

CITY OF BAY VILLAGE

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

November 18, 2013

Paul A. Koomar, President of Council, presiding

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

Others

Present: Law Director Ebert, Finance Director Mahoney, Recreation Director Enovitch,
Chief Building Official Cheatham, Operations Manager Landers, Fire Chief
Lyons, Police Chief Spaetzel

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. Clark noted that there will be announcement this evening that Ordinance No. 13-17 enacting new Codified Ordinance Chapter 721, Peddlers, Solicitors, and Canvassers, will remain on second reading. Law Director Ebert stated that there will be mediation on Tuesday, November 19, so he would like to keep the ordinance on reading until the outcome of the mediation is known.

Councilman Miller advised that a public informational meeting was held by the Service Department concerning the Cahoon Road Sanitary Sewer Replacement Project. That project is currently underway. There is a detour on Cahoon Road at Wolf Road due to the construction.

Mr. Miller further advised that a second meeting of the Sunset Neighborhood for planning improvements to the area was held by the Public Improvements Committee on Thursday, November 14, 2013. The committee is looking forward to another meeting in the near future.

Mr. Lee will introduce an ordinance this evening amending Chapter 1349 regarding swimming pools and electrical installations. He explained that this is a new mandate that has come out of Columbus, and relates to anyplace where water is contained in a structure and an electrical power source, e.g., swimming pools, fountains, and those types of installations.

Chief Building Official of SAFEbuilt, John Cheatham, stated that basically the city is not able to require a permit or do any inspections from a few weeks back moving forward, until this ordinance passes, on any electrical installations near water. Unless each jurisdiction adopts their own ordinance or resolution, no inspections are made. It is a tremendous liability and a tremendous danger to the public. Mr. Tadych asked if the department will go back and inspect such installations after this legislation is passed. Mr. Cheatham stated that they will not go back and inspect.

Mr. Lee stated that it was discussed to put this ordinance on first reading this evening, but the Council may want to discuss whether it should be moved forward more quickly.

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Mr. Koomar stated that he understands this interpretation from the state is very recent. Mr. Cheatham stated that it actually came down a few months ago and a lot of inspectors turned a deaf ear and kept enforcing. They were informed in the last week or two that they were subject to decertification if they continued.

Law Director Ebert recommended that because of this information the legislation be passed tonight.

Mr. Clark asked if decertification has a financial penalty. Mr. Cheatham stated that decertification would mean that the City of Bay Village would not have a Building Department. There would be no building available for residential at all; commercial would be handled by the state.

Mr. Young stated that in general the electric code is adopted state wide. He asked how this is different from the electric code, and why this was not done when the electric code was mandated for us and we already had provisions in our ordinance.

Mr. Cheatham explained that there is a committee called the RCAC that reports to the Board of Building Standards. They did not want the Residential Code of Ohio which was effective January 1, to include any language for swimming pools, hot tubs, etc. Article 680 in the National Electric Code applies to that. The Residential Code of Ohio adopts by reference that code, however, there is an interpretation that came down from the state that the RCAC excluded everything water-related from the Residential Code of Ohio and also excluded Article 680 of the Electrical Code. Building officials throughout the state received a memo in February or March that there would be no more enforcement of any of this until it is fixed. The due date for getting it fixed is probably February, March, April...could be mid-summer. It has to go through legislation and a whole lot of things.

Mr. Young stated that he works in the electrical industry and this is the only instance he has heard of. Mr. Cheatham stated that the only reason many building officials including himself kept enforcing even though the memo said not to was they were taking a broad stance that since the National Electric Code was adopted as a reference standard of the Residential Code of Ohio that they could enforce all of the National Electric Code including Article 680. The state has since cracked down. Mr. Cheatham talked to the Number two man there and he informed Mr. Cheatham that they are serious and will be decertifying both individuals and departments. He suggested that the Council be told to pass the legislation or not enforce until the State passes it which is several months away.

Mr. Young stated that he works in the industry and knows the laws, regulations and a number of inspectors. He stated that this is a surprise because he never heard of anything along these lines before.

Mr. Cheatham stated that surrounding communities or the state, if asked, will provide the same information.

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Mr. Tadych asked if the city has received written instructions to this effect. Mr. Cheatham stated that the written instructions went out to Building Officials certified by the state late last winter or early spring. Mr. Cheatham stated that he is able to provide documentation.

Mrs. Lieske asked who would have received those written instructions in Bay Village. Mr. Cheatham suggested that it may have been Dan Galli; however, he is not sure.

Mr. Young stated that if he were the Building Director he would question why he is being told this when the National Electric Code has already been adopted, and why would they want to change this one individual section. It is a rather odd request, but if we have to comply, we have to comply.

Mayor Sutherland stated that normally the state would enact it and pass it down to cities. The process is backwards.

Mr. Cheatham stated that the state is trying to fix the situation. The RCAC is bringing it to the next meeting, next month. Then the Board of Building Standards will do their work, which is two months later. Then it has to go through legislation, so you are looking at four to six months passage.

Mr. Young stated that he will introduce an administrative compensation ordinance this evening which will provide the compensation for an Assistant Service Director. Mayor Sutherland stated that because of the commitment Mr. Jim Sears made as Assistant Service Director, coming back to the city at the Mayor's request to serve for 2013 only, he will need to be replaced. There will be a bit of overlap and that is the nature of tonight's compensation ordinance change.

President of Council Koomar called the meeting to order at 8:00 p.m. in the Council Chambers of Bay Village City Hall, with the Pledge of Allegiance led Michael A. Young, Vice President of Council and Councilman Ward 4.

Following the roll call, Mr. Koomar called for a reading of the Minutes of the Regular Meeting of Council held November 4, 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 Cahoon Memorial Park Trustees held November 4, 2013. Mr. Young **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 8-0.

ANNOUNCEMENTS

Mayor Sutherland thanked the voters and everyone who participated in the recent election. The candidates all worked very hard. The Mayor stated that a campaign, by its nature, is emotional and divisive and it is now time for everybody to put differences behind and band back together. This is a wonderful community and we will work hard to keep it that way for the next four years.

Mayor Sutherland administered the official Oath of Office to Mark Spaetzel as Chief of Police.

Chief Spaetzel thanked the Mayor for having faith in him and trusting this very important job to him. There were excellent candidates and he is very proud that he was chosen. He also thanked his fellow officers and past officers present this evening, who enabled him to be in this position, because without them he would not have learned what he learned. He thanked his family and friends who were present this evening, and most of all Christine, his wife. Chief Spaetzel also expressed appreciation to Council and stated that he looks forward to working with them.

A reception was held in the conference room for Police Chief Spaetzel.

REPORTS

Law Director Ebert recognized former Councilman of Ward 4, Ed Smith, who served in 1986 and 1987 until his company, BP Oil, transferred him to Alaska. Mr. Smith moved back to Bay Village 90 days ago. Mr. Smith stated that he lives now in Ward 1, and in 1986 and 1987 represented Ward 4. He added that it is truly great to be back, but it is also great to get out and experience the rest of the world. He went from Bay Village to Alaska, to Houston, to London. He has been in Afghanistan living in a shipping container, and in Saudi Arabia living in a palace. Mr. Smith was welcomed back home.

Finance Director Mahoney had no report this evening.

Recreation Director Enovitch has no report this evening.

Operation Manager Landers reported that as of November 15, 2013 the Service Department has collected 9000 yards of leaves, compared to the usual 20,000 at this time of the year. Mayor Sutherland noted that the trucks that are used for leaf pick up are prepared for snow plowing this time of the year and encouraged everyone to pray for good weather until leaf collection is completed.

Fire Chief Lyons had no report this evening.

COMMUNICATIONS

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

Letter dated November 7, 2013 from the Bay Village Community Band Executive Board regarding their budgetary request for 2014.

Letter dated November 11, 2013 from Lorry Wagner, President of LEEDCo requesting a resolution of support for "Icebreaker" Offshore Wind Project.

Norfolk and Southern Train Report for October, 2013 indicating an average of 0.9 trains per day through the City of Bay Village during the month of October.

AUDIENCE

The following signed in this evening: Pam Cottam, Suzanne Graham, Ernie Minichello, Tom Henderson, Marty and Jennie Mace, Anne Marie Cronin, Denny Wendell, Susan Murnane.

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE

Mr. Clark introduced **Ordinance NO. 13-93 AUTHORIZING THE MAYOR TO ENTER INTO A LABOR AGREEMENT WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 1144, AND THE CITY OF BAY VILLAGE, AND DECLARING AN EMERGENCY**, and moved for adoption.

Mr. Clark suggested that there was a lot of effort and a great deal of time put in by both parties and to that point that there is mutual satisfaction he heartily recommends adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 13-93.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays- None.

Mr. Koomar announced adoption Ordinance No. 13-93, an emergency measure, by a vote of 7-0.

Mr. Clark read, by title only, **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 and 9-16-13) Amended

Ordinance No. 13-17 will remain on second reading.

PUBLIC IMPROVEMENTS /STREETS/SEWERS/DRAINAGE COMMITTEE

Mr. Miller had no report this evening.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE

Mr. Lee introduced and read **Ordinance NO. 13-94** AMENDING CHAPTER 1349 REGARDING SWIMMING POOLS, 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. 13-94.

Roll Call on Suspension of Charter Rules:

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

Roll Call on Suspension of Council Rules:

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

Roll Call on Use of the Emergency Clause:

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

Roll Call on Adoption:

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

Mr. Koomar announced adoption Ordinance No. 13-94, an emergency measure, by a vote of 7-0.

RECREATION AND PARK IMPROVEMENTS COMMITTEE

Mrs. Lieske had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

Mr. Tadych had no report this evening.

MISCELLANEOUS

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Young **MOVED to** convene to Executive Session for discussion of Labor Contracts (Police Gold, Police Blue, AFSCME Service and Administration, Fire) Personnel/Contract, Litigation (Ohio Citizens Action Group, Inglefield).

Roll Call Vote: Yeas- Koomar, Lee, Lieske, Miller, Tadych, Young, Clark. Nays – None. Motion passed 7-0.

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

Council reconvened in an open meeting at 8:40 p.m. Present were: Clark, Koomar, Lee, Lieske, Miller, Tadych, Young, Mayor Sutherland.

FINANCE & CLAIMS COMMITTEE

Mr. Young introduced and read **ORDINANCE NO. 13-95** AMENDING SECTION 1 OF ORDINANCE 13-83 REGARDING RATES OF COMPENSATION FOR THE OFFICERS AND EMPLOYEES OF THE GENERAL ADMINISTRATION DEPARTMENT AND THOSE EMPLOYEES OF THE CITY 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. Koomar called for a vote on the motion to adopt Ordinance No. 13-95.

Roll Call on Suspension of Charter Rules:

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

Nays-None

Roll Call on Suspension of Council Rules:

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

Nays–None

Roll Call on Use of the Emergency Clause:

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

Nays -None

Roll Call on Adoption:

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

Nays–None.

Mr. Koomar announced adoption Ordinance No. 13-95, an emergency measure, by a vote of 7-0.

Mayor Sutherland announced that the new Assistant Service Director will be Scott Thomas of the City of North Olmsted. Mr. Thomas will begin work for the City of Bay Village on December 2, 2013.

There being no further business to discuss, the meeting adjourned at 8:45 p.m.

Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council