

CITY OF BAY VILLAGE

Council Minutes, Regular Meeting
Council Chambers, 8:00 p.m.

June 18, 2012

Paul A. Koomar, President of Council, presiding

Present: Clark, Koomar, Lieske, Miller, Pohlkamp, Young, Mayor Sutherland

Not Present: Mr. Tadych

Others

Present: Law Director Ebert, Finance Director Presley, Police Chief Wright, Fire Chief Lyons, Director of Public Service Galli, Recreation Director Enovitch, Operations Manager Landers, Community Services Director Bock

Council and members of the administration had assembled at 7:30 p.m. in the Conference Room to review agenda items; this was open to the public.

During the review, Mr. Clark advised that he will introduce a motion this evening to remove the vicious dog/pit bull legislation from the matters pending before council committee list, due to the passage of Ordinance No. 12-41 on May 21, 2012.

An Environment and Safety Committee meeting was held this evening to discuss the timing, placement, and removal of political yard signs. Mr. Ebert will prepare legislation for the June 25 meeting of Council.

Ordinance No. 12-46, amending Codified Ordinance Section 721.07 (a) and (b), regarding Peddlers and Solicitors, will be moved to second reading this evening, with changes to be made to the ordinance before it is presented for adoption at a special meeting of Council to be held June 25, 2012.

Mr. Pohlkamp will introduce a motion this evening authorizing the Director of Public Service and Properties to advertise for bids for the Cahoon Road Sanitary Sewer Improvement Project.

Mr. Young reviewed the ordinances and resolutions on the Council meeting agenda for the Finance and Claims Committee. The administrative compensation ordinance will provide for compensation for a temporary Community Services Manager. Mayor Sutherland advised that former employee Ann Orin will take that position for a period of four to six weeks.

Mr. Young asked Finance Director Presley for his comments regarding the ordinance authorizing the Mayor to ratify an agreement with the McGowan Insurance Agency as agents of Travelers and AAIC Insurance Companies for liability and property damage insurance. Mr. Presley advised that the general consensus of Council was to renew the policy with Travelers Insurance Company for another year. It was felt that accepting the lower bid of Argonaut Insurance could result in the abandonment of the city's business by both Argonaut Insurance and Travelers

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Insurance if there were a high number of claims next year. With the shrinking number of insurance companies that are in the market, the city could face substantially higher rates than maintaining the relationship with Travelers Insurance Company. Mr. Koomar noted that the decision was based on a longer term rather than one renewal period. He added that while Travelers Insurance Company is contractually obligated to settle existing claims, this process may be eased by continuing the existing relationship.

Mr. Young will introduce resolutions this evening to authorize the monthly transfer of operating funds for the months of June, July and August, 2012, in anticipation of Council recess for the months of July and August.

Resolutions certifying unpaid charges for tree removal, sidewalk replacement, sewer rental, refuse collection, and grass cutting will be adopted this evening. The certification of charges will not be done until the first week of September. Residents have additional time to make their payments to the Finance Department. When the charges are certified to the Cuyahoga County Fiscal Officer, the charges are attached to the homeowners' real estate tax duplicate. The sewer/refuse charges certified range from \$90,000 to \$110,000 in total. Mr. Miller asked if a resident sells their home and the fees have not been paid would the fees be assessed to the new owner. Mr. Presley stated that it is up to the seller to identify and notify the buyer that these charges are outstanding. Unpaid charges are certified to the County Fiscal Officer annually. Mr. Miller asked if there is a notice provided on the current bill of payment or payments missed. Mr. Presley stated that the invoice does include a notation of a past due balance. When the unpaid charges are certified to the property taxes they must be paid during the following year with the property tax payment.

Jerrie Barnett asked why all the trees were cut down on Saddler Road from Westerly School to the north. Service Director Galli stated that the trees suffered the effects of the Emerald Ash Borer disease.

Mr. Miller advised that a few years ago the Bradley Bay Health Center made an application and received approval for expansion. They have reapplied recently and the Planning Commission is in the throes of reviewing that application, and referred the matter to public hearing after the Board of Zoning Appeals granted variances of use on their existing property and property upon which they are expanding. The Planning Commission is requesting an extension of sixty days to the application deadline of August 5, 2012 so that appropriate meetings and decisions are allotted adequate time. Mr. Miller will make a motion to address that requested extension this evening.

Mr. Miller noted further that the Charter Review Commission has talked at length about the implication that the current City Charter Article 7.4 defines that the applications have to be acted upon within 60 days by the Planning Commission or extensions granted by Council. There is question as to whether 60 days is enough time, given the fact that the Planning Commission is scheduled for only one regular meeting per month. The Charter Review Commission thinks at this point that 120 days is enough to adequately provide an applicant with proper review.

President of Council Koomar called the regular meeting of Council to order at 8:00 p.m. in the Council Chambers with the roll call and Pledge of Allegiance led by Councilman-at-large Scott Pohlkamp.

REPORTS

Law Director Ebert had no report this evening.

Finance Director Presley had no report this evening.

Recreation Director Enovitch reported that the Bay Men's Club All-Star Skills Competition will be held this Saturday, June 23, 2012, at Hartman Field for ages seven through fourteen, prior to the All-Star Game.

Mr. Enovitch announced that over 190 children have joined the Bay Recreation Swim Team, and over \$158,000 in pool passes has been generated so far this season. Mr. Koomar noted that the three remaining sun umbrellas have arrived and been installed.

Director of Public Service and Properties Galli reported that the Bradley/Nagle intersection traffic signal will go to flash mode on July 10, 2012, and will be fully activated on July 18, 2012. Notifications will be posted.

Community Services Director Bock had no report this evening.

Police Chief Wright had no report this evening.

Fire Chief Lyons advised that hydrant flushing has been completed for this year.

COMMUNICATIONS

The following communication was reported:

Norfolk and Southern Train Report No. 165 advising that an average of 2.5 trains per day traveled through the City of Bay Village during the month of May, 2012

Mr. Koomar called for a reading of the minutes of the regular meeting of Bay Village City Council held June 4, 2012 **MOTION** by **Pohlkamp** to dispense with the reading and accept the minutes as prepared and distributed. **Motion carried 6-0.**

AUDIENCE

The following members of the audience signed in this evening: Jerrie Barnett, Bruce Geiselman, Jeff Gallatin, Dick Majewski, Kent Silverberg.

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Kent Silverberg, 24425 East Oakland, addressed Council and the administration regarding the lights that he has spoken about to City Council and various members of the Building Department. Service Director Galli sent a memorandum to Mr. Silverberg from Dave Volle, Building Inspector, dated March 28, 2012 regarding the city's view of the lights and their conclusion about the lights. Mr. Silverberg stated that he would like to state a few things that he sees that may be in error or inconsistent.

One part of the memorandum reads that on the north side of the garage in the front there are two 150 watt incandescent flood lights. "The fixtures are aimed slightly outward and down to approximately 15 feet in front of the garage, illuminating the driveway. The fixtures are not aimed at any dwellings at this time." Mr. Silverberg expressed disagreement with this report.

There are also two sconces on the front that were noted in the memorandum. They are both approximately 150 watts. That would be 600 watts in front of the garage. On the east side of an addition located at the rear of the dwelling is a 300 Quartz Halogen fixture. Mr. Volle stated in the memorandum that "At this time, I noted the fixture to be aiming downward at approximately 45 degrees. This fixture illuminates the driveway area." As it was noted in the meeting minutes of January 9, 2012, Mr. Galli stated that this light is adjustable. The day the memorandum was received in the email from Mr. Galli, the neighbor turned the light back to a 90 degree angle so that it is directly facing all the neighbors, and flashing a few times. Mr. Silverberg stated that they also make this light in a 500 watt version. He does not know where the 300 watt description came from, whether it was stated to the inspector or not, or whether it was visible on the fixture.

Another paragraph in the memorandum reads that in Mr. Volle's opinion, "Any light emitting past property lines is purely residual or reflective in nature, based on the photo metrics of the lamp and fixture. If the driveway lights were to be left on for any length of time the neighbor at 24429 East Oakland, the first house east, could have a justifiable complaint about the light being a nuisance. Mark (resident of 24433 East Oakland) advises that they only turn on these lights at night when they come out to go from the garage and when they let their two small dogs out." Mr. Silverberg stated that this statement is untrue as there is evidence from three neighboring properties that these lights have been on all night; they have been flashing and various other things. There is also a video of the lights being on.

Mr. Volle's memorandum also referenced Ordinance No. 1344.04 (m): "Exterior light fixtures shall be sized, installed and directed so as not to create a nuisance to adjoin properties by illuminating or shining on to yards, dwellings, or buildings." Mr. Volle's memorandum states further that "It would be my opinion that criminal prosecution or citation for a violation of this section of the ordinance would be difficult to gain conviction on since on the surface the ordinance is somewhat ambiguous and overly-broad. The ordinance would seem to put street lights, Hartman Baseball Field lights, tennis and basketball court lights, and the high school football fields, etc. in violation." Mr. Silverberg stated that it is the opinion of the three neighboring properties that those public lights referenced by Mr. Volle are put up for the reason to assist people to actually see where they are going on the road or to assist in playing the games. The residents at 24433 East Oakland are not using those lights strictly to see or to let their dogs

out. It is evidenced that the lights were strictly put up to bother neighboring properties as evidenced before to both City Council and to the Mayor.

Mr. Silverberg stated that he just wanted to point out those inconsistencies. He will abide by the report, he will not call the police, and he will not speak before City Council unless anything is moved on this regarding the lights. If the lights are pointed toward the neighboring properties, he will be calling the police again because it is consistently creating a nuisance.

Mr. Silverberg was thanked for his comments.

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE

Motion by **Mr. Clark** to remove Vicious Dog/Pit Bull Legislation from the Matters Pending before Council Committee list due to the adoption of a revised ordinance in accordance with state standards. **Motion carried 6-0.**

Mr. Clark read **ORDINANCE NO. 12-46** AMENDING CODIFIED ORDINANCE SECTION 721.07 (a) AND (b) REGARDING PEDDLERS AND SOLICITORS, AND DECLARING AN EMERGENCY.

Mr. Clark commented that there will be changes to the ordinance which will be read at the special meeting of Council to be held June 25, 2012.

Mr. Koomar announced that **Ordinance No. 12-46** is placed on **Second Reading.**

PUBLIC IMPROVEMENTS, STREETS, SEWERS AND DRAINAGE COMMITTEE

Motion by **Pohlkamp**, authorizing the Director of Public Service and Properties to advertise for bids for the Cahoon Road Sanitary Sewer Improvement Project. **Motion carried 6-0.**

FINANCE & CLAIMS COMMITTEE

Mr. Young introduced **ORDINANCE NO. 12-50** AMENDING SECTION 1 OF ORDINANCE 11-103 REGARDING RATES OF COMPENSATION FOR THE OFFICERS AND EMPLOYEES OF THE GENERAL ADMINISTRATION DEPARTMENT AND THOSE EMPLOYEES OF THE CITY NOT COVERED BY SEPARATE LABOR CONTRACT FOR THE CALENDAR YEAR 2012 AND THEREAFTER, AND DECLARING AN EMERGENCY and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 12-50.

Roll Call on Suspension of Charter Rules:

Yeas – Clark, Koomar, Lieske, Miller, Pohlkamp, Young

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Nays- None

Roll Call on Suspension of Council Rules:

Yeas – Clark, Koomar, Lieske, Miller, Pohlkamp, Young

Nays– None

Roll Call on Use of the Emergency Clause:

Yeas –Clark, Koomar, Lieske, Miller, Pohlkamp, Young

Nays - None

Roll Call on Adoption:

Yeas– Clark, Koomar, Lieske, Miller, Pohlkamp, Young

Nays– None.

Mr. Koomar announced adoption of **Ordinance No. 12-50**, an emergency measure, by a vote of 6-0.

Mr. Clark introduced **ORDINANCE NO. 12-51** RATIFYING AN AGREEMENT WITH THE MCGOWAN INSURANCE AGENCY AS AGENTS OF TRAVELERS AND AAIC INSURANCE COMPANIES FOR PUBLIC OFFICIALS LIABILITY, LAW ENFORCEMENT PROFESSIONAL AND FIREFIGHTERS PROFESSIONAL LIABILITY, GENERAL LIABILITY, AUTOMOBILE PHYSICAL DAMAGE, AND LIABILITY, PROPERTY AND EQUIPMENT, BOILER & MACHINERY AND CRIME COVERAGE, AND UMBRELLA INSURANCE, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 12-51.

Roll Call on Suspension of Charter Rules:

Yeas – Koomar, Lieske, Miller, Pohlkamp, Young, Clark

Nays-None

Roll Call on Suspension of Council Rules:

Yeas –Koomar, Lieske, Miller, Pohlkamp, Young, Clark

Nays–None

Roll Call on Use of the Emergency Clause:

Yeas – Koomar, Lieske, Miller, Pohlkamp, Young, Clark

Nays -None

Roll Call on Adoption:

Yeas–Koomar, Lieske, Miller, Pohlkamp, Young, Clark

Nays–None.

Mr. Koomar announced adoption of **Ordinance No. 12-51**, an emergency measure, by a vote of 6-0.

Mr. Young introduced **RESOLUTION NO. 12-52** AUTHORIZING THE DIRECTOR OF FINANCE TO TRANSFER MONTHLY OPERATING FUNDS AND DECLARING AN EMERGENCY, and moved for adoption. (June, 2012)

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There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-52.

Roll Call on Suspension of Charter Rules:

Yeas –Lieske, Miller, Pohlkamp, Young, Clark, Koomar

Nays-None

Roll Call on Suspension of Council Rules:

Yeas –Lieske, Miller, Pohlkamp, Young, Clark, Koomar

Nays–None

Roll Call on Use of the Emergency Clause:

Yeas – Lieske, Miller, Pohlkamp, Young, Clark, Koomar

Nays -None

Roll Call on Adoption:

Yeas- Lieske, Miller, Pohlkamp, Young, Clark, Koomar

Nays–None.

Mr. Koomar announced adoption of **Ordinance No. 12-52**, an emergency measure, by a vote of 6-0.

Mr. Young introduced **RESOLUTION NO. 12-53** AUTHORIZING THE DIRECTOR OF FINANCE TO TRANSFER MONTHLY OPERATING FUNDS AND DECLARING AN EMERGENCY, and moved for adoption. (July, 2012)

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-53.

Roll Call on Suspension of Charter Rules:

Yeas – Miller, Pohlkamp, Young, Clark, Koomar, Lieske

Nays-None

Roll Call on Suspension of Council Rules:

Yeas –Miller, Pohlkamp, Young, Clark, Koomar, Lieske

Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –Miller, Pohlkamp, Young, Clark, Koomar, Lieske

Nays -None

Roll Call on Adoption:

Yeas- Miller, Pohlkamp, Young, Clark, Koomar, Lieske

Nays–None.

Mr. Koomar announced adoption of **Ordinance No. 12-53**, an emergency measure, by a vote of 6-0.

Mr. Young introduced **RESOLUTION NO. 12-54** AUTHORIZING THE DIRECTOR OF FINANCE TO TRANSFER MONTHLY OPERATING FUNDS AND DECLARING AN EMERGENCY, and moved for adoption. (August, 2012)

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-54.

Roll Call on Suspension of Charter Rules:

Yeas –Pohlkamp, Young, Clark, Koomar, Lieske, Miller,
Nays-None

Roll Call on Suspension of Council Rules:

Yeas –, Pohlkamp, Young, Clark, Koomar, Lieske, Miller
Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –, Pohlkamp, Young, Clark, Koomar Lieske, Miller
Nays -None

Roll Call on Adoption:

Yeas- Pohlkamp, Young, Clark, Koomar, Lieske, Miller,
Nays–None.

Mr. Koomar announced adoption of **Resolution No. 12-54**, an emergency measure, by a vote of 6-0.

Mr. Young introduced **RESOLUTION NO. 12-55 CERTIFYING UNPAID TREE REMOVAL CHARGES TO THE CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION AND DECLARING AN EMERGENCY**, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-55.

Roll Call on Suspension of Charter Rules:

Yeas –Young, Clark, Koomar, Lieske, Miller, Pohlkamp
Nays-None

Roll Call on Suspension of Council Rules:

Yeas –Young, Clark, Koomar, Lieske, Miller, Pohlkamp
Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –Young, Clark, Koomar Lieske, Miller, Pohlkamp
Nays -None

Roll Call on Adoption:

Yeas- Young, Clark, Koomar, Lieske, Miller, Pohlkamp
Nays–None.

Mr. Koomar announced adoption of **Resolution No. 12-55**, an emergency measure, by a vote of 6-0.

Mr. Young introduced **RESOLUTION No. 12-56 CERTIFYING UNPAID SIDEWALK REPAIRS AND/OR CONSTRUCTION CHARGES TO THE CUYAHOGA COUNTY FISCAL**

OFFICER FOR COLLECTION AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-56.

Roll Call on Suspension of Charter Rules:

Yeas –Clark, Koomar, Lieske, Miller, Pohlkamp, Young
Nays-None

Roll Call on Suspension of Council Rules:

Yeas –Clark, Koomar, Lieske, Miller, Pohlkamp, Young
Nays–None

Roll Call on Use of the Emergency Clause:

Yeas – Clark, Koomar Lieske, Miller, Pohlkamp, Young
Nays -None

Roll Call on Adoption:

Yeas- Clark, Koomar, Lieske, Miller, Pohlkamp, Young
Nays–None.

Mr. Koomar announced adoption of **Resolution No. 12-56**, an emergency measure, by a vote of 6-0.

Mr. Young introduced **RESOLUTION NO. 12-57** CERTIFYING UNPAID SEWER RENTAL AND REFUSE COLLECTION CHARGES TO THE CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-57.

Roll Call on Suspension of Charter Rules:

Yeas –Koomar, Lieske, Miller, Pohlkamp, Young, Clark
Nays-None

Roll Call on Suspension of Council Rules:

Yeas –Koomar, Lieske, Miller, Pohlkamp, Young, Clark
Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –Koomar Lieske, Miller, Pohlkamp, Young, Clark
Nays -None

Roll Call on Adoption:

Yeas- Koomar, Lieske, Miller, Pohlkamp, Young, Clark
Nays–None.

Mr. Koomar announced adoption of **Resolution No. 12-57**, an emergency measure, by a vote of 6-0.

Mr. Young introduced **RESOLUTION NO. 12-58** CERTIFYING UNPAID GRASS CUTTING

AND CLEANING CHARGES TO THE CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-58.

Roll Call on Suspension of Charter Rules:

Yeas –Lieske, Miller, Pohlkamp, Young, Clark, Koomar
Nays-None

Roll Call on Suspension of Council Rules:

Yeas – Lieske, Miller, Pohlkamp, Young, Clark, Koomar
Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –Lieske, Miller, Pohlkamp, Young, Clark, Koomar
Nays -None

Roll Call on Adoption:

Yeas- Lieske, Miller, Pohlkamp, Young, Clark, Koomar
Nays–None.

Mr. Koomar announced adoption of **Resolution No. 12-58**, an emergency measure, by a vote of 6-0.

PLANNING, ZONING, PUBLIC GROUNDS & BUILDINGS COMMITTEE

Motion by **Mr. Miller** to grant an extended period of time of sixty days, from the date of August 5, 2012, to the Planning Commission for the review of plans for the expansion of the Bradley Bay Health Center. **Motion carried 6-0.**

RECREATION AND PARK IMPROVEMENTS COMMITTEE

Mrs. Lieske had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

There was no report this evening.

MISCELLANEOUS

Motion by **Mr. Pohlkamp** to recess regular meetings of Council for the months of July and August in accordance with Section 2.10 of the Bay Village City Charter subject to special meetings being called as necessary. **Motion carried 6-0.**

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Pohlkamp **MOVED** to adjourn to Executive Session regarding labor contracts, personnel, and litigation, at 8:21 p.m.

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Roll Call Vote: Yeas- Clark, Koomar, Lieske, Miller, Pohlkamp, Young. Nays – None. **Motion carried 6-0.** Also present in Executive Session were Law Director Ebert, Mayor Sutherland, and Fire Chief Lyons.

Council reconvened in an open meeting at 9:16 p.m. Present were: Clark, Koomar, Lieske, Miller, Pohlkamp, Young.

There being no further business to discuss, the meeting adjourned at 9:17 p.m.

Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council