

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

Absent: Kecskemeti and White

Also Present: 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 7:30 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 Hrydziuszek, to approve the agenda as published.

Motion passed.

COMMUNITY ANNOUNCEMENTS

None.

PUBLIC COMMENTS

David Tobaben, Orchard Way, commented on the forest, canopy, and drainage at Beverly Park. He stated that he contacted an arborist to provide a formal report on the park and he distributed copies of the report to the Council. He gave an overview and thinks that Council should address the problems presented in the report, specifically regarding drainage and buckthorn. He said he would like to see Beverly Park kept in good shape.

CONSENT AGENDA

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

1. Review and consider approval of minutes of a regular Council meeting held July 18, 2023.
2. Review and file bills recapped as of Monday, July 31, 2023.
3. Review and consider annual contract and funding request for the Birmingham Bloomfield Community Coalition.
4. Review and consider Metro Act Right of Way Permit Extension with AT&T.
5. Review and consider Birmingham Youth Assistance volunteers for Fiscal Year 23-24.
6. Set Public Hearing Date for Amendment to Ordinance 42.12, Games in Streets, for September 5, 2023.

Roll Call Vote:
Motion passed (5-0)

BUSINESS AGENDA

REVIEW AND CONSIDER OUR LADY QUEEN OF MARTYR’S REQUEST TO PLACE OKTOBERFEST SIGN AT SOUTHFIELD ROAD AND DUNBLAINE

Rutkowski provided an overview. Administration received an annual request from Our Lady Queen of Martyrs asking for permission to place a sign in the public right of way on the west side

of Southfield Road at the intersection of Dunblaine Avenue. The sign is for Our Lady Queen of Martyrs' Oktoberfest fundraising event scheduled for September 29th and 30th. They have requested to put the sign out on Wednesday, September 6 and stated that it would be removed no later than Friday, October 6, 2023.

Motion by Hrydziuszko, second by O'Gorman, be it resolved, the Beverly Hills Village Council authorizes Our Lady Queen of Martyrs to place their Oktoberfest event sign in the public right of way at the Southfield Road and Dunblaine Avenue intersection from September 6 to October 6, 2023.

Motion passed.

REVIEW AND CONSIDER DESIGNATING REPRESENTATIVES FOR THE MICHIGAN MUNICIPAL LEAGUE'S ANNUAL MEETING

Rutkowski provided an overview. The Michigan Municipal League is hosting its Annual Convention on October 18-20, 2023 in Traverse City. The League's Annual Meeting is scheduled for 4:30 p.m. on Wednesday, October 18.

Pursuant to the provisions of the League Bylaws, the Village must designate by action of its governing body one of its officials who will be in attendance at the Convention as its official representative to cast the vote of the municipality at the Annual Meeting, and, if possible, to designate an alternate voting delegate as well.

Motion by Hrydziuszko, second by Mooney, be it resolved, the Beverly Hills Village Council hereby appoints Council Member Rock Abboud as its voting delegate for the 2023 Michigan Municipal League Annual Meeting and appoints Village Manager Jeffrey Campbell as its alternate voting delegate.

Motion passed.

REVIEW AND CONSIDER PURCHASING OF MICHIGAN STATE POLICE APPROVED INTOXILYZER 9000 BREATHALYZER FOR THE PUBLIC SAFETY DEPARTMENT

Torongeau provided an overview. The Public Safety Department has requested that the Village purchase one new Intoxilyzer 9000 which is replacing the old Datamaster Breathalyzer. The Michigan State Police (MSP) removed all old Datamaster Breathalyzers from the field over two years ago. MSP now only utilizes and services the Intoxilyzer 9000 and we do not have one currently. This is a professional tool for analyzing breath alcohol levels accurately and its results are accepted by all the state courts.

For the past two years, our patrol officers have had to write out a blood draw search warrant and affidavit then submit them to a Judge or Magistrate. The Judge or Magistrate then authorizes the search warrant after careful review, signs and authorizes a search warrant for blood. The Judge and or Magistrate then sends it back to the Public Safety Officer to execute. At that time, we have the option to take the suspect to Royal Oak Beaumont Hospital or call Alliance Ambulance to draw the blood. This current process burdens the already overcrowded hospital and ambulance service and is not time or cost effective. It also does not allow for the officers to return to patrol or respond to other important incidents after the booking process.

The state of Michigan will no longer provide smaller departments with a new Intoxilyzer 9000 like it did with Datamasters in the past. So, to continue a professional and accurate check of legal alcohol levels we would respectfully request this purchase. The product will save valuable time and make an officer available for patrol and other important calls. This purchase of better equipment will aid us in being more time efficient and professionally accurate during the court hearings. Our Intoxilyzer 9000 will be built to the same non-negotiable Michigan approved specifications per Michigan's Request for Purchase contract with the manufacturer.

The Intoxilyzer 9000 is manufactured by CMI Inc. in Owensboro, Kentucky and has a two-year warranty. The instrument will be shipped directly to MSP for inspection prior to our receipt. Michigan State Police Technicians will then service our instrument after the purchase via a yearly service agreement. The Village will be afforded state contract pricing on this purchase, quoted as \$9,566.00.

The funds for the purchase are available from the Capital Equipment Purchases Account, number 205-900-985.00.

Motion by Hrydziuszko, second by O'Gorman, be it resolved, the Beverly Hills Village Council authorizes the purchase of the Intoxilyzer 9000 for the amount of \$9,566.00. Funds for this expense are available in Account 205-900-985.00.

Roll Call Vote:
Motion passed (5-0)

REVIEW AND CONSIDER ENTERING INTO NATIONAL OPIOID SETTLEMENT AGREEMENT WITH WALGREENS

Ryan provided an overview. The national opioid crisis has been discussed in the media in recent years. There were several lawsuits started against various manufacturers, distributors, and providers of opioid products. The State of Michigan joined several opioid lawsuits against various distributors and manufacturers. In January of 2022 and April of 2023, the Village Council approved the release of settlement funds from suits involving several pharmaceutical manufacturers and several large drug retail corporations.

Now, an additional monetary settlement has been reached with the Walgreens following parties: Teva, Allergan, CVS, and Walmart. The Village was forwarded the Master Litigation Agreement and the Participation Settlement Agreements with Allergan, Teva, CVS and Walmart. The Participation Settlement Agreement (Exhibit A) and Master Litigation Agreement (Exhibit B) were provided for review. The Village already approved settlement agreements with Walmart, CVS, Teva, and Allergan.

The money the Village will receive from this settlement will be paid over a number of years and it is estimated that the Village will receive \$19,273.32 from this settlement. To receive the money the Village would need to execute the attached Settlement Participation Form with Walgreen. Like the monies received from the previous settlements, these funds cannot be used for general fund purposes, but will be used to address either the care, treatment or public education programs dealing with opioids and opioid addiction.

This money, should it be accepted by the Village Council through the execution of these agreements would be placed in a special fund for only these purposes and by accepting the money the Village would release these entities from any further liability that would be taken by the Village for and on behalf of the Village on these issues.

It is unlikely the Village would engage in such an action against a large drug retail corporation and if it is deemed appropriate by Village Council, I would suggest Village Council authorize the Village President and/or Village Manager to sign the Participation Settlement Agreements and accept these funds for the purposes indicated.

Abboud asked about the spending timeline.

Torongeau said that a wish list item and eligible expense for the Public Safety Department would be a LUCAS machine, which can help save lives.

Motion by Hrydziuszko, second by Abboud, be it resolved, the Beverly Hills Village Council authorizes Administration to execute the National Settlement Agreement with Walgreens as submitted.

Roll Call Vote:
Motion passed (5-0)

REVIEW AND CONSIDER PUBLISHING THE WENDBROOK SUBCOMMITTEE'S ANSWERS TO QUESTIONS FROM THE WENDBROOK FORUM

O’Gorman provided an overview. The Council was provided with the proposed “Wendbrook Property Acquisition Update – FAQs” prepared by subcommittee members George, Kecskemeti, and O’Gorman. O’Gorman stated that the subcommittee compiled the most frequently asked questions and tried to answer them. He said that he asked for Council’s feedback last week and tried to incorporate that into the FAQs as well.

Mooney stated that more questions were asked at the forum than were included in the FAQs. He said the fact that the Village applied for \$1.5 million and was awarded \$1 million should be included. He asked about the cost of the appraisal, water testing, and sidewalks. He asked about the cost of development, such as adding a parking lot, and other features that were included in the application’s concept design.

Hrydziuszko thanked the subcommittee for their work. She said this would be the first round of questions and the subcommittee could come back with more as we obtain more information. She said the FAQ as presented was a good starting point and noted that there will absolutely be more questions to answer.

There was discussion about how the FAQs would be disseminated to the community. Rutkowski stated that they could be published on the Village website, included in Villager Newsletter, and included in the weekly email blast. George noted that hard copies could be made available as well.

Motion by Hrydziuszko, second by O’Gorman, the Beverly Hills Village Council authorizes publication of the Wendbrook FAQs to the community as submitted by the subcommittee.

Roll Call Vote:

Abboud – no

George – yes

Hrydziusko – yes

Mooney – no

O’Gorman – yes

Motion failed (3-2)

Ryan indicated that 4 affirmative votes were required to pass this motion.

Mooney stated that he has procedural and substantive issues with this item. He said it is a Charter violation and that Mr. White is recused because he has a financial interest.

Ryan stated that Mooney’s aforementioned concern was premature and not the issue on this meeting’s agenda.

O’Gorman stated that Mooney poses good questions about development costs, but that that was not the issue on hand. He said the Questions and Answers were not yet complete and would be ongoing.

PUBLIC COMMENTS

Dee Abersold, Normandale, asked if the Village requires permits for changes in one’s yard. She stated that she visited the Wendbrook property.

Karen Gilbert, Amherst, commented on the property taxes for the Wendbrook property and said that an appraisal should be simple to obtain. She said that many people do not understand why the Village Attorney has not rendered an opinion on Wendbrook.

David Tobaben, Orchard Way, said that there is no plan, timeline, or budget for Wendbrook. He said that people want to know what they will see once the park opens. He thinks that it will be another Douglas Evans. He said the FAQs that were submitted were too wordy and that people do not have the attention span for that. He said development of a park will cost a lot of money. He commented on sidewalk trip hazards, trees, a bridge, and flooding that were not budgeted for.

Suzanne Grimm, Vernon, thanked everyone for their hard work and said that Wendbrook will not suck up all of the energy and resources of the Village. She said she supports community programs for all.

Todd Schafer, Sunset Drive, suggested adding clarification to the FAQ document. He said he does not think it is premature to consider whether acquisition of the Wendbrook property is a conflict. He said it is unusual to not have plans or a scope of work for Wendbrook.

Molly Borgon, Pebblestone, said the Village should acquire the Wendbrook land. She said even if it remains undeveloped, it would still be an asset to the community, especially for residents in Georgetown and on the west side. She said she thinks the community and Council should come together to make this work.

Lucille Nawara, Vernon, said that a Wendbrook park would be wonderful. She talked about tree maintenance and landscaping. She referenced a design she made for Wendbrook. She said the existing building could be renovated and become an income generator. She suggested that Council members visit the inside of the house because it might change their minds. She suggested using decomposed granite on the paths like they have on Belle Isle.

Tim Luke, Nixon, thanked the subcommittee for putting together the FAQs. He said he thought they were kicking the can down the road. He said the Council should be financially conscious of this decision.

MANAGER'S REPORT

Park Events in August - The Concert in the Park series continues on August 4, 2023 at Beverly Park. Northgate Drive will be performing. The show begins at 7:00 p.m. The Flavors Food Truck will be on site with food available for purchase. Movie night in the Park will occur on Thursday, August 17, 2023 at dusk. Kona Ice will be on site for Movie Night. The next Java & Jazz performance will take place on August 20, 2023 at the Beverly Park Pavilion. That show starts at 9 a.m. and wraps up at 12:00 p.m.

Municode Update - Members of the Village Administration and the Village Attorney met with an attorney who works with Municode who went through the Village's ordinances to ensure compliance with State laws and review what ordinances might require amendments. In the next month or so, the Administration will present recommended ordinance changes prior to publishing the ordinance on the website.

Summer Tax Bills - Summer tax bills went out to residents and businesses in July. Please consider this the first reminder that summer tax bills are due back to Southfield Twp. by September 14, 2023. Both bills are payable to Southfield Township.

Roundabout Construction Update - The Roundabout construction at the intersection of Beverly Road and Greenfield remains on schedule. The curbs have been installed. The base layer and grading of the road has been finished as well. It is anticipated that in the next couple of weeks, weather permitting, the sidewalks will be installed, restoration to the area will begin, and the final road will be completed. The construction project is scheduled to be completed by August 25, 2023.

COUNCIL COMMENTS

O'Gorman said there was a compromise between answering questions about Wendbrook and providing a 30 second sound bite. He said hiding answers is not transparent and he does not understand not publishing the FAQs. He said it took three weeks to even form a subcommittee and felt that his hands were tied. He appreciated the candid questions and comments tonight.

Abboud said he will attend the MML Convention in October as the Village's representative. He said there is a Senior Advisory Council meeting coming up in August. He noted that Next has three years to join the YMCA building.

Mooney said that at the February 1, 2022 meeting he indicated support for building a park at the Wendbrook property. He said there were features on the concept design that he was on board with. He expressed concern over funding the development of a park. He said there was a misstep in funding the new play structure at Beverly Park. He said the Village is about to lose the Riverside

Park pond and he would like to reach out to adjacent property owners to save it. He commented on pocket parks. He said the south baseball diamond at Beverly Park needs repairs. He said there are many streets, such as Norchester and Mayfair, that need repairs. He expressed concern about flooding.

Hrydziusko stated that the next Concert in the Park will be on Friday, August 4, 2023 at 7:00 p.m. featuring Northgate Drive. She said she likes attending and interacting with residents at Village events and encouraged all of Council to do the same. She said that all organizations should have an opportunity to request their fundraising event signs be placed on the public right of way. She reported that last week she walked the TAP grant section for proposed sidewalks and said that about 90% of the vegetation to be removed is buckthorn. She said she looks forward to a proper walking path along 13 Mile Road. She stated that the Council is capable of doing difficult things. She said this Council has worked to maintain a healthy budget and fund balance. She said the previous Council did not want to raise water rates to cover the cost of water. She noted that as part of their donation, the Whites asked that people of all abilities be able to access the Wendbrook property. She said she has hope for open mindedness and the willingness to work hard.

George said the Wendbrook subcommittee put a usable document together. He noted that sidewalks will get to Wendbrook eventually. He talked about the acquisition of Wendbrook opposed to the development of a park. He talked about obtaining a legal opinion and that acquiring the property to create a park would be a common public interest. He noted the Council has not asked Ryan to provide an opinion. He said the Village has the opportunity to preserve that land forever. He noted a “pocket park” is actually a road right of way, so park funds should not be spent on those. He said that the Riverside pond is a more complicated item. He commented on roads. He said the Village has time to make a decision on Wendbrook.

ADJOURNMENT

Motion by Mooney, second by Abboud, to adjourn the meeting at 10:24 p.m.

Motion passed.

John George
Council President

Kristin Rutkowski
Village Clerk