

City of Bay Village

Council Minutes, Special Meeting
Council Chambers 6:15 p.m.

July 26, 2012

Paul A. Koomar, President of Council, Presiding

Present: Koomar, Lieske, Miller, Pohlkamp, Tadych, Young, Acting Mayor Ebert

Not Present: Mr. Clark, Mayor Sutherland

Also Present: Donald Zwilling, Brian Cruse, and Matt Clever, representing the 2012 Charter Review Commission. Service Director Galli was also in attendance.

During the agenda review, Mr. Koomar called upon Don Zwilling, former member of Council and Chairman of the 2012 Charter Review Commission, to give an overview of the Charter Review Commission's work this year, and their final recommendations which will be presented to Council this evening in ordinance form.

Mr. Zwilling advised that the Charter Review Commission was appointed in February of 2012 by Mayor Deborah Sutherland. The nine members included Mr. Zwilling, Dr. Gina Crawford, Councilman Clete Miller, former Councilman Mark Barbour, Barbara Quinn who served as Sergeant-at-arms, Sally Fell who served on the Charter Review Commission previously, Matt Clever who works at the Cuyahoga County Board of Elections, Michael Caputo who is a member of the Bay Village Board of Education, and former President of Council Brian Cruse.

Mr. Zwilling stated that the 2012 Charter Review Commission is the sixth Charter Review Commission to review the Bay Village City Charter since its establishment in 1949 and approved by the voters in 1950. Mr. Zwilling served on three of those Charter Review Commissions.

There were ten meetings of the 2012 Charter Review Commission, beginning with suggestions by Mayor Sutherland. The overriding theme of the 2012 Charter Review Commission was dealing with the financial stress that has existed in this county over the past five years and how it is affecting different cities, school districts, and political subdivisions in their budgeting. The commission felt that there was an opportunity to bring more flexibility to the Charter to allow the elected public officials and administration to operate in a leaner environment. Government funding has been declining. The Ohio Estate Tax has been repealed. Cities are faced with pension liabilities and there is a great deal of economic stress. Cuyahoga County has taken the initiative to establish a Department of Regional Collaboration to help cities and school districts plan and serve more effectively and more economically.

The Charter Review Commission is suggesting four revisions to the charter to place before the voters which will be introduced by ordinance this evening by Councilman Clete Miller. Mr. Zwilling explained those revisions to the City Council, as follows:

Article IV Administrative Offices and Departments
Section 4.1 General Provisions

The current wording of the Charter discusses different departments and notes the exception of the Department of Law and Department of Finance. That phrase will be removed in the event that the situation of collaboration with other cities comes about in those two functions.

Mr. Young stated that he understands that the Department of Law and the Department of Finance are state-mandated. Having the requirement in the Charter is redundant. Mr. Cruse stated that the thought of the Charter Review Commission was more to the point of envisioning the possibility that perhaps someday Bay Village would want to share a Finance Director or Law Director with one or two other cities. The language that is there now would prohibit that. This revision is a move toward flexibility.

Article VI Civil Service Commission

Section 6.3 Classification of Service

The positions of Unclassified Service will include the Chief of Division of Police and the Chief of the Division of Fire, removing them from Civil Service.

Section 6.7 Regional Participation

This is the addition of a new section to the Charter. There is discussion in place about combining the fire operations of four communities. This addition will give the City Council the authority to enact such laws and ordinances that may be necessary to permit the city to participate in regional civil service programs related to providing services to residents of the city, as they deem appropriate. Should City Council adopt any laws or ordinances pursuant to this Section 6, said regional civil service programs shall supersede any provisions of Article VI inconsistent thereof.

Mr. Zwilling stated that this is setting the table to blend into a regional civil service commission.

Mr. Ebert stated that at this point in time the City of Bay Village Civil Service Commission provisions in the Charter stay, unless and until such time that a regional commission is created.

