

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

Absent: None

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

President Stearn called the regular Council meeting to order at 6:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

Motion by Mooney, second by Berndt, to adjourn to closed session to discuss collective bargaining.

Roll Call Vote:  
Motion passed (5 – 0).

Oen and Briggs entered the closed session.

Motion by Mooney, second by Oen, to adjourn the closed session at 7:23 p.m. and call for a five minute recess.

Motion passed (7 – 0).

President Stearn reconvened the Council meeting at 7:30 p.m. 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 (7– 0).

#### **COMMUNITY ANNOUNCEMENTS**

County Commissioner Marcia Gershenson reminded the public that there is an income tax credit refund available to families with low to moderate earned income. People can contact the Accounting Aid Society for further information. The Michigan Department of Energy, Labor and Economic Growth launched the Michigan Energy Efficient Appliance rebate program, which offers financial incentives for consumers to update their appliance with models that exceed energy star standards.

On a national level, Congressman Gary Peters will be appointing a resident from his district to the FEMA (Federal Emergency Management Agency) Advisory Council. Interested individuals should contact Congressman Peters' office or Gershenson by the Friday deadline.

Gershenson introduce her colleague Dave Coulter from the Board of Commissioners. He will be a candidate running for the position of State Senator to replace Gilda Jacobs who will be termed out. Coulter is championing a new health care initiative that Gershenson is hoping can be presented at the next Council meeting. Dave Coulter greeted Council and the public and said that he could be reached at 248/543-8984 to talk about any county or state issue.

Bob Borgon, Executive Director of the Birmingham Area Cable Board, announced that the Cable Board is in the process of conducting a comprehensive survey of television viewing in the four communities it serves including Birmingham, Beverly Hills, Franklin and Bingham Farms. Many residents in these communities will receive a survey form with a prepaid return envelope in the mail. In order to maximize its reach into the communities, there will be a combination of mailed surveys, a telephone sample of people, and an online survey available on municipal websites and the Cable Board website ([www.birminghamareacableboard.org](http://www.birminghamareacableboard.org)). One response per household is requested. Borgon stressed that the Cable Board would like residents' input on topics like the quality, cost and value of cable services as well public, educational, and government programming. Surveys are also available at the clerk's office in each municipality. The deadline for returning the surveys is March 19.

Elaine McLain, chair of the Cable Board, informed Council about the Google initiative that has been a topic in the news. Google is planning to launch an experiment whereby it will test ultra-high speed broadband networks in one or more trial locations across the country. Their networks will deliver Internet speeds more than 100 times faster than what most Americans have access to today, over 1 gigabit per second, fiber-to-the-home connections. Google will offer service at a competitive price to at least 50,000 and potentially up to 500,000 people. The company is asking interested municipalities to provide information by March 26<sup>th</sup> about their communities through a Request for Information (RFI), which it will use to determine where to build its network. McLain commented on opportunities for more information on this Google trial.

Village Labor Attorney Dennis DuBay from Keller Thoma, P.C. stated that he has been asked by Council to make a few remarks with respect to the legal procedures relative to the contract negotiations that are taking place with the Village's public safety officer units. He presented a summary of the Employer's bargaining obligations under the Public Employment Relations Act and Act 312.

### **CONSENT AGENDA**

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

- a. Review/consider approval of minutes of joint Council/Planning Board meeting held February 10, 2010.
- b. Review/consider approval of regular Council meeting minutes held February 16, 2010.
- c. Review and file bills recapped as of Monday, March 1, 2010.

Motion passed (7 – 0).

**BUSINESS AGENDA**

**PROCLAMATION RECOGNIZING THE VILLAGE WOMAN’S CLUB FOR ORGANIZING AND SPONSORING THE ANNUAL MEMORIAL DAY PARADE/CARNIVAL**

Mooney remarked that he was honored to call attention to the Village Woman’s Club and its efforts in the past to hold the Village Memorial Day Parade and Carnival.

Motion by Mooney, second by Oen, to adopt the following Proclamation:

**PROCLAMATION  
VILLAGE OF BEVERLY HILLS**

Whereas, the Village Woman’s Club of Beverly Hills jointly organized and sponsored the first annual village-wide Memorial Day Parade on Monday, May 31<sup>st</sup>, 1982, and

Whereas, the Woman’s Club continued this well-loved tradition for 26 more years until 2009, and

Whereas, the underlying theme of this event is to extend sincere appreciation and gratitude to all veterans who selflessly served to protect our country, and

Whereas, the Woman’s Club recruited hundreds of women, men and children who joyfully provided their time and talent to support this annual event, and

Whereas, the Woman’s Club routinely invested funds that were raised at the carnival into improving the Village including purchasing a bench, installing the basketball court, and installing the flag pole at Beverly Park, and

Whereas, community members look forward to congregating with long-time neighbors and becoming acquainted with new residents, and

Whereas, the Parade and Carnival have become highly anticipated events by children of all ages in Beverly Hills.

