

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

Absent: None

Also Present: Village Manager, Campbell
Village Clerk/Assistant Manager, Rutkowski
Village Attorney, Ryan
Public Safety Director, Torongeau

ROLL CALL/CALL TO ORDER/PLEDGE OF ALLEGIANCE

President George called the regular Village Council meeting to order at 7:32 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.

Kecskemeti arrived at 7:33 p.m.

AMENDMENTS TO AGENDA/APPROVE AGENDA

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

Motion passed.

SPECIAL ORDER OF BUSINESS: RECOGNITION OF PLANNING COMMISSIONER, BENJAMIN WILENSKY

President George presented Benjamin Wilensky with a plaque for his service on the Planning Commission and Zoning Board of Appeals. He expressed his appreciation.

Wilensky thanked the Council for the opportunity to serve on the Commission and Board. Even though he moved out of Beverly Hills, he said he will still be active in the community.

COMMUNITY ANNOUNCEMENTS

None.

PUBLIC COMMENTS

Nancy Gale, Beverly Court, inquired about the paint markings around Beverly Green.

Tony Lott, Riverside, commented on the state of the economy and the Village being underfunded. He asked the Council to consider increasing the Village’s funding for liabilities.

CONSENT AGENDA

Motion by Mooney, second by Hrydziuszko, be it resolved, the consent agenda is approved.

1. Review and consider approval of minutes of a regular Council meeting held January 17, 2023.
2. Review and file bills recapped as of Monday, January 30, 2023.
3. Review and consider annual funding request from Birmingham Youth Assistance.
4. Review and consider Parks & Recreation Board’s recommendation to purchase concrete cornhole set for Beverly Park.
5. Review and consider Parks & Recreation Board’s recommendation to reinstate Buy-a-Brick fundraiser program.

Roll Call Vote:
Motion passed (7-0)

BUSINESS AGENDA

REVIEW AND CONSIDER GROVES ORCHESTRA’S REQUEST TO HOST FORTE 5K AT BEVERLY PARK AND ON VILLAGE STREETS ON SUNDAY, MAY 7, 2023

Campbell provided an overview. Administration received a request from Groves High School requesting to hold their annual Forte 5K Run and Walk at Beverly Park and on Village streets on Sunday, May 7, 2023 from 7:00 a.m. to 11:00 a.m. to benefit the Groves Orchestra. They have also requested to use the pavilion during this time and asked that the pavilion rental fees be waived. There are not any Village sponsored events scheduled at Beverly Park for May 7, 2023. A map of the route was provided. At the January 19, 2023 joint Parks & Recreation Board/Council meeting, the Board recommended approval of this request.

Motion by Hrydziuszko, second by O’Gorman, be it resolved, the Beverly Hills Village Council approves the request from Groves High School to hold their annual Forte 5K Run on Sunday, May 7, 2023 from 7:00 a.m. to 11:00 a.m. This event will begin and end at the Beverly Park pavilion and they will utilize Village streets and sidewalks for the run as outlined on the map provided. Be it further resolved, the fees for use of the pavilion shall be waived for this event provided that a Certificate of Liability Insurance naming the Village of Beverly Hills as an additional insured is submitted to the Clerk’s Office prior to the event.

Roll Call Vote:
Motion passed (7-0)

REVIEW AND CONSIDER PARKS & RECREATION BOARD’S RECOMMENDATION TO REPLACE BEVERLY PARK PAVILION ROOF

Campbell provided an overview. He referenced Public Services Director Johnston’s memo dated November 4, 2022 regarding the replacement of the Beverly Park pavilion and restroom roofs. The proposal was presented to the Parks & Recreation Board at their November 17, 2022 meeting. Upon further discussion at that meeting, the Board requested that Administration seek additional quotes for a metal roof. After receiving additional quotes, it was clear that installing a metal roof would cost over four times as much as shingles, or roughly \$90,000.

At the January 19th joint Parks & Recreation/Council meeting, Administration recommended moving forward with the initial quote from BCM Roofing for this project in the amount of \$20,000. The Board and Council discussed the quote which provided three system options: Good, Better, and Best. The Board ultimately recommended that Council approve the “Better System” option, which includes a winterguard ice shield and 25-Year labor warranty, in an amount of \$22,500.

O’Gorman clarified that per the discussion at the joint meeting, it was recommended that Council approve an amount not to exceed \$25,000 because the roof may need additional decking to what was outlined on the proposal.

Mooney noted that the current roof is over twenty years old and the new roof will last another twenty or more years.

Motion by Hrydziuszko, second by O’Gorman, be it resolved The Beverly Hills Village Council approves the proposal from BCM Roofing to remove and replace the agreed upon roofing system at the Beverly Park pavilion and restrooms in the amount of \$22,500.00 and not to exceed \$25,000.00. Funds for this expense are available in Account 208-900-985.00 (Park Improvement Fund).

Roll Call Vote:
Motion passed (7-0)

DISCUSSION ABOUT LEGAL OPINION REGARDING ACQUISITION OF THE WENDBROOK PROPERTY

Campbell provided a summation of a request for a legal opinion from the firm regarding the following matter for the Village of Beverly Hills. In December 2021, a resident, Michael White, purchased three lots, consisting of over 8 acres, to preserve undeveloped land in the neighborhood. The property is located on Wendbrook Lane, which runs directly off 13 Mile between Evergreen and Lahser Roads. Mr. White paid \$2,000,000 for the three properties. At that time, Mr. White’s stated desire was for the property to become a park.

On February 1, 2022, the Village Council approved an agreement with Six Rivers Land Conservancy (“Six Rivers”) to apply for an acquisition grant from the Michigan Natural Resources Trust Fund (MNRTF) to purchase the Wendbrook properties. A MNRTF grant may provide up to 75% of acquisition costs for a park/nature preserve with the VBH providing a matching grant of 25% of the acquisition cost. The grant request was for \$1,500,000 with a local match of \$500,000. Mr. White stated that he would donate the local match on behalf of the Village. On March 15, 2022, the VBH held a public hearing to receive public comments about this grant application. The Village Council unanimously approved moving forward with the grant application. Six Rivers submitted the application to the MNRTF on behalf of the Village of Beverly Hills.

In the summer of 2022, the owner of the property in question, Mr. White, decided to run for Village Council. Mr. White placed fourth in the November 8, 2022 Election and was seated on the VBH Council on November 15, 2022.

Thereafter, on December 14, 2022, the MNRTF held their annual meeting to distribute available grant funding. The MNRTF awarded the Village a \$1,000,000 grant to acquire the Wendbrook property in question. Please be advised that at the next meeting on December 20, 2022, Mr. White recused himself from any conversation relating to this subject.

The initial question is whether it is permitted or a violation of Section 5.10(a)-(d) of the Village of Beverly Hills Charter for the Village to enter into a Purchase Agreement with Councilmember White for the purchase of the Wendbrook property.

Six Rivers has offered to serve as an intermediary and acquire and/or purchase the property from Councilmember White, with the Village of Beverly Hills then purchasing the property from Six Rivers. The second question is whether the purchase of the property from Six Rivers by the Village, after Six Rivers acquires and/or purchases the property from Mr. White, is permitted or violates Section 5.10(a)-(d) of the Village of Beverly Hills Charter in any way.

To ensure complete objectivity and avoid the appearance of any impropriety, the Administration seeks an outside legal opinion as to the two legal questions posed here. The Village Attorney, Mr. Ryan, does not object to the Administration seeking outside counsel in this matter. The Administration shall request that the opinion be prepared by the March 7, 2023 Council meeting. The cost of said legal opinion will not exceed five thousand dollars (\$5,000). Three different attorneys with three different firms agreed to the parameters of the Administration's requested legal opinion. Those attorneys are: Ronald C. Liscombe – a principal with the law firm of Miller Canfield PLC; Steven P. Joppich/ Tom Schultz – a shareholder with the law firm of Rosati, Schultz, Joppich & Amtsbuecher, P.C.; and Greg Need – partner with Adkinson, Need, Allen & Rentrop, PLLC

In furtherance of objectivity, please be advised that members of the Administration have no connection to any of the attorneys listed above. Administration shall move forward with obtaining the legal opinion from one of the attorneys or law firms listed above unless there is an objection from Council.

George stated that Village Attorney Ryan is the counsel to the Village Council and Mr. White is recused from this discussion item. He said that the amount for outside counsel would be under the manager's spending authority, but Campbell brought it in front of the Council for discussion.

The Council discussed whether an outside legal opinion should be sought.

Mooney said he thinks Ryan could give the opinion. He asked Campbell to read the section in question because he thought it was straightforward. Campbell read Section 5.10 of the Village Charter aloud.

Mooney asked for clarification about what opinion the Village would be seeking. Campbell clarified that the opinion would be on whether Six Rivers Land Conservancy could serve as an intermediary for the Village's acquisition of the Wendbrook property.

Mooney stated that he believes Council has to authorize Administration to hire outside counsel. He expressed concern about the cost to do this and said he wanted to see documentation from Six Rivers about their scope or proposal. He wanted to know more about what Six Rivers' offer was.

Campbell said an instrument review would take more time and would include a different scope of services that what was presented today.

George said it would be beneficial to have clarification over the terms "has" and "public interest" in Section 5.10 as it relates to this particular circumstance.

Kecskemeti noted that the intention of this section of the Charter was to prevent people from profiting from their position. She said she does not detect any impropriety.

Ryan noted that he is the general counsel for the Village and the item is before the Council for transparency. He noted that this is an unusual circumstance but said he is happy to do whatever the Council directs.

Kecskemeti said that a land conservancy taking ownership of a property is not outside of the normal realm of possibilities.

Mooney stated that if White's interest in the property was extinguished, then the Village could move forward. He said this was a self-inflicted problem on White's part.

George questioned if acquisition of a park was considered a public good. He said he would like to move forward with obtaining a legal opinion from an attorney who is independent from this issue so there is no more conjecture or ambiguity.

Kecskemeti questioned whether Council has to authorize Administration to seek a legal opinion. Ryan said Council would need an action to proceed.

O'Gorman said that Six Rivers' goal is to conserve land. He referred to the February 1, 2022 meeting minutes where their Executive Director said that the organization could acquire the land and hold it for the Village if necessary.

Mooney said he would like more information on a purchasing plan before getting a legal opinion.

O'Gorman said that there are varying opinions in the community and on Council, so a legal opinion would be beneficial.

Motion by O'Gorman, second by Kecskemeti, be it resolved, the Beverly Hills Village Council authorizes the Village Manager to pursue a legal opinion on the matter of the Wendbrook property associated with Mr. White's ownership and transfer not to exceed \$5,000, using one of the three recommended legal firms as outlined in Village Manager Campbell's memo dated February 3, 2023.

Mooney asked Campbell if any of the legal firms were recommended by Six Rivers. Campbell said no.

George opened the floor for public comments on this topic.

Lucille Nawara, Vernon, said that she had talked to the previous Wendbrook property owners about donating the land years ago. She said she put Six Rivers and the Village in touch. She talked about the landscaping and the wildlife on the property. She talked about the history of the property. She referred to a Crains magazine article about all of the work Six Rivers Land Conservancy's Executive Director, Chris Bunch, has done for the region. She said her neighbors have been talking about preserving this piece of land for years. She said the Whites are very philanthropic and she talked about their incredible character.

John Luscombe, Woodhaven, said never has he seen so much negativity toward someone who is trying to donate land. He said the Whites are a godsend. He said the Whites are trying to do a nice thing and he is in support of it.

Tony Lott, Riverside, said the Village should obtain a legal opinion on a proposal and he would like to see the proposal. He said the White's \$500,000 donation would be tax deductible. He

referred to the Village’s organizational chart and noted that the voters were on top. He also referred to section 7.5 of the Charter regarding appropriating money.

Roger Meyers, Hampton, via Zoom, stated that he went to law school and said that interpretations of governing documents differ. He said obtaining a legal opinion is an ordinary and prudent action. He said the Council should move forward now with getting a legal opinion so resources are not wasted in the meantime.

Mary Perfitt-Nelson, Woodhaven, via Zoom, said she was surprised that people were inferring that there were evil motives behind the Whites’ intentions regarding the Wendbrook property. She said she supports the shorter route to getting this resolved.

Dale Wolicki, Amherst, said he has worked in real estate and in his experience, one cannot subcontract to get around a law or a charter. He said he wanted to hear the Village attorney’s opinion on this item.

Pam Rijnovean, Evergreen, said she was concerned about how much money would be spent on this project. She said that it seems like a park is a wish for this neighborhood. She said Beverly Park and Riverside Park need work and should be prioritized.

Nancy Beal, Sheridan, stated that the funding should go to Public Safety and other needs. She said the Council needs to look at the budget and determine how much this project will cost down the road. She said it sounds like a nice thing, but hopes the Village moves slowly on it. She would like to see a better proposal.

Jason Mush, Georgetown, via Zoom, said he has lived in the Village for 20 years and thinks that the majority of people would be in favor of acquiring the Wendbrook property. He also expressed his support for more sidewalks in the Village. He said the Village has outstanding police, fire department, and schools. He said it needs parks and sidewalks on that side of town.

Karen Gilbert, Amherst, stated that she has not heard anyone disparage the White’s intentions. She thinks there needs to be a budget presented for the entire project. She said according to her math, the Village is already \$559,000 in the hole for the acquisition and noted the Village has limited funds and resources. She asked where all of this money would be coming from. She said proponents of a new park should be presenting more facts and selling the idea to others. She said more park land is great unless it takes away from necessities. She said if she were to donate \$500,000 to the community, then she would like it to go into an infrastructure sinking fund.

There was a resolution with support on the floor. The Clerk called the roll.

Roll Call Vote:

Abboud – No

George – Yes

Hrydziusko – Yes

Kecskemeti – Yes

Mooney – No

O’Gorman – Yes

(White – Recused)

Motion failed (4-2)

There was discussion amongst Council and the Village Attorney about appropriating funds, needing 5 affirmative votes for this item, the manager's \$5,000 spending limit, and why the manager would need authorization from Council to spend less than \$5,000. Ryan said a legal opinion for interpretation of the Charter would be used by the Council.

George said he was not sure why members of the Council would not want legal clarification on this issue.

Abboud stated that he thinks the Village Attorney should provide an opinion on this. He was concerned about the Village spending \$500,000 on the acquisition of the property. George clarified that the issue at hand was about seeking a legal opinion, not acquiring the property.

PUBLIC COMMENTS

None.

MANAGER'S REPORT

Winter Taxes - As a reminder to residents, winter taxes are due to Southfield Township by February 14, 2023 without penalty. Please refer to the back of your tax bill for more information or contact Southfield Township at 248-540-3420.

Pavilion Reservations - Beverly Hills residents may begin making reservations for the Beverly Park pavilion on Wednesday, March 1, 2023. Non-residents may begin making reservations on Wednesday, April 5, 2023. Reservations must be made in person at the Village Office during regular business hours (Monday-Friday, 8:00 a.m. to 4:30 p.m.). Reservations are accepted from mid-May to mid-October. Reservations cannot be made on major holidays or during Village sponsored events. Please visit the Village website for rental fees, the refund policy, and additional information.

Water Line Verification Letters - The second letters for the water service line material verifications were sent out last week. The Administration will be establishing a website for residents with any questions regarding the process. There will be a link established under Quick Links on the homepage of the Village website. We truly appreciate residents' cooperation during the verification process. Please do not hesitate to contact the Village Administration with additional questions or concerns.

Village Offices Closed - Village Offices will be closed on Monday, February 20, 2023 in observance of Presidents Day. Trash service will not be altered or interrupted.

Joint Council/Planning Commission Meeting - The joint Council/Planning Commission meeting will be held on Wednesday, February 8, 2023 at 7:30 p.m. in the Village Council Chambers.

White pointed out that there were 424 calls for service in the Public Safety Report, which was higher than normal. Torongeau stated that the Department has been very busy, and the most recent report covered a 3-week period instead of the typical 2-week period.

COUNCIL COMMENTS

White noted that SEMCOG released a report showing communities that are receiving grants, including the Evergreen-Farmington Pump Station which will be getting a \$4 million grant.

Keckskemeti said she appreciates the conversation tonight and all the residents who came out and shared their thoughts. She said she understands that there are a lot of questions around a proposal to make the Wendbrook property a park, including what it will look like and how much it will cost. She said the property has a lot of potential and not a lot of obligation. She said she sees it as layered potential. She said the Michigan Natural Resources Trust Fund also has funding available for the development of parks that the Village could apply for. She said wants to continue exploring the options for this property. She stated that there was a family in this community who was willing to put themselves out there in order to try to solve a problem to meet the needs of their neighbors and she believes they did so with good intentions. She said even with a tax deduction, the Whites would be down about \$350,000 and does not see how they would be gaining from the donation. She said that neighborhood and that side of the Village gains if this moves forward. She said if a housing development goes in at this location, then the green space would be lost forever. She stated that there are development and construction opportunities in other areas of the Village. She said she is in favor of moving this project forward and will continue to listen to all of the opinions about it.

O’Gorman said he appreciated all of the comments that were offered tonight. He said he thought it was generally a good idea to get a legal opinion and recognized that there were people who are opposed to acquiring the property altogether. He said obtaining a legal opinion would be another milestone in the entire process. He said he appreciated Campbell’s approach to this. He understands there are differing opinions on the Council and an outside legal opinion could put this to bed. He said that this time of year there are dark mornings and dark evenings and reminded residents to wear bright or reflective clothing while they are out biking, walking, or running.

Abboud said he will be attending an MML committee kickoff meeting this Friday. He plans on attending the MML Capitol Conference in April. SEMCOG has a call for proposals out for their Carbon Reduction Program. The Senior Advisory Council is planning on inviting Congresswoman Rashida Tlaib to an upcoming meeting. Oakland County has identified 24 Senior Centers to receive ARPA matching grants, which includes \$250,000 for Next. He said the joint Council/Planning Commission meeting will be on February 8th. He thanked residents for attending in person.

Mooney said that the White’s offer to contribute \$500,000 toward the acquisition of the Wendbrook property was kind. However, now that White is on Council, it poses a problem. He believes the law should be followed. He said he would be on board with a proposal that shows a transfer of property with no interest for the Whites. He said he is not in favor of the park because of the funding aspect. He said that if hypothetically, the property is acquired, then perhaps the Village waits to develop it for ten years or so. He noted that it took Beverly Park a long time to grow to what it is today. He said if the Village has extra money lying around then perhaps it should go toward fixing roads or toward the Public Safety Department. He said he is willing to entertain the idea that acquiring the Wendbrook property would be moving the Village in the right direction but said that the Council needs to be fiscally responsible. He thinks Beverly Park, Beverly Green, and Riverside Park improvements should be prioritized. Regarding sidewalks, he said that the Village has to contribute funding as well. He said sidewalks are a need, not a want. He said the Village needs to be more transparent and communicative and thinks the Council is moving in that direction.

Hrydziuszko congratulated and thanked Administration and the Parks & Recreation Board for another great Winter Family Fun Day event. She said Beverly Park was packed and it was wonderful to see so many people from the community out enjoying the day. She thanked the Public Safety Officers for sledding with the children. She appreciated residents sharing their hopes and opinions about what they would like to see in the Village. She encouraged Council to engage with the public in any way possible. She said she values the residents' input and insight, especially on topics that were discussed tonight. She said that during the discussion tonight there were times where inferences were made about Council's or residents' wants and needs. She said that no one was questioning Attorney Ryan's capabilities or his dedication to the Village and that seeking an outside counsel was not due to lack of faith in Ryan. She said seeking an outside opinion was an avenue for the Village to go above and beyond in terms of transparency. She said that the voters do come first and they are the people that put the Council members behind the table to make tough decisions on their behalf.

George stated that the joint Planning Commission/Village Council meeting will be held Wednesday, February 8th and invited residents to attend. He asked that people forgive him if he has mis-stepped, as this is the first time he has tried to acquire a park through a seven-figure grant. He said the conditional commitment letter for the TAP grant just came through for sidewalks along Evergreen Road from Embassy to 14 Mile Road. He said there is a project in Birmingham that would allow these sidewalks to connect Groves to Seaholm. He said they are wrapping up the final documents for the Safe Routes to School grant, which would provide about \$1.3 million dollars for additional sidewalks. He commented on the development and maintenance of parks over time. He said he thinks there are many great opportunities for the development of Wendbrook and the Village is not obligated to develop it exactly as was shown on the conceptual drawing. He thinks it would be short sighted on the Council's part not to preserve this land. He would like an opinion on the Charter section in question to remove any ambiguity. He said he sees the Charter interpretation and the mechanism by which to acquire the land as two distinct items. He said that Six Rivers does not have to be involved in it and said it was weird to him that anyone would insinuate that this group, whose purpose is to preserve land, would have a nefarious interest in this property. He said it is not uncommon for Six Rivers to hold land for municipalities. He suggested asking architecture students who need a project to design a rendering for Wendbrook to help visualize what it could become. He asked for an update from the Public Safety Department about a car theft ring bust that he recently saw an article about.

ADJOURNMENT

Motion by Mooney, second by Abboud, to adjourn the meeting at 9:48 p.m.

Motion passed.

John George
Council President

Kristin Rutkowski
Village Clerk