

Present: President Mercer; President Pro-Tem Briggs; Members: Burry, LaFerriere, Mooney and Oen

Absent: Kelly

Also Present: Manager, Wilson  
Assistant Manager/Clerk, Marshall  
Village Attorney, Ryan

President Mercer 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. Seven Weboloes from Cub Scout Pack 1024 from Beverly Elementary School lead those in attendance in reciting the Pledge of Allegiance.

#### **ADDITIONS TO AGENDA/APPROVE AGENDA**

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

Motion passed.

#### **COMMUNITY ANNOUNCEMENTS**

Zachary Schafer, 16926 Birwood, expressed his concern regarding Genetically Modified Organisms (GMO) and is seeking Council's support in requiring proper labeling of foods that have been genetically modified.

Village Clerk Marshall encouraged residents to return the Parks & Recreation survey that was included in the December newsletter. The survey can also be obtained through the Village website at [www.villagebeverlyhills.com](http://www.villagebeverlyhills.com).

Marshall regrettably reported that the 2013 Village calendar has an error on the month of November. The Village is working with the company that printed the calendar to come up with a solution. Beginning with Tuesday, November 12<sup>th</sup>, all of the text in the boxes is off by one day, so meetings were printed one day later than they will be held. It also incorrectly shows that Hanukah starts on Thursday and Thanksgiving is on Friday.

#### **CONSENT AGENDA**

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

- a. Consider approval of minutes of a regular Council meeting held December 4, 2012.
- b. Review and file bills recapped as of Monday, December 17, 2012.

Motion passed.

#### **BUSINESS AGENDA**

#### **PROCLAMATION RECOGNIZING A. ROBERT BLIVEN FOR HIS SERVICE TO THE VILLAGE OF BEVERLY HILLS**

Councilmember Mooney presented Village resident, A. Robert Bliven, with the following proclamation:

PROCLAMATION

WHEREAS, A. Robert Bliven served on the Birmingham Area Cable Board for five years from 1984 to 1989 and the Village Planning Board for 15 years from 1989 to 2004; and

WHEREAS, Mr. Bliven utilized his architectural background to become the Village's infrastructure mapping expert in 1994 and has continued to do so through the end of this year; and

WHEREAS, Mr. Bliven, with meticulous detail, has produced dozens upon dozens of maps relative to Beverly Hills starting with streets and expanding to water mains and sewers; and

WHEREAS, Mr. Bliven has served as an unofficial historian of Beverly Hills gathering information and data from numerous sources to determine original property owners and settlers in the Village; and

WHEREAS, Robert Bliven is a quiet man who often enjoys listening to country music while toiling on the computer; and

WHEREAS, Mr. Bliven has announced his retirement from his second career at the Village of Beverly Hills effective December 31, 2012;

NOW, THEREFORE, BE IT RESOLVED that the Beverly Hills Village Council hereby recognizes the outstanding commitment of A. Robert Bliven during his 23 years of service to the Village of Beverly Hills; and

BE IT FURTHER PROCLAIMED that the Beverly Hills Village Council, on behalf of the residents and staff of the Village, express a heart-felt thank you for the dedication that Mr. Bliven has shown during his years of service to the Village of Beverly Hills.

Audience members gave Mr. Bliven a standing ovation in recognition of his years of service to the Village.

**REVIEW AND CONSIDER SUBCOMMITTEE'S RECOMMENDATION TO FILL VACANCY ON THE ZONING BOARD OF APPEALS**

LaFerriere reported that a subcommittee consisting of himself as chair, Briggs and Burry met prior to tonight's Council meeting to review two applicants to fill a vacancy for a full member of the Zoning Board of Appeals. The subcommittee unanimously recommends the appointment of David Eifrid to this position.

Motion by LaFerriere, second by Burry, that Council appoint David Eifrid as a full member of the Zoning Board of Appeals for a term to expire June 30, 2014.

Motion passed.

**REVIEW AND CONSIDER RENEWAL OF ASSET STRATEGIES CONTRACT FOR INVESTMENT CONSULTANT SERVICES FOR ONE YEAR**

Briggs reported that Asset Strategies has been our investment counselor since 2003. This year, the Retirement Board began looking into other alternatives. At this time, the Retirement Board feels it is prudent to stay with Asset Strategies while continuing to review what other options are available.

Resolved by Briggs, second by Mooney, that the Village of Beverly Hills Council approve the renewal of the contract with Asset Strategies to provide investment consulting services for the Village of Beverly Hills Public Safety Retirement System from January 1, 2013 through December 31, 2013 in the amount of \$18,000 funded from the Public Safety Retirement Fund.

Tony Lott, 19101 Riverside, questioned the annual fee referenced in the original contract from 2003.

Roll call vote  
Motion passed (5 – 1).

**REVIEW AND CONSIDER AGREEMENT WITH TOM RYAN FOR LEGAL SERVICES**

Briggs reported that Council has been working with Tom Ryan over the past year to review his contract with the Village. Manager Wilson negotiated an agreement wherein Ryan will receive a monthly retainer of \$7,500 for his services which will include all monthly criminal prosecutions in the 46<sup>th</sup> District Court, phone calls, correspondence memorandums, interaction with the Village Manager and staff and phone conferences with Village Council members. Services under this agreement do not include legal services related to labor relations, collective bargaining, Pension Board legal services, criminal jury trials or civil litigation.

A section has been included in this agreement to address legal services for the Retirement Board. Section 5 states that legal services required by the Retirement Board and provided by the Village Attorney shall be paid at a rate of \$125 per hour.

Resolved by Briggs, second by Mooney, that the Village Manager is authorized to enter into an agreement with Thomas J. Ryan to provide legal services beginning January 1, 2013 through December 31, 2015.

Oen reminded everyone that Ryan reduced his hourly rates to the Village by 4% or 5% a few years ago.

Mooney recognized Mr. Ryan's outstanding qualifications to serve as the Village's legal counsel.

Roll call vote  
Motion passed (6 – 0)

Wilson stated that the next item on the agenda was to review and consider an agreement with Tom Ryan to provide legal services to the Retirement Board. With the inclusion of Section 5 in the contract currently being discussed, the next agenda item will not be required.

A complete copy of the contract is available in the Village Office.

**REVIEW AND CONSIDER AGREEMENT WITH TOM RYAN FOR LEGAL SERVICES**

Motion by Mooney, second by Burry, that no action be taken by the Council based on the action taken by Council on the previous item.

Motion passed.

**PUBLIC COMMENTS**

Kathleen Berwick, 31381 Kennoway Ct., encouraged residents to complete the recent Parks & Recreation Board survey that was distributed in the December newsletter. She would like to see more recreational activities at Beverly Park for a broader spectrum of residents.

Tony Lott, 19101 Riverside, would like to see more publication of crime in the Village. He shared that there is a website called [www.crimedar.com](http://www.crimedar.com) in which the Village could participate. Crimedar.com shows the type of crimes that occur in a community, where they occurred and also encourages residents to submit tips. He encouraged administration to submit crime reports to the local newspapers.

Lott introduced a new interactive website that will go into effect on January 5<sup>th</sup> called [www.trustandtransparency.net](http://www.trustandtransparency.net). It is designed to be a website where people can log on to learn and share ideas, thoughts and experiences with friends and neighbors while working together to make Beverly Hills a better place.

**REPORTS – MANAGER**

Wilson thanked Mr. Robert Bliven for all of the service that he has provided to Beverly Hills over the years. His contributions have been many.

Wilson also recognized long time Village resident, Joe Donovan, for 46 years of broadcasting service in Detroit. Donovan's last day on WWJ was Friday, December 14<sup>th</sup>. He and his wife, Rita, were involved in the organization of the 50<sup>th</sup> anniversary celebration in the Village in 2008.

Wilson reported that the bi-weekly Public Safety activity reports are available with a direct link through the weekly GovDelivery messages sent out by the Village Office each Friday. To sign up for this free text message/email message service, log onto the Village website [www.villagebeverlyhills.com](http://www.villagebeverlyhills.com). Wilson also commended Public Safety Director Torongeau for instituting police patrols around local schools in the morning and afternoon when he started working for the Village in April.

**Council meeting** - As a reminder, the first Village Council meeting in January will be held on Wednesday, January 2nd at 7:30 PM.

**Trash Collection Schedule** – Over the holidays, trash collection will occur as regularly scheduled on Monday, December 24th and Monday, December 31st. Trash collection scheduled for Tuesday, December 25th will occur on Wednesday, December 26th. Trash collection scheduled for Tuesday, January 1st will occur on Wednesday, January 2nd. Christmas trees will be picked up for chipping on the weeks of January 7th and 14th.

**Offices Closed** – Village and Southfield Township Offices will be closed on Monday, December 24th, Tuesday, December 25th, Monday, December 31st and Tuesday, January 1st in observance of the holidays. Southfield Township Offices will also be closed on Wednesday, December 26th.

**Sewer Bills** – Wilson has received some calls and concerns relative to water and sewer bills and felt it would be appropriate to provide an update on this process at this time. As we have noted many times, the office of the Water Resources Commissioner made a decision to impose a change in the methodology of how sewer bills are calculated for local communities in the Evergreen Farmington Sewage Disposal System (EFSDS). Previously, all communities were charged for sewage consumption based upon water usage. It was long held that water consumption was an accurate and proportional measurement of sewage consumption. In addition, communities within the EFSDS with combined or partially combined systems, including Beverly Hills, would be charged a surcharge for storm water. Local governments were easily able to pass along these charges to the end users (residents) by assessing them a fee for sewage consumption based upon water usage at each residence. This system was efficient, fair and proportional, and not just in the opinion of the Village. The EPA and DEQ had both reviewed this billing methodology and found it to be fair and proportional.

In 2008, the WRC announced that it was proposing to change the methodology by which local governments were to be billed for sewage consumption. The WRC proposed using a system of sewage meters that were constructed in the EFSDS to apportion sewage costs to local governments. The Village of Beverly Hills and some other communities objected to this change primarily for the following reasons:

- The sewage infrastructure and the network of meters within the EFSDS were neither designed nor intended to measure sewer flow for individual communities.
- Sewer meters are not as accurate as water meters. This point is not debated by the WRC. By their own estimates, meters can be inaccurate by 5-10% and still be considered “acceptable”. This acceptable rate of error in certain meters can actually exceed the amount of sewer flow apportioned to local governments, including the Village of Beverly Hills.
- Local governments would no longer have a methodology by which to efficiently and proportionally pass along sewer charges to end users (residents). It is neither feasible nor useful to place sewage meters on individual residences.
- Local governments, particularly those in combined or partially combined communities would now be subject to wild fluctuations in their annual and or quarterly costs for sewage disposal. This would inevitably result in increased rates to end users and negatively impact the ability of these communities to schedule and perform infrastructure repairs and upgrades.
- Communities with combined sewage systems such as Beverly Hills, Birmingham and Bloomfield Township had made significant investments in RTB facilities based upon an assumption that the old billing methodology would remain in place. Had these communities been informed that changes in billing methodology were imminent these investments may have been better used to separate the combined sewers instead of constructing retention and treatment basins.
- The previous billing methodology had been approved and accepted as proportional by the EPA and DEQ as required by the Clean Water Act. The Clean Water Act requires regulated jurisdictions to have a billing methodology approved as fair and proportional to

prevent drastic changes in the ways in which communities and end users are charged for sewage disposal. That is exactly what happened here.

- The WRC did not request approval prior to this change and the EPA and DEQ have yet to provide such approval because they have held, as has the Village, that the WRC did not have an adequate history of the ability of the meters within the EFSDS to accurately measure or approximate flow to local communities.

The above referenced points are just a summation of the exceptions that the Village has taken with the change in billing methodology in the EFSDS. In response to the announced implementation of these changes, many communities in 2009 passed significant increases in water and sewer rates. These decisions were predicated on information provided by the WRC on what they anticipated future costs of member communities to be. The Village, upon recommendation by Village Administration *did not* increase sewer rates in either 2009 or 2010 in response to the changes in billing methodology. We *did not* increase rates when other communities did because Village Administration believed, and the DEQ on behalf of the EPA later confirmed, that the WRC lacked an adequate historical analysis to provide any estimation or approximation as to what the change in billing methodology would mean to local communities.

As early as 2009, Village Administration was requesting that the WRC not implement any changes in billing methodology until a five year history of the use of sewer meters to allocate flow to local communities could be accomplished. In their analysis of the new sewer billing methods put into use in the EFSDS, the DEQ agreed that further historical evidence on the effectiveness and proportionality of the use of this new billing methodology would need to be provided before they could approve such a system. Tellingly, the Village's auditors are now advising us to complete a five year analysis of our costs for sewage disposal costs and use this analysis to set our rates for end users at an appropriate level. This analysis is ongoing.

The initial analysis of Village Administration on the use of the sewer meters in the EFSDS is that, in comparison to the old methodology, the new methodology would *not* result in significant changes to either the amounts or proportions that local communities pay over the long term. This change would result in significant fluctuations on a quarter by quarter basis in the amount and proportion that communities pay without providing these communities with an adequate means of passing this volatility along to end users. The inevitable result will be high sewage rates for *all* communities and end users as local governments will be required to build reserves from the payments of end users in periods of lower bills to cover the costs in periods when bills are higher. This phenomenon will be most evident in communities with combined or partially combined sewage systems, like the Village of Beverly Hills.

The risk of costs for sewage disposal exceeding charges obtained from the previous billing methodology based upon water consumption were previously spread amongst all communities in the EFSDS and did not have an impact on end users. The EFSDS had built in reserves, currently in excess of \$15 million, contributed to from the payments of all communities and end users in the EFSDS to handle such fluctuations. The Village requested, as a matter of fairness, that these reserves be returned to the communities, and therefore the end users who built them up to help offset some of the volatility that they were now being forced to accept. This did not happen.

In 2011, and 2012, two years *after* the implementation of the billing methodology, Village Administration proposed increases in water and sewer rates to address the volatility that has

resulted from the change in sewer billing methodology in the EFSDS. It has been asserted that the Village Administration has had no plan to address the changes that were brought forth by the new sewer billing methodology from the WRC. These assertions have no basis in fact or reality. The Village of Beverly Hills has been the most outspoken of all member communities in the EFSDS in opposition to the changes in billing methodology that have resulted in higher sewer costs for this community and its residents. At times, the Village of Beverly Hills has stood alone in this opposition. I am proud to have been a part of that and feel that the facts have confirmed the Village's concerns and continue to do so.

As it stands today, residents in the Village have begun to feel the impact of increased utility rates, particular for sewage disposal. The current costs for sewage disposal are more than double the costs for water on a per unit basis. This phenomenon is not unknown within the region. According to the most recent analysis by the Detroit Water and Sewerage Department their costs for sewage disposal are more than 1.5 times greater than their costs for water treatment. In response to the outsized impact that sewage disposal costs are having on our residents I am going to ask Council to consider two items in the upcoming year: 1. Moving from quarterly to monthly billing and 2. Reconsideration on the prohibition of the use of separate meters for exterior water use (sprinkling) and absolution from sewer charges on such metered water use.

The Village has received some good news relative to sewage recently and it would be appropriate to pass that along at this time as well. The Village and other member communities have been participating in a workgroup regarding a Long Term Corrective Action Plan (LTCAP) for the Evergreen Farmington Sewage Disposal System (EFSDS). The LTCAP is necessary to resolve ongoing sewer overflows from the EFSDS. This workgroup has identified multiple projects necessary as part of the LTCAP, prioritized these projects and assigned an estimated construction cost to each one. In addition, the work group has been assigned with determining an appropriate cost sharing of these costs amongst EFSDS communities.

The Village has long held the position that our response to any needed capacity in the Village as part of a LTCAP would be to utilize our portion of the Acacia RTB that the residents of this community supported financially through construction and operation. Accordingly, we would not be supportive of the assigning of significant costs to the taxpayers of the Village of Beverly Hills required in a LTCAP. Other member communities have had the opportunity to support or fund infrastructure projects similar to the Acacia Park Basin but have chosen to forego the expense. Accordingly, other EFSDS communities other than Beverly Hills would need to be responsible for the majority of the costs for future capacity needs.

The cost sharing options reviewed by the workgroup have largely supported the Village's position. The group has identified projects in excess of \$132,000,000 with the highest priority projects estimated at \$77,000,000. Of the various options considered, the consensus of the workgroup was an option that allocated \$0 in cost to the Village of Beverly Hills. I have drafted a letter of support to the WRC for this option. Other communities are looking at some significant costs for the LTCAP while others like the Village of Beverly Hills will have no or very minimal costs. Some communities had cost estimates in excess of \$20 million and multiple had costs in excess of \$1 million. These costs will have to be borne by the end users in those communities. Residents in the Village of Beverly Hills will greatly benefit from the efforts of previous Councils and Administrations to fund and build the RTB's.

**Fire Apparatus Replacement** – Wilson updated Council on the fire truck situation. The Department has spent a significant amount of time looking for used pieces of equipment locally and site visits have been made. The Department located a 2011 Pierce 105' ladder truck with a 2000 gallon per minute pump and a 500 gallon tank. Captain Yanosy and Det. Sgt. Milliron flew to Oregon this past weekend to view a demo vehicle that has been to numerous trade shows, but has never been in service. Some additional safety features would need to be added to this vehicle in the event we purchase it. While this vehicle would be appropriate for the Village, other options will be pursued to determine what is in the best interest of the Village.

A financing option is available from Pierce although other financing and bonding options are being researched. Bonding will have up-front costs which may not make it feasible. Wilson expressed his appreciation to Yanosy and Milliron for their efforts to travel across the country to inspect this vehicle.

Torongeau reported that there are possible cost savings between \$60,000 and \$200,000 by purchasing this demo vehicle. Before delivery to Beverly Hills, the truck would be returned to the dealer in Wisconsin for a complete check up. Torongeau mentioned that other organizations are interested in purchasing this same vehicle.

LaFerriere asked that consideration be given regarding the cost of a new truck versus a used truck and he hopes that competitive bids will be sought for financing. He suggested that purchasing ladder truck service from another community might be a viable option. Mooney inquired about the cost to repair the current ladder truck, the life expectancy of the current fire truck if it were repaired, and how often the ladder truck is deployed for an actual incident. Surrounding communities have ladder trucks and he suggested that a cost benefit analysis could reveal the need to purchase a new truck versus repairing the current truck. Oen expressed concern that the Village's ISO rating could be negatively affected if we do not have our own ladder truck apparatus. Mercer inquired about standard options that are required in Michigan on a fire truck. Burry suggested partnering with another community(ies) for ladder fire truck usage. It was suggested that a special meeting of the Village Council may be necessary to discuss all options.

Mooney recapped what the Village has done about the water and sewer billing with regard to the Water Resources Commissioner's new billing methodology for sewage. A significant amount of discussion has taken place at public meetings regarding the new metering system.

LaFerriere asked for an updated report on the financial aspect of the new sewer billing methodology as imposed by the Oakland County Water Resources Commissioner. Wilson will provide that report in the next few weeks.

Burry would like the Village to move expeditiously on implementing monthly water billings. Wilson stated that such a change will need to be approved through the next budget process and adequate lead time will be necessary to order the appropriate supplies. Mercer clarified that if Council agrees to allow residents to install a separate water meter for exterior water use, the Village will still be responsible for paying sewer charges on all water purchased through the City of Detroit.

## **REPORTS – COUNCIL**

LaFerriere was complimentary of the 2013 Village calendar and December *Villager* newsletter.

Burry was pleased to share that Thornton & Grooms, a local heating and cooling contractor, has made a donation to the Birmingham Area Seniors Coordinating Council to assist low income seniors living in Beverly Hills with snow removal services this winter. In previous years, funding for this type of assistance was available through the Community Development Block Grant program, however, that funding was not available this year and the Village is very grateful to Thornton & Grooms for their generosity.

Oen displayed a pin that is available for purchase at the Department of Public Safety to financially assist recently injured Public Safety Officer Tom Danielson. On Friday, December 14, 2012, James Bracey was sentenced to a minimum of 10 years for injuring Officer Danielson in an automobile accident that occurred on October 4, 2012.

Mooney reminded everyone of the various recreational opportunities available at Beverly Park.

Briggs reported that the Baldwin Library Board met yesterday and they are seeking a student representative. The Library has been conducting a study of future needs and that report is on the library website. On January 23, 2013 a public hearing will be held by the Library Board regarding the final study. The library will be holding classes on their E-books program every Saturday morning from 10:00 a.m. to 11:00 a.m. An upcoming event for families with young children will be discussing the art of roughhousing.

Mercer requested that the ZBA alternate position vacancies be included on the next agenda. He thanked Joe Donovan, morning anchor on WWJ, for 46 years of excellent broadcasting in Detroit. He is going to miss hearing him every morning. Mercer extended his personal thanks to Robert Bliven for his years of service to the Village and he also thanked the Village office staff and public safety personnel for their work throughout the year.

Members expressed their condolences to the victims and their families who were affected by the recent tragedy at Sandy Hook Elementary School in Newtown, Connecticut.

Members wished everyone a happy holiday season.

Motion by Mooney, second Oen, to adjourn the meeting at 9:35 p.m.

Motion passed.

**Tim Mercer**  
**Council President**

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

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