

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

Absent: Briggs

Also Present: Manager, Wilson
Assistant Manager/Clerk, Marshall
Finance Director, Wiszowaty
Village Attorney, Ryan
Director of Public Safety, 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 Mooney, second by Oen, to approve the agenda as published.

Motion passed (6 – 0).

COMMUNITY ANNOUNCEMENTS

Sharon Tischler, Southfield Township Clerk, provided information on obtaining absent voter ballots. She announced that the League of Women Voters brochure is available at the Township Hall if people would like to know more about the candidates.

CONSENT AGENDA

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

- a. Review/consider approval of minutes of regular Council meeting held October 5, 2010.
- b. Review and file bills recapped as of Monday, October 11, 2010.

Motion passed (6 – 0).

BUSINESS AGENDA

PRESENTATION BY DENNIS DUBAY REGARDING COLLECTIVE BARGAINING

Village Labor Attorney, Dennis DuBay, updated Council on the status of Act 312 Arbitration proceedings with Beverly Hills Public Safety Officers. The arbitration panel conducted a pre-hearing conference, and hearings took place over four days at the end of September. During that time, the panel heard from 12 witnesses, received 170-180 exhibits, and generated hundreds of pages of transcript. Once the transcriptions are completed, the parties will be directed to file a post-hearing brief within 30 days.

The panel ordered the submission of the final offers of settlement. These final offers require the parties to state a position with respect to each issue in dispute. If it is economic, the panel will be required to select one or the other; it may not split offers or present a new resolution. The final offers will be submitted on behalf of the Village tomorrow morning, October 20. Once the panel receives the briefs, it will review and consider the arguments and evidence submitted by the

parties in support of its positions, prepare a draft award, and meet with panel members. DuBay expected the panel award to be issued sometime in December.

DuBay addressed a number of inquiries directed to him by Council members. He commented on his credentials and qualifications and those of his labor and employment law firm, Keller Thoma. DuBay is president of the firm that he joined in 1972. Keller Thoma negotiates on behalf of 60-70 area communities and has encountered all of the arbitrators who participate in Act 312 cases. DuBay is aware of what municipalities are attempting to do to contain costs and maintain their operations. Keller Thoma has the highest Martindale-Hubbell rating of AV.

In response to an inquiry, DuBay said that the benefits and wages of the Beverly Hills Public Safety Department are within the expected range. He clarified that public safety officers are cross trained to be police officers, fire fighters, and first responders; he discussed the advantages of a department that provides combined services. Public safety officers typically receive higher pay than police officers or fire fighters because they are performing the two jobs at the same time. Beverly Hills officers' salary and benefits are competitive, with some higher and some lower than in other municipalities.

DuBay related that advice was given in the late 1990's and early 2000's not to arbitrate for the reason that most municipalities were unsuccessful due to increasing taxable value. There was an inability to convince arbitrators that there was a cash flow inability-to-pay issue. Given the decline in taxable value since 2008, arbitrators are much more inclined to listen to employer cases involving ability to pay. DuBay noted that arbitrators are allowed to give weight to eight statutory criteria as they deem them applicable.

It was indicated that residents have suggested that the Village stop paying retiree contract benefits negotiated in the 1970's, 1980's and 1990's. DuBay affirmed that the courts have spoken to obligations and promises made to individuals if an employee provides the required years of service and reaches a certain age. He said that there are ways that rising costs of retiree health insurance can be addressed legally; stripping away promised benefits is not one of them. Contract law does not allow a municipality to breach those agreements.

DuBay was asked to comment on whether the November 2 Village millage proposal will effect the arbitration award. He said that it would not. There was a great deal of time spent during the Act 312 proceedings on the ability to pay and the financial condition of the Village. The chairperson of the panel understood that, even if the millage passes, there will be no surplus revenue available to the Village. If the Charter Amendment does not pass, it will be a devastating situation for the Village.

In answer to inquiries, DuBay discussed the advantages of a public safety department and contract impediments experienced by communities that would like to convert to the public safety model or to subcontract services. He mentioned the cross-training costs and legal protocols that must be followed in terms of existing labor unions. There are compulsory processes involving collective bargaining laws, mediation regulations, and Act 312 protocol and procedures.

Council related that it has been suggested that the Village fire its officers and hire new people since the public safety officers' contract has expired. DuBay responded that the Village would be faced with an injunction issued by Oakland County Circuit Court along with demands and payments for back pay and damage done. A contract may bear an expiration date but, as a matter of law, the contract must continue until the Village reaches the impasse resolution procedures and resolves the contract through that procedure, i.e. Act 312.

DuBay said that the Village cannot decide to discontinue its public safety department and sign a contract with the Sheriff's Department or another community. Municipalities cannot subcontract; they must follow legal protocols. If a municipality becomes bankrupt, the state will appoint an emergency financial manager with the goal of presenting a balanced budget. If revenues are not available, other services are cut before police and fire departments.

Village Attorney Tom Ryan asserted that the current State administration will not allow a Michigan municipality to go bankrupt because of the fiscal negativity. Statute provides for an emergency financial manager for a local government; a financial manager does not have the power to void union contracts. Ryan made the point that local governments cannot shut down without going through innumerable procedures and receiving permission from the State of Michigan. There is no panacea for a local unit of government to close their doors and go bankrupt voiding all of its contracts.

PRESENTATION OF JUNE 30, 2010 AUDIT BY PLANTE & MORAN

Chris Jones and Tim St. Andrew from Plante & Moran presented the audit report for the year ending June 30, 2010. Council members are in receipt of the general purpose financial statements for the Village, report to the Village Council, and a graph package. Jones announced that Plante & Moran is presenting an unqualified opinion on the Village's financial statements, which means that the Village's accounting records are presented in accordance with the accounting standards mandated by the State.

St. Andrew referred to a graph showing General Fund Revenue by major category. Property Taxes and State Shared Revenue represent 85% of the Village's revenues; these revenue sources are expected to decline in the coming years. The second graph shows General Fund Revenues compared to last year. Property tax revenue has decreased and is expected to decline significantly in the coming years.

Another graph compares State Equalized Value vs. Taxable Value for the Village over the past three years. The trend is going down with the SEV expected to decrease by 16% from 2010 to 2011. The gap between SEV and Taxable Value has narrowed every year since 2008 and will be nearly equal in 2011. As the gap closes, SEV will decrease at the same rate as taxable value resulting in a greater decrease in tax revenue to the Village. Oakland County is estimating declines in taxable value through 2014. Once property tax values begin increasing, it will be a slow recovery due to the effects of the Headlee Amendment and Proposal A.

A chart of General Fund Expenditures by major category illustrates that salaries, fringe benefits, retiree health care, and retirement make up about 71% of the Village's expense. St. Andrew addressed a graph comparing 2009 and 2010 General Fund expenditures.

A graph depicting General Fund Balance compared to the minimum target shows that the Village is currently at 20% of its general fund expenditure level as set by Council. St. Andrew brought it to Council's attention that the entire amount budgeted for contribution to the Retiree Health Care trust fund was not met due to budgetary constraints. The estimated fund balance for 2011 puts the Village below the targeted amount.

St. Andrew stated that the Village implemented GASB 45 this year, which is the accounting and reporting by employers for Other Post Employment Benefits (OPEB). The Village had an actuary report conducted that indicated that Beverly Hills has an unfunded OPEB liability of \$15.9 million. At 6/30/2010, the Village had \$1.6 million in an OPEB Trust Fund.

Chris Jones stated that Council will be receiving a packet of letters including required communications from the auditor summarizing audit findings. It will state that Plante & Moran had no disagreements with management and no significant audit adjustments. The other two pieces of the packet will be observations and comments from the audit that may be helpful as well as legislative and municipal finance updates and reminders. Jones encouraged Council members to contact him or St. Andrew with any questions they may have.

Jones reminded the Village about an accounting statement that will be applied in the next year involving new definitions for governmental activities fund balance. The goal of the new term is to help the reader understand the spendable aspects of the fund balance.

Jones concluded that an overview of the Village's financial statements does not present a bad picture relative to other communities. He cautioned that the Village did not fully fund its retiree health care obligation this year; that portion builds up as a liability. Due to recent market trends, the Village's Retirement System is 83% funded. Taxable values are continuing to decline, and it is impossible for communities in the state to regain the revenue lost through the taxable value decline. There are some real challenges ahead. Jones credited Council for the decisions it is making and the steps taken to address these issues.

Jones addressed questions from Council on the following topics: percentage of expenditures on salary and fringe benefits; unfunded retiree health care, OPEB reporting and the impact on the Village's financial condition, the Village's fund balance and its long term debt as a percent of assets compared with other communities, and additional questions on the financial statements provided by Councilman Briggs in an email. Jones stated that it is not unusual for 71% of the Village's budget going toward salaries and fringe benefits; a municipality is a service organization.

Stearn asked if members of the public had any questions or comments for the auditors regarding the Audit Report for the year ended June 30, 2010. There were no questions from the public. Stearn thanked Chris Jones and Tim St. Andrew for their presentation.

Motion by Mooney, second by Koss, to receive and file the June 30, 2010 Audit Report prepared by Plante & Moran.

Motion passed (6 – 0).

PUBLIC HEARING FOR PROGRAM YEAR 2011 COMMUNITY DEVELOPMENT BLOCK GRANT

Wilson stated that Beverly Hills has participated in the federally funded Community Development Block Grant (CDBG) program for over 25 years. The program is administered through Oakland County’s Community & Home Improvement Division. The yearly allocation is based on a formula that applies several objective measures of community needs including the extent of poverty, population, housing overcrowding, age of housing and population growth lag in relationship to other metropolitan areas.

The Village’s estimated allocation for Program Year 2011 is \$18,141. Council is required to hold a public hearing before it considers allocating funds. The following is a breakdown of the proposed allocation:

Minor Home Repair	\$9,071.00
Planning Services	3,628.00
Public Services (Yard Services)	2,942.00
Public Services (Battered & Abused)	2,500.00
TOTAL	\$18,141.00

President Stearn opened the public hearing at 8:35 p.m. for comments on the Village’s application for participation in the 2011 Community Development Block Grant program. No one wished to be heard; the public hearing was closed at 8:36 p.m.

REVIEW AND CONSIDER PROGRAM YEAR 2011 COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION

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

Whereas, Oakland County is preparing an Annual Action Plan to meet application requirements for the Community Development Block Grant (CDBG) program, and other Community Planning and Development (CPD) programs, and;

Whereas, Oakland County has requested CDBG-eligible projects from participating communities for inclusion in the Action Plan, and

Whereas, the Village of Beverly Hills has duly advertised and conducted a public hearing on October 19, 2010 for the purpose of receiving public comments regarding the proposed use of PY 2011 Community Development Block Grant (CDBG) funds in the approximate amount of \$18,141, and

Whereas, the Village of Beverly Hills found that the following projects meet the federal objectives of the CDBG program and are prioritized by the community as high priority need.

Account	Project Name	Amount
172160-731227	Minor Home Repair	\$9,071.00
172170-731360	Planning Services	3,628.00
172160-732170	Public Services (Yard Services)	2,942.00
172150-731360-40620	Public Services (Battered & Abused)	2,500.00

Now, Therefore Be It Resolved, that the Village of Beverly Hills' CDBG application is hereby authorized to be submitted to Oakland County for inclusion in Oakland County's Annual Action Plan to the U.S. Department of Housing and Urban Development, and that the Council President is hereby authorized to execute all documents, agreements, or contracts which result from this application to Oakland County.

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

REVIEW AND CONSIDER LIABILITY AND PROPERTY INSURANCE RENEWAL

Council has received a copy of the proposed policy and a memo from Finance Director Wiszowaty regarding the Village's property and liability insurance renewal for 2010-11 from the Michigan Municipal Risk Management Authority (MMRMA). The premium cost for property and liability coverage over the next 12 months is \$138,498, an increase over the previous year. This increase includes a recommendation from MMRMA for a \$15,000 contribution to the loss fund reserve. If the Village renews with MMRMA at this time, it will receive a refund of \$15,804 for the prior year's premiums and investments.

Wilson has reviewed the proposal with Wiszowaty. It is recommended that Council renew the Village's coverage for another year with MMRMA in the amount of \$138,498, which includes the \$15,000 to the self insurance fund. Ryan has reviewed and approved the proposal. Questions and comments from Council were addressed by Ryan and Wilson.

Motion by Mooney, second by Oen, that the Village Council renew its property and liability insurance policy with the Michigan Municipal Risk Management Authority to reflect a \$10,000,000 Limit of Liability with a \$75,000 Self-Insured Retention, which includes \$500,000 for sewer back-up coverage, and approve the proposal from MMRMA in the amount of \$138,489. The insurance cost will be paid from budgeted line items in the General Fund and the Enterprise Funds.

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

REVIEW AND CONSIDER RESOLUTION AUTHORIZING ADMINISTRATION TO SEEK BIDS FOR AMBULANCE SERVICE

Council is in receipt of a memo from Director Woodard along with a copy of bid specifications for ambulance service. Beverly Hills has received ambulance service from Alliance Mobile Health of Troy since November of 2006. Prior to that, the Village was serviced by American Medical Response (AMR) for over 25 years until they went out of business. The contract with Alliance expired in December of 2009. Alliance has continued to provide ambulance service for the Village at the cost of \$1 per year.

Wilson stated that the Public Safety Department has had a positive relationship with Alliance Mobile Health over the course of the contract period. Because there is a competitive market for these services, Council consideration is being given to accepting proposals from other qualified ambulance service providers. In response to an inquiry as to how an ambulance company

receives payment for services, Wilson related that it is a private market service with the companies primarily compensated through insurance reimbursement or private pay.

Director Woodard said that response time is a primary issue in terms of ambulance service. He indicated his satisfaction with Alliance Mobile Health, noting that response time is rarely an issue. Council could authorize renewal of the contract with Alliance, or direct the Department to seek bids for ambulance service.

Council discussed whether to solicit proposals for ambulance service. The majority of Council members thought it would be good management to accept proposals for this service to determine what is available in the market.

Motion by Mooney, second by Peddie, that the Village of Beverly Hills Council authorize the Department of Public Safety to publish an invitation to bid for ambulance services.

Roll Call Vote:

Oen	- yes
Peddie	- yes
Stearn	- no
Koss	- yes
Mercer	- yes
Mooney	- yes

Motion passed (5 – 1).

PUBLIC COMMENTS

Brian LaFerriere 19501 Wilshire, council candidate, said that he reviewed the audit report. He referred to the Village's liability, and thought it was clear that the Village needs the Charter Amendment to pass in order to maintain the community's financial viability. LaFerriere was concerned that a number of Beverly Hills taxpayers do not understand the tax impact of the millage increase combined with the drop in property values. He submitted a handout that uses charts and graphs to illustrate the effect of the millage increase with a simultaneous drop in property values. The average taxpayer will be paying less next year than they did in 2008 and 2009 if the Charter Amendment passes. LaFerriere encouraged residents to avail themselves of the tax calculator on the Village's website.

Maureen Burry of 32742 Pierce commented that her family has been happy and safe in Beverly Hills for 34 years. She indicated her support of the Public Safety Department and related that the Baldwin Library has been an invaluable part of her family's life. She considers the library to be even more of a bargain during these difficult economic times. Burry supports the Charter Amendment. She hoped that people will do their homework before casting their vote on a proposal that will affect their household and the entire community.

Bob Walsh of Smallwood Court commented that the Village Labor Attorney established that ability to pay is not the main criteria of arbitration proceedings. Whether the millage proposal affected the arbitration proceedings will not be determined until award decisions are final. Walsh

expressed the view that the dedicated millages for public safety, general operations and the library leave no flexibility for future councils to move dollars around. He was concerned about the allocation of money for road repairs. Walsh talked about the rubbish fee imposed on residents and questioned where the money generated would be spent.

Greg Kessler of 18345 Beverly Road voiced his objection to the millage increase based on the fact that surrounding communities are not asking for a 3.5 mill increase. Those communities have done things differently. He does not believe that the circumstances are different in Beverly Hills than in other Oakland County municipalities.

Don O'Connell of 20900 Smallwood said that he values this community and has been participating in the Save Our Services campaign. He has observed negative campaigning. The election should not be about demonizing the public safety department or Village management; it should focus on the economic tsunami facing the community. Residents have to do something to preserve what they have in Beverly Hills. If people want this community to be strong for years to come, services must be maintained so that young people will want to move into the Village.

Robert Deneweth of 32321 Arlington commented that residents in favor of the Charter Amendment have had 80 election signs stolen from their homes in Beverly Hills. This denies the right of people to participate in the democratic process. Deneweth criticized election statements that have been blatant distortions of the truth or deliberately misleading; he provided examples of those falsehoods. Deneweth concluded that the millage election has resulted in this community coming together in ways that he did not think possible. Hundreds of people have supported and contributed to the Save Our Services organization and want to keep Beverly Hills a first class community.

REPORTS – MANAGER

Wilson announced that the Village will hold its third and final Town Hall meeting on the Charter Amendment proposal on Thursday, October 21 at 7:30 p.m. at Berkshire Middle School. There are four remaining neighborhood association meetings to be conducted before the November 2 election.

Wilson reported that the 2010 Watermain Project is about 75% complete. He updated Council on the status of the work. All construction work should be completed by the end of October followed by minor repairs and restorations. Wilson advised Council on the status of the 2010 road paving project noting that all base repairs have been completed with the exception of Evergreen. He outlined the repaving schedule. All construction and repairs on the sewer lining project are complete. Minor restorations will be finalized during the week of October 18.

As a reminder, the next regular Council meeting will be held on Wednesday, November 3. There will be an organizational meeting of the newly elected Council to decide on officers on Tuesday, November 9.

Council and administration have spent a lot of time in the last month at Town Hall meetings and at various neighborhood association meetings answering questions from residents. The meetings have been positive. Wilson related that he has been contacted regarding a handful of issues concerning the Charter Amendment and the Village in general. He set the record straight on

several statements that are being disseminated to mislead the public about the need for a Charter Amendment.

Wilson concluded that the truth is this: 1) The Charter Amendment provides dedicated and protected funding for the Village's most vital services like police, fire, emergency dispatch and library; 2) If the Charter Amendment fails, the Village will lose over 25% of police officers and fire fighters and will lose access to the Baldwin Library; 3) Cuts to the public safety staffing levels will lead to increased response time for police and fire, and 4) Even if the Charter Amendment passes, most residents will be paying less in property taxes to the Village in 2011 than they did in 2009.

REPORTS – COUNCIL

Stearn read comments received in an email from Councilman Briggs, who could not be present tonight. Briggs thanked Bob Wiszowaty and the finance department for their work on the audit. He encouraged everyone to vote on November 2. Briggs said that he has enjoyed working with the current members of Council.

Mercer mentioned that he took part in the League of Women Voters Candidate Forum held in the council chamber on Wednesday, October 13. The Candidates Forum continues to be aired on public access Cable Channel 18.

Mercer commented on information presented at today's Council meeting on the arbitration process by the Village Labor Attorney and on the Audit Report by Plante & Moran representatives. There was detail given on how the Village conducts its business with public safety and in terms of its financial statements. Mercer commented on the unfunded health care obligation and the Village's effort to close that gap. He asked people to become informed and vote on November 2, 2010.

Mooney announced that the Annual Halloween Hoot will be held in Beverly Park on Sunday, October 24. He described the all-day event. Mooney recognized Greg and Maureen Burry in the audience, noting that they have been active in the community. He acknowledged former Councilman Ron Berndt, who has worked on addressing the financial crisis in the Village.

Mooney talked about the current Council's efforts in examining the Village's financial difficulties over the last two years under the leadership of President Todd Stearn. Mooney mentioned that he was impressed by council candidate Brian LaFerriere, who has attended Council meetings and expressed thoughtful and interesting ideas and analysis. Mooney recommended the reelection of Lee Peddie, Jon Oen, Tim Mercer and Walter Briggs. He thanked Manager Chris Wilson and Clerk Ellen Marshall on an outstanding job and their dedication to informing the public about Village finances.

As Council liaison to the Baldwin Public Library, Peddie presented the following information:

- Beverly Hills residents pay less than Birmingham residents for the same library services;
- The Michigan Supreme Court issued a decision that libraries do not have to sell library cards. The Baldwin Library does not intend to sell individual or household cards. They

provide full service only to Birmingham residents and taxpayers and to people living in communities that have a contract with Baldwin Library. If the Village's contract with Baldwin Library is terminated, Beverly Hills residents will not be able to buy individual library cards from the library.

- If the millage fails, the Village will not be able to renegotiate its contract with Baldwin Library for a lesser amount.
- Baldwin Library provides service based on the community where a person lives and not based on school attendance. The library will not provide services to a Beverly Hills student if the library contract is not continued.

Oen stated that residents will lose police officers and the use of Baldwin Library if the Charter Amendment fails. He urged residents to maintain what took 50 years to build.

Koss commented on the community information meetings that have been held within the last six weeks. She talked about what the Village has done to save money including privatization and consolidation of services. Our public safety officers serve as police officers, fire fighters and first responders. Koss urged residents to become informed before they vote and not to believe all the rhetoric they hear. People can contact any Council member if they have questions.

Stearn encouraged residents to attend the final informational meeting on Thursday, October 21 at 7:30 p.m. at Berkshire Middle School. The Halloween Hoot will take place on Sunday, October 24; there is no charge for this event. Our Lady Queen of Martyrs is presenting a Halloween Haunted Mansion this weekend. Stearn thanked candidate Brian LaFerriere for attending Council meetings.

Stearn asked residents to become informed and vote on November 2 to save the public safety department and the library.

Motion by Mooney, second by Koss, to adjourn the meeting at 10:02 p.m.

Motion passed (6 – 0).

Todd Stearn
Council President

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary