

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
Village Clerk, Marshall
Village Attorney, Ryan
Finance Director, Wiszowaty
Building Official, Byrwa

President Domzal called the regular Council meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

In light of the events that have taken place in the Gulf Coast in the last week, Domzal asked that everyone pause in a moment of silence for the victims of Hurricane Katrina in Louisiana and Mississippi as well as for the primary care givers such as the police force and hospital staff, who are suffering from and working under the most difficult circumstances imaginable following this devastating hurricane. Domzal encouraged everyone to look for opportunities to be of service.

The Pledge of Allegiance was recited by those in attendance.

ADDITIONS TO AGENDA/APPROVE AGENDA

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

Motion passed (7 – 0).

CONSENT AGENDA

Motion by Woodrow, second by Koss, to approve the consent agenda as follows:

- a. Review and consider minutes of a regular Council meeting held August 16, 2005.
- b. Review and file bills recapped as of Monday, August 22, 2005.
- c. Review and file bills recapped as of Monday, September 5, 2005.

Motion passed (7 - 0).

BUSINESS AGENDA

REVIEW AND CONSIDER 2005 HALLOWEEN HOOT FUNDING

Patricia Greening was present to talk about plans for the 10th Annual Halloween Hoot to be held on Sunday, October 23, 2005 in Beverly Park. Pumpkins will be dropped off in the park by 9 a.m. and volunteers will begin topping and gutting the pumpkins at 10 a.m. The children will arrive at noon to carve pumpkins, which will be followed by a hay wagon ride to place pumpkins along the “Hoot Trail” in the woods. About 16 homeowner organizations will decorate kiosks along the trail for distributing candy. The children will return in costume accompanied by an adult to “trick or

treat” along the trail at 6 p.m. There will be cider, donuts, troubadours and story tellers in the pavilion area.

Greening requested that Council allocate \$2,500 to help cover the cost of funding this community event. Other sponsors of the Hoot are the Lions Club, the Village Woman’s Club, and public donations. Council members voiced their wholehearted support for this major community event enjoyed by hundreds of residents throughout the Village.

Motion by McCleary, second by Pfeifer, that the Village Council approve an expenditure not to exceed \$2,500 for the 10th Annual Halloween Hoot that will take place in Beverly Park on Sunday, October 23, 2005. The money is budgeted in account #101-747-896, Community Action: Halloween Hoot Expenses.

Roll Call Vote:

Motion passed (7 – 0).

Greening stated that the Parks and Recreation Board sponsors the summer concert series in Beverly Park. The three concerts held on Thursday evenings in the park this summer were successful and enjoyed by many people. The Board anticipates holding four concerts next summer if the additional expense is approved by Council.

Domzal noted that the annual joint meeting of the Council and Parks and Recreation Board set for September 15, 2005 will be rescheduled due to the Council election on September 13. The Parks and Recreation Board will have its regular meeting on September 15.

PRESENTATION BY BOB BORGON, CABLE BOARD CHAIRMAN, REGARDING THE ANNUAL REPORT OF THE BIRMINGHAM AREA CABLE BOARD

Council has received copies of the Birmingham Area Cable Board Annual Report for Fiscal Year 2004/05 prepared by Kathryn Hagaman. Pfeifer, Council Liaison and alternate voting member of the Cable Board, introduced Beverly Hills resident and Cable Board chairperson Bob Borgon.

Borgon presented highlights of the Cable Board for 2004/05. The Board spent about \$40,000 in capital equipment during this time period to renovate the production van and update BCTV replay decks to a digital format. The Board anticipates spending about that much this year in capital improvements.

Subscriber complaints were up in FY 2004/05 to 160 complaints. The major areas of concern were: pricing, reduction of programming on the basic/basic plus platform, non-availability of senior discounts, and lack of cable competition.

Expenses were in line with revenue last year at approximately \$363,000. Plante & Moran is currently conducting its annual audit of the Cable Board. The Board has concluded negotiations with Comcast relative to issues raised as a result of a franchise fee review conducted by Plante & Moran. The municipalities and the Board were reimbursed a total of \$52,000 for underpayments of franchise fees during the audit period.

The Cable Board is in the second year of a three-year contract with BCTV. The PEG (Public, Education & Government Access) Committee continues to work with BCTV to produce original programming of interest to the communities.

The PEG Committee and Cable Action Committee provide oversight of ongoing issues, including programming and cable related issues. The Cable Action Committee provides follow up on cable related issues and tracks local and national issues in the cable industry. The committee started a grass root movement with Congressional leaders to voice objections to Comcast's continuing rate increases. The committee issued several news releases, provided draft letters on the Board web site, and spoke with individual subscribers complaining about price increases.

The Cable Board awarded two grants in 2004/05. The City of Birmingham received a grant in the amount of \$130,000 to upgrade its broadcasting equipment at City Hall and its DPW where off-site meetings are held. The Birmingham Public Schools received a grant in the amount of \$25,000 for video and broadcast equipment at both Groves and Seaholm High Schools.

The Board accepted the resignation of Executive Director Kathryn Hagaman and hired Thomas Hanson to fill the position. Mr. Hanson is a producer/director for the City of Southfield.

Borgon thanked Beverly Hills residents Carol Woodard and Maryann Verdi-Hus for their participation on the Board along with Jim Delaney, Board Treasurer, who left in June and was replaced by Georgeann Mach.

Questions and comments from Council members were addressed by Borgon. Upcoming changes in the telecommunications industry and their effect on the Birmingham area cable consortium operation were discussed. Council thanked Borgon for his presentation.

REVIEW AND CONSIDER PROPOSALS FOR 2006 CALENDAR PRINTING

Bid specifications were mailed to five vendors and a Request for Proposals was published in the Birmingham Eccentric for the printing of the 2006 Village calendar. Vendors were asked to quote based on the layout of the 2005 calendar with a quantity of 5,000 and to include a price for printing advertising from commercial businesses in the Village. Only one bid was received from Spectrum 3 as follows:

\$9,258.00	(no advertising)
\$10,171.00	(1 page of advertising in one color)
\$10,297.00	(1 page of advertising in two colors)

Postage costs for mailing the 2005 calendar totaled \$1,361.77.

Pfeifer explained that, for the first time this year, the Village is offering businesses in the community the opportunity to advertise in the calendar. Several organizations have expressed interest and seven have committed to a total of \$3,880 worth of advertising. There is enough space for additional advertising. This revenue will offset the cost of the calendar.

Motion by Pfeifer, second by McCleary, that the Village of Beverly Hills Council award the contract for design and printing of the Village of Beverly Hills 2006 Calendar Project to Spectrum 3 in the amount of \$10,297. Funds for this project are available in account #101-747-881.

Council discussed the proposal and the policy to allow advertising in the calendar. Concern was expressed that there was only one bid submitted for this project.

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

REVIEW AND CONSIDER FINAL PAYMENT ANDERZACK-PITZEN FOR ACACIA RELIEF SEWER

The Village awarded a contract to Anderzack-Pitzen Construction on October 9, 2003 for construction of a portion of the Acacia Relief Sewer. The project has been completed, and the Oakland County Drain Commissioner’s office, which did the construction engineering for the Village, is recommending final payment.

Motion by McCleary, second by Downey, to approve final payment to Anderzack-Pitzen Construction for the completion of the Acacia Relief Sewer Project in the amount of \$115,612.95. Payment to be subject to the contractor submitting the necessary close out documents.

Spallasso remarked that the project came in at approximately \$100,000 below the contract price. The money saved on this project will be used for the next phase of the relief drain construction.

It was mentioned that there were residents who raised an issue with respect to the tall grass used for slope stabilization in excavated areas of the Acacia sewer project. Spallasso commented that the contractor did what he was required based on the specifications for restoration of the area. Spallasso met with several residents last week to address the tall grass issue. He informed property owners that he will look into whether there is anything the Village can do to add some seed mix to the grass.

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

REVIEW AND CONSIDER PROCLAMATION SUPPORTING FAMILY DAY

Taylor commented that the Birmingham Bloomfield Community Coalition has requested that Beverly Hills join the list of communities that commemorate the fourth Monday in September as Family Day – A Day to Eat Dinner with Your Children – by issuing a proclamation designating September 26, 2005 as Family Day.

Motion by Taylor, second by Downey, to adopt the following resolution:

RESOLUTION

WHEREAS the use of illegal drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children;

WHEREAS surveys conducted by The National Center on Addiction and Substance Abuse (CASA) at Columbia University have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink and use illegal drugs;

WHEREAS teenagers who virtually never eat dinner with their families are 72 percent more likely than the average teenager to use illegal drugs, alcohol and cigarettes;

WHEREAS teenagers who almost always eat dinner with their families are 31 percent less likely than the average teenager to use illegal drugs, alcohol and cigarettes;

WHEREAS the correlation between family dinners and reduced risk for teen substance abuse are well documented;

WHEREAS parental influence is known to be one of the most crucial factors in determining the likelihood of substance abuse by teenagers;

WHEREAS family dinners have long constituted a substantial pillar of family life in America:

Now, therefore, the Beverly Hills Village Council does hereby proclaim the fourth Monday in September as

Family Day – A Day to Eat Dinner With Your Children

and urge all citizens to recognize and participate in its observance.

Roll Call Vote:

Motion passed (7 – 0).

REVIEW AND CONSIDER PROPOSAL FROM LSL PLANNING, INC. TO REVIEW CURRENT ORDINANCES REGARDING ACCESSORY STRUCTURES

Woodrow stated that Council has directed the Planning Board to review current ordinance regulations in terms of garage sizes in Beverly Hills. A motion was made at the July 19, 2005 Council meeting to refer the following Zoning Ordinance sections to the Planning Board for consideration and report back to Council: 1) Definition of Garage, Private in Chapter 22; and 2) Section 22.08.100 Accessory Buildings, Structures and uses in Residential Zone Districts. LSL Planning, Inc. has submitted a work description including cost estimate for Accessory Structure Research and Draft Text Amendment. The total cost for the task was estimated not to exceed \$1,479.

Motion by Woodrow, second by Koss, to approve the maximum expenditure of \$1,479 for LSL Planning, Inc. to complete Accessory Structure Research and Draft Text Amendment.

Pfeifer asked if this study could be combined with the Planning Board's review of the open space requirements for a lot in terms of the impact of accessory structures on impervious land area. She suggested that there may be an overlap in the setback study and study of accessory structures.

It was indicated that a review of open space requirements is not within the scope of work outlined in this work program from LSL.

Taylor questioned whether the Zoning Board of Appeals would be asked to provide input on this study. He expressed the view that Village Boards are underutilized in terms of their skills and rely heavily on LSL Planning for its review and recommendations.

Pfeifer clarified that the role of the Zoning Board of Appeals is to interpret and enforce ordinances that are drafted by the Planning Board and adopted by Council. She thought that the Zoning Board

may have some guidelines for the Planning Board, but they are not in a position to be part of the legal process.

Woodrow added that the Planning Board studies issues and makes recommendations to Council on their findings. Council enacts ordinances based on those recommendations, and the Zoning Board interprets Village Ordinances and applies them on a case by case basis. What should come out of this study is a recommendation to amend the Village Ordinance. Woodrow remarked that he was hoping that this review could be done in conjunction with the Master Plan Update and included that funding allocation.

Domzal suggested that setbacks are a component of the accessory structure issue along with the ratio of garage space to the floor space of the principal structure. He recalled that, historically, the Village planning consultant worked with a retainer. The Village has gone to a menu service format whereby the consultant provides a quote for any service requested by the Village. This study is in response to comments received by Council from residents on the issue of garage sizes in the community.

Sharon Tischler of 21415 Virmar Court expressed appreciation that Council is considering a study of the Zoning Ordinance and whether it meets today's standards in terms of regulating garage size. She asked if there is a timeline for this study. She was advised that the planning consultant will be directed to proceed with the study as soon as possible if Council approves the expenditure.

Roll Call Vote:

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

Motion failed (4 – 3).

PUBLIC COMMENTS

Jon Oen of 32061 Verona Circle thanked Dave Domzal and Doyle Downey for their years of dedicated service on Council. He appreciates the time commitment and effort of both members and hopes that he can fill one of their seats and continue moving the Village forward in the good direction set by these individuals.

John Mooney of 19111 Devonshire commented on the accomplishments of Village President Dave Domzal and past President Doyle Downey. He thinks he speaks for many people in the community when he expresses deep appreciation for what these individuals have done over the past several years. Mooney listed a number of undertakings accomplished by these members of Council.

Mooney commented on this Council's ability to handle the budgets. This Council under the leadership of Msrs. Domzal and Downey have only minimally touched the General Fund balance to balance the budget, taking into consideration the severe cuts in State revenue. Beverly Hills is in good financial shape; its fund balance is in excess of 24% of the budget. Mooney remarked that Domzal and Downey steered this Village with kindness, patience, respect and restraint. He thanked Dave Domzal and Doyle Downey for everything they have done for the community.

Ron Berndt of 31384 E. Rutland, member of the Zoning Board of Appeals, commented on the earlier discussion related to the Zoning Board and Planning Board. The role of the ZBA is not to get involved in the jurisdiction of Council, which is to determine what the law will be. The Zoning Board's charge is to look at the individual cases and set aside the law where appropriate in unique circumstances for an individual.

Berndt does not believe that the Zoning Board of Appeals is under utilized. Many cases that come before the Zoning Board originate from the east side of the Village. The zoning in that area either in terms of side setbacks, lot size, or lot width renders 80-90 percent of those properties non-conforming to the Zoning Ordinance in one form or another. The lots existed prior to the adoption of the Village Zoning Ordinance. Berndt commented on the legal requirements in terms of granting a variance. The Board has had instances where it had to deny a request for variance knowing that the resident's proposal was reasonable and fit into the goals of the community. The Village wants to see its property values increase.

The Zoning Board has tried to voice its opinion within its scope as individual members of the community that it would like to see due consideration given by the Planning Board and Council in terms of being realistic about the circumstances of those residents on the east side of the Village. The Zoning Board will uphold the law of the Village as it is written; but as individual citizens, many of us hope that Council will consider altering that law.

Gladys Walsh of 20655 Smallwood Court commented that Council members take the office knowing that they are not going to please everybody at all times with their decisions. People have to make hard decisions; they have to be accountable and responsible fiscally and otherwise. Walsh respects each member of Council for the positions that they have taken and has appreciated Council listening to her viewpoints. She thanked Domzal and Downey for the contributions they have made to the Village and wished them well in their future endeavors.

Robert Walsh of 20655 Smallwood Court remarked that various people at recent meetings have commented on the condition of the Village and the need for massive change. He noted that there is reconstruction taking place in Beverly Hills with many people renovating and improving their homes. This is not a stagnant community; there is a lot of activity in the Village. People live and move here because they like the open space and the choice of housing stock.

REPORTS

MANAGER

The MISCH site plan item was not on tonight's Council meeting agenda for the reason that the Village did not receive confirmation from the applicants on whether they could be present.

Spallasso reported on the status of the joint parking lot improvement project with Southfield Township. Consultants Ayers, Lewis, Norris & May along with Spallasso have agreed that it is in the best interest of the Village and Township to reject all bids and bid the project out again in early 2006. This will make it possible to construct the project by September 2006 within the time frame of the grant restrictions. The proposed design may be revised.

The Village offices will be open on Saturday, September 10 from 10 a.m. to 2 p.m. for absentee ballots.

The water main replacement project is continuing west of Southfield Road. Affected property owners have been notified and are being asked for their patience during the construction phase.

Spallasso urged residents to vote on September 13. He thanked Dave Domzal and Doyle Downey for their time on Council and for all their help.

COUNCIL

Pfeifer thanked Dave Domzal and Doyle Downey and recognized the many hours they have invested in this community during their terms on Council.

Pfeifer referred to an article in the Friday, September 2 issue of the Free Press regarding a Wayne County judge ruling that would prevent the Detroit City Clerk from sending applications for absentee ballots to registered voters who do not request them. Although many cities commonly send applications to registered voters older than 60 and handicapped people as a courtesy, Beverly Hills has never done this. Pfeifer suggested that the Village will be looking at Attorney General opinions on further appeals relative to this matter.

Pfeifer shared the good news received in the Final Revenue and Expense Report for 2004/05 prepared by Finance Director Wiszowaty. She called attention to the fact that Council anticipated a draw on the General Fund balance of \$153,430.00 from the amended 2004/05 budget. The actual amount transferred from the General Fund balance was \$46,640.34, one-third of the anticipated amount. The Village's fund balance is 24.07% of expenses as of 6/30/05 instead of the projected 20%.

Pfeifer asserted that Beverly Hills is recognized by surrounding communities as being an extremely conservative and fiscally responsible community. She gives a great amount of credit for this to Village administration, who works extremely hard at the direction of Council to exercise care in spending taxpayer money.

Taylor clarified a comment he made earlier by explaining that Village Boards are under-utilized in terms of their knowledge and experience. He has a large amount of respect for those who serve on the Zoning Board of Appeals. Taylor thanked Doyle Downey and Dave Domzal for their service on Council. Both individuals have given a lot of time to the community and shared their knowledge and experience with the Village.

McCleary announced that the Beverly Hills Club will be hosting a Movie Night in Beverly Park on September 24 starting at dark. They will show "Ghost Busters" free of charge to anyone who

wants to attend. He also informed the public that, from October 1 until the end of year, people can play golf at Lincoln Hills Golf Club for guest fees without being a Birmingham resident.

McCleary thanked Dave Domzal and Doyle Downey for the experience and knowledge they brought to this Council as well as their friendship. He noted that there have been heated campaign issues in the community previously, but the Village has avoided smear tactics against candidates. Candidates should be promoting what they have to offer the Village as Council members in a positive manner. Some residents have received literature full of misrepresentations and misinformation, and he hopes that people will see this for what it is. McCleary asked residents to take the time to vote on Tuesday, September 13.

Downey talked about some of the pleasures he has experienced during his time on Council. Many of these occurrences involved encounters with distinguished members of the community, meetings with community members on the street or in their homes, and discussions on timely issues with residents.

Downey stated that there is an election coming up and everyone has to make their own decisions. Beverly Hills is a financially healthy community. Voters should look for those people who are speaking their hearts and looking to serve the community and not themselves.

Domzal thanked his family, Village staff, and fellow Council members for their support and assistance over the years he has served on Council. He wished Council well and remarked that it was a joy serving with them. With respect to the condition of the Village, Domzal subscribes to the fact that it is doing very well. It is human nature to focus on areas of improvement. Coming from a planning background, Domzal believes that one important thing that Council can do is to plan well for the future. He is encouraged by steps that are being made in terms of the Master Plan Update process and the strategic planning process. Domzal will continue to stay involved in the community and have a close interest in Beverly Hills.

Koss remarked that it has been an honor and a pleasure to serve on Council with Doyle Downey and Dave Domzal. She appreciates their help in showing her the ropes, and she will continue to communicate with them. Koss thanked them for the dedicated service they provided to the Village.

Woodrow expressed his gratitude for being on Council with Doyle Downey and Dave Domzal and mentioned that he has learned much from both men about local politics and the benefit and sense of fulfillment from becoming involved in the community. He thanked them for their service to the Village.

Woodrow presented a plaque to Doyle Downey in grateful appreciation for dedicated service as Council Member from March of 1999 to September 2005 serving as Council President from March of 2002 to September 2004 and as Planning Board member from April 1997 to March of 1999.

Dave Domzal was presented with a plaque in grateful appreciation for dedicated service as Council Member from March of 2001 to September of 2005 serving as Council President from

March of 2004 to September of 2005 and as Planning Board member from April of 1999 to March of 2001. Woodrow invited everyone to attend a reception for Dave Domzal and Doyle Downey following the meeting.

Motion by Pfeifer, second by Koss, to adjourn the meeting at 9:20 p.m.

Motion passed (7 – 0).

Dave Domzal
Council President

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary