

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

Absent: None

Also Present: Assistant to the Manager, Pasioka
Finance Director, Wiszowaty
Village Clerk, Marshall
Director of Public Safety, Woodard
Village Attorney, Ryan
Building Official, Byrwa

President Domzal called the regular Council meeting to order at 7:37 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road. Council is in session following a special meeting that started at 6:30 p.m. to complete a review of 2005/06 budget figures.

Boy Scouts from Troop #230 led those present in reciting the Pledge of Allegiance. Domzal invited the scouts to come forward and introduce themselves. The scouts are working on their Citizenship in the Community merit badges.

ADDITIONS TO AGENDA/APPROVE AGENDA

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

Motion passed (7 – 0).

CONSENT AGENDA

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

- a. Review and consider minutes of a special Council meeting held on March 1, 2005.
- b. Review and consider minutes of a regular Council meeting held on March 1, 2005.
- c. Review and file bills recapped as of Monday, March 7, 2005.
- d. Review and consider annual request from the National Multiple Sclerosis Society for use of Village sidewalks and Beverly Park during the MS Walk on Sunday, May 1, 2005 and waive pavilion rental.

Motion passed (7 – 0).

BUSINESS AGENDA

REVIEW AND CONSIDER REALLOCATION OF MONIES FOR PARK TREE REPLACEMENT

Over 300 diseased Ash trees were removed from Beverly Park within the last year and a half. Village administration received two matching grants for replacement of trees lost to the emerald ash borer infestation in Beverly Park and the right-of-way on Beverly Road.

One grant was in the amount of \$15,750 and the other was \$3,000. The Village's total tree replacement expenditure was \$45,321.72. The Village charged \$5,333.41 to the Local Road Fund tree removal & maintenance account towards replacement of trees in the road right-of-way. The balance of \$21,238.31 was charged to the park dedicated millage fund.

The Village Parks and Recreation Board has asked that the amount charged to the park dedicated millage fund for tree replacement be reassigned to the General Fund. All of the remaining park millage money is needed to complete the Beverly Park improvement projects that have been identified and approved in the park master plan.

Council members expressed their views on changing the allocation of tree replacement expenses. The removal and replacement of trees lost to the emerald ash borer infestation was an unanticipated expense.

There were members of Council who did not think that the tree replacement cost should be charged to the park dedicated millage fund. The comment was made that the landscape line item included in the park master plan was intended to fund new plantings in the playground area, pavilion area, parking lot and sled hill. Pfeifer suggested that a portion of the unanticipated revenue received this year from cable franchise fees be directed towards funding a portion of the tree replacement program.

Other members of Council were not in support of charging the entire \$21,000 to the General Fund. It was proposed that the \$21,238.31 expense be split between the park dedicated millage fund and the General Fund.

McCleary commented that it was the understanding of the Parks and Recreation Board that the money for tree replacement would come from the General Fund and Local Road Fund and not from dedicated park millage money.

Motion by McCleary, second by Pfeifer, that \$21,238.31 that was charged to the dedicated park millage fund for tree replacement in the park be reallocated to the General Fund.

Tami Wilms of 32085 Waltham, Parks and Recreation Board member, questioned how the cost of tree replacement would have been funded if there was no dedicated millage for park improvements. She maintains that the dedicated millage was approved with the intent that the money be used for improvements to the park as it was and not for tree replacement.

Patricia Greening, Parks and Recreation Board chair, stated that Council at its last meeting requested that the Board prepare an updated priority park improvement report listing the remaining projects, estimated costs, and available funding. This will be an agenda item for the Thursday, March 17 Parks and Recreation Board meeting.

Greening commented briefly on outstanding park capital projects, noting that all remaining park millage money will be needed to complete the park master plan. She urged Council not to charge the park dedicated millage fund with \$21,000 for tree replacement.

Motion by Downey, second by Koss, to amend the motion on the floor to reallocate \$21,238.31 charged to the dedicated park millage fund for tree replacement in the park to charge \$15,000 to the General Fund with the balance to come from the park millage fund.

Roll Call Vote:

Woodrow - yes
Domzal - yes
Downey - yes
Koss - yes
McCleary - no
Pfeifer - no
Taylor - yes

Motion passed (5 – 2).

