

# City of Bay Village

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

March 25, 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, Police Chief Wright,  
Fire Chief Lyons, Community Services Director Bock, Service Director Galli,  
Operations Manager Landers, Recreation Director Enovitch

Mr. Koomar called the Special Meeting of Council to order at 8:00 p.m. in the Council Chambers with the Pledge of Allegiance led by Councilman-at-large Dwight Clark, and roll call.

Mr. Koomar announced that there will not be a meeting of Council on Monday, April 1, 2013, due to several members on spring break with their families. If a Special Meeting is required on April 8, it will be scheduled and posted.

## ANNOUNCEMENTS

**Mayor Sutherland** is in receipt of the year-end statement from the Cuyahoga Soil and Water Conservation District, and the statement is available for public review.

The Annual Report of the Cuyahoga County Board of Health detailing the activities the Board has participated in for the City of Bay Village has been received by the Mayor and is available for review.

The Mayor advised that while she was on vacation she received a communication from resident Calvin Radisek, who sent in a petition for the addition of bike lanes to some of the streets. Mayor Sutherland turned the petitions over to Mr. Clark for consideration of the Environment, Safety and Community Services Committee.

Mayor Sutherland issued a **Certificate of Outstanding Achievement** to Bay Village High School Junior Elizabeth Auckley on winning the Division II, State Swim Championship in the 100 Butterfly, and an impressive showing in the 100 Backstroke on February 23, 2013 in Canton, Ohio. A round of applause and congratulations followed to Elizabeth and her family.

Members of **Brownie Troop No. 278**, including Sydney LaMotte, Jennie Koomar, Claire Lindway, Norah Hamil, Chaeli Ziebarth and Lauren McCarty presented the details of their Stuffed Animal Drive for Charity. The girls are accepting donations of stuffed animals which they will clean and prepare for delivery to Cuyahoga County Department of Children Services for children who may be going through a difficult experience. The stuffed animals and donations

can be dropped off until April 13 at the Police Station. This special project will be advertised on the City Hall marquee. Also working on the project but not able to attend the meeting are Summer Reid, Alison Hartzell, Allison Reitz, and Emily Martin.

## **AUDIENCE**

The following were present: Jerrie Barnett, Sue Fink, Mike Gore, Russell Thompson, Evan O'Malley, Denny Wendell, Jeff Gallatin, Bruce Geiselman, Tom Carey.

Mr. Tom Carey, 31011 Lake Road, advised that he is present this evening because of incidents he had this weekend when trying to utilize the newly passed deer ordinance prohibiting feeding of the deer. Mr. Carey ran into some difficulty in having his issue resolved in an appropriate manner. He submitted photographs of deer in his yard, taken today, and noted that he loves deer, does not hate deer in any way, shape or form, but does disapprove of artificially inflating a natural deer population through feeding of deer. Mr. Carey's neighbor has engaged in that very action. This is a third year event. Mr. Carey has tried to be amicable in resolving this with his neighbor, but she insists the deer are suffering and deserve compensation from being chased from their natural habitat. Mr. Carey stated that each deer requires about seven acres of natural feed habitat. The fourteen deer that he witnessed in his back yard would thus require 98 acres to survive naturally. As a result, these deer that are artificially fed require more food than what is being given to them. In this city, we have come to learn that we don't like fences, and that is a completely admirable premise to have a community based on to encourage openness among neighbors. However, when the responsibility from one neighbor to another breaks down, these types of issues arise. It should be considered irresponsible to feed a large, wild animal that is capable of doing destruction, on the order of what the deer do. Over the years, there have been perhaps thousands of dollars of plant damage. They have entered the pool area of the Carey property, and have eaten out of the hanging baskets. They should not be encouraged. This is no different than hiring someone to go out in the neighborhood and destroy people's property. You are asking wild animals to come to a place; they are not sufficiently fed there, they breed, they require more food, and they will thus go into the neighbors' yards. These neighbors do not necessarily consent to having all of their plants eaten by deer. Mr. Carey stated that the specific issue being brought forward tonight is that in these photographs there is incontrovertible proof that his neighbor feeds deer. There are three bowls located behind her fence line. When the police officer was called on Saturday he saw the grain, it was spread out beside the bowls. The intent of the ordinance that was passed was to discourage that type of behavior. When calling the Police Department on Saturday, March 23, the police officer stated that he was not sure they were going to do anything about that because the Chief said they were not going to enforce the deer feeding ordinance. Mr. Carey found that troubling. The police officer did offer to send a police officer out. Officer Duffy, a new officer on the force came out. He was extremely professional. He saw the deer, he saw the bowls, and the large number of deer tracks in Mr. Carey's back yard. The officer stated that he would go over to the neighbor's house and ask her to pick up the bowls. The neighbor was not there. Officer Duffy stated that he would ask his Lieutenant to contact City Prosecutor Hotz on Monday, March 25, about the enforceability of the deer ordinance. In talking with Chief Wright today, he agrees it is illegal to feed deer in Bay Village; however, the requirement is that the officer must specifically witness the deer eating out of the bowl. The method of enforcement of this ordinance must be clarified.

Mr. Koomar stated that we have had noise ordinances over the years and if an officer would hear that noise late at night they could be the complainant. But, a resident could also be a complainant.

Chief Wright stated that he is happy to report that after 32 years and 5 months of service he has never advised an officer not to enforce an ordinance for the City of Bay Village as they see fit in any ethical situation. Chief Wright stated that he reviewed the ordinance prohibiting the feeding of deer late this afternoon, and the ordinance addresses Mr. Carey's problem. The ordinance addresses the problem of feeding deer and actually setting out food for these various wild animals. All officers will be well versed and advised on Codified Ordinance 533 and know what to do in these situations. Enforcement of the ordinance is complaint-driven and in the way it is written it is solid.

Law Director Ebert noted that there were 12 deer in his back yard eating his shrubs this past Sunday. In regard to Mr. Carey's complaint, Mr. Ebert stated that he did talk to Prosecutor Hotz and he agreed the ordinance will be enforced as long as there is proof, such as the feeding dishes are present. The city normally tries to be user-friendly by asking them to first remove the feeding bowls. If they do not comply, they will be cited. The ordinance will be enforced.

Chief Wright noted that on a first complaint they will give a verbal warning and teach methods of intervention. The second call is a written warning. The third time results in a citation and fourth time or thereafter could be a physical arrest. Chief Wright noted that action taken depends on the various circumstances when the officer is called.

Mr. Carey noted that every time he has dealt with the Bay Village Police they have been very professional. He noted that this particular neighbor has been called on previously by the officers, and her property has been photographed by the police.

Mr. Koomar called for a reading of the Minutes of the Regular Meeting of Council held March 18, 2013. Mr. Young **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. **Motion carried 7-0.** Mr. Koomar called for a reading of the Minutes of Cahoon Memorial Park Trustees Meeting held March 18, 2013. **Motion carried 8-0.**

**Mr. Young** read and **ORDINANCE NO. 13-16, AMENDING CODIFIED ORDINANCE SECTION 181.36(b) REGARDING DISBURSEMENT OF MUNICIPAL INCOME TAX FUNDS, AND DECLARING AN EMERGENCY.**

Mr. Young commented that in 2012, the disbursement of municipal income tax was changed to be 96% toward General Fund, 2% to the Accrued Benefits Fund, and 2% to the Equipment Replacement Fund. This year the disbursement will be 98% to the General Fund, and 2% to the Accrued Benefits Fund. Mr. Young noted that in reading the budget this year, there is an amount equal to 2% of Municipal Income Tax receipts allocated to the Equipment Replacement Fund. There have been a number of discussions about the percentages to be allocated. It changes each year depending on the amount of equipment needed. In 2012, the amount of \$450,000 was allocated toward the purchase of a Fire Department Pumper Truck, but the purchase order was

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not issued until this year.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 13-16.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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

Mr. Koomar announced adoption of **Ordinance No. 13-16** an emergency measure, by a vote of 7-0.

**Mr. Young** read **Ordinance No. 13-15**, TO MAKE APPROPRIATIONS FOR THE CURRENT AND OTHER EXPENDITURES OF THE CITY OF BAY VILLAGE FOR THE FISCAL YEAR 2013, INCLUDING TEMPORARY APPROPRIATIONS HERETOFORE MADE IN ORDINANCES NOS. 12-108, 13-08 AND 13-11, AND DECLARING AN EMERGENCY.

Mr. Young thanked Mayor Sutherland, Directors, new Finance Director Renee Mahoney, and members of the Finance Committee for their hard work on this annual budget. The budget is balanced, and increases slightly the amount in the General Reserve Fund. Mr. Young stated that money was not taken from future years to balance this budget, and he is very proud of the work done by all.

Mr. Koomar echoed the compliments of Mr. Young to Council and the Finance Committee, and expressed appreciation to Finance Director Mahoney stating that she dug in and added some new best practices that all on Council appreciate.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 13-15.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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

Mr. Koomar announced adoption of **Ordinance No. 13-15** an emergency measure, by a vote of 7-0.

**Mr. Clark** introduced **RESOLUTION NO. 13-18 AUTHORIZING THE FILING OF A 2013-2014 DRUG ABUSE RESISTANCE EDUCATION (DARE) LAW ENFORCEMENT GRANT APPLICATION, 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. 13-18.

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. 13-18** an emergency measure, by a vote of 7-0.

**Mr. Clark** introduced **RESOLUTION NO. 13-19 AUTHORIZING THE FILING OF A 2013-2014 OHIO DEPARTMENT OF PUBLIC SAFETY (ODPS) EMERGENCY MEDICAL SERVICES GRANT APPLICATION, 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. 13-19.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

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Roll Call on Use of the Emergency Clause:

Yeas –Lieske, Miller, Tadych, Young, Clark, Koomar, Lee

Nays -None

Roll Call on Adoption:

Yeas–Lieske, Miller, Tadych, Young, Clark, Koomar, Lee

Nays–None.

Mr. Koomar announced adoption of **Ordinance No. 13-19** an emergency measure, by a vote of 7-0.

**Mr. Clark** introduced **RESOLUTION NO. 13-20** APPROVING USE BY ANGELO AND DENISE PAPOTTO, 25654 LAKE ROAD, OF SUBMERGED LANDS OF LAKE ERIE FOR SHORELINE IMPROVEMENTS, 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. 13-20.

Roll Call on Suspension of Charter Rules:

Yeas-Miller, Tadych, Young, Clark, Koomar, Lee, Lieske

Nays-None

Roll Call on Suspension of Council Rules:

Yeas –Miller, Tadych, Young, Clark, Koomar, Lee, Lieske

Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –Miller, Tadych, Young, Clark, Koomar, Lee, Lieske

Nays -None

Roll Call on Adoption:

Yeas–Miller, Tadych, Young, Clark, Koomar, Lee, Lieske

Nays–None.

Mr. Koomar announced adoption of **Ordinance No. 13-20** an emergency measure, by a vote of 7-0.

**Mr. Miller** introduced **ORDINANCE NO. 13-21** AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CAMPOPIANO ROOFING FOR THE REPLACEMENT OF THE BAY VILLAGE CITY HALL ROOF, AND DECLARING AN EMERGENCY, and moved for adoption. Mr. Miller clarified that this is for the shingled portion of the roof.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 13-21.

Roll Call on Suspension of Charter Rules:

Yeas-Tadych, Young, Clark, Koomar, Lee, Lieske, Miller

Nays-None

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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

Mr. Koomar announced adoption of **Ordinance No. 13-21** an emergency measure, by a vote of 7-0.

**Motion** by **Mr. Lee** to remove Standby Generators from the List of Matters Pending before Council Committee, as Ordinance 12-111 was adopted on January 28, 2013. **Motion passed 7-0.**

### **Update on Fire Inspection Process**

**Mr. Koomar** asked Fire Chief Lyons to brief Council on the fire inspection process, the importance of the process and what is going to be done going forward.

Fire Chief Lyons stated that from 1970 through the summer of 2012, the City of Bay Village had a Fire Prevention Safety Officer to conduct fire safety inspections for the commercial establishments in the City of Bay Village. That position is no longer funded. In going forward, the Fire Chief still has the responsibility of making sure that something is done in regard to fire prevention activities. There are communities across the nation that have gone to a self-inspection program. There has not been any progress in implementation of this program, but they are examining what other communities across the country have done to see what is successful. Ultimately, the goal will be to produce a self-inspection document that will be given to commercial occupants and tenants. They will assume the responsibility for doing their own fire safety inspections with the guidance of the document, and assume the responsibility of testifying to the Fire Department on an annual basis that they do, indeed, meet the requirements of the Ohio Fire Code.

Mr. Koomar asked if it is correct that the Fire Department crews as they circulate throughout the community will make a review of that. Chief Lyons stated that they will try to do some spot follow-ups, and if finding violations will deal with them on a case-by-case basis.

Mr. Koomar stated that this answer is not good enough for him personally, to try to do a spot follow-up. What Mr. Koomar needs to know from Chief Lyons is, and it can be put on the Council agenda for April 8, what the process is, when it is going to be effective, and when the Fire Department is transitioning to that. Applicants, or people out in the community, are asking when this inspection process is going to be in force, and there are carve-outs: some go to the state for their fire inspection.

Chief Lyons stated that the schools and city have to have a physical inspection annually.

Arrangements are made with the State Fire Marshall for those inspections.

Mr. Koomar asked Chief Lyons if he has communicated with the schools so they understand the time frame. Chief Lyons answered affirmatively. Mr. Koomar stated that there probably is a different opinion there. The letters Mr. Koomar has sent Chief Lyons have received no response. He suggested talking more about this off-line and circling back on April so there can be a clear vision on how this program works. There is a concern on Council to make sure it is a safe program and they would like the Chief's endorsement and information as to how the Fire Department will go around and complete those inspections under a new process. On April 8, the forms can be examined by Council and Chief Lyons can explain how the Fire Department is communicating with these properties that need inspections.

Chief Lyons stated that his intention when talking to the Mayor was to have the program in place by the second quarter of this year. Mr. Koomar stated that he would appreciate an update on some of the specifics. There are questions out in the community and he wants to make sure he answers them properly or refers them to the Fire Chief, if that is the right thing to do.

Mr. Lee asked if the fire alarm system at the Community House has been completed and tested. Service Director Galli stated that the fire alarm system is not done yet. The contractor has advised that he hopes to have it done by Thursday of this week. A final date and inspection will be scheduled either this week or next week.

Mr. Clark asked if this delays the commencement of the lease for the Village Bicycle Cooperative. Mr. Galli stated that they did a walk-through on Saturday. The building has not been turned over to them yet. Mr. Koomar stated that until that system is operational with a sign-off from the Fire Department, they cannot take occupancy. Chief Lyons stated that Mr. Koomar's statement is correct.

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 9:00 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, Mr. Bob Kelly, Engineer for the City of Westlake, Law Director Ebert and Finance Director Mahoney.

Council reconvened in an open meeting at 9:48 p.m. Present were: Clark, Koomar, Lee, Lieske, Miller, Tadych, Young. Mr. Clark was wished a very Happy Birthday to be celebrated when Council is off in the beginning of April.

There being no further business to discuss, the meeting adjourned at 9:50 p.m.

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Paul Koomar, President of Council

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Joan Kemper, Clerk of Council