

## CITY OF BAY VILLAGE

Council Minutes, Regular Meeting  
Council Chambers, 8:15 p.m.

October 15, 2012

Paul Koomar, President of Council, presiding

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

Others

Present: Law Director Ebert, Finance Director Presley, Police Chief Wright, Fire Chief Lyons, 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. Young reported that he will introduce a resolution this evening authorizing the Director of Finance to transfer monthly operating funds. Mr. Young will also introduce a resolution authorizing the Director of Finance to request tax advancements before settlement dates for Fiscal Year 2013.

Mr. Miller advised that he will present Ordinance No. 12-84, enacting new Codified Ordinance Chapter 1368 regarding Solar Energy Systems for second reading this evening. Mr. Miller has updated the ordinance to reflect the changes discussed at the last Council meeting and the input from Fire Chief Lyons and the Bay Village Green Team. Further information and suggestions have been presented by the Green Team and Mr. Miller will prepare a final draft for the November 5 meeting of Council. Chief Lyons thanked the City Council for incorporating his recommendations into the solar energy ordinance.

Mr. Tadych asked Mr. Miller if the ground mounted systems for the solar panels are solid and would have water run-off such as a home's inclined roof. Mr. Miller responded that the panels are solid. Mr. Tadych asked that consideration be given to the water run-off from ground-mounted systems. He suggested that by including a provision in the ordinance for a collection system for the water that will not penetrate the solid ground mounted solar panels, similar to the Green Team's efforts for rain barrel collection of downspout water, the ordinance will present a truly green effort by City Council and be probably one of the first solar ordinances in the area that looks at the total picture. Providing a system for collection of the water run-off will also prevent possible flooding of properties for both the solar system property owner and the neighboring property owners.

Mr. Clark asked that Council consider the passage of a resolution in support of the Bay Village Board of Education school bond issues on the November 6, 2012 ballot.

Resident Mike O'Boyle expressed that he does not think it is appropriate for the city administration to be backing or opposing something that the school administration is doing. He

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stated that he knows there are a couple of Council representatives who have been active, and may still be active in the schools affairs, but he still does not feel it is an appropriate thing for the city administration to be supporting something that is so controversial in the city. It was brought up during the last school levy issue and at that time some people expressed the opinion that they thought it was against state law for that to happen. Mr. O'Boyle stated that he does not know if that is a valid legal position, but, again, this is his personal opinion, and the opinion of others in the community.

Mr. Koomar asked Mr. Ebert to review this from a legal perspective. Once this is received, Mr. Koomar would like the members of Council to email him and let him know their individual thoughts.

Mr. Clark reported receiving a request from a scouting troop to have a trailer exhibit in the city to advertise boater safety. Further information will be provided prior to placing the request on the agenda for the next Council meeting.

Mayor Sutherland discussed the employee wellness program, and stated that she is pleased to report that the administration's efforts have gone over very positively, with a lot of people involved. The Mayor stated that for the success of any wellness program there has to be incentives tied to participation and progress. Since there is no budget, they have looked at a way to entice the employees into becoming more active and embracing the program. If they can get the employees to be healthier by weight control and smoking cessation, health care costs will be driven down. Mayor Sutherland advised that Community Services Debbie Bock is one of the Co-Chairs of the city's efforts in the wellness program. The committee has come up with a way of incentivizing employees by providing time-off earned through participation in a variety of activities that will earn points that can then be used for time off based on approval of the employees' supervisors. There are a variety of ways that programs can be created within organizations. The county uses a program known as Vitality, and Mayor Sutherland distributed copies of that program to Council.

The Mayor stated that Law Director Ebert has been working on legal language to create an addendum for labor agreements and for Codified Ordinance Section 151, Employment Provisions. The language will allow for the city to be able to have some type of incentivized wellness program.

Mr. Young asked about the use of time-off and the Mayor stated that an overtime situation cannot be created by the use of time off. Mr. Young asked if the time-off can be banked. The Mayor stated that it can be banked within reason, for a short period of time such as a week or two.

Mr. Koomar stated that the wellness programs he is familiar with all have a health risk assessment. He asked how the City of Bay Village's program will assess improvement, such as in weight, cholesterol, body mass, and other quantifiable factors that would be part of the process.

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Mayor Sutherland stated that the way she is envisioning the employee wellness program and the way that the committee is envisioning the program is that the time-off issue is a transition until they would actually get to the point where they could reduce their monthly contributories down the road. They actually have it set up that the employees would get assessed the first week of December and a follow-up assessment would be done in March to be able to track changes.

Mr. Koomar asked Mr. Ebert to check the existing contracts from a legal perspective as to how the time-off incentive may work, and specifically with the safety forces with the staffing of a police shift from 11 p.m. to 7:00 a.m. He asked how people on that shift taking time off would not create overtime or a cost for the city, and also, the same issue with the fire department and paramedics.

Mayor Sutherland stated that they cannot create overtime and the employees know how to schedule to be able to accomplish that.

Mr. Ebert stated that what he is suggesting is to first amend Codified Ordinance Section 151, Employee Provisions. In regard to the labor contracts, language will have to be put together to be implemented at the time the contracts are negotiated. Existing contracts cannot be reopened. Even though it is beneficial to the employees, you are not going to want to do that until negotiations are started.

Mr. Tadych asked if the plan is in effect today. Mayor Sutherland stated that they are working on it, which is why she wants to move forward. They have already started this and have people working on it. Employees have been told to keep at it, keep tracking their time and they will work out the details. Mr. Ebert stated that an amendment will have to be circulated. The Mayor suggested doing that and say that it expires with the expiration of the contract. Mr. Ebert stated that this can be done.

Mr. Tadych asked what the start date of the program was. Community Services Director Bock stated that the program was started for September, October, and November, and the start date was September 1.

Mrs. Lieske asked for clarification on the amount of time an employee can get off as an incentive. She asked if it is an hour for 900 points or a 7 or 8 hour shift. Community Services Director stated that it would be one 7-hour shift per quarter; that would be the maximum per quarter that would be able to be earned. Mrs. Lieske stated that this amounts to four more vacation days per year. She expressed her concern as to how this is documented. As Mr. Koomar mentioned, the assessment to determine progress is important. Mrs. Lieske noted that she would have some real concerns with that much time off in the course of a year.

Mayor Sutherland stated that she believes it is an hour rather than a day. She noted that there is no way they would have allowed four seven hour shifts.

Mr. Koomar stated that it is great that they are exercising, but a health risk assessment at the beginning of the program must be the base line for measurement on which to base awards and

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improvement. Their exercise must result in a quantifiable improvement in their health in order to receive awards.

Director Bock stated that the things they are going to be measuring are cholesterol, blood pressure, blood sugar, body composition, osteoporosis screening, and balance. This will be done initially at the beginning and then again in three months so people can chart their progress.

Mr. Koomar asked if progress has been made in that three month period will the employee earn one of the incentives? Ms. Bock stated that they haven't gotten that far yet because they are waiting to see what the incentive is going to be. They have gotten 25 employees who are already actively involved in charting their points and keeping track, but the committee has been waiting to get the rest of the information as to how far they can go with the program.

Mr. Tadych stated that the program should be identified and what they are going to get, a starting date given, before we say it started last September.

Mr. Koomar stated that he likes the concept and is trying to understand how it is going to be measured and the reward component.

Mayor Sutherland stated that ideally the reward component would be dollars off their monthly contributory or some financial reward. They cannot do that right now because it is not in the budget. They are trying to get people motivated, hoping that they will move into that but starting off with being able to earn points or participating, knowing that if they do participate they will benefit. They will be benchmarking in December and March.

Mr. Koomar stated that he agreed, but if every employee took this benefit and got engaged, is the time-off earned one day per calendar quarter, or is that up for discussion. If you had 100 employees and each takes four days off in a year, that's 400 days off. Mr. Koomar stated that he is trying to look at how that would be implemented so as not to cause overtime.

Mayor Sutherland stated that the quarterly awards are hours, not days. Mr. Koomar asked if 7 hours is akin to one day's worth of service. Mayor Sutherland stated that if you get 900 points and work a 7 hour shift, you get one hour off. The maximum hours in a quarter an employee could get off would be 4 hours for a seven hour shift, 4 hours for an eight hour shift, and 6 hours for a 24-hour shift, per quarter.

Mr. Tadych stated that this equates to two days per year, times 100 employees, or 200 days per year. Mr. Young noted that not every employee will participate. Mr. Tadych stated that this would be the city's liability.

Mayor Sutherland stated that on the positive side, the health care costs would go down. Director Bock added that the use of sick time would also, hopefully, be reduced.

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Mr. Koomar stated that he loves the concept of wellness and thinks it is great that employees are exercising, but he would like to have the Law Department review this and understand the parameters, and how overtime wouldn't be incurred.

Mayor Sutherland stated that overtime won't be incurred, and the Law Director does not need to be involved in that.

Mr. Koomar asked if someone in the Police Department took their time off, would that vacancy be filled? Mayor Sutherland stated that they would not be able to take the time off if there is not coverage.

Mr. Ebert added that the policy can be written that overtime cannot be incurred by using the time-off.

Mayor Sutherland stated that she is worried about over-thinking this section of the program. If it is made too difficult, it will be dis-incentivised and people will quit participating. At this time they are excited about the program, their competitive juices are flowing, and they would like to be able to offer more things such as pitting police against fire and other departments against each other. The Mayor noted that they have to start somewhere and this is not something that goes on ad-infinitum and can be stopped whenever they want. It is management rights.

Mr. Ebert stated that the policy reads that the employer reserves the right to terminate the program and to modify its goals at anytime at its discretion, regardless of the terms set forth. The program is not only to benefit the employees' overall health, but to assist in the health insurance benefits of the city.

Mayor Sutherland stated that what she is asking is not to let the perfect be the enemy of the good. The program is not perfect, but it is good. It gets people up and moving and that is what is going to end up driving down the costs in the long run.

Mr. Young stated that what he would like to see at some point in time is the actual measures. Mayor Sutherland expressed total agreement with Mr. Young. This program is the introductory material. Mr. Young stated that at the same time we should be working at the actual program down the road, because you don't want to set up one program now and go to another program later be totally different.

Director Bock stated that they are looking at a comprehensive approach. They are offering blood pressure monitoring at the Dwyer Memorial Center once per month, Lunch and Learn activities with one coming up October 23 which is a heart healthy lunch with a chef coming in demonstrating how to cook heart healthy meals and offering employees a free lunch for participating in that program. These are set up throughout 2013 with people coming in from St. John's Hospital, doctors, nurses, and physical therapists, to speak on a variety of wellness issues. Eight employees are interested in the smoking cessation program. The whole wellness program is geared to what the employees needs are and what they are looking for to improve their own health and well being. The intention is to set up screening and follow-ups throughout the year so

people have tangible numbers, which is also very motivating. But, the committee has to know what kind of incentives they can offer before they can encourage participation by the employees who are not living healthy, active lifestyles.

Mr. Young stated that he is concerned about designing something now that later is very different. The Mayor suggested thinking of this as “Wellness Light.”

Mrs. Lieske stated that she sees there are different points for people ages 40 and up. They get 50% more points for doing the same thing.

Mr. Miller asked who will tabulate all of this information. Director Bock stated that the employees will provide her with the information and she will put it on a spread sheet.

Mr. Miller asked if this can be done through ADP. Mr. Presley stated that they are still in the process of converting the payroll to ADP.

Mr. Koomar stated that this information was just received this evening and he would encourage Council to review it further.

Mayor Sutherland advised that she included an article about general wellness teams in smaller organizations as well as a copy of the county’s Vitality program, and what is envisioned for the Bay Village program.

President of Council Koomar called the regular meeting of Council to order at 8:15 p.m. in the Council Chambers with the roll call and Pledge of Allegiance led by David Russell, 381 Lake Forest Drive, present this evening in pursuit of his Scouting Merit Badge.

Mr. Koomar called for a reading of the Minutes of the Regular Meeting of Council held October 1, 2012. Mr. Pohlkamp MOVED to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 7-0.

## **ANNOUNCEMENTS**

**Mayor Sutherland** introduced **Ohio State Representative Nan Baker** who presented a proclamation to the Mayor and Council on behalf of the representatives of the 129<sup>th</sup> General Assembly of the State of Ohio congratulating the City of Bay Village on being selected by Family Circle Magazine as one of the “Ten Best Towns for Families for 2012.”

**Mayor Sutherland** announced that the city administration was able to negotiate with Republic Services to return to Tuesday collections, beginning Tuesday, December 4. Rubbish will be picked up on scheduled Friday, November 30, and then again on December 4. The bulk pick-up will be the last Tuesday of every month. Postcards will be sent out to the residents from Republic Services. The last yard waste pick up for this year will be on Tuesday, December 11, weather permitting. Mr. Koomar reminded everyone that city ordinances require that residents do not put their trash cans out to the curb prior to 6 p.m. on Monday evenings.

## REPORTS

**Law Director Ebert** reported that he has received the Kiwanis certificate of insurance for the 2012 Christmas tree sales beginning November 30, 2012.

Mr. Ebert reported attending a meeting in the office of Congressman Dennis Kucinich on Friday, October 12, 2012 regarding the railroad agreement that the City of Bay Village entered into in 1998. Also in attendance were a number of state public officials, representatives of the railroad, Regional Transit Authority (RTA) and west shore communities, all who are concerned about commuter rail and how it affects the west shore.

The railroad agreement is still in existence today. Mr. Ebert noted that Congressman Kucinich and he were among the original authors of the agreement, which still exists today. He explained how the agreement changed the way of life in Bay Village, Rocky River and Lakewood. There were 34 trains per day going through these cities before the agreement. As of the September, 2012 monthly report from the railroad, the City of Bay Village is averaging 2.1 trains per day through the City of Bay Village.

Mr. Ebert related the story of going to Washington to get the agreement approved before the National Transportation Board. A governor wanted to know why there was only one agreement in the entire country, after the merger of CSX and Norfolk and Southern Railroads. The agreement restricts the number of trains and provides safety issues that can be implemented. He noted that the problem of instituting a quiet zone is the cost to install the zone and the number of square feet needed for installation, in addition to the need for four gates and concrete barriers which would be unattractive in Bay Village with the close proximity to housing. This is being reviewed for possible modifications. Mr. Ebert noted that safety is always a concern. Olmsted Falls recently had their first quiet zone approved.

Mr. Ebert stated that he wanted to make it known at the meeting in Congressman Kucinich's office that the City of Bay Village was never against commuter rail. The issue is how the railroads will interpret commuter rail as it affects the railroad agreement, so as not to nullify or void the agreement in any way, shape, or form. If so, the city would have to go back to what is dictated by the railroads as to how many trains come through the City of Bay Village. With only one railroad underpass in Bay Village, on Clague Road, if the trains came often during the day the safety forces would not be able to cross the tracks to get to the hospital without going to the east end of the city. The railroad agreement stays in force today and it is an agreement that has had significant impact on maintaining the quality of life in Bay Village, Rocky River and Lakewood. Mr. Ebert noted that it was a good meeting, and brought everyone up to speed where the city is in regard to commuter rail and the enforcement of the Memorandum of Understanding with the railroad.

Mr. Koomar asked where this will proceed from here.

Mr. Ebert stated that the whole issue of commuter rail is being resurrected. The railroad has taken a different posture. The representative of the railroad present in Congressman Kucinich's office stated that they are not opposed to commuter rail. They look at how it would fit into the railroad agreement, and also that someone would have to pay for the use of their rail. If there were commuter rail in Bay Village it would require a train stop with related parking. This would be very difficult in Bay Village unless it were done in conjunction with the RTA parking lot in Westlake, adjacent to Columbia Road. Mr. Ebert noted that the purpose of commuter rail is to promote businesses and there are very few in Bay Village that would benefit. The City of Bay Village is not against commuter rail, as long as it does not void the railroad agreement. The agreement is foremost in making sure it is honored and not jeopardized.

**Finance Director Presley** had no report this evening.

**Recreation Director Enovitch** reported that the Bay Village Recreation Department hosted the youth football game at the Bay High School Stadium for the fourth time this season. The last youth game for the season will be at the high school next week prior to the high school football game.

Director Enovitch reported that 3,586 family aquatic center passes were sold this past summer, averaging 805 members and visitors per day to the center. The pool generated over \$350,000 in revenue, over 4% more than 2011, and operated in the black again this year.

**Operation Manager Landers** reported that leaf pick began today with the crews working from the easterly part of the city to the west.

**Community Services Director Bock** announced that the ADA improvements to the Dwyer Memorial Center have begun. The bathrooms on the west side of the building have been gutted and construction has started on the front doors of the building. The project must be completed by the end of the year.

**Police Chief Wright** had no report this evening.

**Fire Chief Lyons** had no report this evening.

## **AUDIENCE**

The following members of the audience signed in this evening: Warren Remein, Raymond Russell, David Russell, Russell Thompson, Mike O'Boyle, Denny Wendell, Dick Majewski, Jerrie Barnett.

Jerrie Barnett, 316 Bayview Road, asked the time frame on what is going on relative to the Bradley Road traffic lights at the railroad crossing. Mrs. Barnett asked if there is any update on when the lights are going to be working.

Mayor Sutherland responded that the city is waiting for the railroad to finish their work. Mr. Ebert stated that he mentioned this situation to Congressman Kucinich. Congressman Kucinich will look into the matter. The Mayor noted that the railroad is on their own timetable and accountable to no one.

Mrs. Barnett asked the time frame for the Kiddie Kollege sign to be replaced from what is dangling out there now. Mayor Sutherland stated that it is in their best interests to put up the permanent sign as soon as possible. Mr. Koomar noted that only a temporary sign has been approved thus far for a period of sixty days. Mrs. Barnett asked if the permanent sign will be erected prior to the end of the year and Council responded affirmatively.

Mrs. Barnett asked when the tennis court construction now underway will be completed, or if it will not be completed to be played on this year. Mr. Koomar stated that Director of Public Service Galli informed him that the tennis court construction is on schedule and will be completed around the end of October. The final playing surface to go down may be delayed until spring time because of the winter weather. In the meantime, they may stripe a temporary surface so that it could be played upon if there is warm weather during the winter months. The idea is to put the permanent surface down in April so that it is fresh for the playing season next year and does not suffer wear and tear from the cold temperatures.

Mrs. Barnett asked if the temporary surface is included in the cost for the project and Mr. Koomar stated that it is included.

## **PUBLIC IMPROVEMENTS, STREETS, SEWERS AND DRAINAGE COMMITTEE**

**Mr. Pohlkamp** had no report this evening.

## **FINANCE & CLAIMS COMMITTEE**

**Mr. Young introduced RESOLUTION NO. 12-85 AUTHORIZING THE DIRECTOR OF FINANCE TO TRANSFER MONTHLY OPERATING FUNDS, 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. 12-85.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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

Mr. Koomar announced adoption of **Resolution No. 12-85**, an emergency measure, by a vote of 7-0.

**Mr. Young** introduced **RESOLUTION NO. 12-86** AUTHORIZING THE DIRECTOR OF FINANCE TO REQUEST TAX ADVANCEMENTS BEFORE SETTLEMENT DATES FOR FISCAL YEAR 2013, AND DECLARING AN EMERGENCY, and moved for adoption.

Finance Director Presley stated that the passage of this resolution notifies the county that the City of Bay Village would like monthly advances of their property taxes instead of waiting to receive the whole amount after the property tax collection period is closed. Instead of getting payments just in June and December of 2013, advances will be received monthly, aiding the cash flow of the city.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 12-86.

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 **Resolution No. 12-86**, an emergency measure, by a vote of 7-0.

## **PLANNING, ZONING, PUBLIC GROUNDS & BUILDINGS COMMITTEE**

**Mr. Miller** advised that in tonight’s session prior to opening the regular meeting, Council discussed the proposed Chapter 1368 Solar Energy Systems ordinance and distributed a copy of further suggestions by The Green Team for modifications and additions of language to the ordinance. Mr. Miller will collect Council’s opinion on those suggestions within the next week.

Mr. Miller further noted that Mr. Tadych raised the idea of implementing a rain water run-off collection device that could be an appendage to a ground mounted solar panel system to help

reduce any kind of surcharge in the yard or into neighboring properties, and further disperse that collection into the property owner's grass or surrounding area at a lower volume.

**Mr. Miller** read **ORDINANCE NO. 12-84 ENACTING NEW CODIFIED ORDINANCE CHAPTER 1368 REGARDING SOLAR ENERGY SYSTEMS, AND DECLARING AN EMERGENCY.**

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

#### **RECREATION AND PARK IMPROVEMENTS COMMITTEE**

**Mrs. Lieske** had no report this evening.

#### **SERVICES, UTILITIES & EQUIPMENT COMMITTEE**

**Mr. Tadych** had no report this evening.

#### **MISCELLANEOUS**

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Pohlkamp **MOVED** to adjourn to Executive Session regarding labor contracts, contracts, personnel, and litigation, at 8:47 p.m.

Roll Call Vote: Yeas- Lieske, Miller, Pohlkamp, Tadych, Young, Clark, Koomar. Nays – None. **Motion passed 7-0.** Also present in Executive Session were Law Director Ebert, Mayor Sutherland, and Finance Director Presley. Prior to convening to Executive Session, there was a brief adjournment for a meeting of the Cahoon Memorial Park Trustees.

Council reconvened in an open meeting at 9:33 p.m. Present were: Clark, Koomar, Lieske, Miller, Pohlkamp, Tadych, Young.

There being no further business to discuss, the meeting adjourned at 9:34 p.m.

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Paul Koomar, President of Council

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Joan Kemper, Clerk of Council