Vote on amended motion:

Domzal - yes
Downey - yes
Koss - yes
McCleary - no
Pfeifer - no
Taylor - yes
Woodrow - yes

Motion passed (5 – 2).

REVIEW AND CONSIDER COUNCIL MEMBER TERMS OF OFFICE

Pfeifer reviewed that new State of Michigan Election consolidation legislation requires the Village to hold biennial elections. Council passed a resolution in November of 2004 to choose an odd year September election cycle. The topic of discussion this evening is to determine the terms of office.

Motion by Pfeifer, second by McCleary, that the Village of Beverly Hills Council establish election terms of four years commencing with the next regularly scheduled election.

Village Attorney Ryan was asked if discussion on the issue of September versus November elections was appropriate at this time. He responded that the discussion would be germane because it would affect the terms of office. Because Council has taken action to hold elections in September of odd years, a motion is needed to reconsider that motion in order for Council to change to November even year elections.

Koss commented that residents have brought up a concern with extending Council terms of office. Although she was elected for a two year term in 2004, State law has lengthened her

term to September of 2007. She questioned whether Council has any options for minimizing the extended terms of office.

Ryan emphasized that the extended terms of office are a result of Michigan state law. The Constitution does not allow terms to be shortened.

Downey believes that a majority of Council is in favor of eventually changing to November elections. He suggested a transition proposal whereby the first election is held in September of 2005 and subsequent elections are conducted in November of even years. He does not think that there has been a clear analysis of the options and how to achieve an appropriate end solution. Downey proposed that Council authorize the Personnel Committee to appoint three former council members to provide a recommendation to Council.

Pfeifer stated that there are going to be extensions to the terms. An individual who does not wish to fulfill an extension that he or she did not commit to has the right to resign that position. In that situation, the Charter calls for Council to appoint someone to fill the unexpired term. Pfeifer favors September odd year elections conducted by the Village on the basis that it would preserve Beverly Hills' home rule village privileges.

Woodrow outlined a proposal for staggering terms so that four seats are up for election every two years. Three people would receive a four year term and the lowest vote getter would receive a two year term. It was noted that his suggestion would require a Charter amendment approved by the electorate.

Domzal recapped that the State gives municipalities the choice of November even year elections or September odd year elections. A decision on the election cycle was required before December 31, 2004. Council opted to proceed with a September election schedule, reserving the right to change to November elections at any time. Council is opposed to having seven people elected at the same time and agrees on establishing four year terms. Once Council addresses the fundamental issue of September or November elections, establishing terms becomes less difficult. Domzal stated that he is not prepared to support the motion as proposed. He suggested that this discussion be taken up as an agenda item at the next Council meeting.

John Mooney of 19111 Devonshire expressed the view that two year terms have been the tradition in this community and should not be excluded from consideration. He thinks that this can occur with staggered terms. Council listened to a suggestion from Mooney on an involved course of action intended to achieve biennial elections in November with Council members receiving staggered terms.

Bunker Kelly of 21526 Corsaut Lane commented that Council should think through the logical options for conducting Village elections and make choices based upon available options. He thinks November elections make sense.

Bob Walsh of 20655 Smallwood Court suggested that the issue be tabled and brought back for discussion of alternatives.

Ryan suggested holding an election in September of 2005 for three people and placing a question on the ballot regarding a Charter amendment relative to terms of office. Council could then opt for November even year elections and hold an election in November 2006.

Motion by McCleary, second by Taylor, to table the motion.

Roll Call Vote:

Downey	- yes
Koss	- yes
McCleary	- yes
Pfeifer	- no
Taylor	- yes
Woodrow	- yes
Domzal	- yes

Motion passed (6 – 1).

Domzal stated that the topic of Village elections will be an agenda item at an upcoming Council meeting.

REVIEW AND CONSIDER AMENDMENT TO LEASE AGREEMENT WITH CINGULAR WIRELESS

The Village entered into a lease agreement with AT&T in 1996 for the antennas located on the tower at the Public Safety Department building. Part of the agreement included construction of the tower, public safety radio equipment, public safety antennas, and cash provided by AT&T. The Village is now into the second term of the lease agreement. Last year, AT&T approached the Village with an offer for a lump sum buy-out offer for the site lease, which Council declined.

Administration has been contacted by a representative from Cingular Wireless (formerly AT&T) regarding the current lease agreement for the public safety tower and was offered two options:

- a. Agree to reduce the lease amount (currently at \$600 per month) by 50% and continue with the rest of the terms of the agreement.
- b. Eliminate the installation since Cingular has determined that it has over 15,000 sites that are not needed (as a result of taking over AT&T).

Manager Spallasso and Village Attorney Ryan have been working with Cingular representatives to add language to the agreement stating that the tower with antennas used by Public Safety will not be affected in the event that Cingular decides to remove its

equipment and abandon the site. The amended agreement is acceptable. It was noted that attempts to negotiate a better deal received a negative response from Cingular.

Motion by McCleary, second by Downey, that the Village Council agrees to reduce the amount of the lease agreement with Cingular Wireless for the Public Safety Department tower by 50% and continue with the remainder of the terms of the agreement. The agreement provides that the tower and the Village's telecommunications equipment cannot be removed if Cingular vacates the site.

Questions from Council and the public were addressed by Ryan.

Roll Call Vote:

Koss - yes
McCleary - yes
Pfeifer - yes
Taylor - yes
Woodrow - no
Domzal - yes
Downey - yes

Motion passed (6 – 1).

REVIEW AND CONSIDER VILLAGE MANAGER'S CONTRACT

Motion by Koss, second by Taylor, to table consideration of the Village Manager's contract until Council has had the opportunity to discuss the contract in closed session.

Roll Call Vote:

McCleary - no
Pfeifer - yes
Taylor - yes
Woodrow - no
Domzal - no
Downey - no
Koss - yes

Motion failed (4 – 3).

Koss commented that Council as a whole has not had an opportunity to discuss the contract presented for consideration. Ryan has informed Council that it cannot go into closed session to discuss the terms of the manager's contract.

Downey reviewed that Council directed President Domzal and Village Attorney Ryan to enter into negotiations with Mr. Spallasso on a village manager's contract. The contract as presented does not appear to be acceptable to Council members.

Domzal related that a series of drafts and negotiations took place between Spallasso, Ryan and himself. The issue that seems to be of most concern to Council and Spallasso deals with the term of the contract. Domzal requested further direction from Council members on how to proceed in order to bring the manager's contract to a successful conclusion as soon as possible.

Sharon Tischler of 21415 Virmar Court applauds Council on its decision to provide disclosure of the manager's contract. She thinks that Renzo Spallasso will do a wonderful job for the Village, but it is imperative that a contract be developed that works well for the community as well as for Mr. Spallasso.

There was agreement that Council members would provide written comments to Domzal for incorporation into a revised draft of the manager's contract for presentation at the next Council meeting.

PUBLIC COMMENTS

Pamela Rijnovean of 32420 Evergreen expressed the view that further information is needed from the Baldwin Library regarding how many residents use the library on a regular basis. She commented on how the library survey figures presented at the last Council meeting should be put into perspective. Because the Baldwin Library service contract represents 8% of the Village's total annual budget, Rijnovean thinks that more data is needed before the Village continues to participate in that contract.

Rijnovean referred to a lawsuit pending that challenges the Bloomfield Township Public Library's ability to prevent Bloomfield Hills residents full access to the library. A group of Bloomfield Hills residents are fighting to have the township library issue cards to non-residents to access library materials. Rijnovean thinks that libraries should provide service to anybody for a cost.

Art Liberty of 20850 W. Thirteen Mile Road referred to library survey statistics presented at the last Council meeting and commented on remarks made by Library Director Marti Custer. Liberty suggested that the Village wait for a ruling on the Bloomfield Township Library court case before asking voters to approve a library millage.

Liberty questioned why additional money is needed for park improvements funded by a dedicated park millage. He questioned whether original specifications for park projects were changed and stated that the original park plan and budget should be enforced.

Liberty commended Finance Director Wiszowaty on a well organized budget document. He thinks that the Public Safety Operational Review was well done and referred to the eleven recommendations contained in the report for improvements to the department.

Sharon Tischler of 21415 Virmar Court questioned an invoice on the list of bills approved by Council, which was addressed by Pfeifer. Tischler commented that items that appear on Council meeting agendas are not always reflective of the discussion.

Bunker Kelly of 21526 Corsaut Lane commented on items discussed at the budget session held prior to tonight's regular Council meeting. He focused on expenses increasing over income and labor costs. Kelly suggested that the Water and Sewer Fund be reconciled against the Village audit.

Kelly commented on the Beverly Park pavilion renovation project. He brought up the fact that Council discusses substantive issues at meetings that are not televised. Kelly mentioned that the Bloomfield Hills city commission has voted to support their residents requesting to be issued non-resident library cards by the Bloomfield Township public library.

Larry Needham asked if the Village does sidewalk replacement on privately owned sidewalks from the \$35,000 budgeted in General Fund Capital Purchases. Wiszowaty responded that the Capital – Pedestrian Path line item in the 2004/05 budget was \$35,000, with \$30,582.68 spent to date for grinding and replacement of sidewalk in the public right-of-way.

REPORTS – MANAGER

Wiszowaty read the Village Manager's report. A question was raised at the last Council meeting as to how many households are in the Village. Village records as of March 2005 show 3,814 single family units, 212 multiple dwellings, and 187 condominiums for a total of 4,213 households in Beverly Hills.

The pavilion improvement project will come before Council at its April 5, 2005 meeting for consideration to award a contract. The Village office will close at noon on Wednesday, March 23 for in-house training.

COUNCIL

Koss announced that a meeting of Council and the Strategic Planning Development Committee is scheduled for Saturday, March 19 at 9 a.m. in the Village municipal building. The Village Clerk was asked to send out an e-mail message reminding the participants of the meeting and asking that they contact the Village office if they cannot attend.

Koss announced that the Early Childhood Program Mother's Club at Our Lady Queen of Martyrs School is having a "moms to moms" sale to benefit the program on Saturday, April 16 from 9 am to 1 pm in the OLQM school gymnasium. Items for purchase will include slightly used children's items including toys, clothing, books, games, strollers, etc.

Pfeifer reported that the Cable Board will meet tomorrow, March 16 at 7:45 a.m. in the Council chamber. One of the items that will be discussed is Comcast's recent increase in cable television rates. She noted that the Cable Board has no control over pricing of cable services.

Pfeifer commented that the Cable Board contracts with Bloomfield Community Television for cable casting municipal meetings for the four consortium communities. Scheduling of

meetings is a consideration in determining whether additional meetings can be produced and aired.

Pfeifer commented that consideration is being given to eliminating the Community Development Block Grant (CDBG) Fund Program from the 2006 federal budget. This would diminish the Village's capacity to address necessary housing and public service needs of its low and moderate income residents. Council may be considering a resolution to call on Congress to preserve the CDBG grant program within the Department of Housing and Urban Development.

Pfeifer announced that BASCC will be inviting people this year to contribute to its "No Show Glow" fund raising program in lieu of the dinner party held in recent years referred to as "BASCC in the Glow". She encouraged people to donate to this worthy organization.

Taylor stated that he will be attending a Board of Commissioners meeting in Oakland County at 1:30 p.m. on March 16. The topic will be a new initiative called "Wireless Oakland". He invited others who might be interested in the subject to attend.

McCleary stated that the Parks and Recreation Board will be meeting on Thursday, March 17 at 7:30 p.m. in the Village municipal building.

Downey stated that the Personnel Committee will meet at 8 a.m. on Saturday, March 19 prior to the 9 a.m. meeting of Council and the Strategic Planning Development Committee. The Personnel Committee will consider the manager's goals and a succession plan.

The Lions Club will host a Blue Grass Concert on Friday, March 18 at 7:30 p.m. at the Groves High School auditorium. Downey invited residents to come out and support the Lions Club.

Domzal thanked Wiszowaty for doing a good job on the budget and he thanked the public for its participation in the budget process. He encouraged people who cannot attend Council meetings to mail their comments to Council.

Motion by Taylor, second by Woodrow, to adjourn the meeting at 10:16 p.m.

Motion passed.

Dave Domzal
Council President

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary