

Present: President Mooney; President Pro-Tem Peddie; Members: Abboud, Borgon, Delaney, and Mueller

Absent: Oen

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

Council President Mooney 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. Those present recited the Pledge of Allegiance.

AMENDMENTS TO AGENDA/APPROVE AGENDA

Motion by Delaney, second by Mueller, to amend the agenda by adding a Special Order of Business to swear in the Village of Beverly Hills new public safety officer Tim Matthew.

Motion passed.

Motion by Delaney, second by Peddie, to approve the amended agenda.

Motion passed.

SPECIAL ORDER OF BUSINESS

President Mooney welcomed Tim Matthew to the Village's Public Safety Department. He indicated that Matthew was a graduate of Macomb Community College and served as an officer in several other communities prior to joining the Village.

Clerk Marshall administered the oath of office to Matthew. Scott Matthew, an officer for the City of Fraser and brother of Tim, pinned the Village of Beverly Hills police shield on his brother.

COMMUNITY ANNOUNCEMENTS

None.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Steve Mace, Lauderdale Street, expressed concern over the increase in water rates for Village residents. He feels that the Village failed to inform residents of the rate increase. He said he had spoken to Oakland County and Great Lakes Water Authority officials about the reasons for the rate increase and wasn't satisfied with their answers. Mace also expressed that the Village Council should have researched whether the Village had legal recourse to fight the rate increase.

Mooney reported that the Village is planning to hold its regular meeting on October 20, 2015 at the Birmingham Groves High School Little Theater to discuss the water rate increase. He said every household in the Village would get a notice of the meeting in the mail. Mooney disagreed with Mace's assessment about the Village's communication of the rate increase. He indicated that

notice was published in the *Villager* newsletter and had been discussed in detail in the local and regional media. Mooney explained that the Village had also taken on some of the cost for recent rate increases by using the infrastructure repair fund as an off-set. Because of that off-set, Mooney added, residents have not incurred the entire cost of rate increases from the Great Lakes Water Authority (previously Detroit Water and Sewerage Department). Mooney also pointed out that the Village does not make money off of water and sewerage charges.

CONSENT AGENDA

Motion by Delaney, second by Abboud to approve the consent agenda as published.

1. Review and consider approval of minutes of a regular Council meeting held September 15, 2015.
2. Review and file bills recapped as of Monday, September 21, 2015.
3. Review and file bills recapped as of Monday, October 5, 2015.
4. Review and consider Traffic Control Order 040-SS-15 regarding the installation of a stop sign on westbound Old Coach at Old Post.
5. Set public hearing date of November 3, 2015 to receive comments on a special land use request from Detroit Country Day for multi-purpose field improvements.

Motion passed.

BUSINESS AGENDA

REVIEW AND CONSIDER ANNUAL FUNDING REQUEST AND CONTRACT FROM BIRMINGHAM BLOOMFIELD COMMUNITY COALITION FOR FY 2015/2016 IN THE AMOUNT OF \$1,800.

Carol Mastroianni, Executive Director of the Birmingham Bloomfield Community Coalition (BBCC), presented a slide show with the use of the smart board to inform the community what the organization is doing to keep youths safe and substance-free. Mastroianni talked about upcoming and ongoing Coalition-sponsored activities and events that incorporate proven prevention strategies targeting youths and families. Prevention programs are designed to give young people the skills they need to feel confident with themselves and make better decisions.

The BBCC provides services to reduce substance abuse by youths within the Village of Beverly Hills and the greater Birmingham Bloomfield Community. These services center on raising awareness and reducing the access and use of tobacco, hookah, alcohol, marijuana, and other dangerous drugs. The BBCC acts in similar fashion to a "community services" function, a service the Village of Beverly Hills does not currently staff on its own.

Mastroianni informed Council that the BBCC is asking for \$600 more in funding than a year ago because of its expansion of services. She said the BBCC is in the last year of its federal grant. When the grants end in 2016, BBCC will need to replace \$173,000 in funds.

Delaney inquired about automatic renewal language in the contract. Automatic renewal language has been included in previous contracts.

Borgon expressed surprise that hookah was the No. 2 drug of choice to alcohol. Mastroianni said that was true as of 2013 and that the BBCC is researching whether it remains the same in 2015.

Resolved by Delaney, seconded by Peddie, that the Council for the Village of Beverly Hills approves the funding request of Birmingham Bloomfield Community Coalition in the amount of \$1,800 for the provision of substance abuse prevention services; further that Administration is directed to sign the contract document providing for this continuing community service. The funds for this expense are available in Account #101-747-890.03 Community Action: Contracted

Roll Call Vote:
Motion passed (6 - 0)

PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER 22, SECTION 22.08.220 TEMPORARY AND PORTABLE STRUCTURES

Village Attorney Ryan indicated the request was brought to the attention of the Zoning Board of Appeals (ZBA) and Administration because of the use of portable pods that store goods and other materials for residents. Ryan said the structures had been allowed on a limited basis but the Village's experience has been that the ordinance, in current form, was unworkable due to the time constraints.

Ryan said the proposed amendment would move variance approval from the ZBA to Administration. He explained that residents granted a variance would be able to have a portable structure on site for 14 days within a six-month period. Residents could ask administration for additional time at the end of the six-month period.

Mooney opened the public hearing at 8:17 p.m. on An Ordinance Amending Chapter 22, Section 22.08.220 Temporary and Portable Structures. No one wished to be heard; the public hearing was closed at 8:18 p.m.

Mueller indicated that he served on the ZBA when the ordinance was first enacted. He said the ordinance's existing language was confusing and that he supported the amendment.

Delaney expressed concern about giving administration the authority to extend variances beyond 14 days. He also indicated the proposed amendment didn't define 'criteria,' meaning that subjectivity could come into granting variance requests. Delaney also mentioned that a problem with the current ordinance was that the 14-day period could expire before the ZBA met to approve the variance. He suggested the variance should be valid for 30 or 60 days. Delaney said he was concerned with portable structures sitting around for an unspecified amount of time under the proposed amendment.

Mueller agreed with Delaney that portable structures are often on-site longer than the 14 day maximum the ordinance allows.

PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER 22, SECTION 22.30.040 NONCONFORMING STRUCTURES

Ryan explained the proposed amendment would more closely define what a nonconforming structure is, noting that no structure could be enlarged or altered unless it conformed to the provisions of the ordinance.

Mooney opened the public hearing at 8:25 p.m. on An Ordinance Amending Chapter 22, Section 22.30.040 Nonconforming structures. No one wished to be heard; the public hearing was closed at 8:26 p.m.

Abboud believed the proposed amendment was warranted and that it would help alleviate the burden on the ZBA to make decisions or interpretations about the ordinance rather than just upholding it.

REVIEW AND CONSIDER RECOMMENDATION TO SEEK BIDS TO PURCHASE AND PLANT TREES AT BEVERLY PARK

Mueller stated Beverly Park recently lost a number of trees due to pests and disease. He explained the Parks and Recreation Board had unanimously recommended the Village replant up to 20 trees throughout the park and adjacent to the pavilion.

Moved by Mueller, seconded by Delaney, that the Beverly Hills Village Council directs administration to seek bids to engage with a nursery to recommend tree species, supply and plant 20 trees near the parking lot and playground at Beverly Park in an amount not to exceed \$10,000 with funds from the park improvement fund.

Mooney asked Mueller whether the park improvement fund was the capital improvement fund that was approved via a special millage. Mueller affirmed that it was.

Roll call vote:
Motion passed (6 - 0)

REVIEW AND CONSIDER RECOMMENDATION TO SEEK BIDS FOR SEASONAL LANDSCAPE MAINTENANCE AT BEVERLY PARK

Mueller explained that summer maintenance of weeds and shrubs was quite challenging for park rangers in addition to their normal duties. The Parks and Recreation Board unanimously recommended the Village seek a landscape maintenance company that would come in several times each season to do routine maintenance in primary beds adjacent to the pavilion, parking lot and gazebo.

Moved by Mueller, seconded by Peddie, that the Beverly Hills Village Council directs administration to seek bids from local landscape maintenance contractors to provide shrubbery trimming, weeding, mulching, and weed preventative application at Beverly Park three/four times during the growing season from approximately April – October in 2016. The primary areas include the western entrance to the parking lot, two western parking lot islands, pavilion, playground and gazebo. Administration will have ongoing

discussion with the Parks and Recreation Chair and Board throughout the growing season to prioritize needs.

Motion passed.

Robert Beardslee, Riverside Drive, asked Council to consider expanding the bid to include Riverside Park. He said the park is in need of attention.

REVIEW AND CONSIDER RECOMMENDATION TO PURCHASE AND INSTALL FENCING AT BEVERLY PARK

Mueller explained that vehicles drive from the parking lot of Beverly Park to the pavilion to load and unload items and also to gain illegal access to the park. The Parks and Recreation Board unanimously recommended the Village purchase fencing to install from the pavilion restroom building to the green gate to prevent the problems.

Moved by Mueller, seconded by Delaney, that the Beverly Hills Council approves the purchase and installation of 48 feet of four-foot tall black aluminum fence from Action Fence in an amount not to exceed \$1,500.00. Installation will be between the southeast corner of the pavilion restroom building and green gate at Beverly Park.

Delaney indicated he supported the purchase of the fence but questioned whether it would withstand abuse. Mueller said the additional fencing would have the same strength and integrity as fencing along Beverly Road.

Dan Nunez, Marguerite Street, said he would support a six-foot fence along Beverly Road.

Mooney asked Ryan whether the fact that the Village had previously solicited for fencing made it permissible to purchase additional fencing without rebidding. Ryan answered affirmatively.

Roll Call Vote:
Motion passed (6 - 0)

REVIEW AND CONSIDER RECOMMENDATION TO REVISE PAVILION DAMAGE DEPOSIT RATES FOR BEVERLY PARK.

Mueller explained the Village had seen an increase in debris left behind by groups renting the pavilion. The Parks and Recreation Board unanimously recommended increasing damage deposits to deter groups from leaving debris and garbage behind at the pavilion.

Moved by Mueller, seconded by Borgon, that the Beverly Hills Village Council approves an increase to the pavilion damage deposit for small groups from \$40 to \$100, medium groups from \$40 to \$200 and large groups from \$100 to \$300 effective with 2016 pavilion rentals.

Mooney said the condition of the pavilion after some parties was unacceptable. He added that the deposits would be refunded if pavilion users act responsibly.

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

ACCEPT CHRIS GESSNER'S RESIGNATION FROM THE ZONING BOARD OF APPEALS AND MAKE FIRST ANNOUNCEMENT OF VACANCY

Moved by Abboud, seconded by Peddie to accept the resignation of Chris Gessner from the ZBA as an alternate member.

Motion passed.

Abboud made the first announcement of ZBA vacancy. He encouraged residents to apply for the alternative Zoning Board position. Abboud said the application deadline was October 28, 2015 at 4:30 p.m. He will chair the ZBA sub-committee which includes Council members Oen and Mueller. The sub-committee will meet on November 3, 2015 at 7:15 p.m. at Village Hall where a new ZBA member will be recommended.

SECOND ANNOUNCEMENT OF THE BIRMINGHAM AREA CABLE BOARD VACANCY

Borgon explained because of his appointment to Council there is an opening on the Cable Board. Applications to fill the seat are being accepted until October 14, 2015 at 4:30 p.m. The Cable Board term expires June 30, 2016.

Mooney said the sub-committee would meet on November 3, 2015 at 7:15 p.m. Borgon will be the chairperson with Council Members Delaney and Mooney as members to make a recommendation.

REVIEW AND CONSIDER AUTHORIZING DISTRIBUTION OF DRAFT MASTER PLAN FOR 42 DAY REVIEW PERIOD.

Moved by Abboud, seconded by Borgon, to circulate the Master Plan draft for the 42-day review period.

Mooney explained the Master Plan must be updated every five years. Making the draft available for public review for 42 days prior to Council approval is required.

Abboud indicated the Planning Commission and its sub-committee, consultants and administration all worked on the Master Plan update. The Plan was developed in accordance with the Michigan Planning Enabling Act. The Master Plan update features short, mid and long term planning extending out 20 years. Abboud said the update has an improved format with less text. He explained that the review period allows time to make any needed changes. The Planning Commission will hold a public hearing at the conclusion of the review period and send the amended Plan back to Council for approval.

Motion approved.

PUBLIC COMMENTES

None.

MANAGER'S REPORT

Tremont Lane

Wilson reported that work recently began on land clearing for the housing development. He said clearing, construction of a rough road, and grading would be completed this fall as well as underground utilities. Wilson does not expect home construction to begin until spring of 2016.

Audit

Wilson reported that the audit has been completed. Findings from the audit will be presented to Council on November 3, 2015.

Lahser Road Construction

Wilson explained that Oakland County failed to reopen Lahser Road by its October 1, 2015 deadline. According to the Road Commission for Oakland County, Lahser will reopen by November 1, 2015. Construction and restoration will continue until November 15, 2015. Wilson believes additional restoration work will be needed next spring.

Eriy Dam

Wilson said the Michigan Department of Environmental Quality is requiring the pond be refilled to the level it was at prior to the failure of the right spillway. Wilson said administration does not object to the requirement. The MDEQ further recommended the installation of a coffer dam on the east side of Evergreen Road, upstream of the right spillway, to maintain the impoundment. A coffer dam is a temporary dam, which will be composed of concrete stones that can be set to a specific elevation.

Construction of the coffer dam will take two to three days under ideal conditions and will require the closing of Evergreen Road. Wilson said the project could take up to four or five days if rain occurs. Work will not be started until Lahser Road reopens. Additional cleaning underneath the Evergreen culvert will be done at the same time. Closure of Evergreen Road will be coordinated with Groves and Seaholm high schools.

The permanent structure will likely be made of steel sea wall sheeting. Once the coffer dam has been removed and flow goes back through the spillway, the sheeting will prevent any further erosion. Wilson said the permanent structure would be a 40-50 year fix.

Wilson indicated that discussion with nearby property owners will need to be done. The structure, when completed, will be regulated by the MDEQ. Wilson added that no additional land purchases would need to be made due to maintenance work on the dam structure. Dam maintenance should be coordinated through the state and county. Wilson said the Village's MDEQ permit runs through 2020.

The coffer dam is meant to be temporary, a two to three-year structure that can be topped with additional materials as needed. Minor maintenance on the coffer dam will need to be done.

Wilson said because of cost, dredging of the pond will not be done prior to refilling it. He described it as a major engineering project that would cost approximately \$1 million and take

three months of work to complete. Wilson added dredging could be done after the pond was refilled.

Mooney explained that a special meeting should be called with residents in the Riverside Pond area. The Council President set the meeting for October 27, 2015 at 7:30 p.m. at the Village Hall. Mooney said it would be an open, informational meeting. He directed Wilson to post the meeting on Village Hall signs.

Mueller asked Ryan if the Village had received final legal documents on the Tremont Lane project. Ryan said he had exchanged drafts of the documents back and forth and that finalizing them was still in process.

Abboud said he supported not closing Evergreen Road until Lahser reopened.

Borgon asked how the Village would determine what the proper water level of the pond would be. Wilson explained that the Village has elevations of the pond that will allow for the proper fill level.

COUNCIL COMMENTS

Borgon said the Cable Board is researching audience measurements. He also reported that Next continues to sell out each new program. A total of 62 new members joined in September.

Mueller requested that administration and the Parks and Recreation Board discuss with the nursery the water requirements for trees that will be planted at Beverly Park. He asked that a plan be developed to ensure they are properly watered so as to not waste Village funds.

Abboud said the Planning Commission had completed the Master Plan update. He encouraged residents to apply for the open ZBA seat. Abboud said a breakfast is scheduled for October 19, 2015 for the Senior Advisory Council. It will be held at Magnolia in Keego Harbor. Presentations will be made at the breakfast as to what is happening in the county that will affect seniors. Abboud said the West Nile Virus was a concern.

Abboud attended a three-day Michigan Municipal League conference in Traverse City. He attended several seminars at the conference including reestablishing urban places and suburban strategies for success. Abboud also attended a Southeast Michigan Council of Governments meeting where they elected a new president and board.

Abboud welcomed officer Tim Matthew to the Village.

Delaney indicated that Riverside Park needs work done on it.

Mooney indicated that the Village has little control over water rates set by the Great Lakes Water Authority. He said the Village's goal is to provide residents with good, clean water to drink. Mooney said the Village was faced with a dire financial situation from about 2008 through 2012. During that period, Mooney explained that the Village did not pass along all of the water rate increases it received from the then Detroit Water and Sewerage Department. He added that

concerns were continually raised about rates with the DWSD (now the Great Lakes Water Authority) repeatedly. These concerns and the possibility of water rate raises had been placed on the Village's website, cable television and discussed at numerous meetings.

Mooney reported that a mail notification of the next regular Council meeting at the Groves High School's Little Theater on water rates will be sent out. He said a full explanation will be given at the meeting on why water rates are rising. Mooney indicated one idea that will be discussed is breaking water bills down into monthly payments instead of quarterly payments.

Mooney thanked Abboud for representing the Village at so many functions. He also thanked Abboud and Council Member Oen for their work on Village Hall improvements.

Mooney said work on the Allerton Street fence was almost complete. He asked for volunteers.

Motion by Abboud, second by Borgon, to adjourn the meeting at 9:26 p.m.

Motion passed.

John Mooney
Council President

Ellen Marshall
Village Clerk

Scott Daniel
Recording Secretary