Financial Statement Audit*. Basically, this requirement involved more procedures to be performed by the audit staff in terms of the planning, implementation and finalization of audit procedures. Items noted in this section are being brought to the Village's attention.

Questions from Council on the audit and letter of recommendations were answered by Heffernan and Reeves. Council will follow up on any internal control considerations pointed out by the auditors in six months to verify whether they have been addressed. Domzal asked Heffernan to comment on the results of the Plante & Moran review of water and sewer rates in southeastern Michigan commissioned by SEMCOG.

Heffernan stated that the SEMCOG study was conducted by a water quality consortium for the purpose of acquiring more uniformity between the communities with regard to how water rates are set and communicated. They determined how communities are setting their water rates by the major components of the cost of purchasing water, operating the department, the debt, and the capital. Looking at the seven-county SEMCOG area, Beverly Hills comes in at \$4.33, which is a little higher than average on water rates and a little lower than the average on sewer rates. Beverly Hills rates are about 40 cents less on water and about \$1.30 less on sewer charges than the City of Birmingham.

Before taking questions from the public, Domzal reminded everyone that the water and sewer rates are budgeted amounts in the 2004/05 budget. The budget document sets forth the methodology used to compute water and sewer rates and includes a line item basis for revenue and expenses. The budget is available for public review.

Norm Downey of 23042 Nottingham Drive expressed the view that residents have been given incorrect and misleading information that the 8% increase in Village water and

sewer rates is due to its supplier increasing rates by 8%. The fact is that Oakland County increased rates 7.6% for water and an average of 2.4% for sewers.

N. Downey commented that the Village budget as of October 5, 2004 shows that a \$148,000 overcharge derived from the 8% increase is being used to fund the current water main replacement program. This contradicts published documents from administration stating that no increase would be necessary to fund the water main program. Downey questioned whether the Village has misled the county or state in obtaining approval of low interest bonds by telling them there would be no rate increase to support the water main program.

Spallasso remarked that sewer rates could have been increased by less than eight percent. It should be kept in mind that the Water and Sewer Fund retains the money within the fund to be used for future sewer system requirements for the Village's aging system. Spallasso recently met with neighboring communities on the needs that they will face regarding the Evergreen-Farmington sewage disposal system. It has been known for a number of years that Beverly Hills, as well as other communities, has infiltration and inflow into the system that causes the Village to exceed its outlet capacity. Money will have to be spent on investigating and correcting those infiltration/inflow problems. Whatever money is collected over and above the need to operate the system and balance the budget will go to good use.

It was stated earlier that the next round of rate adjustments will use the MDEQ methodology that the auditors described. Next year's water and sewer rates will be a subject of discussion at a public meeting prior to adoption of the budget. Spallasso added that Beverly Hills may only have to make minor adjustments to its water and sewer rates for the next fiscal year if Detroit implements its announced 3.5 percent increase in the rate the city charges for water and sewerage services.

Spallasso commented that the money for bond finance costs this year will come from the Sewer and Water Fund. The State is interested in whether Beverly Hills is in a position of paying the debt whether the Village has to adjust rates or not.

Bunker Kelly of 21526 Corsaut Lane does not think that others in administration or Council should be held accountable for what appears to have been inaccurate information from the prior Village manager. He referred to an April 15, 2004 Drinking Water Revolving Fund report from the manager stating that the Village's Water and Sewer Fund will not have to be raised to pay for the low-interest loan that was being pursued. Kelly contends that the Village is paying a debt with interest that did not have to happen at this time and that the end responsibility lies with members of Council.

Ryan responded that it is clear that the water pipes are part of the water enterprise system. It is public record that the water rate increase last year from the Village's supplier was 7.6%. Beverly Hills had to raise the water rates by at least 7.6% to keep up with the cost of the supply of water. That leaves a 0.4% increase. Considering what the auditors have said about the need to maintain and improve aging infrastructure, it cannot be honestly

said that the water rate increase of 8% was a violation of State law or that false statements were made. Ryan stated that any discussion of fraud or misuse should end. There were no false statements made to the state with respect to obtaining a low-interest loan for the water main replacement program. The Village's bond attorney was involved and oversaw the entire process.

Kelly maintains that the water rates cannot be separated from the sewer rates. He reiterated his previous comments and accusations noting that residents asking questions led to the truth being disclosed. Kelly questioned expenses related to administrative charges in the Water and Sewer Fund.

Domzal informed Kelly that the 2004/05 budget document addresses expense and revenue issues in detail and is available for public review at the Village offices. Comments with respect to establishment of water and sewer rates for the next budget cycle will be welcome during budget deliberations.

Pfeifer emphasized that water and sewer charges collected will remain in the Water & Sewer Fund and cannot be spent anywhere else. She commented that there are people who do not understand debt services, funding mechanisms, etc. Pfeifer suggested that water and sewer rates be a topic of discussion at a Council meeting after the beginning of the year when the water and sewer rates from the DWSD are known.

Taylor expressed disappointment in the continued negative spin that comes from some individuals. He took exception to comments made about the prior village manager by one or two citizens that are dissatisfied with the answers they have received. Woodrow also objected to the attacks made on someone who is not here to defend himself.

Downey commented that some of the strong accusations alleging that people were intentionally misled are exaggerations. He stated that Council held a number of public meetings at which time water rates were discussed and set. Downey commented on the mechanism of setting water and sewer rates.

Domzal stated that he has been involved in municipal and finance work through his profession. The program by which the Village financed its water main replacement program will save the community a large amount of money by taking advantage of a low interest loan.

Domzal commented on the good audit report and thanked the staff for a great job.

**REVIEW AND CONSIDER REPROGRAMMING OF 2002 & 2003 CDBG FUNDS**

Pfeifer stated that Oakland County administers the Community Development Block Grant Funds. Because Pfeifer is a Birmingham Area Seniors Coordinating Council Board member, it is considered a conflict of interest for her to make a decision on funding their program. Pfeifer asked to abstain from participating in a discussion or vote on this agenda item.

Motion by Downey, second by Woodrow, to allow Dorothy Pfeifer to abstain from voting on reprogramming of CDBG funds for the reason that she is a member of the BASCC Board.

Motion passed (7 – 0).

Before Council for consideration is reallocation of Community Development Block Grant funds in order not to lose the money allocated to the Village for Planning Services and BASCC Senior Center activities through the CDBG program. Since there has not been work done on the Southfield Road Corridor during Program Year 2002 and 2003, Council will consider a change of description for these activities. The amount for Planning in 2002 is \$2,474 and for 2003 it is \$3,900. Relative to the Senior Center funds, it is suggested to reprogram \$987.57 from “equipment” to “pottery wheel and ancillary equipment”.

Motion by Koss, second by McCleary, that the Village Council approve changing activity descriptions for Planning Account #3304 to read “The Village of Beverly Hills will retain a planning consultant for Village-wide planning activities” to reprogram Community Development Block Grant Funds of \$2,474 from Program Year 2002 and \$3,900 from Program Year 2003. Also, to change the activity description for Senior Center Account #3552 to read “Purchasing pottery wheel and ancillary equipment” to reprogram CDBG funds of \$987.57 from Program Year 2002.

A question from Rose McLennan was addressed by Koss.

Roll Call Vote:

Motion passed (6 yes – 1 abstention).

**SET PUBLIC HEARING DATE OF 11/01/04 FOR 2005 COMMUNITY DEVELOPMENT BLOCK GRANT PROPOSAL**

A public hearing date was set for Monday, November 1, 2004 at 7:30 p.m. for review of the 2005 Community Development Block Grant proposal. The next regularly scheduled Council meeting is being held on Monday, November 1 due to the Tuesday, November 2, 2004 presidential election.

**REVIEW AND CONSIDER FINAL PAYMENT TO SUMMIT TRANSPORT FOR 2003 RESURFACING**

On June 16, 2003, the Village awarded contract R-03-02 to Summit Transport, Inc. for the construction of the 2003 Bituminous Resurfacing Project. The project is now completed including punch list items.

Motion by McCleary, second by Downey, to approve final payment to Summit Transport, Inc. 10321 E. Grand River, Suite 520, Brighton, MI in the amount of \$1,546.60 for the construction of contract R-03-02.

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

**REVIEW AND CONSIDER PROPOSAL FROM AT&T REGARDING LEASE AGREEMENT**

In 1996 the Village of Beverly Hills entered a lease agreement with AT&T for the antennas located on the tower at the Public Safety Building. The agreement included construction of the tower, public safety radio equipment, public safety antennas, and cash, all at AT&T's cost. The lease agreement was set up at a monthly rate beginning at \$500 for the first five year term with increases in the monthly rate extending over four additional five-year terms.

AT&T paid the monthly rent per the agreement for the first term and is now into the second term with 18 months remaining at \$600/month. To date, the Village has received \$55,200 in rent. If the balance of the lease were to go to term (25 years), the balance due to the Village would be \$154,800.

Manager Spallasso was recently approached by AT&T for the purpose of discussing a lump sum buy-out offer for the site lease. He negotiated with the site consultant, who offered Council a \$50,000 buy-out if the Village is willing to sign a letter of intent prior to October 22, 2004. Spallasso noted that Lathrup Village has been approached by AT&T with a similar request and has turned it down.

Council discussed the buy-out of the lease from AT&T. Considerations include the possibility that current technology could be surpassed and eliminate the need for an 80' tower; a site would still be needed for the antennas; the Village may be better off with the lease if AT&T does not offer more than \$50,000. Variables in this question are how long the lease will go and what is the discount rate. In answer to an inquiry, Spallasso stated that AT&T can terminate the lease with a 90 day notification to the Village.

There was direction from Council not to accept the offer from AT&T to buy out the lease agreement for the antennas located on the public safety tower. No action was taken.

**REPORTS – MANAGER**

Construction of the Acacia Relief Sewer is winding down to restoration of approaches. The final clean up and punch list items will be addressed during the next couple of weeks.

The ninth annual Halloween Hoot will be held this coming Sunday, October 24 at Beverly Park. Topping and gutting of pumpkins takes place between 10 a.m. and noon followed by carving until 2:00 p.m. Trick or treating begins at 6:00 p.m. and the festivities wrap up at 8 p.m.

The next Village Council meeting is scheduled for Monday, November 1 to avoid a conflict with the presidential election on November 2. A Council study session is scheduled for Tuesday, October 26 at 6:00 p.m. in the Council chamber.

Downey recalled that he mentioned at a Council study session that there have been reports of dogs running without a leash at Douglas Evans nature preserve and other Village parks. Consideration was given to increased ordinance enforcement and communication of the problem to residents. Downey asked if there has been any follow up by administration on this matter.

Spallasso stated that there is a note on the Village web site as of this afternoon reminding people that dogs should be on a leash in the parks. This reminder will be included in the next edition of the Villager newsletter.

McCleary asked residents who live in the Acacia Relief Drain construction area to notify Spallasso of any problems they are experiencing by email or letter so they can be added to the contractor's punch list.

### **COUNCIL**

Koss reminded people that she will have a follow up meeting with representatives from Birmingham Schools next week regarding the Groves High School matter. Koss attended the Public Safety Department Open House on Saturday with her three-year-old and had a great time. There was a good turn out at the event.

Koss learned of a 13-year old living in Beverly Hills who is active in diabetes education. Jessica Allen served this year as an American Diabetes Association America's Walk for Diabetes Youth Ambassador for Southeast Michigan. She is active in educating children and teens on how to manage diabetes and the importance of keeping healthy. Koss congratulated Jessica Allen on her efforts.

Pfeifer announced that the Birmingham Area Cable Board will meet tomorrow morning, October 20 at 7:45 a.m. in the Council chamber. Pfeifer attended a BASCC Board meeting today. The Board is grateful to the Village for allocating CDBG funds to assist BASCC with the senior center.

Pfeifer commended Comcast for encouraging its employees to take part in community development activities. Comcast employees and their family members volunteered to repaint rooms in the BASCC Senior Center on October 2.

Woodrow commented that the Halloween Hoot is coming up on Sunday, October 24. He clarified that this is a Beverly Hills sponsored event but people who do not live in the Village are welcome to attend. He hopes that residents invite their friends and family members to enjoy this event so that they can see what a wonderful community we live in.

Taylor stated that he has enjoyed the Halloween Hoot with his family and thinks that the event should be shared with those who don't live in the community. Taylor encouraged public comments at Council meetings, but he would appreciate if people would more carefully chose their words when they exercise their right to speak. He commended all the volunteers who serve the community.

McCleary announced that the Parks and Recreation Board will meet on Thursday, October 21 in the Village municipal building at 7:30 p.m.

As daylight savings approaches, Downey reminded people to replace the batteries in their smoke detectors. He invited Council members to attend the SEMCOG General Assembly Workshop on November 4, 2004. There will be a workshop at 3:00 p.m. entitled, “Using partnerships to strengthen local government services”.

Domzal gave kudos to Village Clerk Ellen Marshall for being in the Village office last Saturday to issue passports. This is a community service that also makes money for the Village.

Domzal congratulated Eagle Scout Ross Clark of Troop 1029. One of his community projects involved planting 500 trees in Beverly Park. He thanked Spallasso for doing the job of Village Manager in addition to his responsibilities as Public Services Director.

Motion by Pfeifer, second by McCleary, to adjourn the meeting at 9:25 p.m.

Motion passed (7 – 0).

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

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

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

THESE MINUTES ARE NOT OFFICIAL. THEY HAVE NOT BEEN APPROVED BY THE VILLAGE COUNCIL