

CITY OF BAY VILLAGE

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

October 1, 2012

Paul Koomar, President of Council, presiding

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

Not Present: Mr. Clark

Others

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

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. Pohlkamp advised that a meeting of the Public Improvements Committee was held this evening to discuss specifically a fire detection system for the Community House. A memorandum from Service Director Galli with quotations, and a memorandum from the Fire Chief, will be provided to Council prior to the next meeting of Council for further discussion.

Mr. Koomar informed Council that the resolution granting permission to the Bay Village Schools to place informational signs at the schools in the city will be pulled from this evening's agenda, pending further discussion by Law Director Ebert with the Board of Education.

Mr. Tadych will initiate a motion to authorize the Director of Finance to advertise for bids for computer IT services this evening. The Finance Committee would like to receive bid proposals for the contract this year. Mr. Presley stated that bids were received for the current contract. The contract covers technical support to staff for four hours every Tuesday and four hours every other Thursday, or averaging six hours per week. Mr. Pohlkamp asked the term of the contract. Mr. Presley stated it is a three year contract with Bailey Communications.

Mr. Koomar advised that the ordinance to be introduced this evening regarding solar energy systems will be placed on first reading.

Mr. Koomar expressed that he would like a further understanding of the buffering aspect of installation of solar arrays.

Mr. Tadych stated that the number of days that the city will put off taking action in the event that the applicant fails to give notice of the abandonment or discontinuance of use is 455 days, which is one year plus a quarter of an additional year. This seems to be excessive, especially for the neighbor of the abandoned or discontinued solar system. Mr. Miller stated that this portion of the ordinance was taken from the City of Eastlake ordinance. He is willing to revise that period

Minutes of Regular Meeting
Bay Village City Council
October 1, 2012

to six months. Mr. Tadych commented that Bay Village is not at all like Eastlake so using them as a standard may not be ideal in this ordinance. Mr. Miller asked if there would be an exception to the term abandonment if a home is being sold and the system is not being used for a period of times. Mr. Tadych stated that to him that is an acceptable situation.

Fire Chief Lyons commented on Item No. 6 in the solar energy ordinance, regarding the application for a solar system; the applicant is required to provide a description of emergency and normal shutdown procedures and location of electrical disconnection switch. He stated that in the design and performance standards he noted that in Item No. 5, factory or original equipment manufacturer identification is permitted. The chief was hoping that the City of Bay Village would adopt a standardized place for location of the sign, e.g., by the home disconnect, so that the firefighters would always know it would be in the same place at each home or building. There is also no requirement for an emergency shut-off.

Mr. Miller stated that the disconnect is required by the National Electric Code (NEC). The discussion centered on having the disconnect in proximity to the main line feed coming into the home. Chief Lyons noted that five men typically respond to a fire. One man is sent to attend to the electrical shut-off, which should normally only take a couple of minutes. If he has to search for the disconnect, that could add some time to that task. Mr. Koomar asked if there should be a specific reference, or a referral to the standards that require the location of the disconnect, as is done with the Ohio Building Code for other items. Chief Lyons stated that the location of the disconnect is more of a local jurisdiction requirement.

Mr. Miller stated that Page 3, Number 6 of the proposed ordinance states “A description of emergency and normal shutdown procedures and location of electrical disconnection switch as defined by NEC or as directed by City Building Department. Provide placards denoting location of disconnect switch as defined and directed by NEC or as directed by City Building Department.” This requires that the applicant provide that information in a plan form, or in a written form. Mr. Young noted that the Council did not want to put something in that would later be changed by the NEC. Chief Lyons stated that the municipality or the local fire department would always have the authority to direct locations of disconnects. It would not be changed even if there were a later change in the NEC. NEC generally avoids giving specific directions for items that are the authority of local jurisdictions. Chief Lyons prefers the sign to indicate that the emergency disconnect is next to the main line, and the emergency disconnect will also be located next to the main line.

Mr. Miller suggested expanding the requirement beyond saying “as directed by the city building department” to include “and the division of fire.” Chief Lyons stated that it would be easier to go that way but having the requirement spelled out so that the system is designed accordingly prior to submission to the Building Department would be preferable.

Mr. Tadych stated that his only really fault with the ordinance is with the abandonment clause, which seems as though the abandonment or discontinuance can go on forever. He stated that there are houses in Ward 1 that have had issues that have gone on forever, and he is very concerned about that. Under 1368.07 Abandonment, Part a), it says that the applicant will notify

Minutes of Regular Meeting
Bay Village City Council
October 1, 2012

the Building Official by certified U.S. mail of the proposed date of abandonment or discontinuation of use. He asked what would be the case if the applicant did not notify the Building Official.

Mr. Ebert stated that certified mail is a legal process of making sure there is proper notice, with a signature as proof of receipt.

Mrs. Lieske asked about the front facing solar panels, and how Council wants to proceed with considering that aspect of solar array installation. Mr. Miller stated that Patrick McGannon of the Bay Village Green Team has sent information concerning installations in California that summarized a lot of data and a lot of variables that solar panels add value to the home regardless of where they located. Mr. Miller stated that he personally does not feel it is any different than having a series of skylights in the home that start to glow when you turn on that room's lights. The recent *Wall Street Journal* article submitted by Mr. Koomar reported how technology is modifying these systems so that you can make them inconspicuous as part of a roofing shingle. Mr. Miller stated that he does not have an issue with having the solar panels on the front of a home, facing the street.

Mr. Young commented that if you disallowed solar panels on the front of a home, 25% of the homes in Bay would not be able to have solar panels. If solar panels are not allowed on the roof top on the front of a home, there is still the option of having a ground mounted solar array in the backyard. There may be some exceptions to the ability of having a solar system mounted in the back yard, but the prohibition of not allowing front roof top installation will not reduce the number of allowance for solar energy systems by 25% of the residents in the city due to the option of ground mounting.

Mr. Miller stated that the solar exposure for a fair number of homes in the city does not really qualify unless you ask the neighbors to cut down their trees. He suggested permitting the solar panels on the front of the home, but limiting them to a certain area. He noted that a skylight is oftentimes 24 inches wide.

Mr. Pohlkamp stated that he has been surveying residents casually, and a majority of them are in favor of the solar systems. This is one of the reasons why this legislation is on three readings, to give the Council a chance to talk to the residents and hear what they have to say.

Mr. Tadych stated that he does not mind the panels on the front. He noted that this is a new thing, and we all have to adjust to it. But, if there are issues with broken panels on the front of the homes that everyone has to look at, the abandonment clause is not tight enough.

Mr. Ebert stated that he will look at the language and try to submit something this week.

Mr. Miller stated that for other abandonment issues throughout the city, the Building Department notifies the property owner. Mr. Ebert added that the certified mail process starts the time period allowable for the situation to be rectified.

The solar energy ordinance will be placed on first reading this evening with the anticipation of getting resident input, tightening the abandonment clause, and adding language for specific location of house disconnect in proximity of the main line feed. These items will be reviewed further at the next committee meeting of Council. Mr. Tadych added that Section 1368.07 c) in reference to the Building Official issuing a Notice of Abandonment, the word “may” should be changed to the word “shall.”

Mr. Koomar asked about the buffering requirements and Mr. Miller stated that the buffering language in the proposed solar ordinance directs the requirements back to the city’s buffering ordinance. If the applicant were considering a rear yard, ground mounted array, the current buffering for any accessory structure requires the provision of 25 feet linear distance of buffering, either a fence or evergreen tree. It is required on both sides of the property, from any adjacent property. A structure holding the array would be applicable to the existing buffering ordinance.

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.

Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held September 17, 2012. Mr. Pohlkamp MOVED to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 6-0. Mr. Koomar called for a reading of the Minutes of the Cahoon Memorial Park Trustees held September 17, 2012. Mr. Clark MOVED to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 5 Yeas – 2 Nays (Lieske, Tadych).

REPORTS

Finance Director Presley had no report this evening.

Recreation Director Enovitch had no report this evening. Mr. Koomar asked if final numbers in regard to use of the swimming pool have been prepared. Mr. Enovitch stated that the report is forthcoming.

Director of Public Service and Properties Galli had no report this evening.

Community Services Director Bock advised that all interested parties must register for the flu shot program for this Friday, October 5 at the Dwyer Memorial Center, by calling 440-899-3409.

Police Chief Wright had no report this evening.

Fire Chief Lyons had no report this evening.

COMMUNICATIONS

The following communication was reported:

An email communication from Patrick McGannon of the Bay Village Green Team, dated September 30, 2012 regarding a solar array property value study and the submission of Bay Village solar home photos. A copy is available in the Clerk's office for further review.

AUDIENCE

The following members of the audience signed in this evening: Jeff Gallatin, Dick Majewski, Kent Silverberg, Ted Vovos, Mike O'Boyle, Kevin DeFrank, Mike Dendinger, Mark Chernisky, Nancy Trainer, Tara and Denny Wendell, Rebecca Krueger

Dr. Abunasser, Lake Road, stated that he read in the newspaper of three issues of the proposed solar energy ordinance. One issue was the aesthetics, and whether installation should be on the front or rear of the home, one related to its impact on property value, and one related to fire safety. Dr. Abunasser stated that he installed a solar array system on his home on Lake Road about six months ago. Regarding the aesthetics, putting the installation on the front as opposed to the rear, the angle of the sun determines how much light the array is exposed to, so it has to be facing south or southwest for it to be effective, whether front or rear. There was an issue about facing the street, as opposed to not facing the street, but it really has to face south or southwest for it to work. That has two implications, one is financial and one is operative. The operative is that it will not be efficient if it is facing away from the sun. The financial is two-fold. When you install a system, 30% of the cost of the installation can be recouped as a tax rebate when filing taxes, as long as the system is installed correctly. If it is faced in any direction other than south or southwest, in its entirety, the 30% will not be recouped. Dr. Abunasser noted his loss in facing the system to the back of his home would have been \$10,000. A second problem would be that for every 1,000 cubic feet of installation there is one solar pair that can be sold to your utility. Each one of those is worth \$450.00 per year, every single year. Dr. Abunasser has eight, which would cost him another \$4,000 annually if he had to install the system any other direction than facing south, or southwest.

Dr. Abunasser brought two studies with him, one from *Bloomberg Business Week* and one from an appraisal journal which contain information as to how much solar arrays increase the value of homes. In summary, a resale premium of 5% returns 125% of the cost of installation and for every dollar of electricity savings per year, it adds \$20 to the value of the home, and does bring up the home values for the entire neighborhood.

A much bigger issue is fire safety, which is a valid concern. If there is a fire in the house and the firefighters try to get to the house, is there live electricity. The solar panels produce DC current, the same as a battery. Each panel has to have a micro inverter to convert the current into something consistent with the grid. If you shut off the grid, you automatically shut off the system. When the firefighters respond to a fire, they are going to shut the electricity off from the house. If you cut the grid from the house, there is no live electricity from those panels. The micro invertors Dr. Abunasser had installed are thermal sensitive, so if there is an increase in temperature they automatically shut off as well, even without having someone flip the breaker.

Mr. Koomar stated that the ordinance will be placed on first reading this evening, and noted that moving ordinances through three readings is a good way to get residence feedback. The proposed ordinance allows the panels on the front of homes. The Council will continue to gather residents' input.

Alysia Dimas referred to the misdemeanor fine penalty at the end of the proposed solar energy ordinance. Ms. Dimas asked if that provision is similar to other sections of the building code, or unique with the solar ordinance.

Mr. Miller stated that the penalty is similar. It falls in line with other building department provisions where language prescribing that the homeowner must maintain the systems in an operable condition. The Council is trying to curb instances where damaged or unusable systems are allowed to exist for a prolonged period of time. A period of time of six months, rather than 12 months, is under consideration for the time allowed for the necessary repairs to get the system operable again. The general intent of the language follows many other penalty clauses in other ordinances.

Mr. Ebert added that the penalty clause for the solar energy system mirrors the penalty clause for satellite dishes.

Kent Silverberg, 24425 East Oakland, stated that everyone in the room probably knows the problems on East Oakland with the recent media attention regarding the cameras. Mr. Silverberg recalled that in 2003 there was a similar situation on West Oakland regarding the aesthetics of fencing. Mr. Silverberg is questioning City Council as to why the aesthetics of these cameras that are causing a lot of media attention and continued drive-bys past his home not being addressed by City Council and allowing the use of residential security cameras.

Law Director Ebert stated that the one thing that is being looked at is in reference to calls that are made that are in nature of redundancy by the Police Department. A resident could be fined if it is the same issue and the Police Department is being used for neighborhood disputes versus enforcement or safety issues. There is a city on the east side of Cleveland that has a similar ordinance. Whether or not to outlaw the cameras, that has been looked at briefly. The sensitivity of it is that you cannot make legislation retroactive and make something that was valid, invalid once it is installed. Mr. Ebert stated that they will look at it. He noted that they have offered the city's services to mediate the neighborhood dispute and he still hasn't gotten a call back from either side to establish an acceptable date.

Mr. Silverberg stated that he is just commenting because of the things that have been going on, the situation has not calmed down because of the media attention, and he is just wondering why the cameras could not be addressed by Council.

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE

Mrs. Lieske introduced **ORDINANCE NO. 12-82** AMENDING CODIFIED ORDINANCE SECTION 351.99(A) REGARDING PARKING PENALTY, REPEALING ORDINANCE NO. 11-91, 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. 12-82.

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. 12-82**, an emergency measure, by a vote of 6-0.

PUBLIC IMPROVEMENTS, STREETS, SEWERS AND DRAINAGE COMMITTEE

Mr. Pohlkamp advised that a Public Improvements, Streets, Sewers and Drainage Committee meeting was held earlier this evening regarding the Community House. As a result of that meeting the committee will recommend to the City Council, and to the Cahoon Memorial Park Trustees, that there be approval of an upgraded fire detection equipment for the Community House. Information will be given to City Council in their packets this weekend including a memorandum from Fire Chief Lyons and information from Director of Public Service Galli.

Mr. Pohlkamp introduced **RESOLUTION NO. 12-83** REQUESTING THAT THE CITY OF ROCKY RIVER APPLY FOR FINANCIAL ASSISTANCE FROM THE OHIO PUBLIC WORKS COMMISSION'S STATE CAPITAL IMPROVEMENT PROGRAM FOR THE FUNDING OF THE ROCKY RIVER WASTEWATER TREATMENT PLANT 2013-2016 CAPITAL IMPROVEMENTS 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 Resolution No. 12-83.

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 **Resolution No. 12-83**, an emergency measure, by a vote of 6-0.

FINANCE & CLAIMS COMMITTEE

Mr. Young had no report this evening.

PLANNING, ZONING, PUBLIC GROUNDS & BUILDINGS COMMITTEE

Mr. Miller introduced **ORDINANCE NO. 12-84** ENACTING NEW CODIFIED ORDINANCE CHAPTER 1368 REGARDING SOLAR ENERGY SYSTEMS, AND DECLARING AN EMERGENCY. Mr. Miller stated that the Council is seeking public input on this ordinance. Mr. Miller's telephone number and email address are listed on the city's web site, www.cityofbayvillage.com. Council will continue discussing the ordinance at their next few meetings to further improve the language of the ordinance. Whether it is more strict or less strict on topics will be due to the feedback taken.

Mr. Koomar stated that **ORDINANCE NO. 12-84** is placed on **First Reading**.

The second item on the agenda under the Planning, Zoning, Public Grounds and Buildings Committee, a resolution granting permission to Bay Village Schools to place informational signs at the city's public schools, was removed from the agenda pending further review and discussion.

RECREATION AND PARK IMPROVEMENTS COMMITTEE

Mrs. Lieske had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

MOTION by **Tadych** to authorize the Director of Finance to advertise for bids for computer IT services. Mr. Tadych noted that the computer IT services contract of the city is going to expire at the end of the year. It is a one-year contract with Bailey Communications.

Finance Director Presley stated that there was a one-year renewal option with Bailey Communications and did have a two-year contract prior to that with an option for a third year

Minutes of Regular Meeting
Bay Village City Council
October 1, 2012

extension, which they exercised with Bailey Communications. They have been very happy with them, but do want to go back out to bid to see if there is an alternative.

Motion passed 6-0.

MISCELLANEOUS

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Pohlkamp **MOVED, second** by Mrs. Lieske, to adjourn to Executive Session regarding labor contracts, contracts, personnel, and litigation, at 8:34 p.m.

Roll Call Vote: Yeas- Miller, Pohlkamp, Tadych, Young, Koomar, Lieske. Nays – None.
Motion passed 6-0. Also present in Executive Session were Law Director Ebert, Mayor Sutherland.

Council reconvened in an open meeting at 9:02 p.m. Present were: Koomar, Lieske, Miller, Pohlkamp, Tadych, Young.

There being no further business to discuss, the meeting adjourned at 9:03 p.m.

Paul Koomar, President of Council

Joan Kemper, Clerk of Council