

Present: President George; President Pro-Tem Hrydziuszko; Members: Abboud, Kecskemeti, Mooney, O’Gorman, and Peddie

Absent: None

Also Present: Village Manager, Wilson
Village Clerk / Assistant Manager, Rutkowski
Village Attorney, Ryan
Planning and Zoning Administrator, Lloyd

President George called the regular Village Council meeting to order at 7:30 p.m. in the Village Council Chambers located at 18500 W. Thirteen Mile Road, Beverly Hills, MI 48025. The Pledge of Allegiance was recited by those in attendance.

AMENDMENTS TO AGENDA/APPROVE AGENDA

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

Motion passed.

COMMUNITY ANNOUNCEMENTS

None.

PUBLIC COMMENTS

None.

CONSENT AGENDA

Motion by Mooney, second by Peddie, be it resolved, the consent agenda is approved as published.

1. Review and consider approval of minutes of a regular Council meeting held October 19, 2021.
2. Review and file bills recapped as of Monday, October 25, 2021.

Roll Call Vote:

Motion passed (7-0)

BUSINESS AGENDA

REVIEW AND CONSIDER REQUEST FROM BEVERLY HILLS LIONS CLUB FOR THEIR CANDY CANE COLLECTION TO BE HELD NOVEMBER 24 – DECEMBER 24, 2021

Village Administration received a request from the Beverly Hills Lions Club regarding their annual Candy Cane Collection to be held November 24 – December 24, 2021. The Lions Club is requesting to conduct a fund solicitation drive during this period, primarily at the Corners Shopping Center and Market Fresh. The Lions Club is also requesting the following notice be placed on the display sign outside of the Village Offices, provided there is no conflict: Support Lions Candy Cane Collection November 24 to December 24.

The funds raised during this drive will be used primarily to support activities and organizations related to sign and hearing-impaired individuals. The Leader Dog School for the Blind in Rochester, Michigan is the primary beneficiary. The Lions Club of Beverly Hills gladly supports

many activities within the Village as well such as the Halloween Hoot, the Memorial Day Fun Run, and the High School Senior Scholarship Award.

The Lions Club will be required to submit a certificate of liability insurance naming the Village as an additional insured for the duration of the collection.

Motion by Abboud, second by Mooney, be it resolved, the Beverly Hills Village Council approves the request from the Beverly Hills Lions Club to solicit donations for their annual Candy Cane Collection from November 24 to December 24, 2021 and the following notice will be placed on the display sign outside of the Village Offices, provided there is no conflict: “Support Lions Candy Cane Collection November 24 to December 24.”

Motion passed.

REVIEW AND CONSIDER DEVELOPMENT AGREEMENT FOR 31655 SOUTHFIELD ROAD, GODDARD SCHOOL

Motion by Mooney, second by Hrydziuszko, Council member Abboud is recused from voting on the Development Agreement for 31655 Southfield Road per his request.

Motion passed.

Wilson gave an introduction to the Development Agreement for the project located at 31655 Southfield Road, Goddard School.

Lloyd provided an overview of the project and proposed agreement. On October 19, 2021, the Village Council approved the site plan for development of a mixed-use development project at 31655 Southfield Road in the B Business District and within the Village Center Overlay District. A copy of the draft Development Agreement associated with the approved site plan was presented to the Village Council for consideration at that time. The Village Council tabled consideration of the Development Agreement to allow additional time for review. Section 22.23.11.d, Development Agreement of the Village Zoning Ordinance states, “Development approved according to this Section shall enter into a development agreement with the Village, in a form acceptable to the Village Attorney that specifies the required improvements, commitments and obligations of the development as it relates to the overall Village Center district. The development agreement shall specify any recognized benefits provided by the developer, flexibility granted by the Village, and maintenance provisions for all site improvements.”

A copy of the October 13, 2021 report and all attachments were included with Lloyd’s report along with the Development Agreement which has been signed by the developer. In addition, a copy of the PowerPoint presentation given at the October 19, 2021, meeting, and subsequently sent via e-mail to the Village Council on October 20, 2021, was also provided and gave an overview of the project and outlines the terms and conditions of the Development Agreement. The Village Attorney prepared a suggested resolution for consideration on this matter.

Ryan stated that the Development Agreement process is new to the Village Overlay District. If the agreement is approved, it will be filed and on record with the Oakland County Register of Deeds for any future potential buyer.

Mooney asked about the negotiation regarding the 6 feet of property along Gould Court. He thought the Village should have the first right to that purchase and that some sort of price should have been set, should an opportunity arise in the future with the property's successor.

Ryan referred to Section 11-ii of the Agreement and stated the negotiating team did not want to leverage an exact property for an adjacent parcel that they do not have any interest in. The Agreement was made in good faith with the applicant and includes language regarding a potential sale that references a comprehensive and compatible redevelopment of Gould Court.

George asked about the terms "reasonably and in good faith." He inquired about the litigation process should this be challenged down the road.

Mooney did not believe that asking for a price for the property was unreasonable. He does not want a future property owner to have a veto power over the future development of Gould Court and the surrounding area.

Kellie McDonald, Goddard School, 935 Silverbell, Lake Orion, Michigan, stated that the 6' offer was made in good faith and she would not care if it belonged to either a future developer or the Village.

Motion by Peddie, second by Hrydziuszko, be it resolved, The Village Council accepts the Planning Commission's recommendation and hereby approves the site plan for development of a child-care center at 31655 Southfield Road located in the B-Business District and within the Village Center Overlay District finding that the project has received required variances from the Zoning Board of Appeals and that the project meets the requirements of the B-Business District and the intent of the Village Center Overlay District. Furthermore, the Village Council hereby approves the associated Development Agreement and authorizes the Village President to execute on behalf of the Village Council.

It was noted that there was an updated suggested resolution provided in the meeting packet prepared by Mr. Ryan that should be read instead.

Peddie withdrew her initial motion.

Motion by Peddie, second by Hrydziuszko, be it resolved, the Beverly Hills Village Council approves the Development Agreement between the Village of Beverly Hills and JMAX Capital, LLC, a Michigan Limited Liability Company doing business as the Goddard School of Beverly Hills to become effective upon the successful completion of the pending litigation in the Oakland County Circuit Court Case No. 21-190294-AA.

Roll Call Vote:

Abboud (recused)

George – Yes

Hrydziuszko – Yes

Keckemeti – Yes

Mooney – No

O'Gorman – Yes

Peddie - Yes
Motion passed (5-1)

REVIEW AND CONSIDER PARKS & RECREATION BOARD'S RECOMMENDATION TO ESTABLISH A COMMERCIAL FILMING FEE FOR PAKRS

Wilson provided an overview of the recommendation. Occasionally, private companies film commercials at parks within Beverly Hills. The Parks & Recreation Board has discussed requiring an application and fee for commercial filming on park property. Board members compared applications and fees from surrounding communities to help come up with a recommendation to Council.

The proposed fee would be for filming for commercial purposes only.

At their October 21, 2021 meeting, the Parks & Recreation Board voted to recommend the Village Council require a fee of \$125.00, an application, and a certificate of insurance to be submitted to the Village of Beverly Hills for any commercial filming on park property.

Keckskemeti asked about the application criteria and if there was an ability to deny an application.

Wilson stated that the Village is not looking to prohibit filming, rather we are trying to avoid conflicts and that requiring a certificate of insurance is a good idea.

George requested that a restoration provision be included on the application so the property is left how the applicant found it.

Motion by Hrydziuszko, second by Peddie, be it resolved, the Beverly Hills Village Council hereby requires an application, a Certificate of Liability Insurance naming the Village of Beverly Hills as an additional insured, and a fee of \$125.00 to be submitted to the Village of Beverly Hills Administration for approval prior to any commercial filming on Beverly Hills park property.

Roll Call Vote:
Motion passed (7-0)

REVIEW AND CONSIDER PARKS & RECREATION BOARD'S RECOMMENDATION TO HOLD A CONCERT IN THE PARK ON JULY 22, 2022

Wilson provided an overview. At their October 21, 2021 meeting, the Parks & Recreation Board reviewed a request for booking a band at the Village's July 22, 2022 Concert in the Park. Danny D and the Vagabonds are a Rod Stewart tribute band and their performance also includes bits of Motown, 70s, 80s, and 90s hits. They are proposing a 90-minute show with costume changes and an 8-piece band. The price range for this performance is \$1,000.00-1,200.00, depending on whether a sound technician is available.

The Village rents a stage from Oakland County Parks for the Concert in the Park events in the amount of \$550.00. A standard facility/property use agreement has been reviewed by the Village Attorney who found it to be in order. The agreement was provided to Council for review.

The Beverly Hills Parks & Recreation Board recommended the Village Council authorize the Board to host a Concert in the Park featuring Danny D and the Vagabonds on Friday, July 22, 2022 at Beverly Park and to authorize Administration to execute a Facilities/Property Use Agreement with Oakland County Parks for the stage rental in a total amount not to exceed \$1,800.00.

O’Gorman asked why the Parks & Recreation Board requests events, such as the Concert at the Park, individually instead of as a package request.

Hrydziuszko stated that with the COVID-19 pandemic and changing regulations, it became customary for the Board to recommend one event at a time.

Motion by O’Gorman, second by Hrydziuszko, be it resolved, the Beverly Hills Village Council authorizes the Parks & Recreation Board to host a Concert in the Park featuring Danny D and the Vagabonds on Friday, July 22, 2022 at Beverly Park and authorizes Administration to execute a Facilities/Property Use Agreement with Oakland County Parks for the stage rental in an amount not to exceed \$1,800.00. Funds are available in account #101-747-894.00.

Roll Call Vote:
Motion passed (7-0)

REVIEW AND CONSIDER APPROVAL OF BACKFLOW PREVENTER INCENTIVE PROGRAM

Wilson gave an overview of the proposed backflow preventer incentive program. Provided for Council’s review and consideration was a draft proposal for a program that would incentivize and provide reimbursement for homes that met eligibility criteria to receive reimbursement through the Village of up to 50% of the cost of installation of a backflow preventor or other pre-approved device or procedure at their home, up to \$2,500.

Village Administration has worked with Council and our engineers to identify and develop a cost effective program that will provide protection for our residents from potential combined sewer backups in their homes. Village Administration feels this program meets those goals. Village Administration went over with Council the eligibility criteria and operation of the program at the meeting and answered any questions from Council. If Council is in agreement with the terms of the program, Village Administration is prepared to implement the program when approved.

Wilson stated that since the meeting packet was published, Administration has received questions about retroactivity of the program. He also stated that Ryan is in communications regarding municipal and state laws that would allow this program.

Ryan stated that the program would meet the public purpose criteria for spending public money on private property. He would like to be sure the Village is on solid ground and will prepare a memo for an upcoming meeting.

Keckskemeti thought the backflow preventer incentive program would be a good first step and can help protect public health in the short term. She would like the criteria to be very clear. She would like the program to be coupled with a public education campaign. She stated a backflow preventer is a mechanical device in a gravity system, so it will require some maintenance over time.

Abboud asked how the dedicated budget number of \$250,000 was determined. Wilson stated that it was an estimate of 100 houses at the maximum reimbursement. Wilson does not know what the level of interest will be like from residents at this time.

The Council discussed long-term funding for the program.

Mooney requested the Council and Administration examine the proposal further before voting on it. He was concerned about using taxpayer dollars to improve private residences. He talked about the August 2020 and June 2021 rain events and stated the system is doing what it is supposed to be doing.

The Council discussed liability concerns.

George stated that ditches help during regular rain events and backflow preventers help during peak rain events. He stated that other municipalities have similar programs that are successful.

Keckskemeti stated it is difficult to predict if a backflow preventer installation will impact neighbors. Elevations and storm flows must also be considered. She talked about the mechanics of a backflow preventer, disconnecting drains, and the importance of maintenance.

The Council would like more information from the engineers and Village Attorney before voting on the proposed program

Motion by Mooney, second by O’Gorman, the Beverly Hills Village Council tables the Backflow Preventer Incentive Program to the next meeting.

Motion passed.

REVIEW AND CONSIDER APPROVAL OF CHANGE ORDER NO. 1 FOR 2021 CONCRETE PATCH REPAIR PROGRAM

Wilson gave an overview of the change order request. Village Administration and our engineers have identified additional quantities of concrete replacement that can be done within the funds Council has budgeted for this work this year and are in need of replacement. The majority of this additional work is along White Oaks Trail. The contractor has agreed to do the approximately 700 square yards of work on the existing contract and at those contract prices.

The Village allocated \$500,000 for concrete replacement for this Fiscal Year. The contract amount as awarded was \$372,825. The estimated price for this additional work is \$50,548.50. This would bring the total contract price to \$423,373.50. Village Administration has reviewed this proposal and believes it to be in the best interest of the Village to proceed with the additional work at this time.

Motion by Mooney, second by Hrydziuszko, be it so resolved that the Village Council approve and authorize the Village Manager to execute Change Order No. 1 for the Village of Beverly Hills 2021 Concrete Patch Repair Program in the amount of \$50,548.50. Funds for this work are available in Fund #203-451-810.03.

Roll Call Vote:

Motion passed (7-0)

REVIEW AND CONSIDER RENEWING LIABILITY AND PROPERTY INSURANCE POLICY WITH MICHIGAN MUNICIPAL RISK MANAGEMENT AUTHORITY

Wilson provided an overview. On the agenda for Council to review and consider is the renewal of the Village’s Liability Insurance Policy. This policy renews on November 1 of this year.

The terms of this 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 on page 3. There is also a stop loss policy that would limit all liability in any village fiscal year to \$150,000. The cost for retaining this stop-loss policy is \$4,753. The stop-loss policy is detailed on page 8.

The total cost for the liability policy for one year is \$136,266. This is a slight increase of our premium for last year of \$130,034. Our carrier, Michigan Municipal Risk Management Authority (MMRMA) is also requesting a contribution to our loss retention fund of \$40,000 upon renewal. The total premium, stop loss cost and retention fund contribution is \$181,019. With the contribution of \$40,000 to our loss retention fund the Village will have in excess of \$300,000 retained to cover losses.

Upon renewal, the Village will be eligible for a disbursement through MMRMA of \$82,184. Given the current strong position of our retention fund I am recommending that the disbursement amount be allocated back to the General Fund. Village Administration has reviewed the liability insurance renewal and recommends approval at this time.

George stated that having two times the stop loss amount is a good position to be in.

Motion by Abboud, second by Hrydziuszko, be it resolved 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, 2021 through November 1, 2022 in the amount of \$181,019.00. 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)

ANNOUNCEMENT OF A VACANCY ON THE ZONING BOARD OF APPEALS

There is a full-member vacancy on the Zoning Board of Appeals for a partial term ending June 30, 2023.

The ZBA meets the second Monday of the month at 7:30 p.m. as necessary. The ZBA hears appeals of applicants who request exceptions from or official interpretations of the Zoning Ordinance. Members must decide whether or not a physical hardship or practical difficulty exists which justifies the granting of a variance.

All interested and eligible residents of Beverly Hills are encouraged to apply to become a member of the ZBA. Applications are available on the Village website or by emailing the Village Clerk at

krutkowski@villagebeverlyhills.com. Applications may be submitted to the Clerk's office via email, regular mail, in person, or using the drop box located outside the Village office (18500 W. 13 Mile Road, Beverly Hills, MI 48025).

Applications are due Wednesday, December 1, 2021.

This constitutes an announcement of a vacancy on the Zoning Board of Appeals.

UPDATE ON VILLAGE MANAGER SEARCH PROCESS

George provided an overview of the Village Manager search process. He went over the proposed timeline which included developing a profile, advertisement, review resumes/select finalists, reference checks/interviews, appointment, and start work. The estimated completion date for the entire process is February 23, 2022. George stated there will be a special meeting upcoming for the Council to meet with the Executive Recruiter. He stated that members of the Personnel Committee met with Clerk/Assistant Manager Rutkowski, who would be agreeable to serve in the Interim Manager role.

Mooney said he would like to discuss Council's expectations for a Village Manager at the upcoming Special meeting.

PUBLIC COMMENTS

None.

MANAGER'S REPORT

Planning and Zoning Administrator Position – As Council is aware, Mark Lloyd has resigned his position as Planning and Zoning Administrator effective November 5th. In consultation with the Personnel Committee, I will be appointing current Building Dept. Clerk Carissa Brown to this position on an interim basis as of Monday, November 8th. As I am leaving at the end of November it would be best to allow a new Village Manager to determine how to proceed with this position. Ms. Brown is agreeable to accept the position and understands that it is on an interim basis. Should a different individual be hired to fill this position in the future, Carissa will return to her current position. I am confident that Carissa will perform well in this position. Village Administration is working with Safebuilt to bring in a clerical employee on a temporary basis to assume the duties Carissa is currently performing. We wish Mr. Lloyd the best in his new position as Township Manager in Northfield Township.

American Rescue Plan Act (ARPA) Funds – The Village has received confirmation that our ARPA application has been received and approved. The Village will be receiving \$1,083,529 through the ARPA program. We will receive half of those funds in the next thirty (30) days, with the remainder of the funds coming approximately twelve (12) months later. Finance Director McCarthy has established a separate fund, Fund 257, to account for these funds. The Village will be required to submit our first Project and Expenditure Report by April 30 of next year. The content that will be required in that report is not known at this time. Village Administration will continue to monitor this. Finance Director McCarthy participated in a seminar with the Michigan Department of Treasury regarding guidelines for use of these ARPA funds. Treasury provided a list of four (4) allowable uses of these funds. I have included a brief summary of these categories for your review. Village Administration and Council will need to, prior to the April 30 report date, establish a plan for the allocation of these funds.

FY 2020-21 Audit – The annual audit presentation will be conducted at the regular meeting of Tuesday, November 16th. This is later than the normal audit presentation, primarily due to the extra work required by the federally funded 13 Mile Rd. project, for which the Village was the lead agency. Village Administration has reviewed the audit figures and found them to be in order and in line with expectations.

Coat Drive – The Village of Beverly Hills will be serving as a drop off location for the Oakland County Sherriff's annual Coat Drive. A drop box will be located in the Village Hall. The Coat Drive will run from November 1 – November 30.

Village Hall Generator – Village Administration has been able to obtain two quotes for the installation of a generator to operate Village Hall in the case of a power outage. The lower of the two bids was \$68,000. This would be with the same firm that Southfield Township is using to install their generator. This price is in line with a quote the Village received a few years ago and with the most recent generator purchased for the Public Safety Building. There will be a couple of months lead time to obtain a generator for installation. If Council does not object, I will move forward and bring the quote before Council for your review and consideration.

Veterans Day – Village and Township offices will be closed on Thursday, November 11th in observance of Veterans Day.

Abboud asked if ARPA funds could be used for the Village Hall generator. He also requested an outline from Wilson regarding pressing issues before he leaves.

O’Gorman asked if Village Hall is considered an Emergency Center, if there would be a benefit to become an Emergency Center, and what the qualifications are. Wilson stated that Village Hall is not an Emergency Center and recommended checking with the Oakland County Health Department.

COUNCIL COMMENTS

Peddie thanked Lloyd for his work at the Village and said he was a pleasure to work with.

Abboud gave updates on SEMCOG, Next, and Senior Advisory Committee meetings. The Oakland County Area on Aging B1 will be sending mailers out regarding COVID vaccines. He expressed sincere gratitude to all veterans.

Hrydziuszkowski stated that the Halloween Hoot was a huge success. She said there were 18 booths and almost 2,000 visitors. She thanked the Parks & Recreation Board and the volunteers for all of their work making the Hoot a success. She said there is a community tree planting event on Saturday, November 6th at Beverly Park at 8:45 a.m. She thanked Kecskemeti and Wilson for their work on the Backflow Preventer Program.

ADJOURNMENT

Motion by Mooney, second by Abboud, to adjourn the meeting at 9:35 p.m.

Motion passed.

John George
Council President

Kristin Rutkowski
Village Clerk