

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

Absent: None

Also Present: Manager, Wilson  
Assistant Manager/Clerk, Marshall  
Village Attorney, Ryan

Council President Mooney called the regular Council meeting to order at 7:30 p.m. in the Village of Beverly Hills at Beverly Park.

#### **AMENDMENTS TO AGENDA/APPROVE AGENDA**

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

Motion passed.

#### **COMMUNITY ANNOUNCEMENTS**

None

#### **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

None

#### **CONSENT AGENDA**

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

1. Review and consider approval of minutes of a regular Council meeting held July 19, 2016.
2. Review and file bills recapped as of Monday, July 25, 2016.
3. Review and consider resolution appointing delegates to the Michigan Employees' Retirement System Annual meeting.

Motion passed.

#### **BUSINESS AGENDA**

##### **REVIEW AND CONSIDER AGREEMENT WITH SAFEbuilt FOR BUILDING DEPARTMENT SERVICES**

Oen explained that before Council for consideration is a proposed agreement with SAFEbuilt Michigan, LLC for building department services. Under this agreement, SAFEbuilt would be responsible for the Building Official services, building, plumbing, mechanical, and electrical inspection services, and plan review services for conformance with the building code (State of Michigan Single State Construction Code). Upon the completion of all projects, SAFEbuilt will return all documents to the Village. LSL will continue to conduct site plan reviews for commercial projects, and the Public Services Department, through HRC, will handle grade and drainage issues. Water taps will be handled through Oakland County, as is currently the case.

The Village will continue to maintain responsibility for fences, signs, driveways, garage sales, zoning administration and for Code Enforcement. Village Administration will continue to take applications for ZBA cases and will be responsible for the staffing and administration of the Planning Commission and ZBA. The Village will provide administrative support for the building department including collection of permit fees, scheduling inspections, and facilitating communication between SAFEbuilt inspectors and contractors or residents. SAFEbuilt will provide an on-site Building Official representative, Monday, Wednesday, and Friday, and Building Official and inspectors will be available by cell phone and will be dispatched as-needed for inspections or in-person meetings.

The Building Official designation for the Village of Beverly Hills and Southfield Township will be a member of Village administration as required by state law. However, SAFEbuilt will conduct all the official duties of that position. Since the Village eliminated the full-time Building Official position in 2009 these services have been performed by either a part-time contractor(s) or through another municipality. Properly maintaining a full service building department and providing a proper level of service to meet future demands would require more than one or two employees. The staffing, resources and expertise of a full-time building department would be impractical for the Village to replicate. The professional services provided by SAFEbuilt's team of qualified professionals is in the best interest of the Village and its residents.

This agreement will commence on August 8, 2016 and run for a period of five years. Any party can terminate the agreement with thirty (30) days' notice. Southfield Township is also a party to this agreement and has a copy for review. Implementation of the agreement is contingent upon agreement by all three parties.

Administration and Attorney Ryan have reviewed the Agreement. Wilson recommended that the Village Council approve and authorize Village Administration to execute the Intergovernmental Agreement for Building Official and Inspection Services with SAFEbuilt of Michigan, LLC as presented.

SAFEbuilt representatives Rick Kessler, Michigan Operations Manager and Craig Lambert, Business Development Executive spoke, explaining that they have a five day turn around on residential services and a two day turn around on commercial.

Delaney asked for clarification on the necessary insurance needed under paragraph 11 including workers compensation. Ryan confirmed that all necessary insurance is in place. Wilson explained that because the employee would not be an employee of the Village, they would be covered by SAFEbuilt's insurance.

Delaney expressed concern over paragraph 18 in the contract titled Solicitation/Hiring of Consultant's Employees. He felt that it was unnecessary to put the burden of responsibility on the Village to police the activities of SAFEbuilt employees.

18. SOLICITATION/HIRING OF CONSULTANT’S EMPLOYEES

During the term of this Agreement and for one year thereafter, Municipality shall not solicit, recruit or hire, or attempt to solicit, recruit or hire, any employee or former employee of Consultant who provided services to Municipality pursuant to this Agreement (“Service Providers”), or who interacted with Municipality in connection with the provision of such services (including but not limited to supervisors or managers of Service Providers, customer relations personnel, accounting personnel, and other support personnel of Consultant). The parties agree that this provision is reasonable and necessary in order to preserve and protect Consultant’s trade secrets and other confidential information, its investment in the training of its employees, the stability of its workforce, and its ability to provide competitive building department programs in this market. If any provision of this section is found by a court or arbitrator to be overly broad, unreasonable in scope or otherwise unenforceable, the parties agree that such court or arbitrator shall modify such provision to the minimum extent necessary to render this section enforceable.

Mueller stated that he felt paragraph 18 only prohibited the Village from recruiting a SAFEbuilt employee to work for the Village and then terminating the contract with SAFEbuilt. Ryan confirmed that this is standard contract language. Kessler confirmed that this is a standard contract clause to protect SAFEbuilt.

Abboud asked for clarification on the qualifications of the employee provided, and the reason for a five-year contract. Kessler explained that the person would be qualified for all aspects of the job, and if they were unavailable, the substitute would be another employee who was equally qualified. He stated the contract is a five-year contract to allow the employee to settle into the community. Even though it is a five-year contract, it can be amended at any time. When the five-year period is up, the contract can be renewed or renegotiated. Kessler said that there could be times that a specialist consultant would be brought in to consult on a large or special project. All documents generated become property of the Village.

Motion by Oen, second by Mueller, that the Village of Beverly Hills Council approve the Intergovernmental Agreement for Building Official and Inspection Services between SAFEbuilt of Michigan, LLC, the Village of Beverly Hills, and the Township Southfield and authorize Village Administration to execute the Agreement with the removal of paragraph 18 from the contract.

Roll Call Vote:

|         |       |
|---------|-------|
| Oen     | - aye |
| Peddie  | - aye |
| Abboud  | - aye |
| Borgon  | - aye |
| Delaney | - aye |
| Mooney  | - aye |
| Mueller | - aye |

Motion passed (7-0).

**REVIEW AND CONSIDER ADOPTING FEE SCHEDULE FOR BUILDING DEPARTMENT SERVICES**

Wilson presented a proposed fee schedule for Building Department services, this schedule is available online and in the Village office. The Village adopted the City of Royal Oak fee schedules in 2014 and will need to adopt their own fee schedule once we resume responsibility for those services. The fees proposed are consistent with those currently charged by Royal Oak and will keep the permit costs to contractors and residents in line with existing expectations.

Motion by Oen, second by Abboud, to adopt the Village of Beverly Hills Building Department Fee Schedule dated August 2, 2016.

Motion passed (7-0).

**REVIEW AND CONSIDER SUBCOMMITTEE'S RECOMMENDATION TO FILL VACANCIES ON THE ZONING BOARD OF APPEALS**

A subcommittee of Council chaired by Abboud met at 7:15 pm to consider applications to fill two alternate member vacancies on the Zoning Board of Appeals due to Ashley Lepidi's appointment as a full member and Ben Wilensky's appointment to the Planning Commission. It was the unanimous decision of the subcommittee to recommend the appointment of Jan Gatowski and Mark Hynes for terms to expire on June 30, 2018.

Motion by Abboud, second by Delaney, to appoint Jan Gatowski and Mark Hynes to the position of alternate member of the Zoning Board of Appeals with terms to expire on June 30, 2018.

Motion passed.

**REVIEW AND CONSIDER SUBCOMMITTEE'S RECOMMENDATION TO FILL VACANCIES ON THE BIRMINGHAM AREA CABLE BOARD**

A subcommittee of Council chaired by Borgon met at 7:00 pm to consider applications to fill two vacancies on the Birmingham Area Cable Board. Members Greg Burry and Pat Schneider did not seek reappointment. Only one application was received. It was the unanimous decision of the subcommittee to recommend the appointment of Gilbert Gugni for a term to expire on June 30, 2019.

Motion by Borgon, second by Abboud, to appoint Gilbert Gugni to the Birmingham Area Cable Board with a term to expire on June 30, 2019.

Motion passed.

**PUBLIC COMMENTS**

None.

**MANAGER'S REPORT**

Wilson reported the paving project will resume, there were additional base repairs that needed to be completed before the paving could be finished.

**COUNCIL COMMENTS**

Mueller encouraged residents to come out to Beverly Park and see the recently installed DIA Inside Out exhibit in Beverly Park.

Abboud reported that the Planning Commission hopes to soon present the Southfield Corridor Marketing Plan received from Gibbs Marketing Group. The Planning Commission has been discussing both a tree ordinance and a construction fence ordinance. The Zoning Board of Appeals will meet in August and welcome two new members.

Delaney thanked SAFEbuilt for attending the meeting, and conceding paragraph 18 on the contract. He looks forward to growing the relationship between SAFEbuilt and the Village.

Oen thanked SAFEbuilt for contracting with the Village. He reported that the Village Administration offices should be completed by the end of October.

Mooney shared with residents that he was thrilled to see the park full of people enjoying the space. He thanked park rangers Anthony Gucciardo, Carter Stupyra, and Kurt Melendy for all of the hard work they put in at the park this summer. He thanked the Council for meeting at the park, and he congratulated Mueller and Dan Nunez on their November run for the open seats on Council.

Motion by Oen, second by Delaney, to adjourn the meeting at 8:15 pm.

Motion passed.

**John Mooney**  
**Council President**

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

**Elizabeth Lyons**  
**Recording Secretary**