

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

Absent: Mooney

Also Present: Village Manager, Wilson  
Assistant Manager/Clerk, Marshall  
Director of Public Safety, Torongeau  
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. Boy Scout Daniel Chekal from Troop 1634 out of Royal Oak led those present in reciting the Pledge of Allegiance.

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

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

Motion passed.

### **COMMUNITY ANNOUNCEMENTS**

County Commissioner Bill Dwyer was present to update the Village on County matters. He reported that the Road Commission for Oakland County is committed to having Thirteen Mile Road between Lahser and Telegraph Road open by Thanksgiving. The road has been closed due to bridge work in Bingham Farms.

Dwyer commented that the primary role of the Board of Commissioners is to pass the Oakland County budget. On September 19, 2013, the Board passed a three-year balanced budget for fiscal years 2014, 2015 and 2016. According to the County five-year outlook, the budget is balanced through FY 2017. The County has retained its AAA bond rating due to sound fiscal policies and overall collaboration with County administration. The County has been able to maintain one of the lowest millage rates in the State at 4.19 mils. It was reported that there are more than 220 emerging sector companies generating over \$2.5 million in investments while retaining or helping to create more than 42,000 jobs since the inception of the emerging sectors program in 2004.

Dwyer referred to the Gun Violence in Oakland County report prepared by the Public Services Committee of the Oakland County Board of Commissioners. The recommendations of this group were reviewed with this Council at the last meeting attended by Dwyer. Since then, a study group was formed to assess the recommendations and how they will be implemented.

Dwyer mentioned the availability of up to \$15,000 for delinquent mortgages and property taxes. Interested individuals should access the Oakland County Clerk's website for information on this application. Oakland County offers a number of workshops for small business owners. Details are available at [www.advantageoakland.com](http://www.advantageoakland.com). Oakland County has several job postings including part-time college interns. People can go to the Oakland County website and click the 'careers' link for more information.

The 2013 Veterans Day commemoration ceremony will be held Friday, November 8 at 4 p.m. at the Oakland County Commissioners auditorium.

### **CONSENT AGENDA**

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

- a. Consider approval of minutes of a regular Council meeting held October 15, 2013.
- b. Review and file bills recapped as of Monday, October 21, 2013.
- c. Review and file bills recapped as of Monday, November 4, 2013.

Motion passed.

### **BUSINESS AGENDA**

#### **REVIEW AND CONSIDER SUBCOMMITTEE'S RECOMMENDATION TO FILL VACANCY ON THE COMMUNICATIONS COMMITTEE**

Briggs reported that a subcommittee of Mercer, Oen and himself met at 7:15 pm this evening to consider one application to fill a vacancy on the Communications Committee. The subcommittee voted unanimously to appoint Julia Slatcher to the Communications Committee for a term to expire on June 30, 2016.

Motion by Briggs, second by Oen, to appoint Julia Slatcher to the Communications Committee for a term to expire on June 30, 2016.

Motion passed.

#### **REVIEW AND CONSIDER STORM WATER, ASSET MANAGEMENT AND WASTEWATER (SAW) PROGRAM RESOLUTION AND APPLICATION**

Manager Wilson stated that Village Administration has been working with consulting engineering firm Hubbell Roth and Clark on a grant application for the Stormwater, Asset Management and Wastewater (SAW) Program. Dan Mitchell from HRC was present to give a presentation on the SAW Grant application. Part of the application process is a resolution that the Council will need to approve; Council is in receipt of an updated copy of this resolution.

Dan Mitchell provided a comprehensive overview of the State of Michigan Stormwater, Asset Management, and Wastewater (SAW) Program using the Village's smart board to display a PowerPoint presentation. It is a grant program of up to \$2 million for planning, design and other types of projects designed to address water quality issues relative to storm water systems and sanitary sewer systems. The grant program requires a 10% local match on the first million and a 25% local match on the second million. It is expected that SAW grant wastewater or stormwater recipients will implement the necessary construction for which grant funding was provided for any planning, design, and/or user charge grants. SAW grant recipients are required to make significant progress on the funding structure within three years and are required to implement the plan.

Mitchell addressed fundable projects that have been identified including asset management for sanitary or storm systems, stormwater management plans, planning and design of sanitary and

storm projects, or innovative projects. He clarified that Beverly Hills will be focusing on the Wastewater Asset Management Plan portion in Appendix C of the Grant Application. He talked about the characteristics of an asset management plan, project scope, and how the Village could take advantage of this program. He referred to a map graphic to illustrate the project areas.

Before Council for consideration tonight is a Resolution that is part of the application. Mitchell mentioned that the Resolution must be passed with the wording as presented. If selected, the Village can walk away before entering into a grant agreement if it has issues with the language. Applications are due December 2; the Michigan Department of Environmental Quality 120-day review process was outlined.

Mitchell answered questions from Council on specifics of the grant program including what is covered by the \$2 million grant, the bidding process, possibility of using only the first \$1 million, program for sharing purchased equipment, the cost of application development by HRC, and competition for the grant. It was clarified that the \$2 million grant is for an asset management plan and not for construction. Mitchell explained that a community is required to implement the plan if their Asset Management Plan shows a deficiency.

In answer to an inquiry, Village Attorney Ryan recommended approval of the resolution authorizing the Village to submit an application for the SAW grant. If the grant application is approved, the Village will have an opportunity to review the language of the Agreement and determine whether to move forward with the grant application.

Motion by Oen, second by Briggs, that the Village of Beverly Hills Council adopt the Resolution Authorizing the SAW Grant Agreement between the Village, the Michigan Finance Authority (MFA), and the Department of Environmental Quality (DEQ).

A copy of the Resolution in its entirety and a copy of the SAW Grant Application is available for public review at the Village offices.

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

### **REVIEW AND CONSIDER AMENDING THE RULES GOVERNING THE PAVILION AT BEVERLY PARK**

Clerk Ellen Marshall has reviewed the rules for Beverly Park pavilion usage after a few issues were brought to her attention throughout the rental season. Marshall suggested the implementation of minor changes that will be beneficial to the Village. Council is in receipt of a copy of the Rules Governing Use of the Pavilion with the proposed amendments. The Parks and Recreation Board has reviewed the proposed rule changes and recommended adoption by Council.

Resident Sharon Tischler questioned the enforcement of park pavilion rules. Marshall responded that the Village employs a park opener who informs the Village if problems occur during a rental. The deposit may be retained by the Village to cover any damage.

Motion by Oen, second by Briggs, that the Village of Beverly Hills Council approve an amendment to the Organizational Policies and Procedures Manual, specifically the page entitled Pavilion – Rules Governing Usage, to include that staples shall not be used to secure cloths to tables, picnic tables shall be returned to their original set up if moved during rental, confetti is not allowed in pavilion, no animals are allowed in or near the pavilion or playground, and that use of bounce houses require prior approval.

Motion passed.

**REVIEW/CONSIDER ADOPTING THE MUNICIPAL EMPLOYEES’ RETIREMENT SYSTEM (MERS) UNIFORM 457 SUPPLEMENTAL RETIREMENT PROGRAM RESOLUTION AND PARTICIPATION AGREEMENT**

Village Administration has been working with MERS staff on the implementation of a 457 Defined Contribution plan. This would be the final action in the Village’s transition to MERS for Public Safety Pension and Retiree Health Care Funding. The Village has similar plans with the International City Managers Association Retirement Corporation (ICMA-RC), ING and Transamerica. Participation in the program is voluntary on the part of the employee and there is no Village contribution. Employees will be able to establish plans with MERS or transfer existing accounts they currently have to MERS, pending all applicable rules and regulations. Employees are responsible for the fiduciary management of these accounts. Automatic payroll deductions can be administered by the Village for participating employees.

Village Administration has reviewed the Resolution and Participation Agreement and find them to be in the best interest of the Village. Manager Wilson recommends that the Village Council approve the MERS Uniform 457 Supplemental Retirement Program Resolution as submitted and authorize the Village Manager to sign the MERS 457 Supplemental Retirement Program Participation Agreement. Attorney Ryan affirmed that this is an employee benefit that is available at no cost to the Village.

Motion by Oen, second by LaFerriere, that the Village of Beverly Hills Council approve the MERS Uniform 457 Supplemental Retirement Program Resolution and authorize the Village Manager to sign the MERS 457 Supplemental Retirement Program Participation Agreement.

A copy of the Municipal Employees’ Retirement System (MERS) Uniform 457 Supplemental Retirement Program Resolution and Participation Agreement are available for public review at the Village office.

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

**SET PUBLIC HEARING DATE FOR VILLAGE CENTER OVERLAY DISTRICT**

Manager Wilson reviewed that the Planning Commission has been working on a plan for redevelopment of the Southfield Road corridor for many months. The Planning Commission has now completed that process and has approved language for the inclusion of the Village Center

Overlay District in the Beverly Hills Code. A copy of the Village Center Form-Based Code has been provided to Council for review.

Council set a Public Hearing date for Tuesday, December 3, 2013 to receive comments on a revision to the Code to adopt a Village Center Overlay District. There will be a first reading of this ordinance amendment at the Regular Council meeting of November 19, 2013 along with a full presentation on the Overlay District by representatives from LSL Planning.

Oen thanked the Planning Commission members for their hard work on an Overlay District that will provide future opportunities for a well thought out redevelopment of the Southfield Road corridor.

**REVIEW AND CONSIDER MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM (MERS) FOR ADDITIONAL CREDITED SERVICE – MIKE MILES**

Wilson stated that PSO Mike Miles has contacted the Municipal Employees' Retirement System (MERS) with an Application for Additional Credited Service, which includes the cost estimate, member certification, and governing body resolution. Officer Miles is a 16-year employee of the Village both as a dispatcher and Public Safety Officer.

MERS has run a calculation for the purchase of five years of service credit, which is the maximum amount of service credit that can be purchased. The purchase price of \$101,046 is the full responsibility of PSO Miles. Village Administration has reviewed this option with PSO Miles and is confident that he is aware of the regulations and ramifications of this purchase. Wilson recommends that the Village Council approve the resolution approving the MERS Application for Additional Credited Service for Mike Miles.

Members of Council pointed out the potential risks and benefits of these applications for additional credited service. The assumption is that, if the pension plan does not meet the actuarial rate of return on which this estimate is based, the Village is responsible for making up that difference. If the return is exceeded, the employee does not receive a refund. There are also assumptions in the application relative to the PSO's final average compensation. It was noted that a tenured PSO who leaves is replaced by a new employee that may not have the same set of benefits, which is a cost savings. Some concern was expressed that employees exercise caution in terms of investing money to buy additional years of pension benefits and consider all alternatives.

Motion by Oen, second by Briggs, that the Village of Beverly Hills Council resolve to approve the Application of PSO Mike Miles to purchase additional credited service as provided by the MERS Plan Document and in accordance with Village of Beverly Hills policy.

Roll Call Vote:

Motion passed (6 – 0).

**REVIEW AND APPROVE HUBBELL, ROTH & CLARK INVOICES FOR PAYMENT**

Motion by Oen, second by Briggs, to allow Council member Kelly to abstain from voting on the invoice received from Hubbell, Roth & Clark based on her business relationship with the vendor.

Motion passed.

Motion by Oen, second by Briggs, that the Village of Beverly Hills Council approve the invoices submitted by Hubbell, Roth & Clark Inc. for professional services in the amount of \$11,048.04 through October 5, 2013.

Motion passed.

**PUBLIC COMMENTS**

Sharon Tischler of 21415 Virmar Court had questions on one of the invoices approved for payment in the Consent Agenda, which was addressed by Council.

**REPORTS – MANAGER**

**August 30th Rain Event** – Council is in receipt of a report from Public Services Director Tom Meszler regarding the rains of August 30 and subsequent flooding of homes in the area around Buckingham and Greenfield. Notice was received from seven homes in the area that had water in their basements. It is believed that there were more homes with water issues that have not reported them to the Village.

Considerable research has been done to determine the cause of the flooding that occurred in the Greenfield area. There were no blockages found in the system. The County inspected this area twice. The Village has been unable to determine any cause for this flooding other than the amounts of rainfall being more than the system could handle at one time. Restrictor plates have now been installed in that area. The Village is not assuming any liability at this point.

**Bellvine Trail Construction** – LSL Planning and Village Administration have been reviewing concerns that have been brought forward regarding the construction of the home at 31820 Bellvine Trail. While the site plan for this construction is compliant with the stated setbacks for this zoning district, the front yard setback is less than the average of homes within 200 ft. as required by Ordinance Section 22.24.010. Village Administration has reviewed previous cases before the ZBA and has confirmed that this standard has been enforced by the Village in the past. The owner/contractor for this property has been notified of this non-compliance and will seek a variance before the Zoning Board of Appeals.

This case will be on the agenda of a regular Zoning Board of Appeals meeting scheduled for Tuesday, November 12. A representative from LSL Planning will be present as well as Village Attorney Tom Ryan.

**Retiree Health Care Audit** – The Village has received a copy of the audit of the Retiree Health Care Fund. This audit, through December 31, 2012, indicates a funding level of 18.9% based upon assets of \$2.96 million. Current assets of the Retiree Health Care Fund are just over \$3.2

million. Since the last actuarial evaluation (12/31/07) the Village's funded ratio has more than doubled as have our assets. During this same period, the Village's unfunded liability for retiree health care has decreased by over \$2.2 million. Wilson addressed questions from Council on this matter.

**Riverside Pond Right Spillway** – The Village has received the completed survey from HRC indicating that ownership of the right spillway portion of the Erity Dam is split between two separate private owners and the Village. The Village has reported the results of the survey to the DEQ. The DEQ has reported back to the Village that owners of the northern portion of this spillway per the survey continue to deny, through their attorney, any ownership of this structure.

Wilson informed Council that he and Public Services Director Meszler will be meeting tomorrow, November 6, with representatives from the DEQ and legal counsel from the proposed owners of the right spillway. Wilson does not want to expend more Village resources on this issue until the nature of the objections can be determined. Administration wants the DEQ to take a stand on the ownership issue and their recommendation for the remediation of this issue going forward along with the role that they would play in that remediation. Wilson added that there are area property owners who have asked to meet with him regarding the Erity Dam issue, which he will do following tomorrow's meeting with the DEQ. Wilson will keep Council updated on this matter.

**Building Department Services** – The Administrations of Beverly Hills, Royal Oak and Southfield Township have finalized all the issues with regard to a potential agreement for the provision of Building Department services. Attorney Ryan has been involved in this. Wilson has also met with the Building Official, LSL Planning, and HRC to discuss the plan review process. An agreement for additional service sharing will come before Council for consideration in the near future.

#### **REPORTS – COUNCIL**

All members of Council thanked the Halloween Hoot organizers for a great community event. A report and recap of this year's Halloween Hoot will be an agenda item for the next Council meeting.

Kelly mentioned that there was a significant fire at the house next door to her residence on the night of the Halloween Hoot. The Public Safety Department put out the fire and saved the house with no damage to her home. Kelly expressed her appreciation for the work done by the Public Safety Department every day.

Burry related that another resident recently praised the Beverly Hills Public Safety Department for an outstanding job of investigating a Breaking and Entering incident at their house. This is another example of the outstanding job done by Beverly Hills PSOs and of the fine leadership of Chief Torongeau.

LaFerriere commended the Seaholm High School football team on their recent successes. The next playoff game is scheduled against Brother Rice on Friday, November 8 at Berkley High School.

Oen voiced favorable comments on Seaholm High School's football team, the Halloween Hoot, and the professionalism of the Public Safety Department.

Briggs reported that the Baldwin Public Library will be holding its Semi-Annual Friends of the Library Used Book Sale from November 8-11, 2013. The event helps fund library programs. The Library had a public hearing on the Baldwin Library renovation and expansion. Briggs commented that the proposal includes outstanding enhancements to the library. Vietnam Veteran and former U.S. Army Captain Jim Suhay will present a history of the Vietnam Veterans Memorial in Washington D.C. at the Baldwin Library on November 17 at 2:00 p.m.

Briggs reminded everyone that this will be the final weekend to see the Groves High School Musical Shrek. It is an outstanding show.

Mercer thanked Scout Daniel Chekal from Troop 1634 for attending tonight's Council meeting to fulfill a requirement for his Citizenship in the Community badge.

Mercer echoed the positive remarks made tonight regarding the excellence of Beverly Hills Public Safety Officers. Our officers are second to none; they are appreciated by the community.

Motion by Oen, second by Briggs, to adjourn the meeting at 9:17 p.m.

Motion passed.

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

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

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