

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

Absent: None

Also Present: Village Manager, Wilson
Assistant Manager/Clerk, Marshall
Director of Public Safety, 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. 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.

COMMUNITY ANNOUNCEMENTS

President Mercer introduced performers from Groves High School Cory Shanbom and Audrey Kennedy and welcomed Leisa Passerelli, President of the Groves Performing Arts Company. Mrs. Passerelli announced that *Shrek the Musical* will be held the first two weekends in November at the Groves main auditorium. Tickets are \$10 for students and \$12 for adults. Cory and Audrey, performing as Shrek and Fiona, entertained everyone with a song from the show.

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 October 1, 2013.
- b. Review and file bills recapped as of Monday, October 7, 2013.

Motion passed.

BUSINESS AGENDA

PRESENTATION BY BIRMINGHAM POLICE CHIEF STUDDT REGARDING DISPATCH SERVICES

Birmingham Police Chief Don Studdt presented a report on the operation of contracted dispatch services for fiscal year 2012-2013. He provided figures relative to call volumes and expenses for dispatch services.

The PSAP (Public Safety Answering Point) total expenditures were \$842,126. Total calls for service were 24,721 with 17,669 from Birmingham and 7,052 from Beverly Hills. The PSAP logged more than 43,000 phone calls (emergency and non-emergency). Total 9-1-1 calls received were 9,101. These calls cannot be segmented between Birmingham and Beverly Hills. Land line only 9-1-1 calls from January 1 through June 30, 2013 were 794 from Birmingham and 404 from Beverly Hills.

Chief Studt related that the operation has smoothed out, and there is a good working relationship between the two departments. Studt reported on the status of the budget for the 2013-2014 fiscal year. The budget authorizes 6 full-time and 6 part-time positions. The Department currently employs 6 full-time and 4 part-time people. Studt informed Council that they are working on maintaining costs and providing high-quality service.

Studt noted that dispatch operations are becoming increasingly complex due to new computer-aided dispatch (CAD) and LEIN systems. There will be proposals in next year's budget relative to infrastructure and systems that will improve efficiency. Council was made aware of upcoming unfunded state mandates in terms of requiring 40 hours of school for all dispatchers. This will be costly and put a burden on the overtime system. Studt referred to discussion on the State level of consolidating PSAPs so that each unit serves a population of 100,000.

Studt addressed questions from Council regarding the Village's portion of expenditures, State mandated training, communication with City of Southfield dispatch, and dispatch response time.

PRESENTATION OF JUNE 30, 2013 AUDIT BY PLANTE & MORAN

Council members are in receipt of the audited financial statements of the Village of Beverly Hills for the year ended June 30, 2013 and a report to the Village Council. Auditor Martin Olejnik stated that Plante & Moran has given its unqualified audit opinion on the Village's financial statements, which means that Beverly Hills' accounting records are correct and are presented in accordance with accounting standards mandated by the State. He introduced Rumzei Abdallah, who will review graphs that will highlight information in the financial statements. Olejnik will follow up with a discussion of the Management Letter.

Rumzei Abdallah, audit manager, used the smart board in his presentation to highlight key points of the financial statements. He referred to a graph illustrating General Fund Revenue and the sources of those revenues. The two largest areas of revenue are State Shared Revenue and Property Taxes and related fees. The next graph combined General Fund, Public Safety Fund and Library Fund revenue for 2011, 2012 and 2013 for comparison purposes. The 2012 and 2013 years look similar with the exception of a \$94,000 spike this year in property tax revenue, primarily due to the increase in taxable value.

A subsequent graph demonstrated an increase in taxable value and SEV (State Equalized Value). State Shared Revenue has declined since 2008 and has rebounded since 2011. The Village is still about \$57,000 short of where it was when the decline started.

A pie chart of General Fund Expenditures by major category illustrated that approximately one-half of the expenses relate to employees. The other expenses are fairly consistent with previous years. Abdallah addressed a graph comparing 2011 and 2012 General Fund, Public Safety and Library Fund expenditures. A graph depicting fund balances from 2008-2013 relative to the minimum target shows that the Village is above the recommended minimum of 20% of general fund expenditures.

Abdallah talked about a graph showing long-term debt obligations from 2009-2013. Bond issues have been decreasing as the debt has been paid down. A 2013 debt noted in red represents the fire truck installment obligation, which will run through 2019.

A graph showing the schedule of experience gains and losses for the Public Safety Officers' Retirement System reflects the effect of the economy on the expected investment return of 7 percent versus the actual return. The trend will continue upward with the improved market conditions and the transfer of the Retirement System to MERS, The next graph depicted pension plan contributions to the Public Safety Officers' Retirement System.

Martin Olejnik discussed the letter addressed to the Village Council. The first section contains required communication on the audit process. There were no issues discovered during the audit and no disagreements with management. Section II contains general recommendations from Plante & Moran as a result of the audit. There were no significant deficiencies in the audit. One item noted was information technology related. Even though there are certain mitigating controls in place to offset the items highlighted in the recommendations, Plante & Moran does encourage the Village to take corrective action to strengthen internal controls over general ledger access. Olejnik understands that the Village is exploring the purchase of a new billing and accounting software system.

The third section of the letter includes legislative and informational items occurring in the State. Olejnik highlighted the following topics: Revenue Sharing and the EVIP program; Personal Property Tax; Retro-Pay Prohibition; Deficit Elimination Plans; Michigan's Public Pension Systems; and Michigan Qualifying Statement Revisions and Changes to Filing Process. Olejnik stated that there will be some changes to the statements next year based on new GASB requirements. He thanked the Village staff and particularly Finance Director Wiszowaty for their assistance during the audit process.

Olejnik and Wilson addressed questions from Council members regarding the schedule of Retirement System gains and losses and the viability of the 7% expected investment return; personal property tax issues; unrecorded adjustments; and pension plan contributions to the Retirement System. In response to an inquiry on the topic of internal controls, Wilson related that Administration has been researching an additional software program for our accounting system that will allow for better internal controls. If that doesn't materialize in a timely manner, the Village will make some in-house changes to address this.

Wilson pointed out that the Village had a goal to return to a 20% fund balance level in five years following approval of the Charter Amendment. This has been accomplished in three years and has surpassed the 20% level. There are a couple of reasons for this. Our public safety expenses are down about 9%, much of which is attributable to consolidation of dispatch services plus a better revenue position than anticipated. The increased fund balance will give the Village the opportunity during budget deliberations to be more aggressive in regard to its OPEB liabilities.

Mercer thanked Mr. Olejnik and Mr. Abdallah for presenting the audit report. He recognized Finance Director Wiszowaty and his staff for a job well done.

REVIEW AND CONSIDER LIABILITY AND PROPERTY INSURANCE RENEWAL

Wilson stated that Craig Manser, the Village's liability insurance representative from IBEX Insurance Agency was present this evening. Before Council for consideration is renewal of the Village's Liability Insurance Policy. If approved, this policy will renew on November 1, 2013 for one year. The terms of the policy are the same as the current policy: A self-insured retention of \$75,000 for liability and, for vehicle and physical damage, a self-insured retention of \$15,000 per vehicle and \$30,000 per occurrence. The liability limit is \$10,000,000 with various other limits listed in the plan. There is new coverage related to data breach and privacy liability also detailed in the document. There is a stop loss policy that would limit all liability in any Village fiscal year to \$108,000. The cost for retaining this stop-loss policy is \$6,172.

The total cost for the liability policy for one year is \$106,646. The Village's carrier, Michigan Municipal Risk Management Authority (MMRMA) is also requesting a contribution to our loss retention fund of \$40,000 upon renewal. The policy premium is around \$3,000 less than last year's premium although last year's renewal required a retention fund contribution of just \$20,000. The total premium and retention fund contribution is \$146,646.

Upon renewal, the Village will be eligible for a distribution through MMRMA of \$15,626. The Village has been requested to make a separate contribution to the loss retention fund, and this disbursement balance will be credited to that amount.

Separate from the liability policy, there have been concerns expressed regarding the Village's fiduciary liability policy and whether coverage should be maintained in light of the recent transfer of pension and retiree health care investments to MERS (Municipal Employees' Retirement System). Ryan has prepared an opinion letter on this topic, which was distributed to Council. Wilson will defer to Craig Manser to address questions about the liability insurance and the fiduciary liability policies.

Craig Manser stated that he has been working with the underwriters on options requested by Manager Wilson and Finance Director Wiszowaty. He distributed and explained a sheet outlining MMRMA Renewal and Claims information including 2013 Premium Options.

Motion by Briggs, second by Mooney, that the Village of Beverly Hills Council approve and authorize the Village Manager to sign the Michigan Municipal Risk Management Authority Liability and Property Insurance renewal effective November 1, 2013 through November 1, 2014 in the amount of \$146,646.00. Funds for these expenditures are available in accounts 101.248.910.00, 205.345.910.00, 205.346.910.00, 592.540.910.00.

Roll Call Vote:
Motion passed (7 – 0).

Manser distributed a handout with information regarding two options for fiduciary liability coverage. It was clarified that, in May of 2013, the Village transferred the administration of the Beverly Hills Public Safety Officers Retirement System to the Municipal Employees' Retirement System (MERS) Defined Benefit Pension Plan.

The Village has also adopted the MERS Retiree Health Funding Vehicle Uniform Resolution, which will transfer the investment and management of the retiree health care funds to MERS. These funds were previously administered through the Retirement Board under the direction of investment advisory firm, Asset Strategies.

Manser stated that the Village could cancel its fiduciary liability policy considering the transfer of pension fund investment and administration to MERS. Another option would be to purchase Tail Coverage. A handout outlined two options related to fiduciary liability insurance. Option 1 was to continue fiduciary liability coverage for one year at a cost of \$9,350 for both plans (Pension and Retiree Health Care). Because the Village has transferred the management of both plans to MERS, there is an option of purchasing Tail Coverage for both plans for 1 year, 3 years, or 6 years. Tail Coverage is offered to cover pending claims.

Under Option 2 (Retiree Health Care Fund Only), a renewal of fiduciary liability insurance for the Retiree Health Care Fund only is offered at \$5,200 with a Run-Off Endorsement of the Tail Coverage for the Pension Plan of \$4,150.00. The \$4,150 would be a one-time charge for 6 years of additional reporting coverage.

Council engaged in a lengthy discussion of both options. Members pointed out the advisability of retaining a fiduciary policy for the Retiree Health Care Fund for the reason that Council chose one of several MERS investment plans for this fund. On the other hand, reference was made to the October 15, 2013 opinion letter from Village Attorney Tom Ryan, who addressed State Law and indicated that the Court of Appeals held that the establishment of a retirement system was a government function allowing government immunity, i.e. the proprietary function exception would not apply to a lawsuit for alleged misinvestment of funds.

Manser indicated that most of his clients who invest with MERS do not purchase a fiduciary policy. Manser also recommended that the Village minimize its risk as much as possible.

It was questioned whether MERS, as part of its Agreement with the Village, was accepting fiduciary responsibility. Wilson responded that MERS has fiduciary responsibility for the investments that they handle for all MERS members. He clarified that the fiduciary liability policy that the Village purchased in the past year was intended to cover the decisions of pension board members, which includes a citizen representative. Wilson thought that the Village was covered through government immunity and through the Village's general liability policy.

Manser explained that purchasing tail coverage at \$14,025 for both the pension and health care plans would give the Village a six year period in the future to have coverage on claims for something that occurred before November 1, 2013. Manser clarified that Tail Coverage for the Pension Plan only would be available at \$4,150.00 for six years only if the Village renewed its fiduciary liability coverage of the Retiree Health Care Fund.

Council members debated reasons to continue coverage on the health care fund and purchase tail coverage on the pension fund versus the position that MERS has the fiduciary responsibility for these plans and the Village is covered by governmental immunity.

Motion by Kelly, second by LaFerriere, that the Village of Beverly Hills Council authorize purchase of fiduciary liability insurance coverage indicated in Option 2 submitted by Village insurance representative Craig Manser to renew coverage for the Retiree Health Care Fund only in an amount of \$5,200 from November 1, 2013 to November 1, 2014 and for Tail Coverage for the Pension Plan in the amount of \$4,150 covering a six-year period in the future covering claims that occurred previous to November 1, 2013. Premiums will be paid from the Retiree Health Care Fund and from the Public Safety Retirement System.

Roll Call Vote:

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

Motion fails (4 – 3).

Kelly made a motion that Council purchase the Run-Off Tail Coverage for the Pension Plan in the amount of \$4,150 for six years. Manser clarified that this tail coverage is only available if the Village renewed its fiduciary liability coverage of the Retiree Health Care Fund. Council asked Manser to consult with the underwriter regarding the cost of tail coverage for the Pension Fund only. It was understood that the fiduciary liability policies for the pension plan and health care plan would expire on November 1, 2013.

REVIEW AND CONSIDER RESOLUTION FOR MERS APPLICATION FOR CREDITED SERVICE

Manager Wilson stated that PSO Kevin Kowalik has been employed by the Village for approximately one year. Prior to his employment with the Village of Beverly Hills, he was employed by the Harper Woods Police Department for 9.5 years and the City of Grosse Pointe Woods for roughly 2 years. PSO Kowalik did not vest in the pension plans of either of those municipalities and has received a refund of his eligible contributions in both of the funds. These funds were placed in a 457 retirement account.

Employees who have had previous governmental service credit in a municipality where they were not vested are eligible to purchase service credit for time served from the Municipal Employees' Retirement System. PSO Kowalik has made inquiries of MERS about doing this; it is understood that the employee would have to bear 100% of the cost of this purchase. Based upon the amount of money that PSO Kowalik would have to invest, he would be eligible for a service credit purchase of 7 years and 2 months for a cost of \$79,740 as calculated by MERS. This time cannot be used toward fulfilling a vesting requirement with their current employer or future employers. Even with a service credit purchase, PSO Kowalik will need to work for the Village of Beverly Hills for ten (10) years to be eligible for pension benefits.

Council is in receipt of an Application for Additional Credited Service, which includes the cost estimate, member certification, and governing body resolution. The calculations determine the cost and impact of this purchase for the employee. Wilson commented on the MERS documentation, noting that the assumption is that the Plan's investment return is projected to be 7% annually. MERS is also projecting a 4.5% increase in the PSO's final average compensation.

Wilson related that he reviewed the application and transaction with PSO Kowalik. Kowalik is making funds available from his deferred contribution accounts and will be transferring them to MERS for this purchase. Wilson recommended Council approval of the proposal. He addressed questions from Council regarding this transaction and future ramifications and risks.

Motion by Briggs, second by Oen, that the Village of Beverly Hills Council resolves to approve PSO Kowalik's Application to purchase additional credited service as provided by the MERS Plan Document and in accordance with Village of Beverly Hills' policy there under.

Roll Call Vote:

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

Motion passed (6 – 1).

REVIEW AND CONSIDER REQUEST TO SEEK SEWER REPAIR BIDS

During the normal maintenance of the Village's sewer system by the Water Resources Commissioner's Office (WRC) two sections of sewer were identified in significant need of repair. In both sections the pipe had severe horizontal cracking and was deformed in a couple of places. There were blockages that were impeding sewer flow but not causing backups. Administration authorized work to clean the sewer lines and take a video of their condition. Both of these sections of sewer would benefit from placing a liner inside the existing pipe. These sections are as follows:

1. Along the rear lot lines between Saxon and Riverside starting at Faircrest heading east to Beaconsfield.
2. Along Warwick Street between Weston and Waltham.

Wilson is requesting that Council allow administration to solicit bids to line these sections of sewer. The funds for these repairs would come from the Water & Sewer Operating Fund balance presently at \$1,256,000.00 and project account #592-537-974.09.

Motion by Mooney, second by Oen, to authorize Village Administration to solicit bids for lining sections of sewer as follows: 1) Along the rear lot lines between Saxon and Riverside starting at Faircrest heading east to Beaconsfield, and 2) Along Warwick Street between Weston and Waltham.

Motion passed.

ANNOUNCEMENT OF COMMUNICATIONS COMMITTEE VACANCY

Briggs related that one application has been received to fill a vacancy on the Communications Committee. The deadline for receiving additional applications will be Friday, November 1 at 4:30 pm. Applications are available online at www.villagebeverlyhills.com and at the Village office. The term of the vacancy expires on June 30, 2016. A subcommittee of Briggs as chair, Mooney and Oen will meet on Tuesday, November 5, 2013 to review applications and recommend an appointment to Council.

REVIEW AND APPROVE HUBBELL, ROTH & CLARK INVOICE FOR PAYMENT

Motion by Mooney, second by Oen, 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 Mooney, second by Oen, that the Village of Beverly Hills Council approve the invoices submitted by Hubbell, Roth & Clark Inc. for professional services in the amount of \$32,149.15 through September 7, 2013.

It was noted that the majority of the charges were related to the Beverly Road paving project. The remainder were for various road, water and sewer projects. There were also charges for review of traffic analysis for the Nexus Academy that will be reimbursed through an escrow account established by the building owner.

Motion passed.

PUBLIC COMMENTS

Gene Lukianov of 19101 Hillcrest brought several issues to the attention of Council and made a number of public works requests of the Village. He asked that the sink hole on Beaconsfield be repaired. It has resurfaced after being filled and repaired in past years.

Lukianov requested that the dead trees along the path through Beverly Park be removed. Many trees died as a result of the Emerald Ash Borer disease that was prevalent about five years ago. The dead trees present a safety issue.

Other items include wires along Norchester at Beverly Road that are about 10 ft. above ground and a grate at the end of Norchester and Beverly that is falling into the hole near the sidewalk. Lukianov presented Council with photographs of the problems he described and respectfully requested that the Village of Beverly Hills address these safety issues.

President Mercer asked Manager Wilson and his staff to investigate these matters brought up by Mr. Lukianov.

MANAGER’S REPORT

Due to the late hour, Manager Wilson offered to accept questions or defer discussion of his written report until the next Council meeting. Council agreed to spend some time at the November 5 meeting on matters outlined in the October 11 Manager’s Report.

REPORTS – COUNCIL

LaFerriere announced that there will be a football game on Friday, October 18 at 7 pm between Groves and Seaholm High Schools. Both teams are undefeated; the outcome will determine the divisional championship.

Mooney reminded people that the Halloween Hoot will be held on Sunday, October 20 in Beverly Park. Donations to this event can still be made by calling the Village offices. Volunteers are needed at 9 am to help top and gut pumpkins; children will carve the pumpkins at noon. The Halloween Hoot trick or treating through the park begins at 6 p.m. Mooney thanked organizers Pat Greening and Janet Mooney and urged the community to come out for this fun event.

Oen commented on the upcoming football game between Seaholm and Groves and on Shrek the Musical at Seaholm High School.

Briggs reminded everyone that the Groves High School Musical Shrek is scheduled for the first two weekends of November. Mercer remarked on the fine high school athletic and musical school programs throughout the community.

Motion by Oen, second by Briggs, to adjourn the meeting at 10:09 p.m.

Motion passed.

Tim Mercer
Council President

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary