

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

Absent: None

Also Present: Manager, Wilson  
Assistant Manager, Marshall  
Finance Director, Wiszowaty  
Building Official, Byrwa  
Public Safety Director, Woodard

President Stearn 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**

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

Motion passed (7 – 0).

#### **PUBLIC COMMENTS**

Marcia Gershenson, Oakland County Commissioner, announced that SEMCOG (Southeastern Michigan Council of Governments) is starting a car pooling program for communities. Flyers with additional information will be available at the Beverly Hills and Southfield Township Clerks' offices. Gershenson informed Council that consultant Dave Boerger from SEMCOG is available to do a public presentation in Beverly Hills on the topic of financial challenges and how to improve the effectiveness of local government.

Gershenson stated that West Bloomfield has started two citizen based non-profits that are raising money to help residents with financial difficulties. She is available to continue her discussion with interested Beverly Hills residents about starting a non-profit organization. Gershenson announced that there is an opening at the Oakland County Division of the Michigan Department of Human Services for a citizen appointment. There is also an opening for a member of the general public on the Community Mental Health Board.

Sheila Brice, Community Service Organizer at Groves High School, was present on behalf of the Senior Class to alert Council that their invitations for the Senior Seminar will be arriving electronically. Brice announced that the 23<sup>rd</sup> recipient of the Distinguished Alumni Award by the 2009 graduating seniors will go to Adam Szykiel from Beverly Hills. He was a National Merit Scholar and graduated from the University of Southern California film school. Szykiel was the screenwriter for the romantic comedy Made of Honor. Adam Szykiel will travel from his home in Los Angeles to deliver the keynote address at the 29th annual Senior Seminar at 8:30 a.m. March 19, at Temple Beth El in Bloomfield Township.

On behalf of GHS administration, Brice recognized the positive impact of the professionalism and involvement of the school liaison officers at Groves High School this school year. She thanked prior officer Mike Miles and current officer Chad Trussler. They worked with our

students to help them act responsibly, settle disputes peacefully, and develop problem solving skills. Parents, students and staff are appreciative of this support.

Rukni Abboud of 18207 Gould Court recognized the Village building department and particularly building official Dave Byrwa for his long term dedicated service to the community.

Robert Walsh of 20655 Smallwood Court questioned the status of the dispatch labor contract. Manager Wilson responded that the Village is awaiting the arbitrator's decision.

Sharon Tischler, Township Clerk, announced that Southfield Township will be offering free document shredding on Saturday, May 2 at the municipal building parking lot. It will be offered again in October.

### **CONSENT AGENDA**

Motion by Oen, second by Briggs, to approve the consent agenda as published:

- a. Review/consider approval of minutes of joint Council/Planning Board meeting on February 11, 2009.
- b. Review/consider approval of minutes of regular Council meeting of February 17, 2009.
- c. Review and file bills recapped as of Monday, March 2, 2009.

Motion passed (7 – 0).

### **BUSINESS AGENDA**

#### **REVIEW AND CONSIDER REQUEST FROM KENSINGTON BIRMINGHAM CHURCH TO HOLD ANNUAL EASTER EGG HUNT AT BEVERLY PARK ON SATURDAY, APRIL 4, 2009**

Members of Kensington Birmingham Church have requested to host the Village's annual Easter Egg Hunt in Beverly Park on Saturday, April 4 from 1–3 p.m. The event is open to all members of the community. A Certificate of Liability Insurance has been provided to the Village by the Church.

Motion by Berndt, second by Koss, to approve the request of Kensington Birmingham Church to conduct an Easter Egg Hunt in Beverly Park on Saturday, April 4, 2009 from 1:00–3:00 p.m. Pavilion rental fees are waived, and the Village will provide four port-o-johns for the event.

Roll Call Vote:

Motion passed (7 – 0).

#### **REFER SITE PLAN REQUEST FROM DETROIT COUNTRY DAY SCHOOL TO THE ZONING BOARD OF APPEALS**

Motion by Mooney, second by Koss, to table action on the site plan submission of Detroit Country Day School pending the outcome of litigation between the applicant and the Village.

Motion passed (7 – 0).

**REVIEW AND CONSIDER REQUEST FROM BERKSHIRE DAD’S CLUB FOR USE OF VILLAGE STREETS AND SIDEWALKS FOR FUN RUN**

The Village is in receipt of a request for a 5K run from the Berkshire Middle School Dad’s Club. The run will take place on May 2<sup>nd</sup> beginning at 7:00 a.m. They have submitted the necessary paperwork including proof of liability insurance. Council was provided with a map designating the proposed route. Village administration has reviewed the request and recommended approval.

Motion by Mooney, second by Koss, to approve the request by Berkshire Middle School Dad’s Club for a 5K run on Saturday, May 2<sup>nd</sup> 2009 as submitted.

Kathleen Berwick of 31381 Kennoway Court stated that, as a proponent of safety paths, she is concerned with the safety aspect of a run on Village streets where there are no sidewalks.

Director Woodard commented that the shoulder along that portion of Fourteen Mile Road before the runners enter the subdivision is sufficiently wide. Public safety patrol cars will be in the area.

Motion passed (7 – 0).

**FIRST READING OF AN ORDINANCE ADDING CHAPTER 44 LANDLORD’S LICENSE TO THE MUNICIPAL CODE**

Before Council for a first reading is an Ordinance to Amend the Village of Beverly Hills Municipal Code by Adding Chapter 44, Landlord’s License. Village Attorney Ryan summarized the content of the ordinance. The purpose of a landlord’s license would be to protect the public health, safety and welfare in buildings intended for human habitation and accessory structures. The code would establish minimum standards, fix responsibility, and provide for administration, enforcement and penalties. This provision would apply to all existing structures and any new building construction.

The definition section defines the term “rental unit” and “landlord”. Other paragraphs address limits on remedy and application fee, which shall be established by Council resolution. Section 44.04 talks about issuance of a license, its revocation and appeal. It provides a criteria under which the building official will issue a license. Section 44.05 addresses inspections by the building official. There is a penalty provision, severability clause, and an effective date.

The standard effective date is 20 days after publication of the ordinance. Administration is requesting that the effective date be changed to July 1, 2009 so that budgetary considerations relative to the building department can be discerned by Administration and Council.

Council members commented on the proposed ordinance. It was noted that there is an increasing number of homes for rent in the Village. The purpose of the ordinance is to assure that a dwelling meets minimum safety standards. In answer to an inquiry, Ryan clarified that the proposed ordinance would apply to all residential rental units in the Village. Council agreed to changing the effective date to July 1, 2009 in order to address administrative matters and establish licensing fees.

Stearn expressed the view that this ordinance is not needed, and he will vote against it.

Cynthia Crane, resident of Huntley Square Apartments, stated that she is employed at the Huntley Square office by Hartman & Tyner Corporation. She questioned why the landlord/tenant ordinance was brought back for Council consideration. Crane understood that all communities in Michigan are experiencing more rental units and that there is a need to maintain the value of property. The issue of privacy was voiced by Huntley Square Apartment tenants the last time this ordinance was considered. Residents said that Huntley Square was doing a good job of maintaining the units and grounds.

Crane provided background and history on the Huntley Square Apartments. Hartman & Tyner is experienced in property management and maintenance, and there is a comprehensive maintenance plan in place. Crane talked about the process of conducting inspections of the property and units and assessing daily maintenance and repair issues. There is a formal inspection procedure followed before an apartment is turned over to a new renter. Crane affirmed that Huntley Square has a high rate of retention and a low vacancy rate.

Crane stated that Hartman & Tyner Corporation formally requests that the language in the proposed ordinance be modified to exclude multi-family dwellings. They do not believe that there is a need to include Huntley Square Apartments in this ordinance based on the fact that the property has been well maintained for over 24 years.

