

City of Bay Village

Council Minutes, Special Meeting
Council Chambers 6:00 p.m.

August 27, 2013

Paul A. Koomar, President of Council, Presiding

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

Not Present: Tadych

Also Present: Law Director Ebert, Finance Director Mahoney, Service Director Galli, Operations Manager Landers

Prior to calling the meeting to order, Mr. Koomar called for a review of tonight's agenda. During the review, Director of Public Service and Properties Dan Galli, at the request of Mayor Sutherland, discussed the work to be done at the Bradley Park tennis courts following approval of the contract. Mr. Galli stated that the scope of the work is the application of the acrylic playing surface that goes on top of what is on the courts. The Bay High School has provided Mr. Galli with the schedule for their tennis program which is being evaluated for adjustments necessary during the project. The contract can be awarded and will be set to work around the schedule and weather. Mr. Koomar suggested that if there is a way to use Dover Courts for a practice that may be a possibility. He noted that this is a preventive program to lengthen the life of the courts.

The basketball court paving surface at Bradley Park will be tied into the 2013 Road Resurfacing Program which is due to start on September 3. If there is inclement weather, the project can be held until next year.

The Lake Road Resurfacing Project will begin September 9. The contract amount of \$582,000 is an 85%/15% split with the Ohio Department of Transportation paying 85%. The City of Bay Village, in addition to the 15% cost of the contract, is responsible for the engineering and inspection portions of the contract. The work will be completed prior to the leaf collection season. The city will pay for the entire contract and when the project is completed, the Ohio Department of Transportation will be billed for their portion.

Mr. Young asked Law Director Ebert to review the labor contract with AFSCME, Ohio Council 8, Local 3816, Service, that is on the agenda for approval this evening. Mr. Ebert stated that the contract is a three year term, effective July of 2013, and is one percent for the remainder of this year, two percent for 2014, and two percent for 2015. It also provides that contribution for insurance be in the first month of the day of the execution agreement. Contributions for those who make less than \$55,000 per year would be 8, 9 and 10% respectively. Over \$55,000 would be 10, 12, and 14% respectively. Annual deductible, out-of-pocket, and co-pays for network shall not exceed such amounts imposed by the former plan of 2013. There is also an establishment of a Joint Health Care Costs Containment Committee that will be part of the

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agreement. The union has asked that the holiday of Veterans Day be changed to the day after Thanksgiving. There is also new language concerning the overtime bank of compensatory credit. The parties agree to a three year contract as ratified by the AFSCME Service Unit.

Mr. Lee stated that this will result in the withdrawal of any grievance associated with the health plan. Mr. Ebert stated that this is correct pertaining to AFSCME Service. The AFSCME Administration is still working through issues with grievances.

Mrs. Lieske asked Finance Director Mahoney to provide the savings to the city in terms of the insurance and the additional contributions. Mrs. Mahoney stated that the payment is currently at just under 7% so it is not a huge savings, but the deductible went up from \$1,300 to \$2,800 so the city saved \$1,500 per family.

Mr. Young asked Director Mahoney to review the amended appropriation ordinance to be introduced this evening. Mrs. Mahoney stated that the General Fund has been increased by the amount of \$4,800 to allow for a Human Resource Consultant for the remainder of 2013. The Public Improvements Fund has been increased by \$50,000 for the Dwyer Memorial Center restroom renovation and City Hall front doors. This is being funded by \$50,000 from the insurance proceeds for roof repairs. This is a transfer from the roof repair fund.

Mr. Koomar asked if there will be a cap on the number of hours per month for the Human Resource Consultant. Mayor Sutherland stated that the consultant will be paid a retainer, \$1,200 per month. There are specific things that need to be done: a review of the current Policy and Procedures, and programs for family medical leave, etc. The time will be first front-end loaded and after that it will be as expertise is needed.

Mr. Koomar called the Special Meeting of Council to order at 6:00 p.m. in the Council Chambers with the Pledge of Allegiance led by Ward 3 Councilwoman Karen Lieske and roll call.

ANNOUNCEMENTS

Mayor Sutherland stated that there was a test for the Nixle Dial-Up system that went out today. They are attempting to calibrate the system and they do a large volume of calls to tell where there may be problems. When there were problems, the residents called the city hall or the police department, so the Mayor found out very quickly that there was a test going on. The Mayor sent out a Nixle alert that there was not an emergency, it was just a test.

Mr. Miller asked if the problems were connected to the residents' phones or the Nixle Dial-Up. The Mayor stated that it could be part of the phone system, but they will be tweaking and correcting to make sure the calls go through.

Mr. Lee asked if the system is ready to have cell phones added to the dial up system. Mayor Sutherland stated that she did not think so but they are working on that aspect. The cell phones do receive the text or email message in an emergency.

AUDIENCE

The following audience members signed in this evening: Conda Boyd, Dick Majewski, David Volle, John Suter, Tom Henderson.

Mr. John Suter, 281 Parkside Drive, stated that the improvements at Dwyer Memorial Center are great; everyone loves it; finally when you play cards in there you can see the cards. Mr. Suter asked how the carpeting going in this weekend at the Dwyer Memorial Center is being funded. Mr. Clark stated that funds were approved last year, to the extent of about \$20,000 for a variety of projects at the Dwyer Memorial Center. Carpeting was included for bathrooms, lighting, and other improvements to Dwyer Memorial Center. Finance Director Mahoney stated that the second bathroom renovation is included in the appropriations being considered this evening. Mr. Suter asked why the handicap button is placed around the corner at the east side bathrooms. Mr. Galli will consult with the contractor.

Mr. Richard Majewski, Bassett Road, discussed the zoning ordinances passed at the August 5, 2013 meeting. Section 7.4 of the City Charter, Mandatory Referral, states that "Any ordinance referring to zoning or other regulations controlling the use or development of land, be adopted unless and until it shall have been submitted to the Planning Commission for report and recommendation." Mr. Majewski stated he is curious why the ordinances were not referred to the Planning Commission.

Mr. Young asked if the ordinances relating to the former Shell property rezoning in 2010 were referred to the Planning Commission. Mr. Majewski stated that they were referred to the Planning Commission.

Mr. Ebert stated that he prepared a memorandum, after talking to Councilman Miller about this issue, relating to Section 7.4 and 7.6 of the Bay Village City Charter. There was discussion with the Planning Commission over two separate meetings concerning the proposed rezoning of the Cahoon West property. Mr. Ebert attached the minutes of the Planning Commission meetings to his memorandum. There was also discussion at the Public Hearing of Council concerning the proposed rezoning. The project will have to go to the Planning Commission if the project comes forward if the rezoning is approved.

Mr. Majewski stated that Section 7.6 discusses the specific date of the ordinance. Section 7.4 discusses the actual adoption of ordinance by Council.

Mr. Ebert stated that case law supports the city's position.

Mr. Majewski stated that the issue was never on any of the agendas of the Planning Commission. The Planning Commission never saw the ordinances. Mr. Majewski stated that he is stunned that Mr. Ebert is saying that the requirement of the Charter by a simple discussion during the Council update portion of the Planning Commission meeting.

Mr. Ebert stated that it has been discussed as far as the legalities under Charter Section 7.4 and the conflict under Charter Section 7.6 as far as voter approval of rezoning. Chapter 7.6 controls.

Mr. Majewski appealed to Council to read Section 7.4 of the City Charter, and Section 115 of the Administrative Code, and decide for themselves if the requirement of sending these ordinances to the Planning Commission has been met. He noted that it certainly has not been met in his mind.

Conda Boyd, 27896 West Oakland asked when the wording for the ballot on the rezoning issue will be available. Mr. Ebert stated that the Board of Elections sent it out about one week ago. A copy will be provided to Ms. Boyd.

Ms. Boyd asked Mr. Lee the timetable he is looking at to work on the revisions to Chapter 1158.

Mr. Lee stated that tonight he plans to schedule the next Planning, Zoning, Public Buildings and Grounds Committee meeting. He is hopeful that it will be the 9th of September, but needs to clear that date with other members of the committee. The next committee meeting will focus on the rewriting of Chapter 1158, with an attempt to drill down into the key provisions of the chapter and work with the committee on presenting a revised revision early this fall to Council.

Ms. Boyd asked if this will be rewritten before the election in November.

Mr. Lee stated that this would be his goal. If the committee can come to a consensus and report it out to the Council of the Whole, remains to be seen.

Ms. Boyd stated that the requirement of three meetings would mean that it would have to be presented the middle of September.

Mr. Koomar stated that it may be possible to put the ordinance on readings at special meetings in addition to the regular meeting schedule.

Ms. Boyd stated that she would hope that Mr. Lee's potential meeting of September 9 would include a target time-table for rewriting of Chapter 1158 which would enable having the revised Chapter 1158 before ballots are cast for the rezoning issue.

Mr. Ebert noted that any change in Chapter 1158, if Council did take action after the election, would have to be complied with by any developer.

Ms. Boyd stated that she will not know what she is voting on until she sees the new Chapter 1158.

Mr. Miller stated that Chapter 1158 does not impact any of the properties included in the rezoning measure. Chapter 1158B would be in effect for those properties if the rezoning were to go through.

Ms. Boyd stated that there are a lot of provisions in Chapter 1158 that would apply to that project.

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Mr. Young stated that if Council were to vote on a new Chapter 1158 it would not be less strict than Chapter 1158B. Chapter 1158 would cover all of Bay Village, as opposed to that specific area. He suggested that if Ms. Boyd is looking at voting based on Chapter 1158 and a new development, it is already covered in Chapter 1158B.

Ms. Boyd stated that Chapter 1158B is very short. Chapter 1158 covers many aspects of the rezoning. Ms. Boyd stated that she won't know what she is voting for unless she knows what Chapter 1158 defines. Ms. Boyd applauded the efforts of Mr. Lee to get it done and noted that it is so important that the voters will be able to have those three readings and the public comment that goes along with it rather than passing it as an emergency or suspension of rules.

Mr. Koomar stated that it would have to be three readings, consistent with how zoning changes have been looked at in the past.

Mr. Lee acknowledged that it will be difficult with the calendar to get it all done before November 5.

Mr. Miller noted that the emergency clause can still be enacted because it will mean that any revisions to Chapter 1158 will be immediate, rather than 45 days later. The emergency clause can still be used to make it more immediate. If there were a project lingering somewhere else in the city, they would have to comply with the changes in Chapter 1158. There would be all three readings, public input, but the initiation of the changes would be immediate rather than 45 days after being passed.

Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held August 5, 2013. Mr. Young MOVED to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 6-0. Mr. Koomar called for a reading of the Minutes of the Cahoon Memorial Park Trustees meeting held August 5, 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 the Emergency Meeting of Council held August 7, 2013. Mr. Young MOVED to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 6-0.

Mr. Miller introduced and read **ORDINANCE NO. 13-68** AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH KARVO PAVING COMPANY FOR THE 2013 LAKE ROAD (US-6) RESURFACING PROJECT, AND DECLARING AN EMERGENCY, and moved for adoption.

Director of Public Service and Properties Galli stated that the project will begin on September 9, 2013. It is expected to be completed in three weeks.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 13-68.

Roll Call on Suspension of Charter Rules:
Yeas- Clark, Koomar, Lee, Lieske, Miller, Young,

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Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None

Mr. Koomar announced adoption of **Ordinance No. 13-68**, an emergency measure, by a vote of 6-0.

Mr. Miller introduced and read **ORDINANCE NO. 13-69**, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH SMITH-WHEELER, INC., (DBA THE COURT SMITHS), FOR THE SPORTS SURFACING AT BRADLEY PARK TENNIS AND BASKETBALL COURTS, AND DECLARING AN EMERGENCY, and moved for adoption.

Mr. Lee asked if the specifications for the project include all the necessary information as far as drainage. Mr. Galli stated that they are not touching the drainage. This coating on the top will not affect puddling. There is not a problem with puddling there.

Mr. Clark asked what this will do in terms of increasing the life expectancy of the surface. Mr. Galli stated that ten years can be expected from this coating. Thirty to forty years can be expected on a total rebuild. The courts were initially redone in 2002.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 13-69.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None

Mr. Koomar announced adoption of **Ordinance No. 13-69**, an emergency measure, by a vote of 6-0.

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Mr. Miller introduced and read **ORDINANCE NO. 13-70** AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH A. MORGAN BUILDING GROUP FOR THE REPLACEMENT OF THE POLICE STATION AND POLICE GARAGE ROOFS, 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. 13-70.

Roll Call on Suspension of Charter Rules:
Yeas- Lee, Lieske, Miller, Young, Clark, Koomar
Nays-None
Roll Call on Suspension of Council Rules:
Yeas –Lee, Lieske, Miller, Young, Clark, Koomar
Nays–None
Roll Call on Use of the Emergency Clause:
Yeas –Lee, Lieske, Miller, Young, Clark, Koomar
Nays -None
Roll Call on Adoption:
Yeas–Lee, Lieske, Miller, Young, Clark, Koomar
Nays–None

Mr. Koomar announced adoption of **Ordinance No. 13-70**, an emergency measure, by a vote of 6-0.

Mr. Young introduced and read **ORDINANCE NO. 13-71** AUTHORIZING THE MAYOR TO ENTER INTO A LABOR AGREEMENT WITH THE AFSCME OHIO COUNCIL 8, LOCAL 3816, SERVICE, 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. 13-71.

Roll Call on Suspension of Charter Rules:
Yeas- Lieske, Miller, Young, Clark, Koomar, Lee
Nays-None
Roll Call on Suspension of Council Rules:
Yeas –Lieske, Miller, Young, Clark, Koomar, Lee
Nays–None
Roll Call on Use of the Emergency Clause:
Yeas –Lieske, Miller, Young, Clark, Koomar, Lee
Nays -None
Roll Call on Adoption:
Yeas–Lieske, Miller, Young, Clark, Koomar, Lee
Nays–None

Mr. Koomar announced adoption of **Ordinance No. 13-71**, an emergency measure, by a vote of 6-0.

Mr. Young introduced and read **ORDINANCE NO. 13-72 TO AMEND APPROPRIATIONS FOR THE CURRENT AND OTHER EXPENDITURES OF THE CITY OF BAY VILLAGE FOR THE FISCAL YEAR 2013, AS PREVIOUSLY APPROPRIATED IN ORDINANCE NOS. 13-15, 13-34, 13-47, AND 13-59, 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. 13-72.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None

Mr. Koomar announced adoption of **Ordinance No. 13-72**, an emergency measure, by a vote of 6-0.

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Young **MOVED** to adjourn to Executive Session regarding labor contracts (AFSCME Admin. and Service, Police, Fire) litigation, (Ohio Citizens Action Group) 6:35 p.m.

Roll Call Vote: Yeas- Young, Clark, Koomar, Lee, Lieske, Miller. Nays- None. Motion passed 6-0

Also present in Executive Session were Mayor Sutherland, Law Director Ebert, Finance Director Mahoney.

Council reconvened in an open meeting at 7:00 p.m. Present were: Clark, Koomar, Lee, Lieske, Miller, Young.

There being no further business to discuss, the meeting adjourned at 7:00 p.m.

Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council