

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

Absent: Kelly

Also Present: Village Manager, Wilson
Assistant Manager/Clerk, Marshall
Village Attorney, Ryan
Public Safety Director, Torongeau

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.

ADDITIONS TO AGENDA/APPROVE AGENDA

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

Motion passed.

COMMUNITY ANNOUNCEMENTS

None

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 April 1, 2014.
- b. Review and file bills recapped as of Monday, April 7, 2014.
- c. Review and consider request from Marian High School to use Village streets for a Walk-a-Thon on Friday, May 9, 2014.
- d. Review and consider awarding contract for 2014, 2015 and 2016 street sweeping services to G & M Enterprises.
- e. Consider waiving sales restrictions at Beverly Park for Memorial Day Carnival.
- f. Accept Little Free Library donation for Beverly Park from Janice Hausman.
- g. Review and consider renewal of professional computer consulting services with Enterprise Computer.

BUSINESS AGENDA

PRESENTATION BY HUBBELL, ROTH & CLARK REGARDING THE STORMWATER, ASSET MANAGEMENT AND WASTEWATER (SAW) PROGRAM AND ERITY DAM

Manager Wilson reviewed that the Village was awarded a sizeable grant from the State of Michigan under the SAW (Stormwater, Asset Management and Wastewater) program. Representatives from Hubbell, Roth & Clark (HRC) were present to discuss the contents of the award and how the Village will proceed with the program. HRC has also been working on a feasibility study regarding the Eryty Dam and will provide an update on that undertaking. Brad Shepler from HRC will talk about the SAW grant award; Laura Gruzowski and Dan Mitchell will address the Eryty Dam issues.

Brad Shepler provided a review of the SAW Program to support Sanitary, Stormwater and Nonpoint Source water quality projects. It is a grant program of up to \$2 million for planning, design and other types of projects. Beverly Hills sought SAW Grant Funding and was one of 92 applications selected from over 550 applications submitted to the MDEQ. At this point, the Village needs to decide whether to accept the Award and enter into an agreement with the State.

Shepler outlined the benefits and obligations of the SAW Program. It provides the Village with an opportunity to accurately assess, record and manage the current condition of its sewer system. It positions the Village for years to come to provide residents with a self-sufficient system for operation, maintenance and improvements. For every \$1.00 worth of work, the Village will contribute \$0.10 for the first \$1 million and \$0.25 per \$1.00 over the second \$1 million. If Beverly Hills enters the agreement with the State, it has three years to complete work and 2½ years to complete a financial analysis of sewer infrastructure revenue structure. If a gap in the current revenue structure is identified, the Village must provide a 5-year plan to address this gap. In that plan, a 10% reduction in that gap must be addressed within the first 3 years. The grant is a monthly reimbursement.

The Project Scope includes establishing a framework of goals for the Asset Management Plan and desired outcomes. There will be Asset Management Software, Hardware, and Training. Up to \$85,000 of the Grant can be put towards these expenses. The next portion is the Asset Management Plan where the Village initiates an inventory of assets and data collection. The Village will assess the condition of the system and conduct flow metering and modeling to identify problems areas. The Village will get into risk evaluation, which relates to the service levels and prioritization of improvements.

The next step for Beverly Hills is to enter into the Agreement with the State, budget the necessary match, schedule a kick-off meeting, and assess the software and hardware that will be needed.

In response to an inquiry from Council on the timing, Dan Mitchell from HRC indicated that Manager Wilson received a letter from the MDEQ today indicating the timeline for entering into the Agreement. The letter was dated April 14, 2014 and stated that a signed Agreement should be received at the MDEQ by April 18, 2014. The MDEQ will sign the Agreement on May 8, 2014.

Mercer added that signing the contract would indicate that the Village agrees with the terms and conditions set forth in the Agreement. Beverly Hills is not obligated to spend all or any of the grant funds at this point.

Motion by Mooney, second by Oen, that the Village of Beverly Hills Council authorize the Village Manager to enter into the Stormwater, Asset Management and Wastewater (SAW) Agreement with the Michigan Department of Environmental Quality.

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

Laura Gruzowski stated that Hubbell, Roth & Clark was recently retained by the Village to perform a feasibility study on the Erity Dam for the purpose of identifying existing conditions of the spillways at Mill Pond, review options and associated costs for the area, classify environmental and social impacts based on those options, and identify potential funding opportunities for the alternatives. Gruzowski related background information on the Erity Dam constructed in 1913. It consists of a left and right spillway. The left spillway is owned by the Village. A portion of the right spillway is owned by the Village along with private owners. Gruzowski referred to a map on the smart board showing the project location off of Riverside Drive near Evergreen Road. The Mill Pond and the two spillways are in a heavily residential area with limited access for restoration or site improvements.

The State DNR enacted a Dam Safety Act in 1989 for the reason that dams have been in existence for decades and are in a state of disrepair. MDNR inspections in 2003 and 2007 identified both spillways as being in a state of disrepair. The spillways lack sufficient flow capacity, which could result in potential environmental concerns from the DEQ. The dams and spillways did receive a low hazard rating. There were several recommendations on the existing conditions.

Gruzowski mentioned feasibility study findings on soil deposition and characterizations at Mill Pond in 2003 and in March of 2014. Laboratory analysis determined that none of the samples in the Mill Pond were hazardous and would not require special disposal methods. Dredging considerations were outlined and existing aquatic habitat was addressed.

The HRC report included estimated costs based on experiences with previous dam removal, dredging and stream restoration projects. Cost of dredging Mill Pond is estimated at \$1.6 million; Removal of both spillways and bank restoration is estimated at \$3.2 million; the estimated cost of restoration of both spillways is estimated at \$3 million. This does not include additional costs that could be incurred due to acquiring property and maintenance of structures, embankments and the lake bed. There may be costs associated with acquiring right-of-way to provide for necessary flow capacity as identified by the DNR.

Gruzowski said that it is the professional opinion of HRC, the DNR and the DEQ that upgrading the spillways would lessen the impact of peak storm events, control pond discharge, sediment/nutrient loading, and improve aesthetics. She emphasized that there is limited cost benefit to maintaining the impoundment due to the minimal quality that the Mill Pond provides. Riverside Park is an asset to the Village, but there is limited habitat quality benefit.

HRC evaluated funding programs available through various restoration programs. Gruzowski said that the emphasis of the programs is on dam removal. Dam restoration funding is unlikely through a funding program. It was mentioned that the Village could consider developing a special assessment district tax for the adjacent property owners affected by this project.

Hubbell, Roth & Clark recommended that the Village either restore both spillways and embankments to provide sufficient capacity or dredge and remove both spillways. Gruzowski commented that discussion with right spillway owners is critical prior to moving forward. HRC recommended further habitat and stream bank monitoring be performed at Mill Pond in order to

strengthen the grant application. The feasibility study is in draft form and will be finalized in the coming weeks.

Laura Gruzowski and Dan Mitchell addressed comments from Council on the following topics: comparable costs of either restoration or removal of the spillways; dam restoration and rehabilitation project funding; how dam removal benefits the Rouge River; priorities relative to right or left spillway restoration; ownership issues that would add to cost estimates; cost of ongoing maintenance of structures and the pond; downstream effects of dam improvements in terms of river flow; effect of removing both spillways; need for dredging; whether or not immediate action is necessary.

In response to an inquiry, Mitchell noted that easements or private property would have to be acquired in order to repair the right spillway. The left spillway is owned by the Village, but access would have to be negotiated and granted by abutting property owners, which complicates the issue. Both spillways are in need of improvement and enlargement in order to meet required flow capacities. The spillways are in excess of 100 years old.

Paul Erickson on Old Pond Court, property owner on the left spillway, said that the lower part of the river is close to the foundation of his house. He believed that Mr. Erity built the Saw Mill that crosses Evergreen in about 1865. The water wheels were needed to run his saws.

Gruzowski and Mitchell addressed what would occur if the spillways were removed. The impoundment would be gone and the river would resort back to its original course over time. The area of the pond would be dredged and would become a flood plain. The area could be filled and vegetation planted. The HRC recommendation was to excavate the existing sediment in the pond prior to removal of the spillways so the material is not lost downstream. It could be contained and used as part of the flood plain.

Paul Erikson on Old Pond Ct. commented on riparian rights and homeowner issues relative to losing the Mill Pond. He asked if it was legally feasible for the Village to initiate eminent domain on the basis that it would benefit Beverly Hills. Attorney Ryan commented on the procedures that are involved in a condemnation process and whether it was economically feasible for the Village. Ryan referred to a recent court case stating that people do not have riparian rights on artificially established waterways.

Mark Hammel on 32430 Evergreen Road, whose property backs up onto Mill Pond, asked what would happen if the spillways were removed. Gruzowski commented on the general condition that would result from removing the spillways. She would recommend planting of vegetation in the flood plain area to alleviate some of the concerns.

Robert Deneweth of 32321 Arlington had questions and comments regarding funding sources for removal or repair of spillways, consideration of purchasing properties adjacent to the spillways, and public opinion for and against restoring the spillways.

Pam Rijnovean of 32420 Evergreen Road shared information on the spillway evaluations conducted by Luke Tremble from the MDEQ. She listed recent grants received for dam repair in Michigan and referenced the Quarton Lake restoration project in 2004.

Bill Weber on 19855 Sunnyslope, whose property is directly north of the bridge, said that he is interested in future decision making. He requested that the Council consider how removing the spillways will drastically change the appearance of the area. Weber asked if there is an option to strengthen the spillways. Wilson responded that this issue was brought up with the DEQ representative. The response was that the condition of the right spillway had deteriorated to the point that it could not be restored short of complete replacement. The other problem is that the existing spillways are undersized and not as functional as they should be. The state would not fund any rehabilitation unless capacity issues were addressed.

Nanci Freedman of 32460 Evergreen, property owner on Mill Pond, commented that there are many residents in the community who take advantage of Riverside Park. She proposed that any assessment should be village-wide. Riverside Park is an asset to the community, and Council should consider options to save it.

Mercer commented that Council will continue to research and discuss the Erity Pond issues.

REVIEW AND CONSIDER REQUEST FROM THE BEVERLY HILLS LITTLE LEAGUE TO CONSTRUCT A STORAGE BUILDING AT BEVERLY PARK

Council member Mooney, liaison to the Parks and Recreation Board, reviewed that the Beverly Hills Little League has requested to construct a storage facility in Beverly Park to house equipment used by the Little League. This proposal received approval from the Parks and Recreation Board. The Planning Commission conducted a site plan review of the project and recommended its approval to the Council. Mooney would like to present three resolutions for Council consideration relative to the proposal from the Beverly Hills Little League.

Motion by Mooney, second by Oen. The Village of Beverly Hills hereby deems as follows:

That the provision of recreational activities has for its objective the promotion of the public health, safety, morals, and general welfare, security and prosperity and contentment of the residents of the Village of Beverly Hills;

That for in excess of 20 years, the Village of Beverly Hills has not been in a financial position to provide a recreational program to benefit children who reside within the boundaries of the Village of Beverly Hills;

That the Beverly Hills Little League has, for in excess of 25 years, provided recreational activities for the residents of Beverly Hills and the residents of the Birmingham Public School District;

That the provision of the recreational activity provided by the Beverly Hills Little League is deemed as a public purpose given that the Beverly Hills Little League is open to all residents between the ages of 4-13 in the Village of Beverly Hills;

That Beverly Park has been deeded from the Dodge Brothers Trust to Southfield Township to the Village of Beverly Hills pursuant to a Deed and therein are contained certain deed restrictions;

That one of the Deed restrictions is a requirement that the municipality that holds the Deed to the area now known as Beverly Park provide the Little League with access and use of Beverly Park;

That the aforesaid Deed restrictions are part and parcel of the agreement of the Village of Beverly Hills to own and maintain and operate Beverly Park;

That the provision of recreational activities such as provided by the Beverly Hills Little League and little league baseball and softball is deemed by this Council to be a public purpose.

Nanci Freedman of 32460 Evergreen, Planning Commission member, said she is opposed to the proposal because she does not understand how the Village can single out one group to the exclusion of others.

Mooney responded that the one of the requirements in the Deed Restrictions is that the Little League would always have access to the park as well as the Boy Scouts and Girl Scouts. The rights of the Little League, Boy Scouts and Girl Scouts to participate in the park is absolute according to the Deed Restrictions.

In answer to an inquiry, Sharon Tischler of 21415 Virmar Court was informed that there are Little League teams for girls that play baseball in the park.

Burry understood that certain groups named in the Deed Restrictions cannot be denied use of the park. The Deed Restrictions also say that anybody can use the park. He did not see the purpose of this resolution.

Roll Call Vote:

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

Motion passed (5 – 1).

Motion by Mooney, second by Oen. BE IT RESOLVED that the Village of Beverly Hills authorizes the construction of a storage building in Beverly Park located to the north of the north baseball diamond under the following terms and conditions:

- A. The location currently staked and photographed by Village Administration and approved by the Planning Commission will be the location of the storage unit.
- B. The storage unit will be no larger than the plan submitted to the Village of Beverly Hills Planning Commission on February 26, 2014 to-wit, that the storage unit will be no larger than 16

feet by 12 feet with an extension slab of no more than 4 feet beyond the south side of the building to accommodate the location of any storage bins, with a minimum of 2 feet 8 inches of actual brick around the perimeter of the building with Hardie Plank above to be consistent with the park pavilion, as recommended by the Planning Commission.

C. The building shall be screened to the extent possible by existing foliage along Allerton Drive as indicated in the site plan submitted to the Planning Commission on the aforesaid date; further, the construction of said storage unit shall not deviate from the site plan approved by the Planning Commission on February 26, 2014.

BE IT FURTHER RESOLVED that the Village of Beverly Hills authorizes Village Administration to seek bids for the materials to construct a storage unit pursuant to the terms and conditions approved by the Planning Commission on February 26, 2014.

BE IT FURTHER RESOLVED that the expenditures for the materials necessary to construct the storage unit in compliance with the site plan approved by the Planning Commission on February 26, 2014 shall not exceed \$12,000.00. Funds are available in the Park Dedicated Millage Fund.

BE IT FURTHER RESOLVED that the aforesaid storage unit shall be the sole and separate property of the Village of Beverly Hills, which will own same.

BE IT FURTHER RESOLVED that the Village of Beverly Hills shall grant an exclusive lease of the storage facility constructed north of the north baseball diamond to the Beverly Hills Little League under the following terms and conditions:

The term of the lease shall be for ten (10) years with an option to renew for an additional ten (10) years.

The consideration for the lease shall be as indicated in the following Resolution.

Nanci Freedman on Evergreen expressed opposition to the Resolution on the basis that this action elevates one group over other community groups.

Sharon Tischler on Virmar Court questioned the funding source for this project. Mooney responded that the funds will come from the Park Dedicated Millage Fund.

Questions and comments from Council were addressed by Mooney. Burry objected to granting an exclusive lease to the Beverly Hills Little League for use of the proposed storage shed.

Roll Call Vote:

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

Motion passed (5 – 1).

Motion by Mooney, second by Oen. BE IT RESOLVED that the Village of Beverly Hills shall grant an exclusive lease of the storage facility constructed north of the north baseball diamond to the Beverly Hills Little League under the following terms and conditions:

The term of the lease shall be for ten (10) years with an option to renew for an additional ten (10) years.

The consideration for the lease shall be as follows:

i. The Beverly Hills Little League from its separate funds or through its separate labor shall construct the storage unit approved by the Beverly Hills Planning Commission on February 26, 2014 in strict compliance with the site plan approved by the Planning Commission on said date.

ii. The Beverly Hills Little League shall pay in advance \$10.00 per year for the exclusive use of the storage unit, and payment shall be made in advance to the Village of Beverly Hills.

The Beverly Hills Little League shall be required, pursuant to the terms and conditions of a Lease Agreement as follows:

- No equipment other than baseball equipment owned by the Beverly Hills Little League may be stored in the storage unit.
- The Beverly Hills Little League shall at all times maintain the storage unit under lock and key with a copy of the key provided to the Village of Beverly Hills Public Safety Department and the Village Manager.
- The Beverly Hills Little League shall maintain the storage unit, including all repairs and all aesthetic improvements necessary so that the storage unit conforms to the aesthetics existing in Beverly Park.
- The Beverly Hills Little League shall have the right to insure the contents of the storage unit. However, the Beverly Hills Little League stores its equipment in the storage unit at its own risk and will specifically waive any and all claims regarding its equipment stored in the storage unit, as same applies to any responsibility of the landlord to-wit the Village of Beverly Hills, regardless if said equipment is destroyed by casualty, natural disaster, act of God, theft, or any other reasons.
- The Beverly Hills Little League agrees to maintain the appropriate vegetative screening as required by the Village Administration during its tenancy.

The Village Council hereby authorizes the Village Attorney to draft a Lease Agreement conforming to the terms and conditions of this Resolution and any other provisions deemed to be in the best interest of the Village of Beverly Hills and directs the Village Manager to enter into a Lease Agreement with the Beverly Hills Little League containing these terms and conditions.

Burry expressed the view that the exclusivity of the resolutions presented do not serve the public good.

Mercer commended the Beverly Hills Little League for coming forward with a request to build a storage shed for Little League equipment and for their offer to fund the facility. Mercer thought that it was in the best interest of the Village that anything constructed in the park remain an asset

belonging to Beverly Hills. He believed that it is within the purview of the Village to give an organization the right to use this facility.

Mooney made further comments focusing on past and current recreation opportunities and activities in Beverly Park.

Roll Call Vote:

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

Motion passed (5 – 1).

REVIEW AND CONSIDER RESOLUTION FOR MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM (MERS) APPLICATION FOR ADDITIONAL CREDITED SERVICE FOR HOWARD SHOCK

Sgt. Howard Shock has made inquiries to the Municipal Employees' Retirement System regarding the purchase of additional service credit. Sgt. Shock is a vested member of the Public Safety Department with over 14 years of service. MERS has run a calculation for the purchase of five (5) years of service credit. Five years is the maximum amount of service credit that can be purchased. The purchase price of \$112,665 is the full responsibility of Sgt. Shock. Village Administration has reviewed this option with Sgt. Shock and is confident that he is aware of the regulations and ramifications of this purchase.

Motion by Mooney, second by Oen, that the Village of Beverly Hills Council resolve to approve the Application of Sgt. Howard Shock to purchase additional credited service as provided by the MERS Plan Document and in accordance with Village of Beverly Hills policy.

Motion passed (6 – 0).

PUBLIC COMMENTS

None

REPORTS – MANAGER

Leaf Collection – The Village has received one bid for leaf collection from Brilar, LLC. This firm is based in Oak Park and currently provides leaf collection and other services for Pleasant Ridge and various services for other municipalities and organizations. The price provided by Brilar for collection of leaves once every two weeks for every household in the Village from October 15 through the third Friday in December was \$119,800.00. Wilson stated that this cost was less than anticipated at approximately \$30 per home.

Wilson met with the president of Brilar this week along with a representative of Comeau Equipment Co. and Ellen Marshall. Leaves would be collected by a leaf vacuuming unit towed behind a truck and would be disposed of at the SOCRRA Madison Heights facility. Residents will still be able to place bagged yard waste for collection with their garbage and recycling if they wish. If the Village accepts the proposal, Brilar will provide a schedule of collection by August 1, 2014.

In the proposed budget for FY 2014-15 Village Administration did propose increasing the rubbish fee from \$100 to \$110. This was without the consideration of leaf collection. If the Village Council wishes to go forward with this proposal it would be the recommendation of Village Administration to include a fee of \$30 in addition to the proposed \$110 for FY 2014-15. This would still leave the General Fund subsidizing garbage collection costs by over \$150,000. Village Administration will be meeting with representatives of Brilar this week to discuss their proposal. Council comments and questions were addressed by Wilson.

Additional Road Funding – The Village is anticipating approximately \$39,000 in additional road funding for the current fiscal year from funds approved by the State Legislature to aid local governments with larger than anticipated winter maintenance costs. The Village's winter maintenance costs are around \$55,000 over budget for this year, mostly in the local roads fund. These funds will not completely offset our additional expenses but will help.

Wilson reported that he and Finance Director Wiszowaty will be meeting with representatives from IBEX Insurance and from Blue Cross/Blue Shield to discuss the changes forthcoming in the Village's health care plans for both active employees and retirees due to compliance with the Affordable Care Act. Wilson will also be meeting with Village union representatives to explain how the programs will change.

Village Offices will be closed on Friday, April 18th in observance of Good Friday.

Council members agreed to schedule a budget study session on Tuesday, April 29 at 6:00 p.m. in the Village municipal building.

REPORTS – COUNCIL

Mooney commended Janice Hausman for her donation of a Little Free Library for installation at Beverly Park. He thanked Coach Paul Turner for being present tonight.

Briggs informed Council that the Communications Committee met last week and reviewed a proposal from Cobalt Consulting to perform a community survey in the Village. The Committee recommended that Council consider budgeting an amount not to exceed \$15,000 in the 2014-15 budget for the expense of conducting a citizen survey.

Briggs commented that there has been discussion on how the Village issues crime reports or other activities to the newspapers. It is apparent that the media expects municipalities to provide articles that are ready for publication. He asked Council to consider a part time position in the budget for a communications person.

Mercer thanked the residents who attended the meeting tonight and provided input on the Eritry Dam. It is helpful to hear public comments on issues that have a major impact on the Village.

Motion by Mooney, second by Oen, to adjourn the meeting at 10:05 p.m.

Motion passed.

Tim Mercer
Council President

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary