

Present: President Mercer; Members: Burry, Kelly, LaFerriere, Mooney and Oen

Absent: Briggs

Also Present: Village Manager, Wilson  
Assistant Manager/Clerk, Marshall  
Public Safety Director, 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. The Pledge of Allegiance was recited by those in attendance.

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

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

Motion passed.

#### **SWEAR IN NEW PUBLIC SAFETY OFFICER**

Council President Tim Mercer introduced new PSO Jeff Moore and invited him to step up to the lectern, where Clerk Ellen Marshall administered the oath of office, officially instating him as a Beverly Hills Public Safety Officer. Mercer provided background information on Officer Moore, who is from Grosse Pointe Woods, outlining his education, law enforcement training, and accomplishments. The Village and Public Safety Department wholeheartedly welcomed Officer Moore.

#### **COMMUNITY ANNOUNCEMENTS**

Southfield Township Clerk Sharon Tischler announced on behalf of the Beverly Hills Lions Club that there will be a free vision screening event for children on Saturday, January 25 from 2:00 pm – 4:00 pm at Books-a-Million located at the corner of Thirteen Mile and Southfield Roads. She provided details regarding this non-invasive vision screening procedure.

Tischler stated that she provided Clerk Marshall with the paperwork regarding filing for candidacy for Village Council. Several Council seats will be up for reelection in November. The deadline for filing will be in July.

#### **CONSENT AGENDA**

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

- a. Consider approval of minutes of a regular Council meeting held January 7, 2014.
- b. Review and file bills recapped as of Monday, January 13, 2014.
- c. Set public hearing date of February 18, 2014 to review and confirm 2013 Special Assessment Roll for the Southfield Road Business Assessment District.

Motion passed.

#### **BUSINESS AGENDA**

**REVIEW AND CONSIDER APPROVAL OF A QUOTA TAVERN AND SDM LIQUOR LICENSE FOR THE SALE OF CRAFT BEER IN A RETAIL STORE FRONT AT 31215-31225 SOUTHFIELD ROAD**

Manager Wilson stated that the Village is in receipt of a request from Michigan Beer Growler Company to obtain a Quota Tavern Liquor License pursuant to MCL 436.1531. A SDM (Specially Designated Merchant) License and Sunday Sales Permit (AM) are requested. Michigan Beer Growler Company, LLC will be owned and operated by sole member, Janae Condit, who lives in Beverly Hills with her husband Brian. Kelly Allen, attorney, is present tonight on behalf of the petitioner.

Michigan Beer Growler Company will lease their establishment from Beverly Ventures, LLC located at 31215-31225 Southfield Road, formerly Lois Gross Cleaners. This will primarily be a retail establishment. The applicant's vision is to provide a large selection of Michigan craft brews, hard ciders, some wine and a few high quality soft drinks. The establishment will be operating with 1,500 square feet and proposed a seating capacity of 26. Hours of operation are anticipated to be Monday – Thursday from 11:00 am to 8:00 pm; Friday and Saturday from 11:00 am to 9:00 pm; and Sunday from noon to 6:00 pm. They will not have a kitchen, but plan on working with Brady's, Jimmy Johns and Market Fresh to cater events or deliver food to customers.

Wilson clarified that this is a license that is available under the Village's allotted quota from the State of Michigan; it is not a transfer of a license. Kelly Allen stated that Beverly Hills has four remaining quota licenses.

Kelly Allen, attorney on behalf of the applicant Janae Condit, stated that a Tavern Liquor License is being requested, which means that they can serve beer and wine only for consumption on the premises. The SDM permit is a permit attached to that license that enables the applicant to sell beer and wine to-go. The new law in Michigan has to do with growlers, which are generally half gallon jugs used to transport draft beer. They are commonly sold at breweries and brewpubs as a means to sell take-out craft beer. In order to sell growlers for consumption off premises, a licensee must have an on premise license. Allen explained that Janae Condit will be selling beer and wine for consumption on the premises as well as pop and some food items from other vendors. Under this license and permit, they will be able to sell the growlers to go. This type of establishment is new to Michigan.

Questions from Council members were addressed by Kelly Allen. Topics included concern with on-site alcohol consumption and lack of food, proximity to Brady's Tavern, parking availability, seating capacity, governing body's responsibility relative to approval, site plan details, hours of operation, business plan, use of the facility, transfer of licenses, cost of buying a license on the open market, and licensee training.

Allen stressed that this establishment will not be a bar; the idea is for people to come in and taste the types of craft beers sold and purchase it to go. She reiterated the limited hours of the store. Snacks will be provided; the owners will be working with the market and food establishments in the area to provide food for special events. Allen clarified that the store does not have a kitchen; a kitchen is not required by law for this kind of license. Allen suggested that the applicant will agree to put something in writing stating that they will not extend their hours of operation.

With regard to a concern about parking, Wilson stated that the applicant will have to come before the Planning Commission for site plan review for modifications to the premises. Granting of the Liquor License by the State for this location would be conditioned upon site plan review and approval by the Planning Commission and Council.

In response to an inquiry relative to Council's rights and discretion regarding this request for a Quota Tavern and SDM License, Wilson indicated that Council has complete discretion over granting or denying a liquor license. The State requires the local governing body to sign off on a request for Tavern License. If the applicant were to purchase an existing license that was not part of the Village's Quota Licenses, a license request would not come before the local governing body as long as State criteria was met. Site plan approval would still be required by the local government body. Allen clarified that State Law says that a quota license cannot be transferred for a period of three years without showing good cause to the State Liquor Commission.

Ryan informed Council that Beverly Hills does not have an ordinance outlining criteria for determining whether a liquor license can be approved. It has not been deemed necessary in the past by Council.

Motion by Burry, second by LaFerriere. Be it resolved that the Village of Beverly Hills Council approves the request from Michigan Beer Growler Company (Owner Janae Condit) for a Quota Tavern Liquor License pursuant to MCL 436.1531 for a business to be located at 31215 – 31225 Southfield Road, Beverly Hills, Michigan, 48025, Oakland County, Michigan.

Larry Burns from Delton, Michigan stated that Janae Condit is his daughter. He made comments supportive of the proposal before Council and provided information on growlers and tastings. He affirmed that this will not be a sports bar, and the owners will not be promoting people to remain on the premises. Sale of growlers is the focus of the business. Attorney Allen reiterated that the law states that you can only serve growlers if you have an on-premise license, thus the Tavern application.

Roll Call Vote:

Mooney	- no
Oen	- no
Burry	- yes
Kelly	- no
LaFerriere	- yes
Mercer	- yes

Motion fails (3 – 3).

Mercer stated that the applicant could modify the request for Tavern and SDM License and bring it back before a full Council.

Motion by Burry, second by LaFerriere, to bring the request from Michigan Beer Growler Company for a Quota Tavern and SDM Liquor License back to the table.

Roll Call Vote:

Oen - no  
Burry - yes  
Kelly - yes  
LaFerriere - yes  
Mercer - yes  
Mooney - no

Motion passed (4 – 2).

Motion by Burry, second by LaFerriere, to table the request from Michigan Beer Growler Company for a Quota Tavern and SDM Liquor License until a full complement of Council is present.

Roll Call Vote:

Burry - yes  
Kelly - yes  
LaFerriere - yes  
Mercer - yes  
Mooney - no  
Oen - no

Motion passed (4 – 2).

**REFER SITE PLAN AND SPECIAL LAND USE REQUEST FROM DETROIT COUNTRY DAY SCHOOL TO THE PLANNING COMMISSION FOR REVIEW, RECOMMENDATION AND PUBLIC HEARING**

Wilson related that Village Administration has met with Detroit Country Day School (DCD) representatives regarding changes and upgrades to existing mechanical systems/equipment at their Upper School. Because the building was constructed in a residential area under a Special Land Use permit, it will be necessary for Detroit Country Day to obtain site plan approval from the Planning Commission and Village Council for these modifications. All permit issuance and inspection will be performed by the State of Michigan. Wilson requested that Council refer this site plan application to the Planning Commission for review at its February 26, 2014 meeting.

Motion by Oen, second by Mercer, to refer the request from Detroit Country Day School for upgrades to the mechanical systems and equipment at its Upper School building to the Planning Commission for review, public hearing, and recommendation to Council.

Questions from Council were addressed by Manager Wilson.

Ayes - Burry, Kelly, LaFerriere, Mercer, Oen,  
Nays - Mooney

Motion passed (5 – 1).

**REVIEW AND CONSIDER RESOLUTION TO APPROVE AGREEMENT WITH COURTS LAW ENFORCEMENT MANAGEMENT INFORMATION SYSTEM (CLEMIS) FOR FIRE RECORDS MANAGEMENT SYSTEM**

Public Safety Officer Robert Ginther provided background information relative to the proposed Agreement with Courts Law Enforcement Management Information System (CLEMIS) for a Fire Records Management System. He compiled a proposal on behalf of the agency regarding its records management as it applies to the fire operation for the Public Safety Department. Ginther used the Smart Board to assist with his presentation.

CLEMIS Fire Records Management System (Fire RMS) has the following capabilities:

- Fire Incident Records
- EMS Incident Records
- Personnel Records Management
- Daily Roster Assignments
- Fire Training Records
- EMS Training Records
- Fire Inspection Records
- Vehicle & Equipment Inventory
- Vehicle & Equipment Maintenance Records
- Hydrant Maintenance Records
- Daily Activities Log
- Customized Reports
- Digital Photo Attachments
- Pre-Plan Floor Plan Attachments

**BENEFITS:**

The following benefits of the Fire RMS through CLEMIS will be realized:

- Reducing the number of reporting systems (CLEAR, NFIRS, MI-EMIS, Fire Tools) from four to two which will allow for officer's report writing time to be maximized and allow the administrative assistant/records supervisor to effectively access and compile data, including FOIA requests.
- Integration with thirty-three other fire agencies throughout Oakland County including current mutual aid partners Berkley, Huntington Woods and Oak Park who are currently utilizing this system.
- Compliance with Health Insurance Portability and Privacy Act (HIPPA), which we are currently unable to adhere to with current report systems.
- Integration of a report system with Birmingham Dispatch, so that all dispatch information, will be transferred from the dispatch center to the Call for Service/Report; which currently does not occur.
- Allows for Birmingham Dispatch to access commercial building contact information for Beverly Hills.
- Allows for Birmingham Dispatch to access alarm company information for Beverly Hills.
- Allows for Birmingham Dispatch to access hazardous materials information stored on site for commercial buildings in Beverly Hills.
- Allows for Birmingham Dispatch to provide officers with any incident pre-plan information that was

obtained during annual fire inspections.

- All Fire and EMS reports will be compliant with all county, state and federal reporting requirements.
- Any additional software updates or mandated requirements by the county, state or federal governments will be assumed by the consortium rather than just the Village.
- Improvement on maintaining and verifying state mandated training records for fire which currently is being done manually.
- Improvement on maintaining and verifying state mandated training records EMS which currently is being done manually.
- Improvement of Vehicle, Equipment and Hydrant records which currently is being done manually.
- Improvement of state mandated fire inspection records which is currently being done manually.
- Allows for digital capture and attachment of inspection violations, investigation information.
- Provide accurate statistical data regarding Fire and EMS operations.

Ginther stated that there is a cost involved with this Interlocal Agreement, which will be addressed in the next fiscal year budget. The request before the Village at this time is to approve and certify the Agreement. There will be a one-time start up fee of \$3,500 covering computer costs. The cost of the program is \$4,000 annually.

Motion by Oen, second by LaFerriere, to adopt the following Resolution.

**Resolution**  
**Fire Records Management System**

WHEREAS the Village of Beverly Hills is required by statute to report to the State of Michigan and Federal Government through the Beverly Hills Public Safety Department all occurrences of fire operations; and

WHEREAS the Village of Beverly Hills is required by statute to report to the State of Michigan and Federal Government through the Beverly Hills Public Safety Department all occurrences of Emergency Medical Service operations; and

WHEREAS the Oakland County Courts Law Enforcement Management Information System, commonly referred to as CLEMIS, provides these services in a consolidated manner through their Fire Records Management Service;

NOW THEREFORE BE IT RESOLVED that the Council for Village of Beverly Hills, hereby approves the user agreement for the Fire Records Management System of Oakland County CLEMIS; and

IT IS FURTHER RESOLVED that the Village Council President execute the agreement on behalf of the Village of Beverly Hills and Village Administration and Director of Public Safety or their designee administer the agreement on behalf of the Village of Beverly Hills.

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

### **PUBLIC COMMENTS**

Attorney Norman Hyman representing Nolan Realty requested that the Village Council refer the application for site plan and overlay approval for property located at 31555 Southfield Road to the Planning Commission for review and recommendation to Council as required under the Village ordinance. This property is the former McDonald's site owned by Philip Vestevich.

Hyman related that the ordinance states that the Village Manager must review the application to determine whether it is proper in terms of meeting the requirements of the ordinance. Hyman understands this to mean that the Manager must make sure the application is in proper form. This request for site plan review was not placed on the agenda of this Council meeting as requested. Hyman stated that Nolan Realty has a right to due process. It is his opinion that the Manager is not allowed to make policy decision for the Village. Hyman talked about the proposed self storage use and the fact that this use has been approved in many municipalities. The Village zoning ordinance makes no provision for self storage facilities. Section 2.07 of the zoning enabling act says that the village does not have the authority in general to exclude lawful uses.

Steven Satovsky, owner of the Beverly Hills Club at 31555 Southfield Road, spoke in favor of the proposal to develop the site immediately adjoining his property as a mixed use development with self storage. It conforms to what the Beverly Hills Club wants to see in the area long term. Satovsky asked Council to forward this site plan proposal to the Planning Commission.

Bill Bowman with Great Northern Developments stated that he has worked on site selection and development of this property. The proposal is for a mixed use project with some retail use and drive through self storage that includes improvements to Gould Court. The building and site can be designed to the specifications required by the community. He asked for the opportunity to meet with the Planning Commission to review the project.

Norman Hyman spoke on behalf of property owner Philip Vestevich, who could not be present. Hyman related the unsuccessful attempts of Mr. Vestevich to find a buyer for his property after McDonalds abandoned the restaurant. He asked for the Village's review of the proposed project.

Steve Nolan with Nolan Realty Investments distributed copies of elevation drawings of the EZ Storage site. He included photographs of similar drive-through storage developments both locally and out of state along with support letters from those municipalities offering favorable comments on the use.

### **REPORTS – MANAGER**

**31555 Southfield Road** – The Village is in receipt of a site plan submittal for a mixed use development for the former McDonalds property at 31555 Southfield Road. Village Administration, the Village Attorney, and LSL Planning have reviewed the site plan at some length and have provided a response to the petitioner that their submittal is not being forwarded for further consideration at this time. The primary reason for not forwarding the application to Council for consideration and referral to the Planning Commission is that the primary use proposed by the site plan, a retail mini-storage facility, is not an allowable use in this area per the Village zoning ordinance.

The Village has a well established process for handling site plans that do not adhere to the zoning code. Wilson does not know under what grounds Council or the Planning Commission could consider a site plan that is not an allowable use. There is an alternative for those matters to be addressed.

Council is in receipt of Wilson's response to the applicant as well as a copy of the objections to his letter provided by the attorney for the petitioner. Wilson does not agree that an administrative denial of the site plan is a misuse of his authority as the designated zoning administrator of the Village, nor does he agree that the Village Council is obligated to refer a site plan that does not conform to the zoning ordinance to the Planning Commission for further consideration. Wilson added that he discussed this matter with LSL Planning and with the Village Attorney regarding the proper course of action relative to this site plan.

**Report of Basement Flooding** – The Village, through Oakland County, did receive a complaint of water backing up into a basement along Buckingham during a period of warmer temperatures. This was in the same area where there had been some basement flooding this summer due to excessive rainfall. The Village installed restrictor plates in that area to control the rate at which water can enter the Village's sewer system in order to prevent backups. The County was sent out to view the sewer and found no indication of blockage of its system. There were no additional reports received.

**Sewer Rehabilitation Project** – The sewer lining work has been completed and the leads have been reestablished.

**Joint Meeting with Planning Commission** – The Annual Joint Meeting with the Planning Commission is scheduled for Wednesday, February 12th at 7:30 PM.

**Council Chambers Furnace** – The furnace in the Council chamber has been repaired as of Thursday, January 16.

#### **REPORTS – COUNCIL**

Kelly made inquiries regarding Village procedures for handling site plan review requests, which was addressed by Attorney Ryan in some detail.

Burry reported that, at its January 15 meeting, the Birmingham Area Cable Board approved an administrative grant to its member communities; Beverly Hills' share will be \$128,000. In response to an inquiry about the status of a grant project to update the cable control room in the council chamber, Marshall stated that Bloomfield Community Television is working on a Request for Proposal.

Burry stated that the Birmingham Area Senior Coordinating Council center has extended its hours on Tuesday and Wednesday nights to include movies, pickleball, computer classes, etc. The BASCC Board has discussed an initiative to receive a "Community for a Lifetime" designation. The Michigan Office of Services to the Aging (OSA) and the Commission on Services to the Aging recognize the efforts of qualifying cities to be an aging-friendly community. Communities must conduct "a self-assessment or initiate an improvement that meets the program's aging-friendly goals.

Burry announced that the annual BASCC Golf Outing date has been established for June 9, 2014. He encouraged interested individuals to sign up for the outing or volunteer to sponsor the outing.

Mooney announced that the Annual Winter Family Fun Day will be held on Sunday, January 26 in Beverly Park from 1-4 p.m. Activities will include snow golf, ice skating, Score-O, snow shoeing, disc golf, a snow cave, hot chocolate and marshmallows over the fire.

Mooney commented on the Village's vision for the zoning overlay district for the redevelopment of the Southfield Road corridor. He referred to the proposal for a self storage building in the Village's downtown district as well as a proposal for a bar in the shopping center. These proposals are not in his vision of what this community should be allowing in its business district. Mooney also took exception to the action taken following a motion to deny the request for a Quota Tavern and SDM Liquor License for a retail store front on Southfield Road.

Oen welcomed new Public Safety Officer Jeffrey Moore. He thanked PSO Ginther on his presentation of the CLEMIS Agreement for Fire Records Management System. This will make the Village and the Public Safety Department more efficient.

Mercer announced that the Birmingham Youth Assistance will hold its Annual Kid's Dog Show on Sunday, February 2 at Berkshire Middle School.

Mercer had inquiries on the Snow Emergency Ordinance. Wilson indicated that a snow emergency can be called at the discretion of the Director of Public Works and Public Safety Director when the snow is in excess of 4 inches. This means that residents are asked to move their vehicles from Village roads until such time as the streets can be plowed. Notification is sent out through the GovDelivery email notification and through Facebook. Local media is also notified.

Motion by Mooney, second by Oen, that the meeting be adjourned at 9:47 p.m.

Motion passed.

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

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

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