

REGULAR COUNCIL MEETING MINUTES – DECEMBER 1, 2009 – PAGE 1

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

Absent: Stearn

Also Present: Assistant Manager, Marshall
Public Safety Director, Woodard
Village Attorney, Ryan

President Pro-Tem Koss 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 Mooney, second by Oen, to approve the agenda as published.

Motion passed (6 – 0).

COMMUNITY ANNOUNCEMENTS

None

CONSENT AGENDA

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

- a. Review/consider approval of minutes of special Council meeting held Nov. 10, 2009.
- b. Review/consider approval of minutes of regular Council meeting held Nov. 17, 2009.
- c. Review and file bills recapped as of Monday, November 23, 2009.

Motion passed (6 – 0).

BUSINESS AGENDA

REVIEW AND CONSIDER PROPOSAL FROM ASSET STRATEGIES TO ADMINISTER RETIREE HEALTH CARE FUND

Council has recently called upon the Retirement Board to oversee the Village Retiree Health Care Fund in addition to its management of the Public Safety Pension Plan. The Retiree Health Care Fund has previously been administered by Munder Capital. Asset Strategies submitted a proposal to assist the Retirement Board with investment oversight and performance monitoring of the Village Retiree Health Care Fund at an annual cost of \$7,500. Asset Strategies is a consulting firm that currently provides the Trustees with investment advice and fiduciary oversight for the Public Safety Retirement System. At its November 24th meeting, the Retirement Board voted unanimously to recommend Council approval of the proposal from Asset Strategies.

Motion by Briggs, second by Mooney, that Council accept the recommendation of the Retirement Board to approve the November 11, 2009 proposal from Asset Strategies to provide investment oversight and performance monitoring of the Village Retiree Health Care Fund at a cost of \$7,500 annually.

There followed discussion of the proposal. Briggs outlined the services included in the proposal from Asset Strategies. It was noted that the fee proposed by Asset Strategies would be less than the current fee charged by Munder Capital.

Don O’Connell of 20900 Smallwood, Chairperson of the Retirement Board, related that Asset Strategies has been doing a good job of providing professional assistance in terms of managing the Public Safety Pension Fund for over five years.

Roll Call Vote:
Motion passed (6 – 0).

REFER REQUEST FROM DETROIT COUNTRY DAY SCHOOL TO THE PLANNING BOARD FOR SITE PLAN APPROVAL AND SPECIAL LAND USE APPROVAL FOR CONSTRUCTION OF A FIELD HOUSE, 13 MILE ROAD CAMPUS GYM AND NORTH ENTRANCE CORRIDOR

Glenn Shilling, headmaster at Detroit Country Day School, requested that Council refer the proposal for Country Day expansion to the Village Planning Board for review of site plan and special land use for construction of a field house, Thirteen Mile Road campus gymnasium, and north entrance corridor. He offered to answer questions from Council.

Motion by Mooney, second by Oen, to refer site plan for Detroit Country Day School expansion to the Planning Board for review of site plan and special land use for construction of field house, gymnasium and north entrance corridor at the regular Planning Board meeting of January 27, 2010.

Roll Call Vote:
Motion passed (6 – 0).

SECOND READING AND POSSIBLE ADOPTION OF ORDINANCE #334 AMENDING CHAPTER 5 (STREETS) OF THE MUNICIPAL CODE TO ADD A SECTION REGARDING SNOW EMERGENCY

This ordinance was proposed by Councilman Berndt, Public Services Director Meszler, and Manager Wilson to address periods during heavy snowstorms when plowing roads has been difficult due to vehicles parked on the street. It is proposed that the Public Safety Director be authorized to declare a snow emergency when the snowfall is such that it is deemed necessary. It was indicated that many of the surrounding communities have snow emergency ordinances.

Ryan conducted the second reading of Proposed Ordinance No. 334, An Ordinance to Amend Chapter 5 by adding Section 5.07 of the Village of Beverly Hills Municipal Code relating to Declaration of Snow Emergency. The purpose of this policy is to provide a procedure requiring vehicles to be removed from Village streets in the event of a snow storm as declared by the Village Public Safety Director or his/her designee. The Ordinance further states: “No person shall park or allow to remain parked any vehicle on any portion of any roadway within the Village of Beverly Hills during a snow emergency, or park or allow to remain parked any vehicle in violation of any parking restriction instituted as part of a declared snow emergency as provided in this section. The registered owner of any such vehicle shall be responsible for the cost of removal.”

Ryan summarized the sections contained in the ordinance: Definitions, Procedure for Declaration of, Notice, Record, Enforcement, Stalled Vehicle, Termination, Exemptions, Relationship to other laws, and Penalty. There is a Savings Clause, Repealer, Penalties Clause and Effective Date paragraph.

