

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

Absent: Mooney

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 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 Briggs, second by Mercer, to approve the agenda as published.

Motion passed (6 – 0).

#### **COMMUNITY ANNOUNCEMENTS**

Marcia Gershenson, County Commissioner, reminded residents about the Oakland Livingston Human Service Agency Weatherization Program. OLHSA will perform a free energy audit for eligible residents using local contractors and inspectors.

Gershenson commended Beverly Hills resident Matt Roman and his group on their efforts to set up a Community Garden in the Village. She commented on the economic impact of supporting local, independent small businesses in a community.

The Michigan Municipal League has picked up a program previously funded by Oakland County that will fund a feasibility study for communities that are looking to partner with other municipalities and share services. Oakland County Parks and Recreation is announcing the opening of a five-acre dog park at Red Oaks in Madison Heights.

Cindy Arvant of 18271 Devonshire, Parks and Recreation Board member, reminded everyone about the Picnic in the Park event tomorrow, Wednesday, July 21, from 5:30-10 p.m. in Beverly Park. The idea is for families to bring a picnic dinner to the park and socialize with their neighbors. Oakland County Parks and Recreation is providing and staffing its Mobile Recreation Unit at no cost to the Village. Wide Open West has offered to underwrite the cost of bringing an ice cream truck into the park. All activities and ice cream will be free.

Sharon Tischler, Southfield Township Clerk, stated that absentee ballots have been mailed for the August election. The Township has received phone calls from several people who did not receive their absent voter ballots. Tischler mentioned that people might have not checked all the appropriate boxes on their application and, therefore, did not receive the August ballot. Residents who did not receive a ballot can call the Township Hall at 248/540-3420 to request that an absent voter application be sent or stop by and pick up a ballot.

Tischler announced that the deadline to file a petition for Village Council candidate on the November 2, 2010 ballot is August 10, 2010. Petitions are available at the Beverly Hills municipal office or at the Township office.

In answer to an inquiry, Tischler stated that absentee ballots are available until 2 p.m. the Saturday before the election. Registered voters can come in on the Monday preceding the election and vote in the Township office until 4 p.m. Copies of a sample ballot are available at the Township office.

#### **CONSENT AGENDA**

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

- a. Review/consider approval of minutes of a regular Council meeting held July 6, 2010.
- b. Review and file bills recapped as of Monday, July 17, 2010.

Motion passed (6 – 0).

#### **BUSINESS AGENDA**

#### **REVIEW AND CONSIDER MORATORIUM FOR MEDICAL MARIJUANA DISPENSARIES**

Council is in receipt of a draft resolution prepared by Village Attorney Ryan that would declare a 180-day moratorium on the establishment of any medical marijuana dispensary within the Village of Beverly Hills. This is similar to action that has been taken in other communities throughout Oakland County. Wilson reviewed that voters in the State of Michigan approved the sale of medicinal marijuana throughout the state at the November election; how this would be applied to existing zoning codes has been left to local units of governments.

The Village Planning Board has been authorized to undertake a study of the zoning classification for medical marijuana dispensaries and possible ordinance amendments. This Resolution will establish a moratorium until the Village has explored how to regulate the dispensing of medical marijuana, and it will provide an appeal process for exceptions to the moratorium.

Attorney Ryan stated that the Village Planning Board will be addressing the establishment of medical marijuana dispensary areas within the Village. Until the matter is fully evaluated by the Planning Board and Council, this limited moratorium would protect the Village relative to any usage of this type. Ryan recommended Council approval of the Resolution.

Motion by Oen, second by Peddie, to recommend that the Village of Beverly Hills Council approve a Resolution Declaring a Moratorium Pertaining to Medical Marijuana Dispensaries and Providing an Appeal Process for Exceptions to the Moratorium. This Moratorium will be effective beginning on July 21, 2010 and will remain in effect until midnight on January 16, 2011.

Roll Call Vote:

Motion passed (6 – 0).

A copy of the Resolution is available for public review at the Village municipal building or on the Village website.

**REVIEW AND CONSIDER INTER-LOCAL AGREEMENT CREATING THE OAKLAND COUNTY BUILDING OFFICIALS ASSOCIATION DAMAGE ASSESSMENT MUTUAL AID AGREEMENT**

Wilson stated that the Oakland County Building Officials Association has developed an Interlocal Agreement for local agencies to provide mutual aid damage assessment services in the event of emergencies. Should the Village of Beverly Hills experience a catastrophic event in which immediate building damage assessment needs could not be handled with its own staff, other communities participating in the agreement would provide assistance to meet immediate needs. Likewise, the Village would be expected to assist any of its neighboring communities who found themselves in a similar situation.

Wilson assured Council that the County Building Officials Association is aware of the Village's limited resources in this capacity, and they still would like the Village to participate in the program. There are no fees associated with the Interlocal Agreement at this time. There is a 30-day out with written notice. Wilson thought it would be to the Village's advantage to participate in this Interlocal Agreement. Attorney Ryan has reviewed the agreement and bylaws and finds them to be appropriate.

Koss expressed concern about liability factors in light of the fact that the Village's building department consists primarily of subcontractors.

Wilson reiterated that the Association understands that the extent of the Village's reciprocity will be limited; the Village will be expected to respond the best it can. He added that the Village's needs will be limited because Beverly Hills does not have industrial buildings that would require a high level of expertise. It would place a real strain on the Village if this agreement were not in place in the event of a catastrophic situation. The Village may require an increased building department staff in future years; in the interim, this is a good safety net to put in place.

Stearn said that the Village would be agreeing that it will attempt to make a building official available upon request in the event of a catastrophic event if it is not financially consequential to Beverly Hills and if it does not take away from our own jurisdiction. If the Interlocal Agreement becomes onerous or fees are imposed, the Village has a 30-day wait to withdraw from the program.

Mercer commented on the liability of the Village, noting that Beverly Hills would have the right and obligation to address its needs first in the event of a catastrophic event. Oen thought that the Interlocal Agreement was a step towards sharing services and attempting to cut costs for communities.

Motion by Oen, second by Peddie, that the Village of Beverly Hills Council approve the Oakland County Building Officials Association Damage Assessment Mutual Aid Agreement as submitted.

Roll Call Vote:

Oen - yes  
Peddie - yes  
Stearn - yes  
Briggs - yes  
Koss - no  
Mercer - yes  
Motion passed (5 – 1).

The Interlocal Agreement will be available for public review on the Village website or at the Village municipal building.

**SECOND ANNOUNCEMENT OF VACANCY FOR ALTERNATE POSITION ON THE ZONING BOARD OF APPEALS**

Due to changes in the Zoning Enabling Act, the Village has the ability to appoint alternate members to its Zoning Board of Appeals in order to ensure a full contingent of nine members in the case of absence or conflict of interest of a regular member. Wilson made the second announcement of a vacancy for an alternate Zoning Board position with a term to expire on June 30, 2012.

The deadline for submitting applications is Wednesday, July 28 at 4:30 p.m. A Zoning Board Subcommittee consisting of Council members Mercer, Mooney and Oen will meet at 7:15 p.m. prior to the regular Council meeting of Tuesday, August 3, 2010 to review applications and make a recommendation to Council.

**FIFTH ANNOUNCEMENT OF VACANCY ON THE FINANCE AD-HOC COMMITTEE**

Wilson informed Council that an application for this position was received after the agenda was published. Brian Thomas LaFerriere is an interested and qualified candidate for the vacant position on the Ad-Hoc Finance Committee. Council has received a copy of his application.

Brian LaFerriere of 19501 Wilshire introduced himself and said that he views this position as a privilege to give back to the community.

Motion by Oen, second by Koss, to appoint Brian Thomas LaFerriere to the Finance Ad-Hoc Committee for a term to expire on June 30, 2012.

Motion passed (6 – 0).

**PUBLIC COMMENTS**

Arthur Siegal of 20081 Ronsdale was present on behalf of residents from Ronsdale Subdivision to discuss continued and significant problems with DTE in terms of power outages. DTE has indicated that there have been 15 outages in the Ronsdale area in the last 9½ years, which is significantly above their own average and above standards set by the Michigan Public Services Commission. A recent outage occurred on a portion of Ronsdale. During an outage between June 18-22, most of the subdivision was without power for about 100 hours before power was restored.

With the assistance of the Manager Wilson, residents of the Ronsdale Subdivision were able to attend a meeting at Village Hall on July 18 with representatives of DTE to discuss the extended power outage that occurred in June and other problems with electric service in the area. Siegal said that the information shared with DTE did not address the pattern of outages, length of outages, or how residents could get power restored more quickly when outages occur. Siegal believed that the problem was that heavier populated areas are addressed before a smaller circuit area like Ronsdale.

During the meeting, DTE expressed a significant concern with dead trees, specifically ash trees, that are present in the area. The problem was that many trees that pose a threat to power lines are outside of their easement, and DTE cannot do anything about them. The question was raised as to whether the Village could do more.

Siegal stated that there is a Village Ordinance (Section 17.08) that addresses diseased elm trees. He asked Council to direct its code enforcement staff to take action to identify trees that pose a significant threat, notify property owners to remove them, and ticket them if they do not take action. Siegal thought that the Village had the authority to take the tree down and charge the cost to the property owner.

Wilson remarked that there are a large number of rear yard utility easements on private property, some of which are not readily visible or accessible. The easements were established when the Village was developed. The concern was raised by DTE that these trees have the potential to cause damage to utility lines. Wilson has reviewed the tree ordinance and thought it was intended to address trees that block public access to roads. He suggested that Attorney Ryan assess what the Village can do when potentially harmful trees are on private property.

Stearn stated that the Village is financially constrained at this time and does not have the resources to send someone to identify dead trees. He suggested a compromise whereby DTE would contact the Village if it identifies a tree that may cause damage to power lines. The Village would take steps at that time. Attorney Ryan will be asked to review the ordinance to determine if there is anything the Village could do in terms of charging the homeowner for removal of a dead tree on private property.

Wilson said that there appears to be a problem with communication between DTE and Ronsdale residents. He has advised DTE staff that they could communicate with the Village; Village staff could provide assistance through Nixle or other means of communication with residents during future outages of significant duration.

Siegal said that all the Ronsdale residents are asking the Village to do whatever it can to help minimize the risk of power outages.

Kathleen Berwick stated that she has had numerous power outages in the 31 years she has lived on Kennoway Court. She asked that the Village code enforcement officer investigate a large, dead tree in her neighbor's yard that she views as a threat to her property.

**REPORTS – MANAGER**

Manager Wilson reported that two Ronsdale residents have filed claims with the Michigan Public Services Commission regarding the DTE power outage in June. Administration will be monitoring the findings of the MPSC.

Council is in receipt of a memo from Director Woodard on public safety department vehicles that were recently liquidated. Four vehicles were sold for a total of \$11,844.99. Prices ranged from \$500 to \$4,450.

On Wednesday, July 14, a site visit to the proposed location of a Detroit Country Day School baseball field was conducted with members of the Planning Board and area residents. The site plan and request for special use for the baseball field were agenda items for the regularly scheduled Planning Board meeting of July 28. Wilson learned this week that the July Planning Board meeting will be postponed because a number of Board members will be absent including the chair and vice-chair.

Detroit Country Day School was agreeable to postponing the site plan review until the August 25, 2010 meeting. A review letter from LSL Planning and a memo from Public Services Director Tom Meszler on the site plan and special land use review for the baseball field project will be forwarded to Council and Detroit Country Day School. Area residents have received notice of a public hearing on July 28; they will be re-notified that the hearing will be postponed to August 25, 2010.

Wilson related that the Road Commission for Oakland County completed its work on the Thirteen Mile and Southfield Road intersection. The results were not as expected, and Village staff had some questions on the project. There are right turn arrows on northbound and southbound Southfield Road; it was assumed that there would be right turn arrows eastbound and westbound on 13 Mile Road. Wilson corresponded with staff at the Road Commission and was informed that the Road Commission does not install right turn arrows where there is not a dedicated right-turn lane. It was also the understanding of the Village that the “no right turn on red” designation would be eliminated at the intersection. Village administration is working with the Road Commission to get these issues resolved.

Koss referred to recent flooding of the intersection during a heavy rain last week. Wilson explained the State requires that a fabric cover be placed over the storm grates for erosion purposes during construction. This was the cause of the flooding. The covers will be removed when the project is finalized.

Wilson stated that the Village received grant funding for the Rouge Green Corridor Urban Habitat Implementation Plan Project. He thanked Erin Saur for her efforts to secure the grant in the amount of \$16,000 to do erosion control work along various portions of the Rouge River.

Wilson reported that there was a bid opening today for the upcoming water main project. There were a number of competitive bids, which will be reviewed and presented to Council with a recommendation for awarding the project at the next meeting.

**REPORTS – COUNCIL**

Briggs stated that the Birmingham Area Cable Board will meet tomorrow, July 21, at 7:45 a.m. in the council chamber. Briggs commented on the decrease in his tax bill over the last year and anticipated reductions for the next couple of years due to a continued decrease in property values.

Mercer stated that the Zoning Board of Appeals did not meet in July. The Board is scheduled to meet on August 9, 2010. Mercer reminded everyone to vote in the August 3 election.

Oen referred to a Village ordinance addressing false home alarms. He questioned whether an ordinance should be passed to address false 9-1-1 calls and require a fine after two hang up calls.

Woodard explained that the recent number of 9-1-1 hang up calls from Detroit Country Day School is similar to an issue experienced previously with the Birmingham School District. Their internal phone systems required a person to dial ‘9’ to dial out and dial ‘1’ for the ten-digit number they are calling. This can result in dialing 9-1-1 in error. The Birmingham School District changed its “dial out” number when they went to a new phone system. The Public Safety Department has communicated the issue to Detroit Country Day School and is looking into whether there is any flexibility in terms of changing their dialup sequence. Director Woodard will follow up on this matter.

Koss reminded everyone about the Picnic in the Park tomorrow night, Wednesday, July 21. She related that the August Parks and Recreation Board meeting has been canceled. The Parks and Recreation Board scheduled for September 16<sup>th</sup> will start at 6:30 p.m. rather than 7:30 p.m.

Motion by Oen, second by Peddie, to adjourn the meeting at 8:35 p.m.

Motion passed (6 – 0).

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

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

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