

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

Absent: None

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

President Domzal called the regular Council 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 McCleary, to approve the agenda as published.

Motion passed (7 - 0).

#### **CONSENT AGENDA**

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

- a. Review and consider minutes of a joint Council/Planning Board meeting held June 22, 2005.
- b. Review and consider minutes of a special Council meeting held June 22, 2005.
- c. Review and consider minutes of a joint Council/Strategic Planning Committee meeting held June 23, 2005.
- d. Review and consider minutes of a regular Council meeting held on July 5, 2005.
- e. Review and file bills recapped as of Monday, July 11, 2005.

Motion passed (7 - 0).

#### **BUSINESS AGENDA**

##### **REVIEW AND CONSIDER REQUEST FROM C.K. CORPORATION TO SELL ICE CREAM DURING CONCERTS IN THE PARK**

C.K. Corporation of Centerline submitted a request to sell ice cream from a truck in the Beverly Park parking lot during the last two concerts in July. McCleary pointed out that the Village does not normally allow public vendors to sell goods in Beverly Park. Members of the Parks and Recreation Board have indicated that they do not support an independent contractor selling items during a Village event.

Motion by McCleary, second by Taylor, to deny the request of C.K. Corporation to sell ice cream from a truck in Beverly Park during the July concerts in the park and to refer the request to the Parks & Recreation Board for review and recommendation.

Council and members of the public expressed their concerns regarding a for-profit company selling goods in the park when other permitted sales in Beverly Park have been conducted by non-profit organizations for fund raising.

Pfeifer commented that she will not support the motion as stated because she does not think a decision should be made at this time on whether to allow the sale of goods in the park during summer concerts.

Roll Call Vote:

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

Motion passed (5 – 2).

**REVIEW AND CONSIDER APPLICATION FOR SMART FISCAL YEAR 2006 MUNICIPAL COMMUNITY CREDIT AGREEMENT**

Before Council for consideration is the contract from the Suburban Mobility Authority for Regional Transportation (SMART) for financial assistance to support public transportation programs in Beverly Hills. This contract is for fiscal year 2006 (July 1, 2005 through June 30, 2006). The amount of funding available to the Village from the SMART program is approximately \$22,964 allocated under two separate programs, the Municipal Credit Program in the amount of \$9,833 and the Community Credit Program in the amount of \$13,131.

Council is considering action authorizing the Village to enter into a contract with SMART to accept the funds and allocate them in accordance with the terms of the contract. The funds are proposed to be allocated to the Birmingham Area Seniors Coordinating Council (BASCC) to be used for transportation related services. The amount of funding available to Beverly Hills through the Municipal Credit Program is \$9,833. It is recommended that \$2,499 be designated to the BASCC transportation program and \$7,334 be allocated to the SMART Connector and Dial-A-Ride services (\$3,667 is mandatory).

The amount of funding available to the Village through the Community Credit Program is \$13,131. It is recommended that this entire amount be allocated to BASCC for its transportation program. This brings the total allocation for BASCC up to \$15,630.00. BASCC uses this money for operation, maintenance and repair expenses as well as wages for its Senior Citizen Van Program. BASCC estimates that its annual costs for operating the Van Program are \$87,690 and their current records indicate that 40% of their van users are Beverly Hills residents.

Motion by Pfeifer, second by Taylor, to authorize the Village Manager to enter into a Municipal Credit and Community Credit Contract for fiscal Year 2006 between the

Suburban Mobility Authority for Regional Transportation (SMART) and the Village of Beverly Hills, under which contract the Village would accept \$9,833 in Municipal Credits and \$13,131 in Community Credits to be allocated as set forth in the contract. For the amount of funding that will be allocated to the Birmingham Area Seniors Coordinating Council, BASCC will provide the appropriate insurance coverage as required by SMART.

Downey commended BASCC for its operation and support of the Village's senior issues including transportation.

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

#### **REVIEW AND CONSIDER FINAL PAYMENT TO OAKLAND EXCAVATING**

Motion by McCleary, second by Downey, to approve final payment to The Oakland Excavating Company, 31 Oakland Ave. L.L. Suite "B" Pontiac, MI 48342 in the amount of \$1,000.00 for the construction of R-02-03-A, R-02-03-B and C.O. #1 project. Final payment is contingent upon the contractor's submittal of "Contractor's Affidavit."

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

Domzal noted that Wally Alix, Principal from Hubbell, Roth & Clark, is present this evening to address comments from residents regarding specific issues later in the meeting.

#### **ANNOUNCEMENT OF VACANCY ON THE CABLE BOARD**

Pfeifer announced a vacancy on the Birmingham Area Cable Board and encouraged interested residents to apply for this position. Meetings are held at 7:45 a.m. on the third Wednesday of each month at the Beverly Hills municipal building. Applications are available at the Village office or on the Village web site ([www.villagebeverlyhills.com](http://www.villagebeverlyhills.com)).

#### **SECOND ANNOUNCEMENT OF SEVEN VACANCIES ON THE FINANCE COMMITTEE**

This constitutes the second announcement of the creation of a Village Finance Committee. Woodrow related that eight applications have been received to date. The deadline for submitting an application for consideration is Friday, July 22, 2005 at 4:30 p.m. Applications are available at the Village Office and on the Village website [www.villagebeverlyhills.com](http://www.villagebeverlyhills.com). Applicants must be a registered voter and a resident of Beverly Hills for at least one year.

#### **REVIEW AND CONSIDER CONTRACT WITH THE CITY OF LATHRUP VILLAGE FOR THE PROVISION OF PRISONER LOCK UP SERVICES BY BEVERLY HILLS PUBLIC SAFETY DEPARTMENT**

Koss related that Public Safety Director Woodard and Village Manager Spallasso recently met with the City Manager and Chief of Police of Lathrup Village to discuss a proposal whereby Beverly Hills would provide prisoner lockup services to the Lathrup Village Police Department. A recent change in their understanding with the City of Southfield relative to prisoner lockup

services led to increased costs to Lathrup Village and resulted in its Police Department transporting prisoners to the Oakland County Jail to await bond or court appearances.

It has been proposed that the Beverly Hills Public Safety Department provide prisoner lockup service to the Lathrup Village PD at a rate of \$100 per detainee processed and lodged at the Village facility. The communities are within one mile of each other and use the same 46<sup>th</sup> District Court. Few prisoners of either agency are held for as long as 72 hours before being transported to the Oakland County Jail or released.

Motion by Koss, second by Pfeifer, that the Beverly Hills Council approve the agreement for the Department of Public Safety to provide prisoner lockup services to the City of Lathrup Village Police Department and authorize the Village Manager and Village Clerk to sign the agreement on behalf of the Village.

Director Woodard remarked that the Beverly Hills PSD has not previously entered into an agreement with any surrounding community for sharing lockup services. Beverly Hills has mutual aid agreements with most of the local police and fire departments for emergency circumstances. The Village does provide space in its lockup on an emergency basis to the surrounding communities of Birmingham, Franklin, Bloomfield Township and Lathrup Village. It has a standing agreement with Franklin to use the Village's LiveScan fingerprint equipment. These are not "for fee" services.

Beverly Hills was approached by the Police Chief of Lathrup Village with a proposal for routine use of the Beverly Hills lockup facilities on a fee basis. Lathrup Village generates approximately 55 prisoners per year; the Beverly Hills Public Safety Department generates approximately 350 prisoners each year. The proposal would have little impact on the department operation from a volume standpoint. The Department typically has a prisoner in lockup for less than 24 hours. Woodard explained that the role of the Beverly Hills PSD would be one of oversight of the booking process, which would be performed by Lathrup Village personnel, and to watch over the prisoner in lockup.

Council discussed the proposed Intergovernmental Lockup Services Agreement between the two communities.

Koss referred to the Hold Harmless paragraph of the Agreement and questioned whether the Village should request a bond to cover costs in the event of a lawsuit and judgment against the Village. Ryan stated that the agreement requires Lathrup Village to add the Village of Beverly Hills as an additional insured to its liability insurance covering Police Department personnel for the arrests, transportation and detention of its arrestees. The Village would expect Lathrup Village to defend any lawsuit and hold the Village harmless.

Pfeifer asked why the contract includes a flat fee as opposed to a per diem fee. Woodard responded that the charge assessed to Lathrup Village by the City of Southfield for prisoner lockup was a per diem fee based on a 24 hour clock. A flat rate is being proposed in the interest of charging a fee that is not onerous and does not involve copious bookkeeping. He added that booking and release time is part of the prisoner lockup record.

Pfeifer referred to the lockup services that are to be provided by the Village in terms of booking, fingerprinting, and use of Beverly Hills personnel and questioned whether it is worth the approximate \$6,000 generated annually. Beverly Hills officers may be required to spend time testifying in court, at depositions, or administrative hearings, which would involve overtime expense. Pfeifer would like to see a review of fees after a 90-day period.

Director Woodard stated that Beverly Hills officers could be called upon if there were a situation where subpoenas are served and depositions are incurred for actions that have occurred in the lockup facility as part of this contract or possibly involving a Lathrup Village detainee.

In response to inquiries, Woodard indicated that the exhibit referenced in the Agreement is the Department policy, which is being updated to provide procedures for Beverly Hills officers and personnel from outside agencies. He indicated that the Public Safety Department building has three cells, two of which are large and can hold a number of people as long as they are compatible by crime, etc.

Woodrow proposed that the contract require Lathrup Village to reimburse the Village for overtime cost of officers called on to testify in court or depositions regarding one of their detainees.

Woodrow referred to Section 4.c. Refusal of Subjects and suggested that language be added that indicates that, at the Director's discretion, the Village should not have to transport its detainees to the Oakland County Jail if the Beverly Hills lockup is full. This clause should allow the right of refusal of a detainee for any condition that threatens the security or the efficient operation of the Village's lockup.

In answer to a question from McCleary, Director Woodard stated that the City of Southfield charge for prisoner lockup was \$136/day. Lathrup Village does not want to use the Oakland County Jail due to the overtime cost incurred by transporting persons to Oakland County as well as the security exposure of the detainee outside of a locked situation.

Downey concurred that Lathrup Village should add the Village as an additional insured party on its liability insurance. He questioned what, if any, impact providing this lockup service will have on the Village's liability insurance. Director Woodard responded that he will look into the liability insurance aspect of the proposal.

Downey questioned the rationale for the \$100 per detainee fee. There is a variable and a fixed cost for providing a service. It has been indicated that variable costs are very low with respect to this proposal. With regard to the cost of the lockup facility, Downey is not confident that \$100 would cover the fixed cost for the service. He suggests that administration consider the cost of operating the lockup facility and allocate those fixed costs across the larger portion of prisoners. He favors a policy of paying for the use of existing assets and resources.

Domzal applauded Director Woodard and Manager Spallasso for making an effort to share services. This is the trend of the future. Council members have brought up good points for

consideration in the contract. Domzal agrees that costs incurred by officers should be reimbursed. He noted that the Agreement includes a 90-day termination clause, which will allow Beverly Hills to terminate the contract if the operation impacts the Village's ability to handle the Department's business. It is a two-year contract with a 90-day termination clause.

Sharon Tischler of 21415 Virmar Court asked if Lathrup Village has agreed to this contract. She was informed that the contract will come before their council next week for consideration. In response to an inquiry, Tischler was advised that the document is based on a standard contract used by other jurisdictions. Tischler suggested that historical data be provided by Lathrup Village regarding the length of time their prisoners remained in lockup. Woodard responded that more than an overnight stay was an exception for Lathrup Village detainees. Tischler envisions Beverly Hills providing this service if it works out to be in the Village's best interest.

Greg Burry of 32742 Pierce agreed that the Village needs to share services while looking at the fixed and variable costs. He questioned whether due diligence has been done in terms of a cost breakdown for this service.

Pamela Rijnovean of 32420 Evergreen referred to the Refusal of Subjects clause and asked who will determine if a detainee has a medical condition. Woodard responded that the Department shift commander will make this judgment based on the individual's condition and appearance. If prisoner is injured or has a high blood alcohol content, it may be determined that the individual requires hospitalization.

Bunker Kelly of 21526 Corsaut agreed that looking at consolidating services to generate revenue is something that should be considered by communities. He thinks that the proposal before Council lacks all the necessary facts. A formula of sharing costs makes sense.

Koss withdrew her original motion and Pfeifer withdrew the support. Koss offered the following motion for consideration.

Motion by Koss, second by Pfeifer, to authorize the Beverly Hills Village Manager and Public Safety Director to continue discussions with City of Lathrup Village representatives on a contract for a Lockup Services Agreement to incorporate issues raised by Council at its July 19, 2005 meeting.

Roll Call Vote:

Motion passed (7 – 0).

#### **REFER TO PLANNING BOARD TO REVIEW SET BACKS AND GARAGE SIZES**

Woodrow stated that Council has received comments from Village residents on the issue of garage size in the community. It is proposed that Council refer this issue to the Planning Board for review and recommendation.

Motion by Woodrow, second by Downey, to refer the following to the Planning Board for review and consideration with a report back to Council within two months: 1) Definition of

Garage, Private in Chapter 22; and 2) Section 22.08.100 Accessory Buildings, Structures and uses in Residential Zone Districts.

Pfeifer commented that the Village Ordinance does not address how much open space is required on any given lot. She would like this element added to the Planning Board review. Members of Council expressed concern about the open space aspect of a lot, but did not agree to include this element in the direction to the Planning Board at this time.

Sharon Tischler of 21415 Virmar Court thanked Council for pursuing the accessory building problem. She asked when this might be on the Planning Board agenda so that she can attend the meeting. Tischler was advised that placement of this item on the agenda will be at the discretion of the Planning Board Chairperson. The Village Clerk can be contacted for this information.

Bob Walsh of 20655 Smallwood Court commented on the current ordinance language and referred to the concern about open space. He believes that the total accessory building and attached garage area should be a percentage of the first floor area.

Bunker Kelly of 21526 Corsaut commented on the size of garages and the lot coverage issue.

Motion passed (6 - 1).

#### **PUBLIC COMMENTS**

Mr. Wally Alix, consultant from Hubbell, Roth & Clark, was present to address resident concerns regarding the water main project in Section 1. The work is about 95% complete; grading and seeding is being finalized.

Alix related that the Village decided to restore the disturbed area of residents' front lawns with hydroseeding. When sod was laid in past projects, it died in some cases due to residents' inability to water it properly. Lawns have been hydro seeded in the Section 1 area. He reported that the grass that was hydroseeded in April and May is growing. The hydroseed that was put down later grew weeds. After mowing some of this area, it was determined that there is grass growing. The contractor proposes to put down a weed killer in the fall. Weed killer has been applied to a pilot area and is being monitored. It is anticipated that the weeds will die and the grass will continue to grow. Alix assured residents that the contractor is obligated to continue to water the area until grass is growing.

The contract requires a second application of hydroseed to be applied in the fall with continued watering. Alix noted that grown grass has a better sustainability to drought conditions than sod, and this may be a better solution in the long run.

The second area of resident concern is asphalt replacement. There have been no complaints about the concrete approach work done because all concrete looks alike. The contractor was required to install one kind of asphalt for the repair work in the road right-of-way. It is the same asphalt specification that has been used on other projects in the Village. There are a variety of mixes of asphalt, and the asphalt laid does not match the existing asphalt on some of the properties.

Alix noted that the Acacia Drain project was constructed by Oakland County.

Alda Marie McCook of 19370 Riverside Drive maintains that an old well on an abutting lot was blown last April as a result of tunneling that took place as part of the Acacia Drain construction. She has documentation of the problem. The DEQ has indicated that there is an open storm drain on an adjacent property that floods her lot. McCook asked that something be done to relieve the flooding conditions on her property. She understands that Beverly Hills engaged a technical consultant to investigate the situation and that a report was submitted that concluded that the well issues are not related to the Acacia Park project tunneling. The report appears to absolve the Village from any involvement.

Domzal responded that there has been a lot of time and attention given to the McCook's predicament. The Village has not satisfied the homeowners' concerns.

Alix stated that he is not qualified to address this problem, but he did take a look at the property. He does not know where the responsibility lies, but the report prepared by a technical consultant indicated that the situation was not caused by tunneling done one-half mile away. Mrs. McCook countered that the tunneling took place one block away.

Helen Gates of 16200 W. 13 Mile Rd., Unit #1, has had asphalt replaced on her driveway following the water main construction. She submitted photographs to Council that support the fact that the new asphalt does not match the existing asphalt on the driveway and that the edges do not meet. Gates would appreciate if the Village would do something about this.

Ed Williams of 16140 Reedmere submitted photographs of the ditch in front of his property. The contractor made the ditch at the east end of Reedmere on the north side deeper to accommodate the flow of rainwater to the sewer, which creates flooding problems on the street. The drainage ditch has been made deeper to the extent that he cannot mow the lawn. Water accumulates in the driveway when it rains, which will be a problem in the winter. Williams understands that a solution may be to create a special assessment district for a project to construct underdrains and covered ditches.

Alix responded that the Village has asked for prices from the contractor for solutions to this situation. He informed Williams that the contractor exposed the culverts under the driveway and re-established the ditch to its original location. There is a sidewalk near the edge of the road and no place to taper the ditch to make it less steep. In this case, the ditch is steeper than would be desirable. Because there is an underdrain provided in this area, the contractor may be able to fill the ditch up with sand or pea gravel to lessen the depth of the ditch. The contractor has been asked to provide a cost for that work.

Art Kaczmarek of 16158 Reedmere stated that he has the same problem with the ditch in front of his house.

Sharon Tischler of 21415 Virmar Court commented that Helen Gates installed a new driveway in an effort to maintain her property. Gates was frustrated with the patchwork appearance of her driveway after the restoration work was done.

Domzal noted that Council and administration are taking notes and will be following up on these issues.

Douglas and Barbara MacIntosh of 19822 Beverly Road complained that the high grass planted in the ravine behind the homes in their area is an eyesore. This was done as part of the Acacia Drain Relief Project restoration. He submitted pictures of how the ravine looked when it was a wooded area and how it looks now. Douglas MacIntosh remarked that the contractor did a reasonable job of restoration until the high grass was planted. Barbara MacIntosh regrets the decision of the Village to plant this grass and would have liked the abutting neighbors to be involved in the decision on what that private property should look like. They questioned whether there was money available to repair this open area.

Domzal stated that this matter is still under investigation. Council will report back to the homeowners.

Bob Walsh of 20655 Smallwood Court had a question on the bills reviewed and filed as part of the consent agenda, specifically the cleaning allowance for Public Safety Officers. Pfeifer explained that the reporting program only picks up the first line of items that are being paid. The charges include cleaning allowance and tuition reimbursements in some cases.

Pamela Rijnovean of 32420 Evergreen commented that this is the fifth year that the Village has had to balance the budget by using money from its fund balance. It is understood that State revenue sharing has been cut, but other municipalities have responded by reducing costs. Rijnovean listed items that she thought could be reduced or eliminated from the budget. The main concern of Village residents is the financial condition of Beverly Hills. Council should listen to the people, and that is why she is running for Council.

Greg Burry of 32742 Pierce, Council candidate, has talked to people in the process of obtaining signatures for his petition. People enjoy living in this community, but they are concerned about issues such as the budget deficit, maintaining the current level of services, and tax increases. This will be a big challenge to the Council elected on September 13.

Council approved the creation of a Finance Committee at the last Council meeting. Burry appealed to people in the Village to submit their applications to serve on this Board. He encouraged more young people to apply for positions on the Finance Committee.

Ralph Lohrengal of 18346 Beverly Road suggested that the Village save money by charging residents who use library services.

Bunker Kelly of 21526 Corsaut commented on the frustration expressed by residents this evening. He thinks that Council should follow through to find solutions to problems brought to them by residents. He advocated public discussion of community issues.

Art Liberty of 20850 W. 13 Mile Road commended Council for approving the formation of a Village Finance Committee and talked about soliciting residents to serve on that body.

### **MANAGER'S REPORT**

Manager Spallasso was not present this evening. Village Clerk Marshall reported that five people have filed nominating petitions for three available Council seats including Greg Burry, Dan McCleary, Jon Oen, Pam Rijnovean and Gladys Walsh. The Election will be held on Tuesday, September 13, 2005.

Downey asked Director Woodard what the Village spends on overtime for public safety officers' services during the Birmingham fireworks display. Woodward responded that the Village spends a maximum of about \$1200 for four officers working 4.5 hours of overtime.

Council members had follow up questions on the drainage and restoration problems following water main installation, which were addressed by Wally Alix from HRC.

### **COUNCIL COMMENTS**

Taylor thanked the candidates for filing petitions to serve on Council.

McCleary announced that the next concert in Beverly Park will be held this Thursday, July 21<sup>st</sup>.

Downey commented that he was surprised to hear residents' concerns about restoration issues because the Village has done a great job of restoring rights-of-ways after projects in the past. He apologized for the homeowners' inconvenience and assured residents that their comments are being heard by Council.

Downey stated that he recently participated with the Lions Club in the clean up of Lahser Road. He challenged other community groups in the Village to volunteer to clean up other road rights-of-way.

Koss reported that the owner of Market Square took over Vic's Market last Thursday. She looks forward to Market Fresh coming into Beverly Hills.

Pfeifer announced that the Birmingham Area Cable Board will meet tomorrow morning, July 20, at 7:45 a.m. in the Village municipal building. Pfeifer reported that she observed door-to-door solicitation of furniture in the Village from a large Thomasville furniture truck last weekend. The solicitor stated that he had a permit. She requested that administration look into this.

Woodrow thinks that a contractor should replace an asphalt driveway with the type of asphalt that was removed, and vegetation that is removed should be replaced with similar type of plantings.

Woodrow attended a Highland Park City Council meeting last night and suggested that the Village is doing well compared to the problems being experienced by Highland Park. Their city has a deficit of \$2.5 to \$3 million with an \$11 million budget. Woodrow commended Highland Park for designating every Saturday as "Community Beautification Day". Woodrow noted that Highland Park Council meetings allow a member of the public to speak for two minutes on an agenda item and again for two minutes on any issue.

Domzal stated that the Michigan Municipal League convention is being held this year in Grand Rapids from September 21-23. Attendance provides an opportunity for Council members to talk to other community leaders about budgetary issues facing municipalities.

Domzal mentioned that Comcast has published a community report highlighting its involvement in the Beverly Hills/Birmingham area as well as the greater metropolitan area.

Domzal acknowledged a job well done on the part of Village Clerk Ellen Marshall, who was confronted with a difficult situation last week in terms of a last minute change in election laws. The Governor signed a bill that moved up the deadline for council candidates to file petitions. The public was made aware of this change.

Domzal thanked the public for commenting on issues of concern tonight. Council members take these comments to heart and will try to address concerns that have been raised. Domzal remarked that it is evident by driving through Beverly Hills that people are investing in the community and contributing to a good looking Village.

Motion by Pfeifer, second by Taylor, to adjourn the meeting at 10:14 p.m.

Motion passed (7 - 0).

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

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

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