Now, Therefore, Be It Resolved, that the Beverly Hills Village Council extends its grateful appreciation to the Village Woman’s Club of Beverly Hills for providing 27 years of reflection and enjoyment to the residents of Beverly Hills.

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

Mooney reminded everyone that, not only did the Woman’s Club carry out the Memorial Day events and donate towards improving Beverly Park, they also provided equipment to the Public Safety Department in years when it was beyond the Department’s budget. Mooney commended the individuals who participated in the Woman’s Club and provided a great service to the community throughout the years.

**REVIEW AND CONSIDER DATE CHANGE FOR LUPUS FOUNDATION WALK  
ORIGINALLY SCHEDULED FOR SATURDAY, MAY 22, 2010**

In January, Council approved the request of the Lupus Foundation of America, Inc. to hold its 3<sup>rd</sup> Annual Detroit Metro Walk for Lupus Now at Beverly Park on Saturday, May 22. The organization is requesting to change the date due to a conflict with another large fundraising event in metro Detroit taking place on the same day. Administration does not have a problem with their request to move the Lupus Foundation Walk to Saturday, June 5, 2010.

Motion by Mooney, second by Koss, that the Beverly Hills Village Council authorize changing the date of the 3<sup>rd</sup> Annual Detroit Metro Walk for Lupus Now to Saturday, June 5, 2010. The Lupus Foundation will provide tents, porta-potties, entertainment, insurance, clean up and removal of all rubbish.

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

**RECEIVE AND FILE VILLAGE MANAGER'S REPORT REGARDING FIRE  
SERVICE ALTERNATIVES**

Based on issues Council and Administration have been facing relative to the fiscal condition of the Village, Wilson prepared information on fire protection and public safety department services in Beverly Hills, alternatives, and the experience of surrounding communities. The Village receives full-time police and fire services through its Public Safety Department. One of the main benefits of a public safety department is that it allows full-time professional fire protection through cross trained (police and fire) personnel at a significantly lower cost than having a separate police department and a separate fire department. The public safety model is an efficient way of delivering those services. The combined cost for the Beverly Hills Public Safety Department for fiscal year 2009/2010 is \$4.38 million.

For comparison purposes, the cost for full-time professional fire service in surrounding communities is as follows:

- Birmingham (pop. 19,291) \$4.7 million
- Royal Oak (pop. 60,062) \$9.2 million
- Bloomfield Twp (pop. 43,023) \$11.1 million

A comparison of surrounding Public Safety Departments (Police and Fire) is as follows:

- Berkley (pop. 15,531) \$4.5 million
- Bloomfield Hills (3,940) \$4.0 million
- Oak Park (32,399) \$9.38 million

By calculating fire costs alone on a per-capita basis and comparing this with the cost for Beverly Hills Public Safety, it is clear that a public safety department is a good value for full-time professional police and fire services. In addition. The cost of \$4.38 million for the Beverly Hills Public Safety is in line with other public safety departments in the area.

It has been asked why the Village does not use a volunteer fire department in order to save money. Wilson emphasized that there is a cost for a volunteer fire department. The City of Troy is often used as an example of a well-run volunteer fire department. The cost for the Troy volunteer department is over \$4.5 million for FY 2009/2010, greater than the entire Public Safety Department budget for Beverly Hills. Rochester (pop. 10,476) expends \$541,072 for its volunteer fire department. The village of Franklin (2,937) budgeted over \$300,000 for its private volunteer department for FY 2009/2010.

If the Village were to implement a volunteer fire department, the experience of neighboring communities confirm that the cost for this service would range somewhere between \$500,000 to \$600,000. Adding this cost to a department handling only police functions in Beverly Hills would increase the costs of overall police and fire. To break even in the move from public safety to volunteer fire, \$500,000 to \$600,000 would need to be eliminated from the police department budget. This would equate to a cut of roughly five positions in the remaining police department to break even (23 to 18). More positions would have to be eliminated to actually save money. By cutting 8 positions (15 person force), you would save roughly \$850,000 per year. This would achieve a cost savings of approximately \$350,000 per year, or roughly 8% of current public safety expenditures.

To achieve an 8% reduction in public safety expenditures through the use of volunteer fire, the Village would need to transition from the current 23 person full-time professional public safety department to a 15 person police department with a volunteer fire department. This can be done; however, the cost savings achieved are not commensurate with the reduction in services to residents.

The disproportion between cuts in services and cost savings is primarily due to the fact that the public safety model does what it was designed to do; it is an efficient method of delivery for full-time professional police and fire protection services. This same analogy holds true whether talking about utilizing an in-house volunteer department or contracting out with another department or agency.

Motion by Mooney, second by Oen, to receive and file the Village Manager's Memorandum regarding Fire Protection Services. Administration was directed to post this report on the Village's website.

Motion passed (7 – 0).

## **PUBLIC COMMENTS**

Vince Borowski of 31115 West Chelton said that he would deliver a message that he intends to present at Council meetings until the November millage election. He explained why he did not think that the millage proposal is a tax hike. Borowski related that the taxable value on his house in 2010 has decreased 34.8% from the taxable value on his property in 2007. The amount he paid in taxes to the Village for general operation in 2007 was \$1,665 based on 9.3801 mills; his tax bill in 2010 based on the same millage rate would be \$1,219. If the millage rate were increased to 12.9 mills, Borowski said he would pay about \$1,600 to the Village, which is less than the taxes he paid in 2008. It is a prevarication to say that the proposed 1.9 mill increase is a tax hike.

Residents will be paying less taxes with the proposed millage increase than they were paying in 2008.

### **REPORTS – MANAGER**

At its February 24<sup>th</sup> meeting, the Planning Board held a public hearing on the request by Detroit Country Day School to construct a field house, gymnasium and other improvements. The Board reviewed a submittal from the applicant outlining modifications suggested by LSL Planning at the previous Board meeting. Members provided input on provisions they would like to see included before referring a revised site plan to the Village Council. Detroit Country Day will present final site plan documents for Planning Board consideration at its March 24<sup>th</sup> meeting. If the site plan is approved, it will be referred to Council for its review.

The Planning Board also received an update from urban planner Bob Gibbs on the Southfield Road Corridor Improvement Plan. A review of the non-conforming lot study west of Southfield Road was held over to the March meeting.

Wilson received notice from the Insurance Services Office (ISO) of its intent to conduct a full survey of the Village's fire protection services and reassessment of its current ISO rating. The last full on-site review for Beverly Hills was conducted in 1991. The Village's current rating is Class 6 (on a scale from Class 1 to Class 10, with 1 being the best). Due to improvements made to the water system in the last two decades, it is possible that the rating could improve. Chief Woodard and Captain Yanosy are working on submission of requested documents along with input from Tom Meszler. Wilson will keep Council informed on this matter.

Council is in receipt of a report from Attorney Tom Ryan on allegations that the Village Council had appropriated money improperly. Wilson outlined the memo, noting that the general accusation was that the Village Council met in closed session, approved a contract, and subsequently made payment on that contract. Wilson stated that there was no contract; the allegations of a contract approved in closed session are false.

Wilson related that he met in closed session with Council a number of months ago to present an update on legal opinions relative to changes proposed by Oakland County to Evergreen-Farmington Sewer District billing procedures based on flow and using a meter based system. This effort by the Water Resources Commissioner is ongoing as are efforts to challenge this change by the Village and some of its surrounding communities. Beverly Hills along with Birmingham and Bloomfield Hills have expended money on retention basins at the urging of the federal government and the County in order to reduce the flow through the sewer pipes during wet weather events. The new meter based methodology billing would increase the cost to Beverly Hills by upwards of \$400,000 and would penalize those communities that did build retention basins in their community.

The Water Resources Commission is attempting to alter the financing of sewer operations within the Evergreen-Farmington district, which will change a 50-year pattern of sewer charges being equated to water charges. The Village is taking umbrage with the methodology proposed by the County; the current sewer infrastructure was not designed to meter flow on a municipal basis.

A consortium of communities came together and received legal services from a law firm out of Royal Oak. A bill for those services was received and was paid on a one-third basis between Beverly Hills, Birmingham and Bloomfield Township. The Village did not discuss the nature of the legal advice received in open session. The attorney-client privilege memorandum from the law firm was discussed in closed session with the Village Council appropriately under the Open Meetings Act. It was confidential legal information on an ongoing matter that has not been resolved.

Attorney Ryan affirmed that it is appropriate for Council to meet in closed session to discuss an attorney/client privilege memorandum. Council was made aware of the focus and strategy intended to protect sewer customers from a changed billing program that administration and Council believe is unfair to the Village and has the potential of costing Beverly Hills and its customers a significant amount of money. If there is litigation, the issue will be brought to Council and voted on in open session. The invoice for legal service referred to by a resident was approved by Council at an open meeting. There was no contract.

Wilson brought Council up to date on the actions of the Water Resources Commissioner at the technical committee meeting held last month. He recapped that the Village was under an ACO (Administrative Consent Order) to reduce sewer flows. As part of that ACO, the Village was required, in conjunction with the County, to file a long-term corrective action plan with the Michigan Department of Environmental Quality (MDEQ).

The Water Resources Commissioner's office has asked for an extension of up to four years to file a corrective action plan because they do not believe that the sewer metering and modeling system is adequate to determine whether or not sanitary sewer outflow numbers are met per the ACO. In other words, the Water Resources Commissioner's office does not have the confidence in their metering numbers to file a response to a long-term corrective action plan. Those are the same meters that the County would use to bill Beverly Hills. Wilson maintains that the Water Resources Commissioner's office has fallen short of being able to prove it can meter flow on a fair and equitable basis. That is why the Village has continued to oppose this change in conjunction with surrounding communities.

#### **REPORTS – COUNCIL**

Mooney reported on the progress of the Input Subcommittee established at the last Council meeting. Wiszowaty, Koss and Mooney are meeting with residents who have corporate financial experience to seek advice on the financial situation of the Village. A meeting will be scheduled with past presidents and presidents pro-tem of Council to obtain input and leadership from them. The subcommittee will also set a meeting with all past council members in the next month. Mooney anticipated that these meetings will occur on an ongoing basis.

Mooney stated that the community will be faced with a decision in the coming year that will determine whether residents retain services at the current level or receive a significant cut in services due to a sizable decrease in taxes paid to the Village. Mooney urged people not to demonize each other during the philosophical disagreements that will take place.

Mooney commented that many people moved to Beverly Hills for the amenities associated with Birmingham while enjoying lower taxes and housing costs. He asserted that Beverly Hills has low taxes because it has been a trail blazer in terms of how it operates. It was one of the first communities in southeast Michigan that privatized its Department of Public Works. Beverly Hills was probably the first in Oakland County to use the public safety model of delivering police and fire services, which provided a high level of safety and saved money.

There has been discussion about shared services. Beverly Hills has shared services with other communities since its inception. Beverly Hills is part of the Southeast Oakland County Water Authority (SOCWA) and the Southeast Oakland County Resource Recovery Authority (SOCRRA). The Village has a contract to share services with the Baldwin Public Library.

There have been attempts made by Council and administration to consolidate services with other communities including the areas of library service and dispatch service. The Beverly Hills Public Safety Department is currently providing prisoner lockup service for Lathrup Village. The Village has continued to approach members of congress and senators for grants and has applied for infrastructure grants under the federal stimulus package to no avail.

Mooney asserted that councils and administration throughout the history of the Village have been good stewards of public tax dollars. The millage increase approved by the electorate in 1995 was supposed to carry the Village to 2001; it has lasted until 2010.

The current Village Manager has made significant personnel cuts. The receptionist position was eliminated from the Village office; two public safety officers were lost; the building official position was eliminated; the public services director went to a part-time contract basis; there were pay freezes for all non-union personnel.

With regard to the cost of health care, Mooney reviewed that the Finance Director has implemented a program with retirees to cover their prescription benefits in a way that has saved the Village \$525,000 in the last five years. He provided background on past negotiations with public safety unions noting that the only way to back out of promises made to employees for health care and pensions is for the Village to go into bankruptcy. Mooney affirmed that the Village is doing everything it can to negotiate in good faith with public safety union employees. The Village is legally bound by Public Act 312 Arbitration.

The question will be whether people want to pay less in taxes than they did last year. If they do, the Village will lose 5-6 police officers and its library service. Alternatively, residents could pay the same amount or less in taxes and keep the current Public Safety Department and library. Beverly Hills needs about \$1500 a house per year to run the Village. The Village collected \$1500 per house in 2008-2009. Next year, it will collect approximately \$1,000 per house due to decreasing property values. Council will be asking for a 34% increase in what the Village can charge, but this will be about the same amount in terms of the tax dollars that the Village collects. Mooney believed that it is a legitimate desire for people to want to pay less in taxes; it is not legitimate to pay less in taxes and demand the same amount of services.

Berndt clarified that, if Beverly Hills loses the Baldwin library, residents will lose the ability to obtain a library card at other libraries. Berndt announced that the Zoning Board of Appeals will meet on Monday, March 8 at 7:30 p.m. in the Village municipal building.

Motion by Mooney, second by Peddie, to adjourn the meeting at 8:39 p.m.

Motion passed (7 – 0).

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

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

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