Mr. Cruse stated that it was clear from the homework that the commission did, that the tenants of civil service that are embedded in the Ohio Constitution would apply to any type of regional municipal service, whether it be a fire department or police department. Civil Service will be part of that until the state constitution is changed. This section will be necessary to allow the city to participate in a regional civil service commission. Mr. Ebert noted that it is not the intent to abolish civil service, but to create another entity that will serve in its place with two or more cities combined in regionalization. Mr. Clever added that it was important to the Charter Review Commission to maintain the commitment to civil service. He noted that the Charter Review

Commission, initially not knowing a lot about civil service, after their research, came out with more understanding and appreciation for civil service.

Article XIII Miscellaneous
Section 13.3 Disqualification

The language of the existing Section 13.3 would require that a Councilman, Mayor, Director of Finance, or any officer or employee or appointee to any Board or Commission of the municipality shall not be financially interested in any contract or job, and that such interest shall disqualify any such officer or employee from holding an office. If Council passed anything in which there was a financial interest, even if an individual Councilman removed himself from the room during discussion and voting, the Councilman would be disqualified from holding office. The suggested change specifies that the Councilman would have to cast a vote or approve a contract in order to be subject to disqualification. The change offers the opportunity for a Councilman to recuse himself from discussion and voting without suffering disqualification.

Mr. Zwilling stated that in addition to these four revisions, the Charter Review Commission is suggesting that Article VIII, Department of Parks and Recreation, in order to establish flexibility in being able to combine the department with other departments in the city for efficiency purposes, be eliminated from the Charter. There is a tax levy specifically dedicated to Parks and Recreation which would need to be accounted for separately. Therefore, the Charter Review Commission decided to submit this proposed revision to City Council as a suggestion for Council to undertake in the future.

Mr. Cruse added that Parks and Recreation, outside of Finance and Law, is the only department that is created by the City Charter. The Charter Review Commission's thought was to move the department out of the charter and create it by ordinance. Due to the levy, the commission felt it was above and beyond the Charter Review Commission but may be something the City Council wants to look at further.

Mr. Ebert commented that it would be necessary to segregate the funds drawn from the levy for Parks and Recreation to be used only for that function and not for another department that may be combined with Parks and Recreation.

Mr. Zwilling expressed appreciation to the Charter Review Commission for their work.

Mr. Cruse stated that there was a lot of healthy discussion by the Charter Review Commission and it was a learning experience for everyone involved. The four suggested revisions brought by the Charter Review Commission to the City Council were accepted unanimously by the Charter Review Commission. He noted that early on in their work they studied the issue of a City Manager form of Government versus Mayoral form of government. The Commission decided that the issue was too big for their charge, but may be something that Council wants to look at forming some type of an ad hoc committee to review in the future. Mr. Cruse stated that Mayor Sutherland was very even handed in her presentation of the pros and cons of both types of government.

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Mr. Pohlkamp stated that he read the minutes for all the meetings and it was very clear that the wide range of subject matter was thoroughly investigated by the Charter Review Commission. The conversation was thorough and detailed and it was apparent that the Charter Review Commission put in a great amount of due diligence. Mr. Pohlkamp expressed appreciation for the many hours put in by the commission on a volunteer basis for the city.

Mr. Zwilling noted that the first half hour of the Charter Review Commission meetings were devoted to public input and there were members of the public at every meeting.

Mr. Koomar thanked the Charter Review Commission for their hard work, noting that it is greatly appreciated by both the members of City Council and the residents of the City of Bay Village.

Mr. Ebert commented that a printed piece of information would be prepared for the residents to fully understand the proposed charter amendments on the November ballot. Mr. Pohlkamp added that this communication should also be available on the city's web site. Mr. Tadych noted that the residents need to be informed of the proposed changes since they may not understand the background. Mr. Cruse advised that early voting begins October 2, and it is felt that the beginning of September is key to releasing information to the residents. At least forty percent of voting is done through absentee voting and people begin receiving their ballots 35 days prior to Election Day. Mr. Koomar noted that it would be in the city's best interest to make sure that the wording that is disseminated to the voters is agreed upon by the Charter Review Commission since the ideas originated from that group.

In regard to a resolution on this evening's Council agenda adopting a tax budget for the City of Bay Village for the Fiscal year beginning January 1, 2013, Mr. Young stated that some of the actual millage within the funds were realigned. The resolution is on first reading this evening. He stressed that there was no change in the total amount of millage, but the proper amount of funds is reflected by the redistribution of millage in the Police and Fire Pension Funds, and General Fund. There will be further discussions on other funds prior to final passage of the resolution. Mr. Koomar noted that a brief public hearing has been held in the past for the tax budget. Putting the tax budget on first reading this evening will raise the awareness that the city is moving through the process.

Mr. Young stated that a contract with McKeon Education Group will be presented for passage by ordinance this evening. The city works with the schools to help provide Bay Family Services assistance within the city. The contract is for the second half of 2012 and the first half of 2013, in line with the school year.

Mr. Pohlkamp stated that this much needed program receives his total support. Mr. Koomar added that Mr. Clark and he have met with representatives of the schools. Mr. Koomar is the Council representative for Bay Family Services. Council is always looking for ways to support this program while seeking additional revenue services. Discussion at the last meeting with the schools included the possibility of looking for grant money that may be available to offset the costs.

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Mr. Cruse stated that he has been on the board of Bay Family Services for eight years. The growth in the program is unbelievable. The misconception is that it is a school program. While a lot of the focus is on issues with children, those children have families and these are truly family issues in Bay Village. Bay Family Services has also done a tremendous job, with accolades to Community Services Director Debbie Bock, in interplaying toward other segments of the adult community. The services that McKeon Group offers are of great value and there has been an increase in adult participation in the program in the last few years.

Mr. Pohlkamp stated that this is not a static program. They are constantly evolving and changing their tactics as the issues with the youth changes.

Mr. Koomar stated that they have also discussed involving volunteer mentors that would receive training, those individuals that have graduated college, have jobs, and want to give back to the community. As the program expands, they are looking at other ways to perform those services, and one avenue would be volunteers. The other thing that is funded through the contract is the Community Diversion Program, where non-violent first-time offenders go through a process here in Bay Village. The Bay Family Services contract provides the counseling and bi-weekly meetings between the first meeting and last meeting of participants, giving kids a second-chance and routing them away from Juvenile Court for a first time, non-violent offense. He stated that this really helps them get back on the right track and it is a great program.

Mr. Tadych added that many words have been spoken about this program, some of which indicating that it may be eliminated. He stressed that he wants to say for most people on Council that they really support the program.

Mr. Pohlkamp reviewed the ordinance approving a contract with Terrace Construction Company for the reconstruction of the Cahoon Creek Aerial Sewer. Service Director Galli has enabled the city to obtain additional funding for a no interest loan to cover the entire cost of the project. Mr. Galli explained that the contract has been approved by the Ohio Public Works Commission for a 30-year, zero percentage loan for the entire cost of the project. Construction is due to begin at the end of the summer.

Mr. Miller reviewed the request for permission by Kiddie Kollege, Inc. for hanging a temporary banner at the Bayway Cabin, where they will be a tenant, advertising the options of the child care at that facility. The dimensions of the banner provided as part of the agenda, 48" x 72", do not conform to Codified Ordinance No. 1779 which states that a maximum of twelve square feet, not twenty-four square feet would be permitted for the banner. There is support of Council to maintain the maximum area described by ordinance, which is twelve square feet. Mr. Miller will amend the agenda in his motion to reflect the proper dimension.

Mr. Galli stated that Kiddie Kollege will accept any amendment to the size of the banner. Mr. Miller noted that this banner is on Cahoon Memorial Park property, and in consideration of that Council need not consider any previous precedents such as the banners posted at the police station advertising the use of seat belts or the change of clocks at daylight savings time. Mr. Tadych stated that in doing the right size for the banner they will be permitted to move it closer to the road. He feels very comfortable with the twelve square feet size within ten feet of the north

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sidewalk on Wolf Road.

A similar situation exists with Bradley Bay Health Center, who has requested banners for the Fiftieth Year Anniversary and their Deficiency Free State Audit. They would like to have two banners, and are willing to amend the size to twelve square feet. Mr. Miller will amend the motion noted on this evening's Council agenda.

President of Council Koomar called the Special Meeting of Council to order at 6:15 p.m. in the Council Chambers with the Pledge of Allegiance led by Ward 4 Councilman Michael Young and roll call.

AUDIENCE

The following members of the audience signed in this evening: Bruce Geiselman, Jeff Gallatin, Kent Silverberg, Sally Irwin Price, and Joe Hochman

ANNOUNCEMENTS

Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held June 25, 2012. Mr. Pohlkamp **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. **Motion carried 6-0.**

Mr. Miller introduced and read **ORDINANCE NO. 12-68** TO PROVIDE FOR AN ELECTION ON THE ADOPTION OF AN AMENDMENT TO ARTICLE IV, SECTION 4.1 OF THE CHARTER OF THE CITY OF BAY VILLAGE PERTAINING TO GENERAL PROVISIONS OF ADMINISTRATIVE OFFICERS AND DEPARTMENTS, 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. 12-68.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

Yeas – Koomar, Lieske, Miller, Pohlkamp, Tadych, Young,
Nays – None.

Mr. Koomar announced adoption of **Ordinance No. 12-68**, an emergency measure, by a vote of 6-0.

Mr. Miller introduced and read **ORDINANCE NO. 12-69** TO PROVIDE FOR AN ELECTION ON THE ADOPTION OF AN AMENDMENT TO ARTICLE VI, SECTION 6.3 OF THE CHARTER OF THE CITY OF BAY VILLAGE PERTAINING TO CLASSIFICATION OF SERVICE – CIVIL SERVICE COMMISSION, AND DECLARING AN EMERGENCY, amending by reading Section 2, to read “Shall the proposed amendment to Article VI, Second 6.3 of the Charter of the City of Bay Village”, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 12-69.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

Yeas –Lieske, Miller, Pohlkamp, Tadych, Young, Koomar
Nays – None.

Mr. Koomar announced adoption of **Ordinance No. 12-69**, as amended, an emergency measure, by a vote of 6-0.

Mr. Miller introduced and read **ORDINANCE NO. 12-70** TO PROVIDE FOR AN ELECTION ON THE ADOPTION OF AN AMENDMENT TO ARTICLE VI, SECTION 6.7 OF THE CHARTER OF THE CITY OF BAY VILLAGE PERTAINING TO REGIONAL PARTICIPATION – CIVIL SERVICE COMMISSION, 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. 12-70.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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Yeas – Miller, Pohlkamp, Tadych, Young, Koomar, Lieske
Nays – None.

Mr. Koomar announced adoption of **Ordinance No. 12-70**, an emergency measure, by a vote of 6-0.

Mr. Miller introduced and read **ORDINANCE NO. 12-71** TO PROVIDE FOR AN ELECTION ON THE ADOPTION OF AN AMENDMENT TO ARTICLE XIII, SECTION 13.3 OF THE CHARTER OF THE CITY OF BAY VILLAGE PERTAINING TO DISQUALIFICATIONS – MISCELLANEOUS, 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. 12-71.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

Yeas –Pohlkamp, Tadych, Young, Koomar, Lieske, Miller
Nays – None.

Mr. Koomar announced adoption of **Ordinance No. 12-71**, an emergency measure, by a vote of 6-0.

Mr. Tadych asked Mr. Ebert to confirm that the City Council has no choice other than voting yes on submitting these charter amendments to the ballot. Mr. Ebert stated that Mr. Tadych’s statement is correct; the Charter states that the Council shall forthwith submit to the electorate. Council has the ability, if there is a language issue, to adjust the verbiage. The issues go to the ballot whether Council is for or against them.

Mr. Young read and introduced **RESOLUTION NO. 12-72** ADOPTING A BUDGET FOR THE CITY OF BAY VILLAGE FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2013, SUBMITTING SAME TO THE COUNTY FISCAL OFFICER, AND DECLARING AN EMERGENCY

Mr. Koomar stated that **Resolution No. 12-72** is placed on **First Reading**.

Mr. Young introduced **ORDINANCE NO. 12-73** AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE BAY VILLAGE SCHOOL DISTRICT AND MCKEON EDUCATION GROUP, INCORPORATED, TO PROVIDE

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PREVENTION AND INTERVENTION SERVICES, amending by reading the amount of the contract to be up to \$80,000, and up to \$20,000 in two subsequent payments, and the terms of the contract to be for the years 2012-2013 AND DECLARING AN EMERGENCY, and moved for adoption.

Mr. Young read a communication from Mr. Clark stating that he firmly endorses this ordinance and initiative which provides vital funding for Bay Family Services. The same email also expresses support for all of the legislation and motions on the agenda of Council this evening.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 12-73.

Roll Call on Suspension of Charter Rules:

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

Nays- None

Roll Call on Suspension of Council Rules:

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

Nays– None

Roll Call on Use of the Emergency Clause:

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

Nays - None

Roll Call on Adoption:

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

Nays – None.

Mr. Koomar announced adoption of **Ordinance No. 12-73**, an emergency measure, by a vote of 6-0.

Mr. Pohlkamp asked Service Director Galli to provide an update on the reconstruction of the Dover Center Road tennis courts. Mr. Galli stated that the plans for the courts have just been completed. The project will be advertised for bids on August 1 and August 8, with bid opening on August 15, 2012. Bids will be presented to Council pending approval at a special meeting of Council. The project should begin immediately after the Labor Day holiday.

Mr. Koomar stated that there is a lot of excitement on this project. He has been reminded by several individuals that the current United States Tennis Association colors are blue and green.

Mr. Pohlkamp introduced and read ORDINANCE 11-74 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH TERRACE CONSTRUCTION CO. INC. FOR THE CAHOON CREEK AERIAL SEWER REPLACEMENT PROJECT, 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. 12-74.

Roll Call on Suspension of Charter Rules:

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Yeas - Pohlkamp, Koomar, Lieske, Miller, Tadych, Young,
Nays- None

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

Yeas –Pohlkamp, Koomar, Lieske, Miller, Tadych, Young
Nays – None.

Mr. Koomar announced adoption of **Ordinance No. 12-74**, an emergency measure, by a vote of 6-0.

MOTION by **Miller** to ratify the permission given to Kiddie Kollege Inc for hanging a temporary banner not to exceed twelve (12) square feet on the south lawn of their site at 27400 Wolf Road, also known as Bayway Cabin, for 30 to 60 days from July 17, 2012, or until their permanent sign is installed, in accordance with Codified Ordinance 1179.09 (C) (4)

Motion carried 6-0.

MOTION by **Miller** to ratify the permission given to Bradley Bay Health Center for hanging two (2) temporary banners not to exceed twelve (12) square feet individually for approximately 120 days at their site at 605 Bradley Road, in accordance with Codified Ordinance 1179.09 (C) (4).

Motion carried 6-0.

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Pohlkamp MOVED to adjourn to Executive Session regarding contracts and personnel. at 7:27 p.m. Mr. Koomar advised that prior to convening to Executive Session there would be a very short recess to conduct a meeting of the Cahoon Memorial Park Trustees.

Roll Call Vote: Yeas- Koomar, Lieske, Miller, Pohlkamp, Tadych, Young. Nays – None.
Motion carried 6-0.

Council reconvened in an open meeting at 7:44 p.m. Present were: Koomar, Lieske, Miller, Pohlkamp, Tadych, Young. Also present: Acting Mayor Ebert

There being no further business to discuss, the meeting adjourned at 7:45 p.m.

Paul A. Koomar, President of Council

Joan T. Kemper, Clerk of Council