Motion by Mooney, second by Berndt, that the Village of Beverly Hills Council adopt Ordinance No. 334, an Ordinance to Amend Chapter 5 by adding Section 5.07 to the Village of Beverly Hills Municipal Code Relating to Declaration of Snow Emergency.

Koss commented that she received a few emails from residents in support of this ordinance. She noted that there will be some leeway with respect to the time period for notifying residents of the parking prohibition.

Berndt added that he has received positive feedback from people on the Declaration of Snow Emergency ordinance. He acknowledged code enforcement officer Dan Gosselin for bringing this matter forward.

Roll Call Vote:
Motion passed (6 – 0).

**SECOND READING AND POSSIBLE ADOPTION OF ORDINANCE #335 CHAPTER 1
GENERAL PROVISIONS OF THE MUNICIPAL CODE TO ADD A SECTION
REGARDING COST RECOVERY**

Koss asked Attorney Ryan to address correspondence received from Greg Clark with AT&T regarding the proposed ordinance before proceeding with the second reading.

Ryan stated that he was aware that AT&T opposes the proposed Cost Recovery Ordinance. He spoke with Oakland County Director for Risk Management, Julie Secontine, who developed this ordinance. The ordinance springs from State Law that allows communities to seek recovery for emergency costs. By adopting this ordinance, the Village of Beverly Hills will be able to seek reimbursement for emergency service costs.

The email from Mr. Clark outlines his concerns on behalf of AT&T. Ryan said that he could understand if DTE Energy had issues with the ordinance, but phone lines are not inherently dangerous or injurious to people. Director Woodard related that the Public Safety Department may be called out to identify downed lines, and officers stand by lines if they are fallen high power lines. In the case of downed phone lines (AT&T, Comcast), the company is contacted and residents are assured that there is no danger.

It was noted that Mr. Clark objects to the fact that the ordinance does not apportion risk. Ryan stated that someone at the Village office will make that determination and send an invoice to the responsible party. The Village will take action if the invoice is not paid within 30 days. The ordinance allows recovery of attorney fees if the municipality is successful. Ryan stated that this is a model ordinance that has been generated by the county risk authority people and used throughout Oakland County.

If emergency recovery services are necessary, it is not reasonable for the general Village to bear that burden. Ryan thought that this ordinance should be adopted so that the entities who are responsible for the emergencies can pay their fair share of the cost.

Ryan conducted the second reading of proposed Ordinance No. 335, An Ordinance to Amend the Village of Beverly Hills Municipal Code to Add Section 1.06.2 to Provide for the Collection of Fees for Emergency Medical and Fire Services, Pursuant to MCL 41.806a. The Ordinance shall be known as the “Emergency Service Cost Recovery Ordinance”. The Ordinance is created to ensure that the Village of Beverly Hills shall, to the extent permitted by law, recover the costs of an emergency response from the responsible party. Ryan summarized each section and subsection of the proposed ordinance.

Motion by Mooney, second by Oen, that the Beverly Hills Village Council adopt Ordinance No. 335, an Ordinance to Amend the Village of Beverly Hills Municipal Code to Add Section 1.06.2 to Provide for the Collection of Fees for Emergency Medical and Fire Services, Pursuant to MCL 41.806a.

Norman Rubin of 31020 Rivers Edge Court stated that AT&T lines are located on the same overhead infrastructure as electrical lines; the company might be concerned with a power line pulling down one of their lines. It was suggested that it would be reasonable that the electrical company would bear any cost in this instance.

Roll Call Vote:
Motion passed (6 – 0).

REVIEW AND CONSIDER RESOLUTION FOR MICHIGAN EMERGENCY MANAGEMENT ASSISTANCE COMPACT

The Department of Public Safety is a participating member of the Oakland County Mutual Aid Association. This organization exists for the purpose of assisting all participating firefighting organizations in the county to maximize personnel and equipment resources on an individual department basis and also for the mutual aid group as a whole. It is important for individual and local agencies to take advantage of opportunities for collaboration from resources outside Oakland County.

The Michigan Emergency Management Assistance Compact (MEMAC) allows any resources existing at the State government level to be used for the assistance of local agencies in the event of a disaster or emergency incident. This can be from any source, from weather to hazardous materials. Adoption of the suggested resolution would further assist the local agency if relief coordination needed to be extended to Federal government agencies.

This resolution is being submitted to local governments in Oakland County whose departments are voting members of the Oakland County Mutual Aid Association. Director Woodard asked Council to consider adoption of this Compact.

Motion by Peddie, second by Mooney, to adopt the Michigan Emergency Management Assistance Compact as follows:

AUTHORIZING RESOLUTION FOR
MICHIGAN EMERGENCY MANAGEMENT ASSISTANCE COMPACT

WHEREAS, the State of Michigan Emergency Management Act, Act 390 of the Public Acts of 1976, as amended M.C.L. 30.401 et.seq., authorizes the State and its political subdivisions to provide emergency aid and assistance in the event of a disaster or emergency; and

WHEREAS, the statutes also authorize the State to coordinate the provision of any equipment, services, or facilities owned or organized by the State or its political subdivisions for use in the affected area upon request of the duly constituted authority of the area; and

WHEREAS, this Resolution authorizes the request, provision, and receipt of inter-jurisdictional mutual assistance in accordance with the Emergency Management Act, Act 390 of the Public Acts of 1976, as amended among political subdivisions within the state;

NOW, THEREFORE, be it resolved by the Council for the Village of Beverly Hills that in order to maximize the prompt, full and effective use of resources of all participating governments in the event of an emergency or disaster we hereby adopt the Michigan Emergency Management Assistance Compact which is attached hereto and incorporated by reference.

Roll Call Vote:
Motion passed (6 – 0).

**REVIEW AND CONSIDER FINAL PAYMENT FOR CONTRACT #W-04-01 2004
WATERMAIN REPLACEMENT PROJECT**

Marshall reviewed that approval of final payment to Bricco Excavating for the 2004 Water Main Replacement Project was tabled at a previous Council meeting in order for Administration to review concerns as to whether the project was adequately completed. A list of concerns provided to staff were evaluated; Bricco did remedy four of the concerns listed. The remaining items were either provided too late to be directly attributable to Bricco or cannot be directly tied to the project. Administration does not think that the Village has grounds to continue to withhold payment this long after the project has been completed.

Motion by Mooney, second by Oen, that Council approve final payment of \$35,033.20 to Bricco Excavating Company Llc. for the 2004 Water Main Replacement Project.

Berndt reiterated that this was tabled so that Administration could look into the issues raised regarding work performed. He cannot receive clarification of certain items at this time because the Village Manager is not present due to illness. Berndt related that three pages of complaints from residents affected by phase one of the project were submitted in writing while the contractor's equipment was still in the Village. Berndt's neighbors have talked to him about curb and sidewalk damage and have expressed concern as to future liability for sidewalk repair.

Roll Call Vote:
Oen - yes
Peddie - yes
Berndt - no
Briggs - yes
Koss - yes

Mooney - yes

Motion passed (5 – 1).

PUBLIC COMMENTS

None

REPORTS – MANAGER

Marshall presented the Manager’s report in the absence of Chris Wilson. Public Safety Lt. Eric Ottney has indicated his desire to enter the Deferred Retirement Option Program (DROP) effective December 25th of this year. Upon entering the DROP program, Lt. Ottney will be considered retired for pension purposes. Ottney will be able to continue his employment with the Public Safety Department for a period of up to five years. As of December 25th, he will cease to accrue seniority and service time toward his pension. His pension will be deposited into a fund that will be available to him when his employment with the Village ends. Lt. Ottney is the senior member of the Public Safety Department with over 30 years of service and has served the department with distinction.

Marshall reported that she and Manager Wilson attended a forum hosted by State Senator Jacobs to discuss the economic situation in Michigan and how it is impacting state revenue. Council has received a summary of these findings.

REPORT - PUBLIC SAFETY DIRECTOR

Director Woodard related common sense suggestions to residents that will help keep them safe from theft during the holiday shopping season.

REPORTS – COUNCIL

Briggs reported on the quarterly Retirement Board meeting held on November 24. The good news was that the U.S. stock market continued to rebound for the second consecutive quarter. Total Fund results were good and brought year-to-date results to +15.20 percent. The Board discussed the underperformance of a couple of funds that impacted the total plan results.

Oen announced that the Planning Board will meet on Wednesday, December 9 to discuss proposed rezoning on the west side of Southfield Road.

Koss stated that the minutes of the special meeting of Council held on November 10 are available for review on the Village website. This was a study session to discuss Village finances.

Koss updated citizens on current information from Oakland County. It is estimated that Beverly Hills will experience a -15.25% decline in State Equalized Value in 2010. Commercial real estate is projected to fall by -17.1 percent. The State Tax Commission has announced that the inflation rate to be used in calculating the 2010 taxable value for property tax purposes will be -0.3 percent. The inflation rate multiplier used to determine the taxable value for 2010 will be 0.997, thus reducing taxable value within municipalities. When tax revenue received by the Village decreases, service levels will be affected. Koss hoped that people will consider the information provided to them by the Village.

Motion by Mooney, second by Peddie, to adjourn the meeting at 8:15 p.m.

Motion passed (6 – 0).

Rosanne Koss
President Pro-Tem

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary