

Present: President Taylor; President Pro-Tem Walsh; Members: Burry, Koss, Pfeifer, Rijnovean and Woodrow

Absent: None

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

Council President Taylor 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. The Pledge of Allegiance was recited by those in attendance.

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

Walsh asked that the agenda be amended to move Consent Agenda item (a) to the Business Agenda. Woodrow requested that Consent Agenda item (b) be moved to the Business Agenda. Rijnovean asked that an agenda item be added for discussion of the 2005/06 Village Budget to consider spending cuts to balance expenditures with revenues. It was indicated that this action would take a unanimous vote of Council.

Motion by Rijnovean, second by Burry, to discuss the 2005-06 Village Budget and consider spending cuts to balance expenditures with revenues.

#### Roll Call Vote:

Taylor - yes  
Walsh - yes  
Woodrow - no  
Burry - yes  
Koss - no  
Pfeifer - no  
Rijnovean - yes  
Motion fails (4 – 3).

Motion by Pfeifer, second by Woodrow, to approve the agenda as amended.  
Motion passed (7 – 0).

#### **BUSINESS AGENDA**

#### **REVIEW AND CONSIDER REQUEST TO PURCHASE SCBA AIR CYLINDERS FOR PUBLIC SAFETY DEPARTMENT**

Before Council for consideration is a proposal to purchase four new Self Contained Breathing Apparatus (SCBA) air cylinders for the Public Safety Department. These cylinders supply breathing air to firefighters by way of a harness worn when entering smoky or other

atmospheres immediately dangerous to life and health. The new units will replace out-of-date units or those that can no longer pass mandatory hydrostatic testing done every three years.

The 2005/06 budget contains funds for new SCBA air cylinders. This proposal represents the third year of a capital program to replace approximately 30 air bottles that will reach the end of their service life between 2007 and 2010. The Department's five-year capital budget forecast calls for four additional cylinders to be purchased over each of the next six budget years to accomplish this goal.

The price quoted for the equipment is \$950 each or a total of \$3,800 from Apollo Fire Equipment of Romeo, the sole and exclusive distributor of MSA (Mine Safety Appliances) breathing apparatus in this region of the state. The PSD budget contains \$4,000 for this purchase, and the Department can purchase the product for \$200 under budget, and at a savings of \$651 off the list price.

Motion by Rijnovean, second by Pfeifer, that the Village of Beverly Hills Council award the purchase of four MSA SCBA air cylinders in the amount of \$3,800 to Apollo Fire Equipment of Romeo, Michigan. Funds are available for this purchase in Account #101-900-980, Capital Purchases: PS Equipment.

Woodard stated that all sworn Beverly Hills Public Safety Officers are duly trained both as police officers and fire fighters. Public Safety Officer Bednarz entered the Council chamber dressed in full firefighting gear including harness and air cylinder in order to visually exhibit the equipment.

Specific questions on the equipment, operation, use, and testing were answered by Director Woodard. There were inquiries regarding the purchasing schedule and current inventory of air cylinders, which is 53 tanks to support 14 harnesses. Woodard related that the only other competitors for air tanks are for a different brand that is not interchangeable with the harness system owned by the Village. The sales person assigned to this region of the state is able to discount the price, which cannot be done by someone outside of this sales area. He explained the differences in standards for air cylinders used for fires and those used for environmental incidents.

Walsh asked questions that were directed towards attaining assurance that the recommended proposal is the best type of apparatus to use and would provide optimum duration and less testing. Woodard proposed that the Village maintain its current system for the reason that a new system using 45-minute cylinders would involve purchasing all new harnesses and face pieces.

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

**REVIEW AND CONSIDER MINUTES OF A REGULAR COUNCIL MEETING HELD ON OCTOBER 4, 2005**

Woodrow referred to page 9, paragraph 4, of the minutes, which read, in part, "Woodrow offered a motion to Council directing the Village Attorney to dismiss the four tickets issued

to guests of Allerton residents yesterday. There was no support for the motion. Ryan recommended that Council authorize administration to work on a solution to this issue.” Woodrow outlined his recollection of what occurred and expressed his opinion that there is still a motion on the floor. He asked that the minutes reflect that he requested additional discussion on this item, but was refused by the chair.

Taylor recalled that he asked for a second and allowed enough time for someone to second the motion. The motion failed for lack of support.

Village Attorney Ryan stated that meeting minutes are not verbatim. The recording secretary includes discussion in the minutes, which exceeds the basic requirements for meeting minutes. It was apparently in the chair’s discretion to determine that there was no second for the motion. Ryan recalled asking that the particular item not go any further.

Motion by Woodrow, second by Pfeifer, to amend the minutes of the October 4, 2005 Council meeting to add the following sentence to page 9, paragraph 4: “Woodrow requested additional discussion on the item but was refused by the Council chair.”

Council members discussed their recollections and thoughts on this issue. It was mentioned that recent information related to Council by Parliamentarian Coco Siewart on meeting protocol indicated that minutes are a reflection of the business conducted at the meeting. Siewart had stated that, if a motion is not seconded, there is no motion and it does not have to be included in the meeting minutes.

Comments were made on this topic by Janet Mooney of 19111 Devonshire and Bunker Kelly of 21526 Corsaut Lane.

It was clarified that Woodrow is asking that the minutes reflect only that he requested additional time to speak to the matter and was refused by the chair. Pfeifer suggested that the entire paragraph in question be deleted from the meeting minutes.

Roll Call Vote:

Woodrow	- yes
Burry	- no
Koss	- yes
Pfeifer	- no
Rijnovean	- no
Taylor	- no
Walsh	- no

Motion fails (5 – 2).

Motion by Pfeifer, second by Walsh, to strike the fourth paragraph on page nine from the minutes of the Regular Council meeting held on October 4, 2005.

Koss expressed the view that Woodrow has the right to request a change in the paragraph that addresses his statements. In order to alleviate the problem in the future, she suggested that Council consider directing meeting minutes to be brief and to address only the business at hand. Burry concurred that meeting minutes could include only an account of business conducted.

There was discussion on whether meeting minutes should include discussion or be limited to action and votes taken. It was pointed out by members of Council that there are residents who receive information on what occurs at Council and Board meetings by reading minutes, which are posted on the Village web site. Archived meeting minutes represent a record of what was said and done on certain issues.

The following residents spoke in opposition to changing the format of Council meeting minutes: Jon Oen of 32061 Verona Circle and Sharon Tischler 21415 Virmar Court.

Ryan stated that he understands that Council members met with Coco Siewart to discuss parliamentary procedure. The Village has referred to Roberts Rules as a good resource and as a guideline. He urged careful consideration be given to changing the current custom of minute taking.

Roll Call Vote:

Motion fails (7 – 0).

Motion by Pfeifer, second by Burry, that the minutes of the regular Council meeting held on October 4, 2005 be approved as submitted.

Roll Call Vote:

Burry	- yes
Koss	- yes
Pfeifer	- yes
Rijnovean	- yes
Taylor	- yes
Walsh	- yes
Woodrow	- no

Motion passed (6 – 1).

#### **REVIEW AND FILE BILLS RECAPPED AS OF MONDAY, OCTOBER 17, 2005**

Questions from Walsh and Rijnovean on specific invoices were addressed by Pfeifer and Spallasso.

Motion by Pfeifer, second by Woodrow, to approve the bills recapped as of Monday, October 17, 2005 as submitted.

Motion passed (7 – 0).

## **DISCUSSION ITEMS**

### **PURCHASING PROCESS – CHAPTER 12 VILLAGE CHARTER**

Walsh referred to Chapter 12 of the Village Charter regarding Purchasing, Contracts and Leases. She reviewed that there were failed ballot issues in 2004 and in 2005 involving Charter Amendments to Section 12.1, which demonstrated that residents want to retain control over how money is spent as well as the proper use of the money appropriated. She believes that the failure of Charter Amendments to increase the \$1,000 limitation for Village expenditures without prior approval of Council confirms that Villagers want Council to control the expenses of the Village.

Walsh said that she brought Chapter 12 to the attention of Council because of recent occurrences involving the Village's bidding process. She is asking that Council review the Charter language and try to reach a consensus on its understanding of the document. Her intent is to have an open deliberation on this matter so that administration, Council, and residents have a sense of Council's interpretation of the Charter and how to proceed with the bidding process.

