

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

Absent: Briggs

Also Present: 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. The Pledge of Allegiance was recited by those in attendance.

ADDITIONS TO AGENDA/APPROVE AGENDA

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

Motion passed.

COMMUNITY ANNOUNCEMENTS

None

CONSENT AGENDA

Motion by Oen, second by LaFerriere, to approve the consent agenda as follows:

- a. Consider approval of minutes of a regular Council meeting held July 1, 2014.
- b. Review and file bills recapped as of Monday, July 14, 2014.
- c. Consider going out for bids to replace the Village Office entry doors with Community Development Block Grant Funds.
- d. Consider going out for bids for 20124 joint and crack sealing program
- e. Consider going out for bids to repair the Village Office lobby roof.
- f. Consider going out for bids to remove and replace garage doors of DPW building.

Motion passed.

BUSINESS AGENDA

SECOND READING AND POSSIBLE ADOPTION OF ORDINANCE 351 AMENDING CHAPTER 7 WATER SERVICE OF THE VILLAGE MUNICIPAL CODE

Village Attorney Ryan conducted the second hearing of Ordinance 351. At a previous meeting, Council approved a contract for cross-connection inspection services for non-residential properties in the Village where there could be possible contamination between the potable water system of the community and other water users. Public Services Director Meszler has requested that Council amend the Village Municipal Code, specifically Chapter 7, Section 7.18 Cross Connections to include three sections (e) (f) and (g). Ryan highlighted those three new sections and the amendment to Section 7.20 Violations.

Motion by Oen, second by LaFerriere, that the Beverly Hills Village Council adopt Ordinance 351 amending Chapter 7 Water Service of the Village Municipal Code.

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

Ordinance 351 in its entirety is on file at the Village Office for public review.

**SECOND ANNOUNCEMENT OF TWO ZONING BOARD OF APPEALS VACANCIES
REVIEW AND CONSIDER APPLICATION FOR PRIVATE ROAD AT 31805
EVERGREEN ROAD**

LaFerriere made the second announcement of one full member vacancy on the Zoning Board of Appeals for a term to expire on June 30, 2017 and one alternate member vacancy on the ZBA for a term to expire on June 30, 2015. The deadline for receiving applications for these positions is Friday, July 25, 2014 at 4:30 pm. A subcommittee will meet at 7:15 p.m. prior to the August 5 Council meeting to consider the candidates and make a recommendation for appointment to the Village Council.

**REVIEW AND CONSIDER APPLICATION FOR PRIVATE ROAD AT 31805
EVERGREEN ROAD**

Manager Chris Wilson stated that Council approved a request for a land division of property at 31805 Evergreen Road at its April 1, 2014 meeting. The site is located on the west side of Evergreen Road north of Ronsdale Drive and across from Beverly Road. The owners split the property into four parcels. There is one existing house to the rear (west) of the property, which is currently being rehabilitated. The owners plan to construct homes on the remaining three parcels, all situated on a private road off of Evergreen. As this section of Evergreen Road is under the jurisdiction of the Village, all new roadways and driveways must be approved by the Village.

The Land Division Application was approved prior to approval of a private road. There is access to the property from an existing driveway that crosses all parcels and serves as a driveway to the main house. This existing driveway also provides access to a property located to the north of 31805 Evergreen. This property has an access easement through 31805 to their property. The existing driveway does not meet sight distance safety standards, but is grandfathered as it exists to service the one home at 31805 Evergreen and the home to the north at 31825 Evergreen.

A preliminary site plan was submitted with the private road located in close proximity to the intersection of Evergreen and Beverly Roads. In this original submission the existing driveway was not to be maintained. Consulting engineers Hubbell, Roth & Clark analyzed this proposed location and determined that it did not meet sight distance safety requirements due to a curve and change in elevation along Evergreen to the north. The Village informed the petitioner that the road would have to be located further to the south on the property to meet sight distance safety standards. The application for the private road was resubmitted with the road located farther to the south on the property, but it retained the existing driveway.

The Village informed the developer that only one access point would be allowed on this property and that the access point must meet sight distance safety requirements. As the existing grandfathered driveway is non-conforming with sight distance safety standards, it would have to

be brought into compliance with any changes to the property. In addition, the property is not large enough and does not possess enough road frontage to allow for two driveways, even if both met the sight distance safety requirements, which the existing driveway does not.

The petitioner has argued with Village Administration, HRC, LSL Planning, and the Planning Commission that, per 1.1.4 of Road Commission of Oakland County guidelines, the addition of a private road does not meet the standard of a change or expansion of use of the property. The Village has been consistent that this is a change of use of the property, and the private road cannot be approved with the existing driveway remaining. The petitioner disagreed with the Village's position on this and asked that the private road application be heard by the Planning Commission.

At its June 25, 2014 meeting, the Planning Commission reviewed the application for a private road at 31805 Evergreen. Public Services Director Tom Meszler and HRC staff had reviewed the application and recommended that the private road not be approved with the existing driveway remaining. The Planning Commission passed a motion by a 6-1 vote to recommend that the Village Council deny the application for private road at 31805 Evergreen Road based on conflicting issues related to a private road and an existing easement road and due to the safety concerns of the Village Engineer.

The applicant has chosen to bring the private road proposal before Council for consideration without revising the site plan to obtain a positive recommendation from the Village engineer and Public Services Director. Wilson related that the petitioner needs to submit an application for a private road with one access point to Evergreen that meets sight distance requirements. Access to 31825 Evergreen will need to be maintained in some manner. The current submission does not accomplish this, and it is the recommendation of Village Administration that it be denied.

Village Attorney Ryan outlined the procedures involved in the review and approval of this site plan and private road. There is an issue between the petitioners and Administration relative to the interpretation of the Oakland County Road Commission Standard Section 1.1.4. It is the position of the Village that the new private road cannot be approved until the existing driveway on the site is vacated. Council can consider the recommendation of the Planning Commission to deny and take action or it can refer the private road request back to the Planning Commission for a public hearing. Ryan noted that there are other issues that relate to site plan review and the payment of fees for reviews.

Kelly asked for clarification from Attorney Ryan on the various issues relative to the private road, driveway, Village ordinances, and the Road Commission standard. Ryan referred to Ordinance 23.17 Private Road Requirements. With regard to the dispute regarding the grandfathered driveway, Oakland County Road Commission Standard Section 1.1.4 was cited. It reads as follows:

Section 1.1.4: "When the use of the land served by the driveway is changed or expanded, and the change or expansion causes the existing driveway to be a safety concern, the driveway will be considered a new driveway subject to Act 200 of 1969, as amended by Act 83 of 1978, being MCL 247.321 et seq.

Ryan stated that the use of the land has been changed and will be expanded. The existing driveway is already a safety concern. Administration believes that this section is triggered for the reason that another roadway is proposed in close proximity to the existing problematic driveway.

Kelly agreed that the existing driveway is treacherous. She questioned how the applicant's proposal will make it worse and lose its grandfathered status. She also questioned whether any change in use of the land would require a driveway to be brought up to current standards.

Wilson responded that administration believes that the situation will be made worse because a private road is proposed 80 ft. from the existing driveway that does not meet sight distance requirements. There was further discussion on Section 1.1.4. with respect to the private road request before Council.

Developer John Mentag stated that he is representing property owners Julie and Ted Willett of 31805 Evergreen. He displayed an aerial map and drawings in order to describe the development and road access. Mentag addressed clear vision standards, noting that the property will only have three additional lots. He talked about the burden placed on the Willets to extend the service drive from the Berg's property across Parcel 1 to the private road. The Bergs have 200 ft. of frontage. Mentag suggested that the Bergs could improve and use their second driveway for access to Evergreen Road.

Council members voiced their comments and questions regarding the private road application. Topics of discussion included Evergreen Road safety, current private road regulations, sight distance issues, the grandfathered driveway, and the Planning Commission recommendation. Much of the conversation centered on the unresolved issue of accessibility from the Berg property at 31825 Evergreen to the private road.

Mentag asked to discuss the site plan issue. He stated that he has complied with site plan issues under the land division act and the private road requirements. Wilson has indicated that there is also a requirement under ordinance section 22.08.290(b), which would put another review into play. Mentag did not think that another site plan review was necessary with a land division application and asked for relief from that requirement.

