

Present: President Stearn; President Pro-Tem Koss; Members: Berndt, Briggs, Mooney, Oen and Peddie

Absent: None

Also Present: Manager, Wilson
Assistant Manager, Marshall
Director of Public Safety, Woodard
Village Attorney, Ryan
Building Official, Byrwa

President Stearn called the regular Council meeting to order at 7:30 p.m. The Pledge of Allegiance was recited by those in attendance.

ADDITIONS TO AGENDA/APPROVE AGENDA

Motion by Oen, second by Berndt, to approve the agenda as published.

Motion passed (7 – 0).

PUBLIC COMMENTS

Rukni Abboud of 18207 Gould Court, related an incident that occurred this past weekend when a family member needed emergency medical attention. He commended the Public Safety Department, particularly Sgt. Barch and PSO Chickensky, on their quick response and professionalism in handling the emergency.

Marcia Gershenson, Oakland County Commissioner congratulated the newly elected Council members and looks forward to working with them over the next couple of years. Gershenson reminded the Village that there are organizations focused on helping local governments deal with budget issues. Dave Boerger from SEMCOG (Southeastern Michigan Council of Governments) works with communities to address financial challenges. Another program, Partnership For Change for Sustainable Communities (PFC), has over \$150,000 in grant money for professional services and technical assistance that will be awarded to combinations of municipalities that have agreed to work together for productive changes and shared services. There is a real trend towards collaboration. Gershenson reminded Council that Oakland County has a specific fund for communities that want to engage in a study to determine if sharing of services is feasible.

Gershenson recently learned of a Michigan Citizen Core Grant program focused on increasing domestic preparedness in our communities. Oakland County received a grant to provide money to community organizations such as the neighborhood watch or volunteers in police and fire and emergency response teams.

The Oakland County Parks Fridge, a winter thrill ride in Waterford, is open; interested individuals can contact Oakland County Parks. Registration is open for people over 50 who are interested in the Senior Olympics. Gershenson reminded people that they can get a flu shot at the Oakland County Health Division on Greenfield Road for \$11. She wished everyone a happy holiday.

Kathleen Berwick of 31381 Kennoway Court expressed concern that the Village of Beverly Hills pays half the cost of the Birmingham School liaison officer with the other half paid by Birmingham Public Schools. She listed a number of surrounding communities, whose residents attend Groves High School, that do not contribute to the school liaison officer expenses. Berwick stated that her comments also apply to donations to the Birmingham Youth Assistance Committee. She believes that the school districts should pay for this service.

CONSENT AGENDA

Motion by Mooney, second by Berndt, to approve the consent agenda as published:

- a. Review/consider approval of regular Council meeting minutes of November 18, 2008.
- b. Review and file bills recapped as of Monday, November 24, 2008.

Motion passed (7 – 0).

BUSINESS AGENDA

Resident Matthew Vogel has formed two hockey organizations, both incorporated in the Village of Beverly Hills, and is seeking a gaming license from the State of Michigan in order to do fund raising. He requested that Council adopt two resolutions recognizing his organizations as being incorporated in the Village. Appropriate documentation has been provided for both organizations.

Matthew Vogel was present and explained that he would like to sponsor a casino fund-raising event that requires a license from the State. This Millionaire's party license will allow him to hold a charity card game to raise money for youth hockey.

Motion by Mooney, second by Oen, that the 99 Southfield Warriors Booster Club of Beverly Hills, County of Oakland, be recognized as a nonprofit organization operating in the community for the purpose of obtaining charitable gaming licenses.

Roll Call Vote:

Motion passed (7 – 0).

REVIEW AND CONSIDER RESOLUTION RECOGNIZING THE 00 SOUTHFIELD WARRIORS BOOSTER CLUB AS A NONPROFIT ORGANIZATION

Motion by Mooney, second by Oen, that the 00 Southfield Warriors Booster Club of Beverly Hills, County of Oakland, be recognized as a nonprofit organization operating in the community for the purpose of obtaining charitable gaming licenses.

Roll Call Vote:

Motion passed (7 – 0).

PUBLIC HEARING FOR REZONING REQUEST OF LOT #5 GOULD COURT

The Beverly Hills Club (BHC) has submitted a request to the Village to rezone Lot #5 of Gould Court from R-3 single family residential to P-Parking district. The vacant property is situated behind the McDonald's restaurant and adjacent to the Beverly Hills Club, both of which front Southfield Road. The proposal is to rezone the lot for the development of a surface parking lot to be utilized by health club employees.

Council will be considering only the rezoning of property. A site plan has been submitted by the applicant for reference. If the rezoning request is approved, Council would authorize the preparation of an ordinance to amend the zoning map. There would be two readings of the ordinance amendment before adoption. Any site plans shown pertaining to this rezoning are not relative because site plan review is not before Council at this time.

President Stearn opened the public hearing on the rezoning request at 7:47 p.m.

Rukni Abboud of 18207 Gould Court read a letter dated December 1, 2008 from his parents Souad and Selim Abboud, who reside at 18199 Gould Court. They oppose any rezoning to Lot #5 of Gould Court. The main reasons for not wanting a parking lot two doors down from their home are as follows: public safety issues, noise pollution, decrease in property value, air pollution, intrusive lighting, water run-off, littering and loitering. The Abbouds thought that the lot should be used for a single family residence and urged Council to deny the request to convert Lot 5 into a parking lot.

Rukni Abboud presented his reasons for objecting to the rezoning and parking lot proposal. Council members are in receipt of a packet of material outlining his presentation. Abboud referred to various photographs taken of the BHC lot; there are also pictures of Lot #5 in its current state and what it could look like if it were rezoned. Abboud argued that there is ample parking in the area that could be used by BHC.

Abboud presented highlights from LSL Planning consultant review letter of 9-17-08 and a 10-15-08 review letter regarding proposed ingress and egress on the site. He recapped what transpired at the September and October Planning Board meetings at which time this proposal was reviewed. A Planning Board public hearing was held at the September meeting.

Abboud outlined Zoning Board of Appeals meeting (July 11, 2008) highlights with respect to Case #1206, at which time the Board was called upon for an interpretation, decision, and/or variance from the Zoning Ordinance relative to parking requirements at the Beverly Hills Club. The Club was granted a variance that allowed them to construct an interior yoga studio addition contingent on maintaining at least 147 parking spaces and a requirement to maintain a lease with an adjacent property owner to provide at least 30 additional parking spaces. Abboud contends that studies show that BHC has ample parking space for its customers. He questioned why the Village is moving forward with this request for rezoning to provide additional parking.

Other exhibits put forward by Abboud related to emergency access management on Gould Court; Ordinance section 22.09.010 Intent of Rezoning; Ordinance Section 22.08.290 Site Plan Review; Ordinance Section 22.08.270 Easements; and parking lot options. Abboud concluded by citing why Gould Court residents want to keep Lot #5 residential:

- We do not see value to the Village of Beverly Hills or the residents of Gould Court by adding a parking lot at the front end of our private and residential street.
- No unusual case of hardship posed by BHC, therefore no rezoning should be granted.
- The request would be a hardship to the residents of Gould Court.
- This is precedent setting for commercial property to request rezoning in a residential area.
- All Gould Court residents oppose the request.

- This rezoning proposal seems like a takeover of residents' rights.
- The owner of Lot #5 has never tried to sell the lot as a residential property.
- BHC demonstrated that ample parking exists; the ZBA and Council approved the yoga studio addition; the proposed parking lot will not provide 30 parking spaces.

Nibras Abboud stated that he recently purchased the house at 18189 Gould Court abutting Lot #5. He opposed rezoning the property for use as a parking lot and said that he would buy Lot 5 if he had the opportunity. He would like to keep the lot vacant.

Stephen Satovsky, Beverly Hills Club owner, stated that he is present seeking approval to rezone Lot #5 on Gould Court from R-3 residential to P-Parking. The BHC is proposing to rezone this lot in an effort to be proactive in heeding a Council condition on site plan approval for a yoga studio addition to maintain an additional 30 parking spaces at an adjacent property. The BHC currently has a lease with McDonald's for use of 30 parking spaces. Satovsky became concerned about where that parking would be located if McDonald's ceased to exist at its current site. He intends to purchase Lot #5 of Gould Court from property owner Arthur Stoll.

A site plan was distributed to Council for reference only. The current proposal for the lot shows 19 parking spaces to accommodate a 15 foot landscaped buffer on the property. Satovsky stated that BHC submitted two site plans, one with access to Lot 5 from McDonald's and the other using Gould Court. Stearn remarked that using Gould Court would be problematic due to the condition of the one-lane private street.

Satovsky explained that Peter Vestevich owns the McDonald's property and leases it to the operator of the store. Satovsky talked to Vestevich about purchasing property for access to Gould Court. Mr. Vestevich could not commit to the sale of property because the lease with McDonald's does not expire until 2013. He cannot make a decision now that will impact the disposition of his property if McDonald's does vacate the building.

Satovsky informed Council that he is undertaking this property purchase and rezoning strictly as an insurance policy based on a requirement imposed on the club by Council. The property would be purchased and land banked because the BHC may never need to use it as a parking lot. Should the BHC obtain approval of the rezoning, they would prove to the neighbors of Gould Court that they are good partners. The Club would pay its pro rata share to maintain Gould Court.

Satovsky stated that the proposed parking lot abuts the club and would only be used by employees. The lot would be accessed with a key card, and BHC would monitor the lot with a camera. The site plan provides a 15' landscape buffer to meet ordinance requirements.

Satovsky affirmed that the Club is attempting to avert a situation where McDonald's closes and the Village of Beverly Hills locks up the studio because BHC is nonconforming without the 30 additional parking spaces leased from McDonald's. That would be a hardship on their business. He suggested that the Council rescind the condition and decide that BHC has demonstrated that it does not need to maintain those 30 extra spaces. Satovsky assured Council that he would not end the lease for 30 spaces with McDonald's if that were to occur. In response to an inquiry, Satovsky said that it was the plan of BHC to purchase the property and leave it vacant at this time.

Paul Kleppert of 20855 W. 14 Mile Road asked if the Village would shut down part of the BHC operation if McDonald's were to leave and void the parking agreement with the facility. Stearn responded that it was likely that the Beverly Hills Club would have to come back to the Council or ZBA and ask for a variance from parking ordinance requirements.

Kathleen Berwick of 31381 Kennoway Court criticized the Village for allowing construction of the small building on Southfield Road that now houses a deli.

Brad Strader from LSL Planning was present to answer questions in terms of options or consequences with respect to this rezoning proposal.

Satovsky asked Council if it would consider removing its condition to maintain a lease, license or other parking arrangement with an adjacent property owner to provide at least 30 additional parking spaces. Stearn responded that this would be a discussion for another time.

No one else wished to be heard; the public hearing was closed at 8:24 p.m.

REVIEW AND CONSIDER REZONING LOT #5 ON GOULD COURT FROM R-3 SINGLE FAMILY RESIDENTIAL TO P-PARKING

Before Council for consideration is a request from the Beverly Hills Club to rezone Lot #5 of Gould Court from R-3 single family residential to P-Parking district. At its September 24, 2008 meeting, the Planning Board conducted a public hearing on this rezoning request. The Planning Board recommended approval of the rezoning by an 8-1 vote on October 22, 2008.

Motion by Oen, second by Mooney, that the Village of Beverly Hills Council direct administration to prepare an ordinance to amend the Zoning Map to rezone Lot #5 of Gould Court from R-3 single family residential to P-Parking.

Council discussed the rezoning request and concurred that it was a difficult decision. Their deliberation took into account the property rights of residents to enjoy the use of their property and the expectation that the home they purchased would remain in a residential area. The point was made that property owners also have the right to profit from their property.

It was recognized that Council approved the BHC yoga studio addition with the condition that they maintain 30 additional parking spaces. BHC was commended for being proactive in attempting to acquire property for future parking needs. Gould Court is in the midst of a commercial area; the ultimate use of the land in future years was questioned. Gould Court is a street that is bordered on the north by quasi-commercial property; on the west by a school, and; on the east by commercial property. Council members focused on considering the best interests of the entire Village.

Rukni Abboud stated that he will be considering his legal recourse depending on the vote tonight.

Ryan understood that this was a difficult issue for Council. This is an unusual circumstance involving a nice residential neighborhood and a vibrant commercial user. He has conferred with building official Dave Byrwa and Planner Brad Strader on a number of variables. This is not the

cataclysmic event that the Gould Court people believe it is for the reason that this is a land banking situation. Council does not know what occurred in the past as to whether Mr. Stoll offered to sell the property to Gould court residents. If the Beverly Hills Club purchases the lot and does not need to land bank the property in the future, they may want to be good neighbors and sell the land to a resident of Gould Court. The BHC is being proactive in attempting to avert a potential problem that will impact their business. If the property is rezoned, it is not likely to be developed in the near future.

Stearn questioned the length of time before an approved site plan expires. Strader responded that a site plan expires after one year, but the applicant can ask for an extension.

Roll Call Vote:

Stearn	- no
Berndt	- yes
Briggs	- no
Koss	- yes
Mooney	- yes
Oen	- yes
Peddie	- no

Motion passed (4 – 3).

REVIEW AND CONSIDER SUBCOMMITTEE’S RECOMMENDATION TO FILL VACANCY ON THE FINANCE COMMITTEE

Mooney reported that a subcommittee of Council met earlier this evening to recommend an applicant to fill a vacancy on the Village Finance Committee. Committee members consisting of Berndt, Briggs and himself interviewed three candidates and voted unanimously to recommend the nomination of Paul Kleppert to fill the vacancy on the Finance Committee.

Motion by Mooney, second by Briggs, to appoint Paul Kleppert to the Village Finance Committee for a term to expire on June 30, 2010.

Stearn thanked all three individuals for submitting applications to serve on this committee and encouraged them to remain involved in the community.

Motion passed (7 – 0).

REVIEW AND CONSIDER DIRECTING ADMINISTRATION TO SEEK PROPOSALS FOR INSURANCE AGENT OF RECORD

Wilson reviewed that Council has indicated that they would consider directing administration to seek proposals for an Agent of Record for health insurance services.

Motion by Mooney, second by Oen, to direct Administration to seek proposals from agencies to serve as the Village’s Agent of Record for health insurance services.

Stearn asked Wilson if administration had a position on this matter. Wilson responded that he is familiar with the services that Ibex Insurance Agency provides. While there was good communication between Ibex and administration, it has been pointed out that there was a lack of communication between Ibex and the Council. Wilson has discussed the matter with finance director Wiszowaty and former manager Spallasso. Ibex has done a good job for the Village, and we have had a long standing history with Ibex. If Council is not pleased with what has transpired in the past with Ibex, that can be corrected.

There are other companies that could provide this service. If the Village is going to change agents, this is the time to do it. Labor contracts expire on December 31, 2009, and the bargaining process is likely to begin early in 2009. Health care will be at the forefront of those negotiations. Council needs to have an agent on board and bring them up to speed on the situation with current employees and retirees as well as begin communication with Council on their expectations for the negotiations.

Mooney withdrew his motion.

Motion by Mooney, second by Peddie, to direct administration to prepare a report to Council on the pros and cons of seeking Requests for Proposals for a new agent of record for health insurance services for consideration at the next Council meeting.

Council discussed the motion. There were members of Council who were satisfied with the level of service provided by Ibex and did not want to end that relationship at this time. There was agreement that there is a need to improve communication between the insurance agent and Council. It was also the consensus of Council to monitor a provider to ensure that the Village receives good value and good service. If our agent is not delivering, it makes sense to make a change.

Other members of Council thought that it was important to examine all options, and there was no structure to compare and evaluate services without seeking proposals from a number of companies. A report from administration would be an extra layer.

Roll Call Vote:

Berndt	- no
Briggs	- yes
Koss	- no
Mooney	- yes
Oen	- no
Peddie	- yes
Stearn	- no

Motion fails (4 – 3).

Motion by Berndt, second by Mooney, that Council direct Administration to draft and distribute Requests for Proposals for an Agent of Record for Village health insurance services.

Roll Call Vote:

Briggs - yes
Koss - no
Mooney - no
Oen - yes
Peddie - no
Stearn - yes
Berndt - yes

Motion passed (4 – 3).

REVIEW AND CONSIDER RESOLUTION REFERRING INVESTMENTS TO THE RETIREMENT BOARD FOR OVERSIGHT

During the presentation of the audit report for FY 2007/2008, it was recommended that the Retirement Board provide oversight of the retiree health care fund. Wilson mentioned that this was brought up by the Retirement Board at its meeting of November 25, 2008.

Motion by Briggs, second by Mooney, that the Village of Beverly Hills Council direct the Retirement Board to provide oversight of the Retiree Health Care Funds as part of their quarterly meetings.

Motion passed (7 – 0).

