

## CITY OF BAY VILLAGE

Council Minutes, Regular Meeting  
Council Chambers 9:11 p.m.

March 4, 2013

Paul Koomar, President of Council, presiding

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

Others

Present: Law Director Ebert, Finance Director Mahoney, Recreation Director Enovitch,  
Service Director Galli, Community Services Director Bock, Operations Manager  
Landers

President of Council Koomar called the meeting to order at 9:11 p.m. in the Council Chambers of Bay Village City Hall, with the Pledge of Allegiance led by Michael Young, Councilman, Ward 4.

Following the roll call, Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held February 25, 2013. Mr. Young **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 7-0.

### REPORTS

**Law Director Ebert** had no report this evening.

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

**Recreation Director Enovitch** stated that on Saturday, March 16, 2013 the Easter Bunny Hop will be held at the Middle School Community Gym at 11:00 a.m. The Bay Village Recreation Department Spring and Summer Program Brochure will be mailed to residents within the next two weeks.

Mr. Koomar asked if pool passes will be available on line this year. Mr. Enovitch stated that pool memberships are not available on line due to the necessity to prove residency.

**Director of Community Services Bock** had no report this evening.

### AUDIENCE

The following members of the audience signed in this evening: Dick Majewski, Jennifer Smillie, Jerrie Barnett, Kent Silverberg, Evan O'Malley, Russell Thompson, Mike O'Boyle, Nancy Brown, Sue Fink

Nancy Brown asked if Mayor Sutherland or Finance Director Mahoney had any updates on the funding reimbursement claim submitted for Hurricane Sandy damages in the city.

Minutes of Regular Meeting  
Bay Village City Council  
March 4, 2013

Mrs. Mahoney stated that she met last week with representatives from Federal Emergency Management who are going to work with Mrs. Mahoney in submitting the reports. Mrs. Mahoney noted that the process has been started. It is estimated that claims for approximately \$100,000 will be submitted.

Ms. Brown asked the process for street snow plowing. Mayor Sutherland stated that normally the process begins when the Police Department notifies the Service Department that conditions are becoming slippery. Operation Manager Landers and his staff then go into action calling in crews. If it is known in advance that a major storm event is approaching, the Service Department will pre-treat the roads and have people on call. The call-in is based on a three hour minimum. Ms. Brown asked how many people would be called in for a snow event. Mr. Landers stated that depending on the severity of the conditions, from 5 to 11 workers are called in. For a salting only event, up to 5 employees are called in. If it is a heavy snow event with city-wide plowing, up to 11 workers are called in.

Kent Silverberg, 24425 East Oakland, stated that in light of recent media events, he is hoping that the city will reconsider ordinances regarding residential cameras and their aim at neighboring homeowners' property. This would alleviate a lot of pain and suffering that Council, Mr. Silverberg personally, and a lot of the other Bay Village residents have been through.

Mr. Silverberg stated that a highly publicized court case was held wherein the defendants were sentenced. Unfortunately there was no representation by the city. Mr. Silverberg stated that he was saddened to see that because he does not think the residents were protected from what had happened. The sentencing did not go their way or the way the city would have liked.

Law Director Ebert stated that City of Bay Village Prosecutor Gary Hotz did call him regarding the case. There was a prior pre-trial discussion concerning what the court was looking at and what the city wanted. There is also a private case downtown that actually is the controlling factor. It has more teeth than anything Judge Hagen could do in Rocky River Court. There was discussion at the pre-trial, about two weeks prior to the hearing. The fact that Mr. Hotz was not present did not have any bearing on the case. Mr. Ebert attended the previous pre-trial with Mr. Hotz. The case downtown has the teeth that can be enforced by the Police Department, if it is a violation of the restraining order.

Mr. Silverberg stated that the violation of the civil court order was The City of Bay Village versus the Barringers. Mr. Ebert stated that the city did not file a civil action. That is a protection order. The city does not have standing downtown. A protective order is with the Court of Common Pleas. There was ample discussion at the pre-trial.

Evan O'Malley, 24801 East Oakland, stated that four years ago he addressed Council regarding deer. He would like to make the Council and Mayor aware that the deer situation is an issue in this city, and is an issue regionally. The Council minutes of February 11 relate that Mr. Clark and Mr. Tadych spoke with the Avon Lake Police Department about the 60 reported deer accidents the last two years in Avon Lake, a majority of which were on Walker Road. The Avon

Minutes of Regular Meeting  
Bay Village City Council  
March 4, 2013

Lake Service Department picked up 44 dead deer. A few years ago, Bay Village Police Chief David Wright stated that there 8 deer/automobile accidents. Mr. O'Malley would like to receive the data from Bay Village as to deer accidents, and if the city is picking up a lot of deer. Mayor Sutherland stated that this information will be obtained for Mr. O'Malley. Mr. O'Malley continued, stating that the key points in deer related issues are the car accidents, the encounters with people, and disease. There are eight deer behind their homes on East Oakland. A residents' five-year-old granddaughter was approached by a buck within a few feet, which could have resulted in the child being kicked, injured, or killed. Mr. O'Malley acknowledged that deer culling is difficult, although it has been successfully accomplished in Solon, Ohio. Research indicates that over 200 people a year in the United States die in crashes caused by deer. State Farm Insurance has estimated that deer hit 1.23 million vehicles between July, 2011 and June of 2012. Over the past four years, deer hits have risen over 8%. It is an issue and if Bay doesn't do anything or look into it, and someone gets killed or injured, the question may be asked why the city didn't do anything.

Operation Manager Landers stated that there are one or two deer per month, if that, picked up by the Service Department. Mayor Sutherland stated that it is difficult to say where the deer were injured. They may have been hit on the freeway and walked up the creek before dying.

Mr. Ebert stated that this is something that the city has looked at and talked about. Avon Lake was going to authorize deer culling by bow and arrow but the ordinance was pulled off the agenda because residents were concerned about the proximity of the homes. A police recommendation in Bay Village was that there would be a potential cause of problems having sharp shooters come in to the densely populated area of Bay Village. The issue has been discussed frequently. Council passed an ordinance last year prohibiting the feeding of deer.

Mr. O'Malley stated he realizes this is a complex issue. He encouraged there be discussion for something to be done, even regionally or state wide with possible funding. People are still feeding the deer which causes the population to grow. The deer cause enormous financial damage as well, including loss of business to local plant providers and resale of homes due to negative curb appeal caused by damaged or missing landscaping.

Mr. O'Malley asked about the commuter rail discussion held last October at a meeting of officials of Bay Village, Lakewood, Cleveland and Olmsted Falls.

Law Director Ebert stated that the reason that Bay Village was invited is because the city has an agreement with the railroad prohibiting the number of trains that can go through Bay Village without the railroad being fined. The agreement did not terminate at its tenth anniversary; it has no expiration date. At that meeting, the issue of the possibility of commuter rail came up, and whether the West Shore cities would be opposed to it because of the agreement. Mr. Ebert stated that the presentation was made that the city is not against commuter rail as long as it does not impact the agreement with the railroad. The railroad, at that meeting, assured everyone that they would not stand in the way of commuter rail. The problem is that commuter rail would have to make an agreement with the railroad for the use of the rail. There hasn't been any further movement on this topic since then. No one has contacted the City of Bay Village recently. Our

Minutes of Regular Meeting  
Bay Village City Council  
March 4, 2013

agreement stands in place. Rocky River, Lakewood, and Bay Village's agreement is not going to be hindered in any way. The cities agreed not to stand in the way but there has been no further impetus to move the commuter rail forward.

Mayor Sutherland added that a commuter rail study was done with the Northeast Ohio Areawide Coordinating Agency approximately ten years ago. The cost for ridership was astronomical. Mayor Sutherland asked who would be funding the commuter rail and was informed that it would be the communities. Taxes would have to be raised because it wouldn't get funded any other way.

Mr. O'Malley stated that he was concerned because he likes the agreement that the city has that limits the number of trains through Bay Village. Mr. Ebert noted that the agreement has stood the test of time. The highest number of trains per day through Bay Village averages between 2 and 3 trains per day with this agreement.

Mr. Clark encouraged Mr. O'Malley to report any violations of the deer feeding ordinance.

Nancy Brown informed Mr. O'Malley that a copy of a report of the animal activity that goes on in Bay Village is available from Mrs. Helen Miller at the Bay Village Police Department. Mrs. Miller will email a report, which she does every two weeks to those interested. The report includes activity including squirrels, chipmunks, dogs, and deer. If the deer are injured and don't run off on their own, the police are called to euthanize the deer and the Service Department removes the animal. Ms. Brown stated that regarding the feeding ordinance, it is her understanding that the police officer has to specifically see a resident feeding the deer to issue a citation.

Ms. Brown asked Mr. Ebert if he has received her emails regarding Superstorm Sandy. Mr. Ebert stated that he did receive Ms. Brown's emails and should have something by the end of the week.

Mr. O'Malley reiterated that the citizens of Bay Village need to know that the officials of the city know that there are deer issues regarding safety, disease, and incidents of physical encounters with deer and children and adults.

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Young **MOVED** to adjourn to Executive Session regarding labor contracts, contracts, personnel, and litigation, at 10:00 p.m.

Roll Call Vote: Yeas- Clark, Koomar, Lee, Lieske, Miller, Tadych, Young. Nays – None. Motion passed 7-0. Also present in Executive Session were Mayor Sutherland, Law Director Ebert, and Finance Director Mahoney.

Council reconvened in an open meeting at 10:20 p.m. Present were: Clark, Koomar, Lee, Lieske, Miller, Tadych, Young.

**ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE**

**Mr. Clark** introduced **ORDINANCE No. 13-13**, amending by reading in Section 1 to add that payment shall be made “subject to appropriate reimbursement in a commensurate amount from the Village Foundation,” **AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH AMERICAN FIREWORKS COMPANY FOR THE 2013 FOURTH OF JULY FIREWORKS DISPLAY, 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. 13-13.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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

Mr. Koomar announced adoption of **Ordinance No. 13-13**, an emergency measure, by a vote of 7-0.

**Mr. Clark** introduced **ORDINANCE NO. 13-14** **AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH SAFE BUILT FOR A TERM OF THREE YEARS AND DECLARING AN EMERGENCY**.

**Ordinance No. 13-14** was placed on **First Reading**.

**PUBLIC IMPROVEMENTS /STREETS/SEWERS/DRAINAGE COMMITTEE**

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

**FINANCE & CLAIMS COMMITTEE**

**Mr. Young** stated that the Annual Appropriation Ordinance will be held for first reading until March 11, 2013, due to substantive changes, one being the SAFEbuilt legislation placed on first reading. Mr. Young stated that due to a large number of changes possible in the ordinance he would like to postpone the reading of the ordinance this evening, noting that there is still time for three readings prior to the end of the month of March. Mr. Young asked that nothing be read into his postponement of the reading, other than that there is going to be a lot of changes and he would

Minutes of Regular Meeting  
Bay Village City Council  
March 4, 2013

like the Council to have another chance to look at the ordinance for revisions.

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

**Motion** by **Lee** to authorize the Service Director to advertise for bids for roof repairs to the Bay Village Municipal Buildings.

**Motion carried 7-0.**

**RECREATION AND PARK IMPROVEMENTS COMMITTEE**

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

**SERVICES, UTILITIES & EQUIPMENT COMMITTEE**

**Motion** by **Tadych** to approve the donation of seven (7) scrap light poles weighing approximately 1, 225 pounds to the Robertson Association, a 501(c) (3) non-profit organization for charitable, educational, and scientific purposes.

**Motion carried 7-0.**

There being no further business to discuss, the meeting adjourned at 10:47 p.m.

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Paul Koomar, President of Council

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Joan Kemper, Clerk of Council