Ryan stated that, historically, every development other than a single family residential property needs a site plan review. This was discussed at the meeting when the land division was considered by Council. The ordinance states "b. Approval by Village Council Required. In each zoning district, a site plan shall be reviewed for any use other than a principal one family residential use and related accessory uses." Ryan remarked that this is a three family residential use on a private road. He noted that the private road and site plan review public hearings can be held concurrently.

Motion by Mooney, second by Oen, that the Beverly Hills Village Council adopt the June 25, 2014 Planning Commission recommendation to deny the application for a private road at 31805 Evergreen Road based on conflicting issues related to a private road and an existing easement road and due to the safety concerns of the Village Engineer.

Robert Ellwood of 20046 Ronsdale stated that the Council motion of April 1, 2014 approving the land division application for 31805 Evergreen Road was subject to approval by the Planning Commission, Administration and Council of the location of the private road as part of site plan review and further subject to the provision of adequate ingress and egress for the Berg property. He maintained that the lot split has a temporary approval based on the Council motion.

Alda Marie McCook of 19370 Riverside Drive reminded Council that Village residents and their property should be of utmost importance. People have put their trust in Council to protect them.

Sharon Tischler of 21415 Virmar Court emphasized Evergreen Road safety issues and favored the least amount of road cuts as possible.

Attorney Marc Drasnin representing Terry and Jennifer Berg, property owners of 31825 Evergreen, suggested that the information conveyed to Council by Mr. Mentag was inaccurate. The Bergs are good neighbors and have invested a significant amount of money in their home. Drasnin expressed the view that profit is the prime motive for the development of this property and not maintaining the safety and integrity of adjacent properties.

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

PUBLIC COMMENTS

None

REPORTS – MANAGER

Wilson restated that motion passed by Council at its April 1, 2014 meeting regarding the land division application for 31805 Evergreen Road:

Motion by Mooney, second by LaFerriere, that the Village of Beverly Hills Council approve the Land Division Application from Theodore and Julie Willett for 31805 Evergreen Road subject to approval by the Planning Commission, Administration and Council of the location of the private road as part of site plan review; further subject to the provision of adequate ingress and egress for the Berg property.

MERS Actuarial Report – Council is in receipt of the Annual Actuarial Valuation Report for all Village pension funds as of December 31, 2013. This is the first actuarial report received since the Village transitioned all Public Safety pension funds to MERS in 2013. The overall funding percentage for all Village pension plans is 101% as of this valuation. Village Administration will continue to work with MERS to better understand the division of employees, retirees and funds amongst the current existing accounts.

Lahser Road Closure – The closure of Lahser Road for bridge repair has been delayed until July 28th. The closure is scheduled to run through August 15th. The detour route will be 12 Mile to Evergreen Road to 13 Mile. Due to concerns over potential cut-through traffic, the Village will be issuing temporary Traffic Control Orders allowing local traffic only onto Vernon and

Stellamar off of 13 Mile during this construction period. Local Traffic Only signs will be posted in these areas.

Sewer Cleaning and Inspection – Sewer cleaning and inspection work began in the Village on Monday, July 14. This work will start in the northeastern section of the Village, around 14 Mile and Greenfield and will progress to the west and south. Crews will be accessing sewer lines for cleaning and inspection. In areas where sewers are located in rear yard easements crews will need to be able to access manholes in rear yards.

Metamora Paving – Construction is ongoing on the road reconstruction on Metamora. The existing asphalt and concrete are being removed. The project called for the installation of edge drain in this area that previously did not exist. This has necessitated some additional excavation behind the existing curb structures. The Village has noticed excessive amounts of water in the existing sub base in this area, an indication of improper drainage and need for edge drains.

LaFerriere commented on the MERS Actuarial Report and suggested that a separate actuarial study be conducted at some point in the future.

REPORTS – COUNCIL

None.

Motion by Mooney, second by Oen, to adjourn the meeting at 9:18 p.m.

Motion passed.

Tim Mercer
Council President

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary