

CITY OF BAY VILLAGE

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

September 16, 2013

Michael A. Young, Vice President of Council, presiding

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

Absent: President of Council Koomar

Others

Present: Law Director Ebert, Finance Director Mahoney, Service Director Galli,
Recreation Director Enovitch, Community Services Director Bock, Operations
Manager Landers, Interim Police Chief Holliday, Fire Chief Lyons

Council and members of the administration assembled at 7:30 p.m. in the Council Chambers to review agenda items; this was open to the public.

During the review, Mr. Young called upon audience members for comments.

Susan Fink, Wolf Road, complimented the Service Department on their work related to the water main break on Wolf Road this past week. There were four men from the Service Department on site. They did a very nice job, they were polite and courteous, and they should be recognized for what they did.

Mayor Sutherland thanked Mrs. Fink and stated that they have a very good relationship with the Cleveland Water Department. When there is a main break they work together as a team with the Service Department coming back and making the repairs.

Mrs. Fink stated that the Cleveland Water Department was out, and they made a comment that the section of pipe was very old. It broke twice while they were trying to repair it. Probably as the winter thaws and freezes come along it will be breaking again. The schools have had to be shut down when the water main breaks. This is the second or third time the main between Saddler and Bassett Road has broken. Mrs. Fink noted that the administration might want to keep this under advisement.

Jerrie Barnett asked if motorists can drive on Lake Road at night, or are the contractors for the Lake Road resurfacing working at night.

Service Director Galli stated that the contractor for the Lake Road Resurfacing project spent Wednesday, Thursday and Friday of last week milling the existing surface. On Saturday they put the first course of asphalt on the east bound lane. The west bound side was done today. The rest of this week they will be adjusting manholes, monument boxes, water valves, curb repairs and ADA ramps. Sometime next week they will be completed after two days of paving.

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Review of agenda items followed. Mr. Clark discussed the work that has occurred concerning Ordinance 13-17 regarding peddlers, solicitors and canvassers, noting that they have had a long-standing discussion about tightening up the hours for these activities. An amended version of the ordinance will be placed on second reading this evening.

Law Director Ebert stated that a specific section is a notification to the police. Peddlers and solicitors have been fully identified as being different than canvassers. Canvassers have First Amendment protection, which is what this whole case is about with the Ohio Citizens Action Group filing a federal law suit against the city. The terminology and definition of canvassers has been separated out from peddlers and solicitors. The time period for peddlers and solicitors is different than that for canvassers. Canvassers are permitted to conduct their activity from 9 a.m. to 8 p.m., and 12 Noon to 5 p.m. on Sunday. Peddlers and solicitors are not allowed on Sunday, and are restricted on evening hours until 7 p.m. There have been several pre-trials in Federal Court with the Ohio Citizens Action Group and it has been agreed that the 9 a.m. to 9 p.m. is acceptable for canvassers. Door stickers stating "No peddlers or solicitors" are available from city hall. A Do Not Knock registry will be established with the Police Department, after working out the details of a registry. Mediation on damages and fees is now being held.

Mr. Lee stated that the compromise provides additional protections that the city did not have prior to June of 2012 when the ordinance was revised. This is a way forward to potentially resolve this law suit against the city.

Mr. Ebert further noted that canvassers have special protection under the First Amendment that peddlers and solicitors do not. That is the distinction that is set forth in this ordinance. The ordinance will be placed on reading as amended, and put up for adoption after mediation conference.

Mr. Tadych asked if there will be additional cost to the city with the lawsuit filed by the Ohio Citizens Action Group. Mr. Ebert stated that he is hoping insurance covers the cost.

Mr. Miller reviewed the ordinance he will present to engage CT Consultants as the design engineer for the Sunset neighborhood improvements. The next process under this ordinance is to sit down and negotiate a contract with them and develop a deliverables package.

Mayor Sutherland commented about the ordinances Mr. Miller will present for the replacement of the Cahoon Road Sanitary Sewer. It is an Environmental Protection Agency mandated project to close to sanitary sewer overflows that go into the creek. The project is in the amount of \$1.4 million, and it is hoped to be started mid-November.

Mr. Miller advised that Service Director Galli has begun to put out notices to the local media and on the website offering residents alternatives to driving on Cahoon Road because over a period of six months, through the winter, sections of Cahoon Road will be in one component of disarray or another. Discussions about the traffic disturbances have also been held with the Board of Education. The library will be included as an informational source and public meetings will be held in October.

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Mr. Galli noted that there are enough cross streets on Cahoon Road that will enable construction in sections at a time so that the entire roadway will not have to be closed. The contractor will close cross street sections and do their best to keep traffic moving as much as possible. A pre-construction meeting was held with the emergency safety services in attendance.

Mr. Clark reviewed the ordinances he will present this evening on behalf of the Finance Committee. A resolution will be introduced to provide up to 40%, zero interest rate financing for the Cahoon Road Sanitary Sewer project.

Finance Director Mahoney has prepared a resolution authorizing continuation of an existing pick-up plan for the Police and Fire Pension Funds. The employee contributions are being increased to 10.75% this year, 11.50% on July 6, 2014, and 12.25% on July 5, 2015. Employer contributions stay the same. In order to allow our employees to have their contributions taken pre-tax deductions, this resolution must be in place for the next three years.

An ordinance repealing a contract with Automatic Data Processing Inc. (ADP, Inc.) will be removed from tonight's agenda at the Mayor's request to allow her time to obtain further information.

Mr. Young stated that he will introduce a resolution this evening adopting guidelines for evaluating proposed development projects for possible tax abatement or Tax Increment Funding (TIF). He advised that an applicant wanted to develop some property here in Bay and the question was whether there would be tax abatement and/or Tax Increment Funding available. In order to be as fair as possible with any future developers as well as the citizens of Bay Village, the Finance Company decided to establish a general policy. The resolution will be available to be applied to any future development in the city.

Mr. Clark discussed the ordinances he will introduce authorizing the Mayor to enter into labor agreements with the Patrol Officers Blue Unit, and the AFSCME Administrative Unit. An ordinance amending the existing rates of compensation for the officers and employees of the General Administration Department not covered by separate labor contracts will be introduced by Mr. Clark which would equalize the increases given to the employees covered by bargaining units. Mr. Clark stated that he suggested submitting this ordinance for three readings, but part of the reason for not doing three readings is to get the ordinance approved to allow for all the bargaining units to try to finalize contracts. Procedurally, the Council has come under fire for passing legislation in one reading, and doing three readings for something like this might not necessarily be unfavorable.

Mr. Young called upon Law Director to give a brief summary of the contracts with the labor units. Mr. Ebert stated that the contracts for AFSCME Administration and Police Blue are three year contracts, with 2% increases each year for years 2013, 2014, and 2015. However, the effective rate for 2013 is 1% because it does not go into effect until July 1, 2013. The increase in the employees' share of health care cost is based on a percentage of 8% in 2013, 9% in 2014, and 10% in 2015. An increase in deductibles takes the percentage to just under 28 ½ % single, and

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24% family. The Fire Unit contract has not been settled and is subject to fact-finding. Negotiations with the Police Gold Unit are very close to being resolved.

Mrs. Lieske commented that the reason this could not have been seen sooner is because the Police Blue contract was just signed this past week by the Ohio Police Benevolent Association.

Mr. Young related that he has spoken with President of Council Koomar regarding the question of placing the administrative compensation ordinance on three readings. It is the opinion of both Mr. Koomar and Mr. Young that the individuals covered under this ordinance be treated in the same manner as those covered by labor contract and since the effective rate of increase for 2013 is only at 1%.

Mr. Lee stated that he understands that three readings might not be practical, given the timing, but asked if it would be possible to do a second reading on September 23, 2013. The Mayor stated that it helps to have the administrative compensation ordinance finalized as we are looking at the two outstanding contracts.

Mr. Ebert explained that the emergency clause determines the effective date of an ordinance. If legislation does not include an emergency clause, it does not go into effect until 40 days after passage. The Charter Rules, Section 2.13 is the procedural rule that is suspended for an emergency measure.

Mrs. Lieske stated that she is probably one of the biggest champions of the three readings but given the scenario faced she would be supportive of going ahead this evening.

Mr. Miller addressed the resolution that will be introduced this evening by Mr. Young establishing a policy for tax abatement. He noted that an audience member previously described some of the caveats that the Ohio Revised Code promotes that you make a determination of the basis of how tax incentives are measured. He asked if the resolution outlining the list of guidelines for evaluating proposed development projects is in compliance with the Ohio Revised Code requirements.

Mr. Young stated that the Ohio Revised Code requirements would be separate from these guidelines. Mr. Miller asked if the guideline that states that "Other means of incentivizing development such as county, state or federal programs must have already been explored and exhausted" speaks to those Ohio Revised Code requirements. Mr. Young responded affirmatively. Mr. Miller asked if it is necessary to suspend the Charter rules for an emergency clause for this resolution. Mr. Young stated that as Vice President of Council he tries to mirror the actions of the President of Council in deciding which legislation will be subject to three readings and/or the emergency clause, which depends on the nature of the ordinance or resolution being presented.

Mr. Lee stated that this evening he will present an ordinance repealing Resolution 13-67 which Council passed in August to provide the submission of the rezoning to the voters for the November ballot of five parcels located on Cahoon Road near the intersection of Wolf and

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Cahoon Roads. At the Council meeting held September 9, 2013, the parameters for revising Chapter 1158 were referred to the Planning Commission, which will be placed on the Planning Commission agenda for review on October 2, 2013. Concerns have been heard about Section 1158 (B) being a stopgap measure, and we want to make sure that when the voters have the opportunity to vote on this they will be voting truly on the merits of rezoning, and not on the process. The purpose of this ordinance would be to repeal the previously approved resolution regarding the rezoning. It has also been suggested as an alternative we could not repeal the rezoning piece, but just repeal Chapter 1158(B) and put in place a moratorium on attached residence construction until Chapter 1158 has been vetted and through the process.

Mr. Young called for comments from the audience.

Mr. Dino Lustrì, Cahoon Road, stated that he has already emailed everyone on Council, and hopes that there is an open-mind about the alternative that Mr. Lee just mentioned. Mr. Lustrì stated further that from his discussions with the various Council members there doesn't appear to be much resistance on the actual rezoning itself. That topic might be contentious with some residents in the city, but apparently it is not as big of a problem with members of the Planning Commission and Council. Mr. Lustrì stated that he was hoping that Council could separate the two issues, and as one of the property owners he is willing to sign off development rights until the city has that accomplished. As far as the rezoning goes, it has been seen by the Planning Commission at least three times in fourteen years, the last being the Lustrì submittal in 2008, which the Planning Commission passed on to Council. Council decided not to place it on the ballot in 2008. One of the comments at that time was that Mr. Lustrì should try to assemble more properties. It has been four-plus years; that has been accomplished in good faith. Mr. Lustrì noted that this is extremely difficult on him and his family. He cannot make a decision on moving while in this limbo state. If the public in Bay decides not to allow the rezoning, he has an answer and knows what he has to do. At the end of the day, he has not received one offer for the house on its own merit without redevelopment or rezoning as part of the condition. Mr. Lustrì asked Council to consider the difficulty of their decision in pushing this out another year. There is no guarantee that anything the Council does between now and then will resolve all the issues. He asked that Council consider leave the rezoning issue on the ballot, educating the public accordingly, and will vouch, sign, or whatever, accept not developing the property until such time as Chapter 1158 has been reviewed appropriately by the Planning Commission.

Mr. Ebert commented that the alternative Mr. Lee brought up has been done before. A moratorium was put in place when another issue came before the Council. Chapter 1158 is not tied to the rezoning, although people want to know what Chapter 1158 is going to be. If the moratorium is in place, that is done by Councilmanic action. If the rezoning passes in November, a developer could not do anything until the moratorium is lifted. The moratorium will give Council and the Planning Commission a chance to review Chapter 1158 while this situation goes through the different processes.

Mrs. Lieske stated that Section 7.4 of the Bay Village City Charter, "Mandatory Referral," states that these things should be referred to the Planning Commission. This is one of the questions she had when she revisited the Charter.

Mr. Ebert stated that he provided a legal opinion regarding Section 7.6 of the Charter because Section 7.6 is the controlling factor. Planning Commission is advisory only to the Planning Commission. The Council can override the Planning Commission with a two-third vote.

Mr. Tadych stated that Council has interrupted the flow of what should have been done in prior weeks. He asked Mr. Ebert if before it went to the electorate, it should have gone to the Planning Commission.

Mr. Ebert stated that it still could go to the Planning Commission. It is true that you could have sent it to the Planning Commission if they had met in September. Mr. Ebert noted that the Council gave up their recess to have debates on this issue.

Mr. Clark stated that Council worked diligently to put this rezoning issue in the hands of the voters and by voting “yes” on the ordinance in front of Council they would repeal all the work they did.

Mr. Tadych stated that it would repeal it temporarily; it can always be put back on later.

Mr. Miller stated a moratorium on Chapter 1158 (B) would answer a lot of unknowns. When you start addressing Chapter 1158 on a committee level you refine a lot of the components that vetted Chapter 1158. There are a lot of things that people weren’t sure of in regard to change, e.g. types of buildings, size of buildings, densities. We are talking about different districts, how it is applied, and how Chapter 1158 would be applied to the Retail District. Section 1173 also draws on Chapter 1158. You are really seeing it addressed at a broader scale than just one project. We have the Cashelara clause for Section 1158 (A), but you don’t want to keep creating additional subsets of Chapter 1158; you want to have one guiding ordinance. A moratorium on the rezoning, whether it passes the ballot or not, is an opportunity for Chapter 1158 to be reviewed.

Mr. Ebert clarified that the moratorium would be on Chapter 1158. The rezoning would go to the ballot. However, even if it were rezoned, a developer could not build or do anything until Chapter 1158 was resolved. No permits could be issued. It would not be a moratorium on the rezoning; it would be a moratorium on any construction until Chapter 1158 review is completed. The ordinance on the agenda to repeal Resolution 13-67 would not be introduced tonight. The next Council meeting would have an ordinance to prepare for a moratorium. If the rezoning occurs on the five sublots, there would be a moratorium until Chapter 1158 is modified, amended, or adopted. That moratorium will last until a certain date, or until Council extends the moratorium, which they have done in the past.

Mr. Tadych asked Mr. Ebert how the moratorium would fit into the process if the ordinance for rezoning does not pass on the November ballot. Mr. Ebert stated that any property currently zoned Attached Residence District would be subject to the new Chapter 1158 (B), if it is passed. If the rezoning goes down, what is on the books is Chapter 1158 and the zone that is on the property is Third Residence District. No one can build anything there other than the Third

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Residence District requirements, because Chapter 1158 would prohibit that from a practical standpoint.

Mr. Lee clarified that the language in Chapter 1158 (B) states that if the voters don't approve it, is not effective. Mr. Ebert stated that between now and then a moratorium would be adopted by Council and Chapter 1158 would be the focus to combine Chapter 1158 with Chapter 1158 (B). The separate section was done in trying to come up with something for the attached residence.

Mr. Andy Dzienny, Chairman of the Bay Village Planning Commission, asked if a moratorium is placed on Chapter 1158, does that put a moratorium on Chapter 1158 (B). Mr. Ebert responded affirmatively.

Mayor Sutherland asked what would happen if someone wanted to develop the east side of Cahoon Creek. Mr. Ebert stated it would be subject to the moratorium. Council could say that there is a moratorium passed, and in place, and someone comes forward on the east bank tomorrow, they could come to the Council for an exception to the east side of the creek.

Mr. Lee asked if a moratorium could be written that would not apply to Chapter 1173. This was approved by the voters in 2010 and applies to all of the retail areas on the east side of Cahoon Creek. Mr. Ebert stated that this could be done.

Mrs. Susan Fink asked how the agenda could be sent out with nothing about a motion or resolution to change the legislation, and you are going to vote on it tonight. Mr. Ebert stated that if the Council does not want to repeal what's on the ballot, they withdraw the ordinance repealing the issue on the ballot. A resolution for a moratorium will be prepared for the next regular Council meeting. It is not prepared nor will it be introduced tonight.

Mrs. Fink stated that as she is sitting here listening and it is getting more and more convoluted and complicated for residents to understand what is going on. You really have to stop and think what message you're sending to the residents in the city. I understand all of you are very well versed in this process, but most of the residents aren't. By saying moratoriums, changing this, moving that around, I don't think you are really looking at how the residents are going to perceive this.

Mr. Ebert stated that the easiest way to say this is the ordinance that was passed in August for the ballot stays as is. It is not going to change. It will be on the November 5 ballot if Council does not introduce this ordinance tonight. At the September 23 Committee meeting of Council, and the October 2 meeting of the Planning Commission, there will be discussion on Chapter 1158.

Mrs. Fink stated that the question was not referred to the Planning Commission. We missed something in the process, and now we are going to leave it on the ballot, even though we missed something in the process, and we are going to try to fit it in before the election.

Mr. Lustris stated that the process was not skipped. The rezoning was submitted in 2008, reviewed through proper channels, went to the Planning Commission, reviewed, vetted, and

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passed on to Council for placement on the ballot. At that time, Council decided not to do it for whatever reasons they had. This is a continuation of that, albeit four years later. It is a wise idea for Planning Commission to handle that. It needs to happen and that's why I hope this compromise will be considered.

Mr. Dzienny asked if the Planning Commission could write a Chapter 1158 that would include the Cashelmara development, and with enough latitude that judgment calls can be made in the future without having to write the new law everytime.

Mr. Tadych asked when the first absentee vote goes out. Mayor Sutherland responded that it begins October 1. Mr. Lee stated that we are not expecting Chapter 1158 to be considered back by the Council until sometime after the first of the year.

Mr. Ebert stated that people would be voting on the fact of rezoning to Attached Residence District. However, Chapter 1158 is changed by the Council with input from the Planning Commission. The rezoning of the parcels is the only thing that goes on the ballot. The requirements and restrictions of what can be done after rezoning is Council's work.

Mr. Lee stated that Chapter 1158 (B) was an attempt to match the acreage and density on the east side, and do it in a way that was very simple and the public could understand before voting.

Mr. Young asked Mr. Lee if, as Chairman of the Planning and Zoning Committee, he could make a recommendation to Council this evening.

Mr. Lee stated that he does not have the history as some of the other folks do with this issue, but he would like to see Council get out of its way and allow this vote to get to the public. This is an area of the city that has been identified for this type of development for many, many years. Mr. Lee deferred to some of the opinions of some of the others who have been with this issue for a longer period of time.

Mrs. Lieske stated that it would be her preference to leave the proposed ordinance on the agenda this evening for voting by Council.

Mr. Lee stated that in response to Mrs. Lieske's request, he would keep the proposed ordinance on the agenda and allow for a vote this evening.

Further review of the agenda for this evening's Council meeting followed. Mr. Lee noted that the motion to extend the time for the Planning Commission to review the application of Robert Gulla for a proposed restaurant at 27115 East Oviatt for a period of 60 days, from September 27, should read to November 26, 2013, rather than December 26, 2013.

Mr. Tadych stated that he will introduce a motion this evening, which he considers to be a positive move for the city, to address in a proactive way the movement forward of the City of Westlake to change their water provider. As has been discussed in prior sessions, we need to look at our available options and how that change could affect the City of Bay Village and the

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water supplier we may take may not be the same one as Westlake. A motion to request qualifications and proposals for a consultant for the Bay Village water line system will be put forth by Mr. Tadych this evening.

Mr. Young added that other cities have made similar proposals and we may use that as a template in our review.

Vice President of Council Young called the meeting to order at 8:36 p.m. in the Council Chambers of Bay Village City Hall, with the Pledge of Allegiance led by Dwight Clark, Councilman-at-large.

Following the roll call, Mr. Young called for a reading of the Minutes of the Special Meeting of Council held September 9, 2013. Mrs. Lieske **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 5-0 with abstention by Mr. Clark. Mr. Young called for a reading of the Minutes of the Meeting of the Cahoon Memorial Park Trustees held September 9, 2013. Mrs. Lieske **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 5-0, with two abstentions by Mr. Clark and Mayor Sutherland.

ANNOUNCEMENTS

Mayor Sutherland announced the following appointments:

Reappointment of Penny Dolski to the Community Services Advisory Board for a term expiring June 30, 2016

Appointment of Polly Clemo to the Community Services Advisory Board for a term expiring September 16, 2016

Reappointment of Richard Majewski to the Planning Commission for a term expiring August 17, 2018

Reappointment of Abe Bruckman to the Planning Commission for a term expiring August 13, 2018

Reappointment of Paul Campbell to the Board of Zoning Appeals for a term expiring December 31, 2015

Mayor Sutherland stated that she would like to do a shout-out to Recreation Director Dan Enovitch and the Recreation Department for an outstanding summer program. She stated that she does not know how they can handle all of the activities of the Recreation Department, running the pool, and getting it all done for all the kids in town. It is wonderful for her to look out her office window and see all of the activity out there. Mayor Sutherland expressed her gratitude to the staff.

REPORTS

Law Director Ebert had no report this evening.

Finance Director Mahoney had no report this evening.

Recreation Director Enovitch stated that fall programs have begun for football and volleyball. They were hosted for the first time at the Bay High School stadium just this past summer. Fall sports are in full swing.

Director of Public Service and Buildings Galli had no report this evening.

Community Services Director Bock advised that the improvements at the Dwyer Memorial Center have been very well received. October 4 is Flu Shot Friday. Appointments can be made for a flu shot by calling Ms. Bock at 440-899-3409.

Interim Police Chief Holliday reported that it was a typical, busy summer in Bay Village. The sudden departure of Chief Wright made for some interesting times but, as always, the members of the Police Department stepped up and performed in exemplary fashion. Interim Chief Holliday thanked the Mayor, Law Director, and members of City Council for their cooperation in tough times. It was greatly appreciated.

Fire Chief Lyons reported that new Engine No. 14 is completed and ready for delivery. Old Engine 14 is in New Philadelphia, Ohio, in the process of having equipment being transferred to the new engine. Delivery is expected next week.

COMMUNICATIONS

The following communications were received and are on file in the Clerk of Council office for public inspection:

Letter dated August 31, 2013 to Law Director Ebert from Tony Dostal of the Bay Days Committee with an enclosed check in the amount of \$4,267.50, an increase of \$2,191.50 from last year's check.

Email communication dated Tuesday, August 20 from Conda Boyd regarding the League of Women Voters' observation of the Westshore Council of Governments meetings.

Norfolk Southern Train Reports No. 179 and 180 indicating an average of .06 trains per day traveling through the City of Bay Village during the month of July, 2013, and 1 train per day on average during the month of August.

Email communication on September 9, 2013 from Tom Kauker regarding a communication to the *Westlife* newspaper concerning the Friends of the Bay Village Kennel.

Mr. Ebert commented that less than one train, or one train per day on the average for the month is significant based on the lengthy battle that was held concerning the railroad. Train reports are received monthly.

Mr. Young reiterated the comments from last week's Council meeting of the great work done by the Kiwanis Club of Bay Village. Mayor Sutherland stated that Bay Days is such a well-run event and they could not do it without the help of Kiwanis. They are easy to work with, and because of the pressures the city has been under budgetarily the Kiwanis have stepped up and keep taking on more. Everything that they have done is appreciated.

AUDIENCE

The following members of the audience signed in this evening: Jerrie Barnett, Marty Mace, Denny Wendell, Dick Majewski, Tom Henderson, Jeff Gallatin, Sue Fink, Andy Dzienny, Russell Thompson, Eric Dilisi, Dino Lustri, Dave Volle.

Mr. Richard Majewski commented that as someone who has worked on the attached housing issue from back in the early days when they started the Master Plan, he didn't think it would become as confusing as it has been over the years. The ordinance repealing the resolution placing the issue of rezoning on the ballot that is on tonight's agenda should go forward and the rezoning should be taken off the ballot so the voters know what they are voting on in regard to Chapter 1158. Right now, a voter walking into the voting booth without Chapter 1158 being changed, that parcel of property does not meet the 5-acre requirement, and that is what is required to have attached residences. We have to change the ordinance first, and without having the pressure of rezoning in front of us. Let's do the work first, and then go ahead and put the rezoning on later. That's just my opinion. I know that Mr. Ebert and I don't agree, but Section 7.4 of the Charter specifically says that the ordinance was supposed to be sent to the Planning Commission before it was adopted. I still believe that Council's action is a direct violation of the Charter.

Mr. Lustri addressed the topic of the sanitary sewer construction that is going to be happening on Cahoon Road. There are five taps that exist for the property that we have been discussing today. If this doesn't go to the ballot and it is going to be developed to single family homes, they really need those five taps to stay there as they currently exist. The five curb cuts that used to coincide with those five taps have disappeared in the last repaving job. Those cost \$1,000 each. Mr. Lustri stated that he wanted to make that statement so it doesn't get lost in the mix, as in the repaving effort.

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE

Motion by **Mr. Clark** to confirm the appointment by Mayor Sutherland of Polly Clemo to the Community Services Advisory Board for a three-year term expiring September 16, 2016. Motion carried 6-0.

Motion by **Mr. Clark** to confirm the reappointment by Mayor Sutherland of Penny Dolski to the Community Services Advisory Board for a three year term expiring June 30, 2016. Motion carried 6-0.

Ordinance No. 13-17 enacting new Codified Ordinance Chapter 721, Peddlers, Solicitors, and Canvassers, and declaring an emergency (First Reading 3-11-13) Amended, (Second Reading) 6-4-13) Amended, as amended by reading, was read by Mr. Clark.

Mr. Ebert advised that **Ordinance No. 13-17**, enacting new Codified Ordinance Chapter 721, Peddlers, Solicitors, and Canvassers, and declaring an emergency, as amended, will remain on second reading.

Councilwoman Lieske commented that the peddlers and solicitors ordinance passed on June 25, 2012 was in response to a number of concerns and complaints from residents. Through the Environment and Safety Committee, they really tried to listen and be responsive to the residents' concerns. We have the history that we have heard since then which is requiring some of these changes. Mrs. Lieske noted that the Council really tried to accommodate the residents.

PUBLIC IMPROVEMENTS /STREETS/SEWERS/DRAINAGE COMMITTEE

Mr. Miller introduced and read **ORDINANCE No. 13-73** AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CT CONSULTANTS, INC. FOR PROFESSIONAL SERVICES RELATIVE TO THE ENGINEERING SERVICES FOR THE STORM SEWER AND PAVEMENT INSTALLATION IN THE SUNSET AREA NEIGHBORHOOD, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Ordinance No. 13-73.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None.

Mr. Young announced adoption of **Ordinance No. 13-73** an emergency measure, by a vote of 6-0.

Mr. Miller introduced and read **ORDINANCE NO. 13-74** AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH TRAX CONSTRUCTION COMPANY, INC. FOR THE FOR THE CAHOON ROAD SANITARY SEWER REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY, and moved for adoption.

Mayor Sutherland commented that this ordinance, and the following ordinance, have to do with the Environmental Protection Agency mandate to close two of our sanitary sewer overflows. This will meet the EPA requirement and is something that we have to do.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Ordinance No. 13-74.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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

Mr. Young announced adoption of **Ordinance No. 13-74**, an emergency measure, by a vote of 6-0.

Mr. Miller introduced and read **ORDINANCE NO. 13-75** AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CT CONSULTANTS, INC. FOR THE CONSTRUCTION ADMINISTRATION SERVICES FOR THE CAHOON ROAD SANITARY SEWER REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Ordinance No. 13-75.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Nays -None
Roll Call on Adoption:
Yeas–Lieske, Miller, Tadych, Young, Clark, Lee
Nays–None.

Mr. Young announced adoption of **Ordinance No. 13-75**, an emergency measure, by a vote of 6-0.

FINANCE & CLAIMS COMMITTEE

Mr. Clark introduced and read **RESOLUTION NO. 13-76** DECLARING THE OFFICIAL INTENT AND REASONABLE EXPECTATION OF THE CITY OF BAY VILLAGE, ON BEHALF OF THE STATE OF OHIO (THE BORROWER), TO REIMBURSE ITS OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT PROGRAM FOR THE CAHOON ROAD SANITARY SEWER REPLACEMENT PROGRAM, CA13P, WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Ordinance No. 13-76.

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

Mr. Young announced adoption of **Resolution No. 13-76** an emergency measure, by a vote of 6-0.

Mr. Clark introduced and read **RESOLUTION NO. 13-77** AUTHORIZING CONTINUATION OF EXISTING PICK–UP PLAN FOR THE POLICE AND FIRE PENSION FUNDS, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Resolution No. 13-77.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None.

Mr. Young announced adoption of **Resolution No. 13-77** an emergency measure, by a vote of 6-0.

Mr. Clark introduced and read **RESOLUTION NO. 13-78** ACCEPTING THE TAX RATES AS DETERMINED BY THE BUDGET COMMISSION OF CUYAHOGA COUNTY, AUTHORIZING THE NECESSARY TAX LEVIES FOR FISCAL YEAR 2014, AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Resolution No. 13-78.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None.

Mr. Young announced adoption of **Resolution No. 13-78** an emergency measure, by a vote of 6-0.

Mr. Clark introduced and read **RESOLUTION NO. 13-79** AUTHORIZING THE DIRECTOR OF FINANCE TO REQUEST TAX ADVANCEMENTS BEFORE SETTLEMENT DATES FOR FISCAL YEAR 2014, AND DECLARING AN EMERGENCY, and moved for adoption.

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There being no further discussion, Mr. Young called for a vote on the motion to adopt Resolution No. 13-79.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None.

Mr. Young announced adoption of **Resolution No. 13-79** an emergency measure, by a vote of 6-0.

Mr. Young introduced and read **RESOLUTION NO. 13-80**, amending by reading in Section 1 to read “possible tax abatement or tax **increment** funding” **ADOPTING THE GUIDELINES FOR EVALUATING PROPOSED DEVELOPMENT PROJECTS FOR POSSIBLE TAX ABATEMENT OR TAX INCREMENT FUNDING, AND DECLARING AN EMERGENCY**, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Resolution No. 13-80.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None.

Mr. Young announced adoption of **Resolution No. 13-80** as amended, an emergency measure, by a vote of 6-0.

Mr. Clark introduced and read **ORDINANCE NO. 13-81 AUTHORIZING THE MAYOR TO ENTER INTO A LABOR AGREEMENT WITH THE OHIO PATROLMEN’S BENEVOLENT ASSOCIATION, AND DECLARING AN EMERGENCY**, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt **Ordinance No. 13-81**.

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

Mr. Young announced adoption of **Ordinance No. 13-81** an emergency measure, by a vote of 6-0.

Mr. Clark introduced and read **ORDINANCE NO. 13-82 AUTHORIZING THE MAYOR TO ENTER INTO A LABOR AGREEMENT WITH THE AFSCME OHIO COUNCIL 8, LOCAL 3816, ADMINISTRATIVE, AND THE CITY OF BAY VILLAGE, AND DECLARING AN EMERGENCY**, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Ordinance No. 13-82.

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

Mr. Young announced adoption of **Ordinance No. 13-82** an emergency measure, by a vote of 6-0.

Mr. Clark introduced and read **ORDINANCE NO. 13-83** AMENDING SECTION 1 OF ORDINANCE 13-33 REGARDING RATES OF COMPENSATION FOR THE OFFICERS AND EMPLOYEES OF THE GENERAL ADMINISTRATION DEPARTMENT AND THOSE EMPLOYEES OF THE CITY OF BAY VILLAGE NOT COVERED BY SEPARATE LABOR CONTRACT FOR THE CALENDAR YEAR 2013 AND THEREAFTER, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Ordinance No. 13-83.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None.

Mr. Young announced adoption of **Ordinance No. 13-83** an emergency measure, by a vote of 6-0.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE - Mr. Lee

Mr. Lee introduced and read **ORDINANCE NO. 13-84** REPEALING RESOLUTION NO. 13-67 PROVIDING FOR THE SUBMISSION OF THE QUESTION OF APPROVAL OF ORDINANCE NO. 13-56, BEING AN ORDINANCE “RE-ZONING CERTAIN LANDS LOCATED ON CAHOON ROAD, PERMANENT PARCELS NOS. 203-09-017, 203-09-018, 203-09-019, 203-09-020, AND 203-09-021 CONTAINING 2.349 ACRES, FROM THIRD RESIDENCE DISTRICT TO ATTACHED RESIDENCE DISTRICT, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Young called for a vote on the motion to adopt Ordinance No. 13-84.

Roll Call on Suspension of Charter Rules:

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

Nays-None

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Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

Yeas– Lieske, Tadych
Nays–Young, Clark, Lee, Miller.

Mr. Young announced **defeat** of **Ordinance No. 13-84** an emergency measure, by a vote of 4 Nays – 2 Yeas.

Motion by **Lee** to confirm the reappointment by Mayor Sutherland of Richard Majewski to the Planning Commission for a five-year term expiring August 17, 2018. Motion passed 6-0.

Motion by **Lee** to confirm the reappointment by Mayor Sutherland of Abe Bruckman to the Planning Commission for a five-year term expiring August 13, 2018. Motion passed 6-0

Motion by **Lee** to confirm the reappointment by Mayor Sutherland of Paul Campbell to the Board of Zoning Appeals – term expiring December 31, 2015. Mr. Tadych asked the length of Mr. Campbell’s term. Mr. Ebert stated that he believes it is three years, but he could not provide that information to Mr. Tadych at this time. Mr. Tadych asked if Mr. Campbell has been serving with his term expired. Mr. Ebert will check the records. Motion passed 6-0.

Motion by **Lee** to extend the time for the Planning Commission to review the application of Robert Gulla for a proposed restaurant at 27115 East Oviatt for a period of 60 days, from September 27, 2013 to November 26, 2013. Motion passed. 6-0

Motion by **Lee** to grant an extension of the 90-day period of time granted by Mayor Sutherland on June 24, 2013 to the Board of Education for the display of construction signs at various school sites, until such time as construction is completed. Motion passed 6-0.

RECREATION AND PARK IMPROVEMENTS COMMITTEE – Mrs. Lieske

Mrs. Lieske had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE – Mr. Tadych

Motion by **Tadych** to request qualifications and proposals for a consultant for the Bay Village Water Lines/ System. Motion passed 6-0

MISCELLANEOUS

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The agenda item of a motion to Executive Session is no longer needed since the Police Blue unit did approve their contract.

Mr. Young commented that he would like the Law Department to prepare a resolution in regard to Chapter 1158, as discussed earlier this evening.

Mr. Lee clarified that there will be a motion for a moratorium on Chapter 1158 (B) until Chapter 1158 is revisited and passed by Council, as well as reviewed by the Planning Commission.

There being no further business to discuss, the meeting adjourned at 9:30 p.m.

Michael A. Young, Vice President of Council

Joan Kemper, Clerk of Council