

City of Bay Village

Council Minutes, Committee Session
Conference Room

June 24, 2013
7:30 p.m.

Paul Koomar, President of Council, presiding

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

Absent: Mr. Lee, on vacation

Others

Present: Law Director Ebert, Finance Director Mahoney, Service Director Galli, Operations Manager Landers, Community Services Director Bock, Acting Police Chief Holliday, Police Lieutenant Mark Spaetzel, Fire Chief Lyons, Chief Building Official Cheatham

President of Council Koomar called the meeting to order at 7:30 p.m. in the Conference Room of Bay Village City Hall, and the meeting was open to the public.

A review of the agenda items for the Special Meeting of Council to be held after this Committee Meeting of Council followed.

Mr. Clark commented that he will introduce an ordinance this evening authorizing the Mayor to enter into an agreement with the Bay Village School District and McKeon Education Group to provide prevention and intervention services for the 2013/2014 school year. The city pays half of the fee for the services and the schools pay the other half. Council received in their packets this weekend a summary of activity for the past year. Mr. Clark complimented the work by McKeon Education Services. Mr. Koomar noted a modest, two to three percent increase to the contract this year, stating that this is the first increase in four years. The amount was known previous to accepting these terms and the city's portion is reflected in the budget for this year.

Mrs. Lieske noted that in the actual service agreement provided to Council for review, it was indicated that billing is done monthly. The ordinance states that payments are made twice per year. Mr. Clark stated that the schools are the fiscal agent for the contract. Mrs. Lieske noted that the service agreement states that McKeon Education Group will invoice the Board of Education and the City of Bay Village on the 15th of each month. Mr. Clark will clarify the process with the schools.

Mr. Young advised that at 6 p.m. this evening there was a public hearing held for the 2014 Tax Budget. There was one change to the tax budget, allocating the amount of \$163,929 to the General Reserve Fund. This money represents the reimbursement from FEMA and First Energy Corporation for storm damages. Mr. Young will amend the tax budget on reading at this evening's special meeting of Council.

Mr. Young reviewed the ordinance amending rates of compensation for officers and employees of the General Administration Department, and those employees of the city not covered by separate labor contract. The ordinance is being amended to eliminate a full time Activities Manager at the Dwyer Memorial Center, and provide compensation for a part time Activities Manager at the Dwyer Memorial Center. The amount of \$500 per month for the position of Executive Officer/Acting Police Chief is included in the ordinance.

Mr. Tadych advised that residents have reported traffic problems at Bayfair and Columbia Court, on the east side of Columbia Court. The traffic is not yielding as it moves through. Mr. Tadych stated that the ordinance he will introduce this evening amending the traffic control map and enacting new traffic control by the replacement of the yield sign to a stop sign, is an attempt to make it safe for the children who live in the area. The original signage in 1979 was changed from a stop sign to a yield sign. It has been a yield sign all of this time. The area has changed and there is heavier traffic now than in the past. Mr. Koomar added that he received input from the Police Chief that because it was changed from a stop sign to a yield sign, it is possible to go back up to a stop sign. It is a situation that can be made safer by moving back to the original signage. Acting Chief Holliday concurred with the comments of Mr. Koomar.

Mr. Young commented that the normal course of this action would go through the Environment and Safety Committee of Council to review such matters before they are presented to the Council of the Whole. Mr. Young stated that he would appreciate it if it is done that way in the future, noting there is a reason why there are Council committees and it should be done in that fashion.

Mr. Koomar stated that after receiving clarification from the chief he wanted to place it before the group. If the Council chooses to refer it to the Environment and Safety Committee, it is fine with Mr. Koomar, but because of the Council recess and there is a safety issue, he wanted to bring the matter before Council at this time.

Mr. Miller reviewed a document prepared by Director of Public Service and Properties Galli. The cover of the document is a map of the areas that were originally scheduled for the 2013 Pavement Maintenance and Resurfacing Project. This Area 1 includes Forestview Road (Lake Road to Wolf Road), Vineland Road (Lake Road to Wolf Road), Upland Road (Lake Road to Wolf Road), Bruce Road (Vineland to Clague), Electric Drive (Forestview to Upland Road), Russell Road (Upland to Clague), and Park Drive (Lake Road to Bruce Road). This is a modification of the original intent where Forestview was not included, and portions of Upland were reduced. After review by Mr. Galli and the Service Department, they felt that Forestview Drive should be included. Area 2, which is two smaller streets to the west of Area 1, Juneway and Conover Drive, which were originally intended as alternates and remain as alternates, are listed on the second page as a delineation of those expenses. The budget total of \$765,000 is going to cover all of the improvements. There are efficiencies that have been recognized by Director Galli, but overall the budget remains the same. There are no changes to the Lake Road, Avon Lake to Longbeach, surface correction.

Mr. Clark commented that in the 2012 project there was money left over that was used for the completion of Donald Drive and West Oviatt. He asked if other streets would be anticipated for improvement if there are funds left over this year. Mr. Galli stated that after the project is bid

and the numbers come in, if there are additional dollars he would entertain feedback on what else could be considered. Mr. Young asked about the basketball courts at Bradley Road Park. Mr. Clark stated that the Bradley Road Park Tennis Courts were included in last year's capital plan. Mr. Miller clarified that the document being reviewed this evening addresses only road resurfacing. He asked Mr. Galli the time line from bidding, award of contract, and completion of listed projects. Mr. Galli stated that he would be looking to begin work by August 15 with completion by September 30. Mr. Miller asked if there would still be time prior to asphalt plants closing in late November to identify other streets that may need work, if there are savings in the estimated costs. Mr. Galli stated that they would identify that quickly and try to integrate it into the original timeframe of work.

Mr. Miller advised that with the Lake Road Project, engineering has been completed and the bidding process will begin. Mr. Galli stated that the only change is the estimate of engineering costs of \$62,000 ended up to be \$48,885. The Ohio Department of Transportation (ODOT) adjusted their estimate of project to be \$750,000. The City of Bay Village pays the entire contract and is reimbursed for 85% of the cost of construction by ODOT at the end of the project. Finance Director Mahoney will prepare an appropriation ordinance to accommodate the full amount of the project. Previously only the Bay Village portion was appropriated.

Mr. Koomar commented that the Dover Center Road Tennis Courts are now open for play. He reported that the Reese Park Tennis Courts may need some attention since there are some large cracks that need patching. Mr. Galli stated that funds were appropriated to re-color the courts at Bradley Road. When proposals are prepared for that project something can be included for the Reese Park Tennis Courts.

In the Executive Session this evening, under the personnel category, Mr. Ebert advised adding Police Chief reorganization and qualifications.

COMMITTEE OF THE WHOLE

Update: Civil Service Commission – Police Chief

Mr. Ebert commented that the Civil Service Commission held a meeting on Wednesday, June 19, 2013, to discuss the Police Chief vacancy. Rather than set a testing date for the position of Police Chief, the Commission realized that the qualifications for the position put together in 1996 are outdated. There is also an issue regarding what type of testing should be done. There are four officers who have expressed interest in taking the test. Rather than rush forward, the Civil Service Commission is doing their research and due diligence before setting a schedule for testing. The Commission will meet again on July 10. In compliance with Civil Service Rules and Regulations regarding temporary appointments, Lieutenant Holliday has been appointed Acting Chief. The temporary appointment of Acting Chief Holliday for a period of 120 days, in accordance with the Civil Service Rules, can be extended by the Civil Service Commission. The Mayor noted that once the date for a Civil Service Examination is set there needs to be a 30-day period of allowance for study by the candidates. The Mayor will keep the Council posted on the timing of the proceedings.

AUDIENCE

The following were present: Dick Majewski, Jerrie Barnett, Lawrence Kuh, Denny Wendell, Marty Mace, Susan Murnane, Susan Fink, Nancy Brown, Conda Boyd, Bruce Geiselman, Jeff Gallatin.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE

Fire Inspection Services – Report of low range options

Fire Chief Lyons reported that the Mayor, Law Director and he have had discussions and are still examining both options of possibly part time accommodation for inspections, or doing inspections on shift. There are still a few details that need to be worked out. Mayor Sutherland added that they do have the two options that they are looking at which are to have a part time inspector, or the second option, doing the inspections on shift. The Mayor stated that she had a conversation with the head of the union before he went on vacation. They are going to get together when he gets back to talk about how that might work. They have Plan A, Plan B, and Plan C. Mr. Koomar thanked the Mayor for the information and suggested that when Council meets in special session in July, there may be more information available at that time.

Update on Fire Study Grant

Mr. Koomar stated that he has asked Mayor Sutherland for an update on the Fire Study Grant, knowing that they are still at a preliminary basis. Mayor Sutherland stated that the formal notification of the grant has been received. There is a second piece to the approval process which is approval by the State of Ohio Controlling Board. This should take place on July 8. After that approval, agreements will be sent out to all the communities.

Mr. Koomar asked if the Mayor could send him all the minutes of the Council of Governments from 2010 forward in his packet this weekend to have for the review of the newer members of Council during summer recess. Mr. Clark suggested making one copy for him to go through prior to passing it on to the other members. Mayor Sutherland stated that the Westshore Council of Governments meets on a monthly basis, but it also depends on what is going on. There have been periods of time where they only met quarterly, and other times have met more. It is really driven by what is going on around the cities. The Fire District Study Grant was originally awarded in 2008 and 2009. Mr. Koomar stated that his point is we know that the grant was received, and the report was shared. The reason he doesn't need the minutes for that is because we have the final outcome. The Mayor stated that they don't necessarily talk about the Fire District at the Westshore Council of Government meetings because it is a separate issue with a separate committee. Mr. Koomar suggested giving him one set of the WCOG minutes for Mr. Clark and Mr. Koomar to review. If there are things to pull out for others, they will do so. Mr. Clark stated that they would like to make it relevant because a majority of Council would not have been on board when that occurred.

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE

Mr. Miller stated that the Public Improvements, Streets, Sewers and Drainage Committee is anticipating receipt of engineering proposals for the Sunset Area Improvements from the two invited firms this Friday, June 28, 2013.

FINANCE & CLAIMS COMMITTEE

Mr. Young advised that the Finance and Claims Committee met this evening at 6:30 p.m. and discussed possible revenue enhancements that may need to be reviewed going forward. The committee also talked about capital funding for the city, and some of the challenges faced. In general, the finances are in good shape as far as capital funding for some of the needs as far as sewers. There was also discussion about the telephone system for the city hall.

RECREATION & PARK IMPROVEMENT COMMITTEE-Lieske

Mrs. Lieske had no report this evening.

SERVICES, UTILITIES AND EQUIPMENT COMMITTEE-Tadych

Mr. Tadych had no further report this evening.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Lee

Construction signs at Bay Village Schools

Law Director Ebert advised Council that the construction signs to be installed at the Bay Village Schools will be up for at least one year. The Mayor can authorize temporary signs, and Council can grant an extension past the 90 day permission period.

Mr. John Cheatham, Chief Building Official, stated that the signs will be placed on school property. The signs are required to be part of the construction process, and may be necessary for up to 18 months.

Rezoning of parcels for proposed land redevelopment

Mr. Koomar stated that there have been discussions this week on two parcels of land near Cahoon Creek. Mr. Ebert stated that two parcel owners on the west side of Cahoon Creek have communicated through email asking Council to rezone their property so that they can seek a developer to develop the property. They both have come forward, in writing, with this rezoning request.

Mr. Koomar noted that Planning and Zoning Committee Chairman Steve Lee is on vacation this week but he has talked with the members of the Council regarding this matter. Several years ago, Council put on the ballot for the voters, the rezoning of the former Shell Gasoline property on Wolf Road, next to the Bay Square Shopping Center. The parcel was rezoned at that time. What has come up recently is there might be interest from a developer, or several, that would like to develop potentially, both sides of the Cahoon Creek area simultaneously. Mr. Lee and his committee talked

about the concept of rezoning that piece and extending on the original intent of Council to allow a developer to develop both sides of the creek which may be a more complete development and taking the views into account, might be a slightly better project. Mr. Ebert added that Mr. Lustri, the owner of the property on the west side of the creek, has suggested that the only way the property would be sold is to get some sort of attached residences there. Because the depth of that property is so short, it was considered the proper use of that property in the city's Master Plan. What is under consideration is the same rezoning measure that was undertaken for the former Shell Gasoline Station property. This rezoning would be for attached residence on the west side of the creek. The issue concerning who the developer would be and what would be involved is totally separate and subject to a whole discussion by Council, if the rezoning passes. It is not attached to anything that would be put on the ballot. The land would be rezoned with prospective builders to come and have the option to buy the property. The rezoning would have to be approved by the voters in Ward 2 and the entire city.

Mr. Koomar stated that Mr. Lee has also talked about wanting to try to come to a consensus on Chapter 1158, Attached Residence District. Realizing the time frame and the summer recess of Council, this would be something he would want to take up in the fall and come back with a recommendation of the committee, and follow through with multiple committee sessions before passage by year-end. Unlinking changes to Chapter 1158 from a specific developer and putting it out for Council's consideration is the topic of discussion for this evening.

Mr. Ebert has given the Council a timeline for consideration of an ordinance to be placed on the ballot for rezoning. The ordinance would be subject to three readings and a public hearing over the summer months. Mayor Sutherland advised that what is being considered for zoning change is completely separate from the entire review process and those public hearings of the Planning Commission and the Architectural Board of Review.

Mr. Koomar called for comments from members of the Council.

Mr. Miller stated that he believes this process helps to give the committee time to address Chapter 1158 as it should be addressed. It has been addressed by several committees over the past ten years. There are so many options that can go into this it cannot be crafted to one particular project. To be fair to the city as a whole, we are addressing what could be accepted. It is a smart approach, and also gives the property owners the ability to do something that is economically viable for them as individuals.

Mr. Young stated that in general the idea of rezoning parcels is that the citizens of Bay Village will be able to vote on the matter. In many other cities this is not the case. The review of Chapter 1158 will be a bigger challenge and Mr. Young looks forward to discussions and meetings this fall.

Mr. Ebert noted that the parcels in question are Mr. Lustri's property on Cahoon Road and Wolf Road, the home to the north, and one empty lot to the south next to Mr. Lustri. It does not go all the way down Cahoon where the existing homes are located. Considering both sides of the creek, the amount of land is 4.1 or 4.2 acres.

Committee Meeting of Council
June 24, 2013

Mr. Tadych stated that in the overall picture of Chapter 1158, Mr. Lee and he talked for about an hour the other day about what Mr. Tadych's committee did in the past. Mr. Lee and Mr. Tadych again sat down with the Law Director last week and renewed the whole conversation, getting Mr. Ebert's input, and bringing Mr. Lee up to date.

Mr. Clark commented that it is fair to say that this is not prejudicial to any one developer. It is independent of that and there is no incremental cost to having this on the ballot, since we already have a general election in November.

Mrs. Lieske stated that she is in favor of letting the voters decide. Some clarity was added tonight in terms of separating everything out regarding Chapter 1158 and not being tied to any one developer.

Mr. Koomar stated that when the committee would come up with recommendations some of those recommendations would get filtered into that property if it were to be rezoned just from the standpoint that the rezoning would happen in November and the Chapter 1158 discussions would be finished by year end. Anything the committee thought would be an improvement that would be brought to the Committee of the Whole probably would be incorporated into future development.

Mrs. Barnett asked if anything has been decided about the Peddlers and Solicitors ordinance or is it still on hold. Mr. Ebert stated that the ordinance is on reading until there is a conference which will be held in July, and the plaintiffs can agree to the legislation. Mrs. Barnett noted that for the time being persons can solicit at any time. Mr. Ebert stated that the time for solicitation is until 9 p.m.

Mrs. Susan Murnane asked about the redevelopment on Cahoon Creek at Wolf Road. In this week's *Westlife*, they reported that the Mayor had said that this development would require tax abatement. Mrs. Murnane asked if this is city taxes only, or will it also include county and school taxes. And, how will this come about? Will it be by vote of Council? Or, will there be an opportunity for the citizens to vote on this, or is there some other process that they don't know about?

Mr. Koomar stated that Council has not taken this matter up, and deferred to Mayor Sutherland to answer the comments that were in the newspaper. He stated further that if Council were to pick up that item, tax abatement would not be covered under Executive Session, so any conversation that would be had on that in the future would be in a committee session open to the public.

Mrs. Murnane asked if Council has the authority to do tax abatement for county and school taxes as well as city taxes. Mrs. Murnane was informed that Council does not have the authority for tax abatement for county and school taxes.

Mrs. Murnane asked if Council could decide its own city tax abatement by ordinance. Mayor Sutherland stated that she thought this is correct. Mr. Koomar stated that this is new for him, but he is assuming that would be the case.

Mayor Sutherland stated that the point she was trying to make was that with most development in this economic environment right now there is some type of public investment. It may not be tax abatement. It could be tax incremental financing. It could be the county coming in and helping to

clean up the soil over at the gas station. There are a variety of ways that can be achieved. It's way, way early to even guess what those would be. Mayor Sutherland stated that the point she was trying to make that in most cases right now, because of the changes in the finance and banking industry, it has been very difficult for developers to get the financing they got seven years ago. There's got to be some type of public investment. It could be municipal, it could be county, it could be state, or some type of package.

Mrs. Murnane stated that her concern is to make sure they know what it is. As you know, our taxes are crushingly high and all of us would love tax abatement. Mrs. Murnane stated that she lives off Bradley Road and there have been two recent tear downs on Bradley, of what looked to be very nice houses, for great big, fancy, luxury houses to be built in their places. It seems extraordinary that if we are talking about tax abatement, we are talking about tax abatement for condominiums that are going to cost between \$350,000 and \$750,000. Those of us who own much less expensive properties are rather shocked that we would be subsidizing people buying property at that income level.

Mayor Sutherland stated that you may not be, it is just laying out reality. We all are property owners and we all pay taxes, but also keep in mind that the city portion is only 16% of what we are paying.

Mrs. Murnane asked if there is a process for involving the county and the schools into this, citizens will be advised and there will be public notices and they will know what is going on. Mr. Koomar responded affirmatively.

Conda Boyd stated that supposing she is concerned about this whole tax abatement issue, the only way she is going to actually get to vote is if she votes against the zoning, pending the understanding on whether or not that would get the tax abatement.

Mr. Koomar stated that from a Council perspective, they know of no one that has purchased said property on either side of the creek. When you look at a city like Rocky River that has encouraged redevelopment at various levels, the higher and the lower end, here is a place along the creek like Cahoon Ledges that is very attractive and you might attract folks that have a higher income tax base from their wages and that would be good for the city. Until you have someone who owns the property to approach the city, the goal is to make that land available by going to the voters and asking if they are interested in rezoning that property. There is one developer out there that has approached the city, there may be others. They are very distinct issues from a Council perspective.

Ms. Boyd stated that from a voter's perspective, if they separate out all these little issues and say we are not going to talk about Chapter 1158 as a whole, we are just going to talk about this land we are rezoning. When we do rezoning, we're not going to talk about the potential for tax abatement. Then, step by step, we end up in a place that the citizens of Ward 2 might not want to be in. Ms. Boyd stated that she would rather have the opportunity to vote on tax abatement, and you can always put those things on the ballot. She stated that she would like the Council to say let's ask the voters what kind of city we want to be, how do we want to handle these developments. "If we let the nose of the camel in the tent, that's not the end of it, and I am very, very concerned."

Mr. Koomar stated that prior to November Council will take up the concept of tax abatement and discuss that publicly. There would be a pretty good idea of the intent at that point in time, which would allow, if placed on the ballot, to vote on the rezoning with a whole set of facts. Tonight, because of recess and trying to move this through to decide whether we want get that part on the ballot, we need to discuss the rezoning. But, in September or October especially as the budget rolls out before November, I think we will have discussions on the tax abatement issue because it is only fair to the residents. Otherwise, you don't have a full understanding of what you are voting on.

Nancy Brown stated that it is her understanding that the builder has already served a legal letter of intent to Mr. Lustri and the neighbor of Mr. Lustri to purchase and move forward if Council moves forward.

Mr. Koomar stated that he is personally not aware of it and deferred to Mayor Sutherland and Mr. Ebert. Mr. Ebert stated that whoever would buy the property still has to go through the Council and Planning Commission.

Mrs. Murnane stated that she has heard that the individual, Andrew Brickman, with whom she has been in contact, also made a presentation to Council on June 3 in which he said he was interested in redeveloping that property only if he received abatement. He has been unwilling to give Mrs. Murnane the copy of the presentation he made to Council. The city did not retain a copy so Mrs. Murnane has been unable to get a copy of the Power Point presentation through Mayor Sutherland and the Clerk of Council.

Mr. Koomar stated that he would try to get a copy of the presentation for Mrs. Murnane. There is nothing on there that is earth-shattering. It was one developer and his concept of what could be.

Mrs. Murnane stated that Andrew Brickman is the person who has entered the letter of intent to purchase the property and he said he would do this only if he had tax abatement which is what makes us curious about what kind of tax abatement and what is the process by which this would happen. If we approve rezoning, will tax abatement follow without citizen input?

Mr. Koomar stated that this was one idea from one developer and maybe one request. Mr. Ebert added that Council has to pass an ordinance for tax abatement so there would be discussion. This rezoning is separate. Could he be the developer? Could be. You don't know. But, that whole debate would happen no differently than the option on the Shell property. It never happened. It was rezoned but the builder never went forward.

Mr. Koomar stated that at the time there was a builder that said this would be a great piece of property and he was trying to show what a potential redevelopment of the area would look like. After it was rezoned, they weren't interested. There are many developers out there. Mr. Koomar noted that he cannot speak for Mr. Brickman. He can only speak for the rezoning and allowing the residents to go forward and for Council to have that discussion prior to the November election so they feel fully informed.

Mr. Young stated that the city portion of taxes is a small fraction of what would be a total abatement. The other entities would be the taxing authorities that should be contacted. Mrs.

Committee Meeting of Council
June 24, 2013

Murnane responded that if Mr. Young knows who to contact at the county and the school board she would be very grateful for that contact information.

There being no further business to discuss, the meeting adjourned at 8:25 p.m.

Paul Koomar, President of Council

Joan Kemper, Clerk of Council