Kathleen Berwick of 31381 Kennoway Court expressed the opinion that the Village should not consider adopting another ordinance when the existing ordinances are selectively enforced.

Hildreth Buterbaugh of Dunblaine thought that this might be a situation where Council is trying to fix a problem that does not exist.

Gary Foster, Director of Operations at Huntley Square Apartments, questioned what has changed since he appeared before Council about two years ago regarding a proposed landlord/tenant ordinance. He thought that the Council rejected the ordinance at that time.

Stearn responded that this is a new Council. Further, the economy is such that there has been an increase in the number of rental properties in the Village.

Briggs related that he knocked on a lot of doors while running for Council. Many residents commented on the growing number of rental properties on their streets and expressed concern about the condition of those properties. He thinks it is warranted to look at this matter again.

It was Foster's contention that the Village has ordinances in place that would address Council's concerns. He did not think that another layer of government was the answer to maintaining rental properties.

Motion by Stearn to remove multi-family structures from the definition section of the proposed ordinance to eliminate multi-family structures such as Huntley Square Apartments.

Motion failed for lack of support.

A second reading of the ordinance amendment will be held at the next regular Council meeting. There was a consensus of Council to designate July 1, 2009 as the effective date for adoption of the landlord/tenant ordinance.

**RECONSIDER ACTION TAKEN ON FEBRUARY 3, 2009 REGARDING ORDINANCE #329 AMENDING CHAPTER 22 OF THE MUNICIPAL CODE – ZONING MAP**

At its last regular meeting, Council approved a request to reconsider the vote on Ordinance #329 taken at the Council meeting of February 3, 2009, at which time a motion to rezone property failed by a vote of 3-3. The ordinance would have amended Chapter 22 of the Municipal Code and would have the impact of rezoning Lot #5 of Gould Court from R-3 Residential to P Parking.

Motion by Mooney, second by Oen, that the Village of Beverly Hills Council resolve to adopt Ordinance No. 329, An Ordinance to Amend the Village Municipal Code, Chapter 22, Zoning Ordinance for the Village of Beverly Hills, specifically its Zoning Map. The Zoning Map is amended to read as follows: Lot #5, Gould Court, Sidwell No. 24-02-427-005 Crystal Springs Subdivision, shall be rezoned from R-3 to P-Parking, and the Zoning Map of the Village of Beverly Hills shall thereby be amended.

Theodore Peterson of 18215 Gould Court said that he has filed claim to Lot #5 by means of adverse possession. His family has been on Gould Court for over 60 years. Peterson recapped the history of construction along the Southfield Road commercial district. He is opposed to rezoning Lot #5 for parking, which would result in a public parking lot on a private street.

Nabras Abboud of 18189 Gould Court stated that he was against the rezoning of Lot #5 and wants the lot to remain residential. He opposed the rezoning to parking for the following reasons: safety and security compromised, noise pollution, water runoff issues, loitering, decreased property values, privacy and trespassing. He asked that Council vote against the motion.

Julia Lambden of 18215 Gould Court stated that the residents maintain the street, and they would like the private road to remain as it is now. She objected to the rezoning proposal.

Nancy Abboud of 18207 Gould Court stated that she does not want Lot #5 rezoned to a parking designation on the basis that it would impact the four homes on the street, property values, and the security of the environment. It would not benefit anyone.

Rukni Abboud of 18207 Gould Court stated that problems that would be experienced on Gould Court if the rezoning were approved are as follows: public safety issues, water run-off, emergency issues, air pollution, noise pollution, obtrusive lighting, decrease in property value, loitering, and littering.

Abboud related background of Planning Board and Zoning Board of Appeals meetings pertaining to the site plan review of an interior addition to the Beverly Hills Club and a subsequent request from the club to rezone Lot #5 of Gould Court. The athletic 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 objected to Council moving

forward with a rezoning request for Lot #5 for the purpose of providing additional parking for the Beverly Hills Club.

Abboud stated that all Gould Court residents object to the rezoning proposal. He made several points in support of retaining the R-3 Zoning. The Village benefits more from taxes on property zoned residential than property zoned for parking. Abboud related that he did research and compiled a number of documents that have been submitted to the Village showing why the property should not be rezoned.

Howard Satovsky from the Beverly Hills Club displayed a recorded deed that indicated that Mr. Peterson does not own Lot #5 of Gould Court. He commented on action taken by Village bodies in response to a request for a yoga studio addition to the athletic club and to a request that would rezone Lot #5 of Gould Court to P-Parking. The Beverly Hills Club is requesting rezoning of the property for the development of a surface parking lot to be utilized by its employees.

Roll Call Vote:

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

Motion passed (4 – 3).

**REVIEW AND CONSIDER PURCHASING RECORDING/TRANSCRIPTION EQUIPMENT**

Clerk Marshall and Ms. Bernard have researched digital conference recording and transcription equipment to replace an unreliable analog system that has required intermittent repair for a few years. The Clerk and recording secretary recommend the purchase of the Philips 955 Conference Recording and Transcription System from DSS Corporation of Southfield in the amount of \$1,327. The Birmingham Area Cable Board has agreed to contribute \$650 toward the purchase of this system. The resulting cost to the Village would be \$677. Manager Wilson said that he has reviewed the proposal and was in agreement with the recommendation for replacement of the current equipment.

Motion by Mooney, second by Koss, to approve the purchase of one Philips 955 Conference Recording and Transcription system from DSS Corporation of Southfield in the amount of \$1,327 with \$650 of the cost offset by a contribution from the Birmingham Area Cable Board.

Roll Call Vote:

Motion passed (7 – 0).

**REVIEW AND CONSIDER RENEWAL OF PROFESSIONAL COMPUTER CONSULTANT SERVICES WITH ENTERPRISE COMPUTER**

Village administration has received a proposal from Enterprise Computer Solutions for pre-paid professional services in the amount of \$1,900. Enterprise has provided quality work for the Village for some time and is familiar with the Village's IT operations. This proposal has been reviewed by Village Administration and is believed to be in the best interest of the Village.

Motion by Mooney, second by Peddie, to approve the purchase of pre-paid services from Enterprise Computer Solutions in the amount of \$1,900.00. Funds for this request are available in account #100-900-976.00.

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

**REVIEW AND CONSIDER TCO #038-SS-09 CHANGING YIELD SIGNS TO FOUR-WAY STOP AT LOCHERBIE AND BIRMINGHAM**

Wilson related that Administration was directed some time ago to investigate the traffic situation at Birmingham and Locherbie due to concerns over traffic and pedestrian safety. There are currently yield signs in that area. Administration reviewed this item, and Public Services Director Meszler prepared Traffic Control Order (TCO) 038-SS-09 recommending the installation of four traffic stops at this intersection making it a 4-way stop.

Koss stated that she brought her concerns about this intersection before Council without taking into consideration that the Bates and Locherbie quadrant mirrors the same situation. Residents have suggested that safety concerns would be an issue if a 4-way stop were not installed at Bates as well. There are a lot of young children in the area. Koss proposed voting on the TCO before Council tonight but that consideration be given to the Bates and Locherbie option at an upcoming meeting. Peddie commented that she would be in favor of adding a 4-way stop at Bates and Locherbie.

Mooney suggested that it would be appropriate to place consideration of a 4-way stop at Bates and Locherbie on another Council meeting agenda so people could voice their concerns. He noted that problems with regard to stop signs and yield signs on the east side of the Village have been ongoing for years.

Briggs questioned the process followed by residents who have concerns over the safety of an intersection. Wilson responded that residents should contact Village Administration or the Public Services Director. Past practice has been to instigate a traffic study for certain areas to determine whether installation of devices are warranted.

Stearn questioned whether there should be a comprehensive review of signage on the east side of the Village before too many stop signs are installed. Mooney remarked that there have been studies in previous years. Typically, the Village refers a concern to the Traffic Improvement Association of Oakland County for review and report back to Council.

Wilson concurred that the Village should not be installing 4-way stops by complaint only; there should be an objective approach. He did not disagree with the need for a 4-way stop for this particular intersection or the need to investigate the Bates and Locherbie quadrant.

Berndt stated that past traffic studies have shown that excessive traffic control devices tend to have a counter productive effect on vehicle speed and safety. He added that there are also studies showing that 4-way stops result in fewer accidents than yield signs. He thought that a comprehensive study was warranted.

Hildreth Buterbaugh on Dunblaine commented that there were many stop signs in the east section of the Village when he moved here in 1983. Mooney recalled that elimination of excessive stop signs in the Village was a result of traffic studies and federal funds attached to eliminating the overuse of traffic control devices.

Paul Earley of 17110 Locherbie at Bates reported that people drive excessively fast and fail to slow down at yield signs. Area residents are concerned about the danger to children from speeding motorists. Earley requested that Council initiate a 4-way stop at the corner of Bates and Locherbie. Stearn responded that Council will seriously consider this request.

Tim Mercer of 17400 Locherbie commented that he has expressed his concern to administration for five years on the issue of a 4-way stop at both Birmingham and Bates at Locherbie. He distributed a handout and explained why he thinks Council should consider approving a 4-way stop at Bates and Locherbie.

Motion by Briggs, second by Oen, to approve Traffic Control Order 038-SS-09 for the installation of stop signs on all four quadrants of the intersection of Birmingham and Locherbie.

Motion passed (7 – 0).

Administration was directed to provide Council with a proposal for a Village-wide study of traffic control devices with emphasis on Bates and Locherbie.

#### **REVIEW AND CONSIDER FINAL PAYMENT AND CONTRACT CLOSE OUT FOR 2006 BITUMINOUS RESURFACING PROGRAM**

Public Services Director Tom Meszler has submitted a request for final payment on the 2006 Bituminous Resurfacing Project. The holdup of the final payment was due to a delay in the Village receiving the necessary paperwork to close out the contract. The work has been completed and required paperwork submitted and reviewed. Village Administration is recommending final payment to close out this project.

Motion by Mooney, second by Oen, to approve final payment in the amount of \$1,000 to ABC Paving Company for the 2006 Bituminous Resurfacing Program.

Roll Call Vote:

Motion passed (7 – 0).

**ACCEPT JIM CALDER'S RESIGNATION FROM THE FINANCE COMMITTEE AND MAKE FIRST ANNOUNCEMENT OF VACANCY**

Mooney stated that Jim Calder has served the Village well both as a village manager and most recently on the Finance Committee. He has done an outstanding job of research that has assisted the Committee in their work.

Motion by Mooney, second by Peddie, to accept the resignation of Jim Calder from the Finance Committee with deep regret and make the first announcement of a vacancy on the Finance Committee.

Motion passed (7 – 0).

The deadline for receiving applications to fill the vacant position that will expire on June 30, 2011 will be Wednesday, April 1, 2009 at 4:30 p.m. Applications are available at the Village municipal building or on the Village website.

**DISCUSSION ITEM – BUDGET**

Stearn proposed setting a Council study session to address the budget shortfall. Council agreed to schedule a budget session on Tuesday, March 24 at 6:00 p.m. It was the sense of Council that the Finance Committee be invited to this meeting. Wilson said that he and Wiszowaty hope to have a proposed budget to Council by that date.

Stearn stated that Council foresaw this budget crisis a year ago and tried to forestall it by placing a millage restoration proposal on the ballot. One of the main criticisms received was that none of our neighbors were going out for millages. Stearn referred to a recent newspaper article stating that the Birmingham City Commission was talking about either raising taxes or cutting services. The City of Bloomfield Hills will place a millage proposal on the ballot to fund a \$531,000 library contract with Bloomfield Township Library. The cost to Bloomfield Hills residents will be \$326 per household compared with the \$100 per household that Beverly Hills pays for use of the Baldwin Library.

Stearn related that our property values declined by 4.5% this year. Council will get through the budget session, and Beverly Hills will be a viable village. However, there will be cuts in services, and we will be looking at a different Beverly Hills.

Stearn thought it was worth revisiting the topic of initiating a ballot proposal for a dedicated library millage. This will be an agenda item for the next Council meeting.

Wilson reported that the Public Safety Retirement System lost roughly \$5 million in the last calendar year due to market conditions. The fund had been over 100% funded, but it took a significant hit. Based on the initial assessment from our actuarial firm on the annual contribution to the pension fund, Council budgeted \$270,000 for the Village's contribution. The current estimate for next year's contribution is \$560,000. The Retirement Board has requested to meet with representatives from the Village's actuarial firm. This meeting was scheduled for Tuesday, March 10 at 6:00 p.m. in the Beverly Hills Council chamber.

**PUBLIC COMMENTS**

Rukni Abboud of Gould Court stated that he did not appreciate hearing derogatory comments about anyone's religion.

Sharon Tischler of Virmar Court commented on the issue of stops signs and speeding, noting that this concern is not unique to any particular subdivision in the Village. People look for the quickest path to get from one place to another. She commented that part of the problem is one of enforcement of the speed limit.

Jerry Sherbin of Lincolnshire said that the library is a very important issue. He suggested that there is a need for a campaign whereby people get involved and make phone calls if the Council decides to proceed with a dedicated millage proposal for the library.

Hildreth Buterbaugh expressed the view that the millage issue should be revisited and that Council should pay more attention to educating the public on the ballot proposal.

**REPORT – MANAGER**

Wilson stated that administration has a meeting tomorrow with communities impacted by proposed changes to sanitary sewer charges and a meeting planned next week with the Oakland County Water Resources Commissioner. He hopes that measures can be implemented to protect Beverly Hills residents from a forced sewer rate increase of roughly 49%.

**REPORTS – COUNCIL**

Briggs reported that the Parks and Recreation Board met this month and discussed their involvement in organizing the Memorial Day Parade and Carnival. In a desire to continue a 27-year tradition in the Village, the Parks and Recreation Board agreed to take on this event with the support of Council. This is a volunteer effort to continue an institution that actually funds itself in most years. Briggs expressed the view that community is important in times like these and getting together with neighbors is important. The Parks and Recreation Board will be working on a plan and looking for volunteers to assist them; they would appreciate everybody's support.

The Birmingham Area Cable Board met this month. Its PEG Committee is working with AT&T on cost estimates and a timetable for bringing PEG (public, educational, government) programming to AT&T U-verse subscribers. Briggs noted that there are significant expenses involved as well as technical issues.

Another item of note is the Cable Board's involvement in Michigan NATOA's (National Association of Telecommunications Officers and Advisors) public awareness campaign. Communities around the state are addressing common concerns about competition, local control, the complaint process, PEG programming, and other legislative issues. An effort is being made to communicate local issues to Legislators so that they will know how to best establish public policy.

Congress delayed the digital transition deadline from February 17 to June 12, 2009. Government coupons are available for purchase of digital cable boxes.

Briggs reported that the Retirement Board met last week and had a sobering discussion due to losses in the Public Safety Retirement System portfolio. There will be a special meeting of the Retirement Board on March 10 at 6 p.m. to hear a report from the Village's actuarial firm.

Mooney commented on the budget shortfall and the effect that it might have on the community. He emphasized the need to communicate the extent of Village services to the residents and how they are delivered.

Berndt announced that the March Zoning Board of Appeals meeting has been cancelled. Oen thanked Jim Calder for his service on the Finance Committee.

Koss stated that the Villager newsletter was mailed out this week. It includes information on upcoming events offered by BASCC (Birmingham Area Seniors Coordinating Council).

Motion by Mooney, second by Peddie, to adjourn the meeting at 9:25 pm.

Motion passed.

**Todd Stearn**  
**Council President**

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

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