PUBLIC COMMENTS

Paul Kleppert referred to a November 9, 2008 article in the Birmingham Eccentric newspaper about Detroit Country Day School. In celebration of its 100th Anniversary, DCDS is gearing up for the largest capital campaign in the school's history with the hope of raising \$60 million. Kleppert recalled a discussion the Village had with the Headmaster in 2007 in conjunction with a site plan review for their current project, which is the construction of a gymnasium and fitness center. The School was required to construct sidewalks along the perimeter of the campus in accordance with the Village ordinance. The school has told Beverly Hills that they can't come up with any money for the sidewalk, yet they are anticipating a \$60 million expansion. DCDS has taken the Village to court over installing that sidewalk.

Kleppert recalled that the Headmaster indicated to Beverly Hills a year ago that there was nothing more in the future that would happen to the site as far as he knew. There was a rendering of the site plan for the proposed expansion published in the Eccentric article. The campus will extend to the Southfield border, and more homes will be taken off the Beverly Hills tax rolls. Kleppert hopes that the Village stands together and makes sure that DCDS does something for this Village for a change.

Kathleen Berwick of 31381 Kennoway Court complained that there was no site plan displayed for the benefit of the audience during discussion of the Gould Court rezoning issue. Berwick referred to last year's budget document and pointed out items that need updating in the community profile section.

Sharon Tischler of 21415 Virmar Court understood that the Detroit Water and Sewer Department (DWSD) is proposing a 10%-17% increase in water rates to the suburbs. There has been emphasis on conserving water and restricting flow of water into the sanitary sewer. It appears that costs are going up because of conservation. The municipalities are not buying as much water from Detroit, so they have to raise prices to make money to maintain their operation.

REPORTS – MANAGER

Wilson commented that a change in meeting format discussed by Council was implemented at tonight's meeting. Improvements to the flow of the meeting will be made; Council should feel free to provide feedback.

Based on recent Council study sessions to discuss Village finances, the Manager's report includes the monetary impact of budget cuts that were considered and what they would total on a department basis. These adjustments would produce a total savings of \$488,000-\$502,000 by means of cuts that are being examined. The figures have been relayed to the appropriate department heads with direction to examine their budgets and report back on what activities can be undertaken to reduce their department by the amount indicated. Council can then review what the changes will entail and decide on a preferred course of action.

Last month, recycling bins were offered at a discount rate to encourage resident participation and the Village's rate of recycling in the community.

Stearn related that a resident called with a complaint that the streets are being plowed when the Village is trying to save money. Stearn suggested that the policy for plowing and salting streets by the DPW be re-evaluated.

REPORTS – COUNCIL

Briggs reported on the Retirement Board meeting held on November 25 noting that it was a difficult economy for our retirement funds. The money managers are doing a commendable job of keeping our funds as stable as they can. Hopefully, the economy will turn around over the next couple of years.

Winter Family Fun Day is coming up on Sunday, January 25 in the park from 1-4 p.m. The December meeting of the Parks and Recreation Board has been canceled. Briggs thanked the election workers who labored late into the evening, partly due to his write-in candidacy.

Mooney welcomed Paul Kleppert to the Finance Committee. The next meeting of the Finance Committee will be held on Tuesday, December 9 at 7 p.m. At the direction of Council, Mooney reviewed a number of statements contained in a flyer published by the Eagle Newspaper including allegations that Council and Administration have misled the public, mismanaged public funds, failed to protect the Villagers, and taken other inappropriate actions. The Village Council proposed that an independent investigation of these charges should be conducted by the Finance Committee. Mooney read the written direction he drafted for the Finance Committee to investigate six specific allegations. He thought that the Village should be in a position to rebut what are essentially accusations of criminal action by Council.

Berndt welcomed Paul Kleppert to the Finance Committee.

Oen observed that there seems to be fences going up in the Village. Residents considering home improvements should call the Village office to determine if they need a permit. There will be no Planning Board meeting in December.

Stearn reminded people to check the batteries in their carbon monoxide detectors. He announced that there is a coat drive going on at Village Hall.

Motion by Mooney, second by Oen, to adjourn the meeting at 9:28 p.m.

Motion passed (7 – 0).

Todd Stearn
Council President

Ellen E. Marshall
Village Clerk

Sue Bernard
Recording Secretary