Walsh related that the Parks and Recreation Board recommended proceeding with obtaining bid proposals for ball diamond improvements at its September 15, 2005 meeting. The minutes indicate that the proposal would go out for bids after approval by the Parks and Recreation Board and Council. However, an advertisement for bids was published in the Thursday, October 6 issue of the Eccentric Newspaper. Walsh questioned whether the project should have gone out for bid before receiving Council approval. She maintains that Council needs to exercise its responsibility to adhere to the Charter.

Walsh stated that she has reviewed the Michigan Uniform Budgeting and Accounting Act of 1968 and has looked at the Village's Comprehensive Financial Policies Manual, which agrees with the Uniform Budgeting Act. She would like Council to discuss Section 12.1 of the Charter, which states, "The Council shall designate an administrative officer of the Village in charge of purchasing, and such person shall be responsible for the purchase and sale of all Village property." The officer in charge of purchasing is the Village Manager. She questioned who is responsible for presenting recommendations on which bids should be accepted or considered for approval by Council.

The second paragraph of Section 12.1 states, "The Council may authorize a purchasing Officer to make purchases and sales in amounts not in excess of One Thousand dollars (\$1,000.00), without prior approval of the Council. In all sales and purchases in excess of \$1,000, the purchase shall be first approved by the Council, and formal sealed bids shall be called for." Walsh questioned whether Requests for Proposal should be advertised prior to Council approval as required by the Charter.

The next paragraph says that purchases shall be made from the lowest competent bidder meeting specifications. Walsh questioned whether 'competent' means 'qualified' and whether there are certain qualifications put upon the bidders.

Walsh called attention to the difference between budgets and appropriations. An appropriation means an authorization granted by a legislative body to incur obligations and to extend public funds for a stated purchase. The Uniform Budgeting and Accounting Act states that a budget is a plan of financial operation for a given period of time including an estimate of all proposed expenditures from the funds of a local unit and a proposed means of financing the expenditures. Walsh emphasized that items appropriated in the budget must still come before Council if the expenditure is \$1,000 or more. Approving a budget does not automatically authorize spending of municipal funds for a specific purpose without the approval of the legislative body.

Walsh would like Council to consider where it stands on the issue of contracts and what needs to be done to become more involved in following the Charter.

Koss stated that the appropriation for the ballfield renovation is coming from a dedicated millage for park projects. She believes that the previous Council has approved funding amounts for specific park improvement projects including the ballfield renovation. The Parks and Recreation Board recommended that administration proceed with accepting bids so that the project could proceed and take advantage of current prices. Koss mentioned that the Parks and Recreation Board has spent time and effort developing a proposal and priorities for accomplishing park improvements. It is an advisory body and meetings are open to the public. Koss remarked that previous councils have been working on the park plan for a long time.

Walsh stated that it is up to Council to ensure that the dedicated millage is being spent in the most appropriate way. The Parks and Recreation Board is an advisory body, and Council should be receiving more information on park expenditures. She would like to review specifications that go out for a project. Walsh said that she is trying to find a common understanding of what should be happening between the Council, Boards and administration.

Woodrow commented that he sees no fault with the actions of the Parks and Recreation Board. The Board was authorized to develop and recommend a list of projects and priorities in accordance with the Park Master Plan. Council reviewed and approved the priority projects, and money has been appropriated for the work to be done. He emphasized that the Board can make a recommendation to administration or Council to approve a bid, but only Council can accept a bid.

Burry maintained that that the issue is not whether money has been appropriated or has the approval of past councils. The issue is following the Charter, which states that Council has to approve bids going out.

Spallasso stated that he appreciates that Council wants to be informed of all projects that go out for bids, which he has done over the years. He believes that it might be time to look at amendments to the Charter to allow emergency expenditures in the case of a circumstance such as a sewer collapse that has to be addressed immediately. Going out for bids for a \$1500 repair to a fire hose may not be in the best interests of the Village.

Burly stated that the purpose of the Charter appears to be to keep Council informed as to how taxpayer money is spent. An emergency session of council could be held under certain circumstances.

Pfeifer provided some history of Council efforts to place necessary Charter amendments on the ballot. The document is 50 years old and needs to be thoroughly updated. She explained the Charter Revision process. Koss expressed the view that Council should consider moving in the direction of updating the Village Charter.

There was further Council discussion and clarification of items under Section 12.1 and 12.2 of the Charter.

Ryan commented that Council tries to follow the Charter as closely as it can. Village Boards work in an advisory capacity to Council. Previous councils may not have wanted to see the bid packet for all park improvement projects. Every Council is different. If this Council wants to follow the literal word of the Charter and see every bid packet, it has the right to do that. Council has the right to vote yes or no on a contract. He emphasized that it is the function of Council to set the policy for the Village and for administration to follow through on that policy. Ryan related that the Village has never had a problem or lawsuit related to its bid process.

Walsh concluded that the Council has the right and responsibility to lead the Village in terms of its fiscal operations and appropriating taxpayers money for the right things. Council is the legislative body, and it needs to be making informed decisions. She believes that the Charter is our Constitution, and the Council needs to follow the Charter.

Jeffery Pynnonen of 31724 Allerton commented that bid packages are available to residents upon request.

Jon Oen of 32061 Verona Circle suggested that the Council liaison to the Parks and Recreation Board should be able to communicate pertinent information to Council.

Sharon Tischler of 21415 Virmar Court recalled that items did come before Council in the past for authorization before bids went out on infrastructure projects. She believes that the General Fund and dedicated millage are both municipal money, and Council has the ultimate responsibility of dispersing that money. Tischler maintains that revamping the entire Charter does not guarantee that the voters will approve it.

Soter Art Liberty of 20850 W. 13 Mile Road commented on the Parks and Recreation Board's planning of park improvement projects.

Bob Walsh of 20655 Smallwood Court commented that the topic of discussion tonight was about Chapter 12 and not about rewriting the Village Charter. He does not think the Charter is antiquated, but it could be updated piecemeal. Walsh expressed the view that park millage purchases must be allocated by the Village Council like any other purchase. He thinks that the lowest competent bidder should be awarded a contract.

Bunker Kelly of 21526 Corsaut commented on the need for Council members to follow the Charter.

Ron Berndt of 31384 E. Rutland commented on the importance of property values in the Village to the future of the community. The Village is at risk with its aging housing stock. He favors cooperation among Council members to wisely spend Village money where it can do the most good.

Leanne Toth of 22605 W. 13 Mile Road commented that it is the responsibility of Council to carry out the Village's wishes to the best of its ability. That entails Council members knowing as much as possible about every issue. Questions on the bid process were addressed by Spallasso.

A ten minute recess was called at 9:55 p.m. The meeting was reconvened at 10:05 p.m.

### **CABLE TELEVISION AND RELATED ISSUES**

Pfeifer presented information on the Birmingham Area Cable Board and related issues for the purpose of familiarizing Council members with the operation and procedures of the Cable Board. Cable Board chairperson and Beverly Hills resident Bob Borgon was present in the audience.

Pfeifer provided a brief background on the cable television industry and its expansion into the Birmingham area consortium. The Birmingham Area Cable Board consists of representatives from the member communities of Birmingham, Beverly Hills, Bingham Farms and Franklin. The Board was created through the Franchise Agreement with cable television provider Comcast and given authority through Chapter 4 of the Beverly Hills Municipal Code. It is a completely autonomous Board with its own set of By-laws. Responsibilities of the Cable Board include monitoring the quality of services rendered by the cable provider and the sole operation of the consortium's PEG (Public, Educational, and Government) access channels. The Cable Board has no control over programming offered or rates established by the cable provider.

Pfeifer talked briefly about changes in the telecommunications industry that will affect the delivery of cable television, high speed Internet, and telephony service. There is recent activity at the state and federal levels in terms of determining the regulation of various technologies and related topics such as franchising.

Pfeifer explained that the Cable Board has contracted with Bloomfield Community Television (BCTV) to provide cable television programming and coverage of municipal meetings. Coverage of additional municipal meetings not included in the current three-year contract must be requested by the governing body of the municipality through the Cable Board. Discussion is occurring between the PEG Committee and BCTV on this topic, but a member municipality would have to pay for extra meeting coverage at this time. Pfeifer noted that the City of Birmingham has its Planning Commission meetings taped and televised for a fee.

Pfeifer discussed the grant provided to Beverly Hills by the Cable Board in 2000 to bring its council chamber up to date with camera and sound equipment for cable television broadcasts. The equipment and its maintenance is now the responsibility of the Village. Pfeifer related her idea to have a town meeting in the Council chamber to be aired on the municipal channel. Council may want to discuss taping and replaying certain advisory Board meetings in order to provide information and communicate with residents.

Bob Borgon thanked Pfeifer for her presentation on the Cable Board operation. Questions and comments from Council members and the public were answered by Pfeifer. Topics included the cost of adding municipal program coverage, changes in the telecommunications industry, and the possibility of webcasting Council meetings.

### **MASTER PLAN**

Burry stated that some citizens and Council members have expressed concern about the direction, expense, and delay related to the Master Plan update. Village administration has prepared a brief chronology of the Master Plan update beginning in 2002. His goal is to explore the direction that the Village should take in terms of accomplishing this task.

Burry stated that the Master Plan was last updated in July of 1998. Discussion began on undertaking a review of the Master Plan in August of 2002. State Law requires that a municipality review and/or revise its master plan every five years.

Burry reviewed the chronology of the Master Plan update process and discussions. He called attention to the fact that, in May of 2003, the Planning Board asked for \$5,000 to update the language and statistics of the Master Plan. In July of 2003, Council approved a proposal from new planning consultant LSL to update the Master Plan for a cost not to exceed \$5,000 plus an estimated \$700 for reimbursables.

Burry related that 15 months later in October of 2004 the Master Plan had not been updated as directed and approved by Council. He questioned why the Planning Board had not worked on the Master Plan. In December of 2004, the planning consultant recommended doing the Master Plan update and adoption after completion of any sub-area plans by the Planning Board. Planning Board chairperson Jensen indicated at the time that the Board should not do a simple master plan update. Burry related that the Planning Board indicated early this year that that it was advised by the former Village Manager to hold off working on the Master Plan because there was a possibility of funding the project through Community Development Block Grant funds.

The consultant prepared a detailed proposal for the Master Plan Update based on Planning Board discussion and included various options in a menu format for sub-plan elements of the plan with separate costs. In March of 2005, Council authorized the Planning Board to commence with an update of the base Master Plan with a cap of \$10,000 in this fiscal year with any optional tasks requiring Council approval. The Master Plan Kick-off meeting was held on April 27, 2005. In May of 2005, the Planning Board received the first draft of an update to the existing conditions portion of the current master plan.

The Village has spent \$7,000 on the Master Plan Update through 9/19/05. The original Master Plan Update proposal in 2003 was approved at a cost of approximately \$5,000. Burry questioned why the Village cannot update the Master Plan in accordance with the original proposal for this work. Based on the timetable for the current work program, completion of the Master Plan update may not occur for another year.

Council members expressed their views and expectations for the Master Plan Update work program. Topics included State requirements for master plan review, the Master Plan update status and schedule, the current direction of the Planning Board's work on the Master Plan, and items that have been considered for inclusion in the Master Plan as additional chapters or sub-area studies.

It was clarified that, in addition to updating existing conditions in accordance with 2000 census data, the scope of the 2003 base Master Plan update included conducting a town meeting to discuss priorities and current issues; update of current visions, goals and objectives; and update of the Future Land Use Plan, Circulation Plan, and Community Facilities Plan. The 2005 proposal for updating the Master Plan contained options to include four separate elements into the plan: Housing and Neighborhood Plan; Public Involvement, Southfield Road Corridor Plan; and Incorporate results of Strategic Planning Committee Report.

It was questioned what has been completed for the \$7,000 expended. Concern was expressed that the Master Plan Update is being driven to a great extent by the planning consultant.

Building Official Byrwa reviewed that items approved by Council were added to the Master Plan program including the Neighborhood Study and inclusion of pertinent elements of the Strategic Plan. These approved options along with additional public involvement have changed the scope of the Master Plan project. He explained that State Law has mandated changes to the Master Plan approval process, and this has been a factor in terms of including optional studies into one plan approval procedure.

Byrwa explained that the reason for the delay in the Master Plan work program in 2003 was because the Planning Board was involved in a 14 Mile Road Corridor Study and the codification of the Site Development Handbook, which was a priority project at the time. As was stated earlier, the previous Manager asked the Planning Board to hold off on the update until funding was available through CDBG funding. Byrwa stated that Council will receive the draft master plan as soon as the Planning Board indicates that it has completed its review of the product.

Spallasso suggested that Council meet jointly with the Planning Board to discuss the direction of the Master Plan Update. There was a consensus of Council to meet with the Planning Board on Wednesday, November 9, which is a scheduled meeting of the Board. A list of Council motions related to the Master Plan process dating back to 2003 will be prepared by administration at the request of Council.

Bob Walsh of 20655 Smallwood Court questioned the content of the first draft of the Master Plan. He expressed the view that the Master Plan project may be driven by LSL. Walsh would like more information to verify that the Village is having problems with aging structures and small lot size.

Frank Worrell of 32123 Bellvine Trail suggested that Council go back to the original bid for the Master Plan review and proceed from there.

Bunker Kelly of 21526 Corsaut Lane commented on the timing of the original proposal to update the Master Plan and the status and scope of the current project.

### **PUBLIC COMMENTS**

None

### **REPORTS – MANAGER**

Spallasso reported on construction projects in the Village. Concrete repairs are complete throughout the Village and the resurfacing project is winding down. The water main replacement contractor has been concentrating on restoration of the areas disturbed by the project. The contractor will continue the installation of new pipe.

Consumers Power Company is doing line repairs on a deteriorated 12” high pressure gas line along 14 Mile Road from the west Village limit to the east side of town. Consumers Power will do restoration of affected areas.

Food Bank barrels have been placed in the municipal building lobby as part of the Village’s participation in the 2005 Oakland Press Food Drive to benefit Gleaners Food Bank of Southeastern Michigan (formerly Food Bank of Oakland County). Donations can be dropped off now until October 28 from 8 a.m. to 4:30 p.m.

The Village offices will close at noon on Wednesday, October 26<sup>th</sup> for in-house training. Spallasso reminded everyone that the Halloween Hoot will take place in Beverly Park on Sunday, October 23.

In answer to an inquiry, Spallasso stated that Director Woodard held a meeting with some of the Allerton residents last Friday to work on resolving parking issues.

Village Attorney Ryan corrected a misstatement he made at the October 4, 2005 Council meeting regarding when new council terms will take effect in 2006. All seven council terms will expire in November of 2006. Terms of the newly elected Council members will take effect on the Tuesday following the November 7 election. Council may want to consider adding an organizational meeting to its meeting schedule for 2006 to be held on Tuesday, November 14 for the purpose of swearing in new Council members and electing a president and president pro-tem.

**COUNCIL**

Pfeifer stated that BASCC will be offering free flu immunizations to seniors at its facility on Tuesday, October 25 between 9 a.m. and 1 p.m. The Birmingham Area Cable Board will meet tomorrow morning, October 19 at 7:45 a.m. Pfeifer remarked that she has the greatest confidence in Village administration.

Burry encouraged everyone to come and enjoy the Halloween Hoot this Sunday in Beverly Park.

Woodrow voiced his confidence in Beverly Hills administration as well as the Village Boards and committees that advise Council.

Woodrow has heard from residents that recent campaign literature has indicated that Beverly Hills has overcharged its residents by 380% on their water bills, and they want to know when they will receive their refunds.

Walsh referred to chapter 42.18 (c) of the Municipal Code which states, “A person shall not deposit, or cause to be deposited snow, ice or slush onto or across a roadway or the shoulder of the roadway.” She suggested that residents be reminded in the next issue of the Villager newsletter that Beverly Hills has an ordinance governing how to deposit snow.

Taylor thanked administration for providing information to Council for tonight’s meeting on short notice. Taylor stated that it has been published that Oakland County will be spending in excess of \$10 million on road improvements over the next ten years. People can obtain more information on this topic online at [www.rcocweb.org](http://www.rcocweb.org).

Motion by Pfeifer, second by Koss, to adjourn the meeting at 11:42 p.m.

Motion passed (7 – 0).

**Dave Taylor**  
**Council President**

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

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