

Minutes of a Meeting  
of the  
City of Bay Village Planning Commission  
held July 3, 2013

Chairman Dzienny called the meeting to order at 7:30 p.m. in the Council Chambers of Bay Village City Hall.

Present: Bruckman, Dzienny, Lee, Lesny Fleming, Maddux, Majewski, Persanyi

Also Present: John Cheatham, SAFEbuilt, Reverend Timothy Gareau, St. Raphael's Catholic Church, Kris McGivney, Robert Zarzycki, James Malik

Following the roll call, Mr. Dzienny called for approval of the minutes of the meeting held June 5, 2013. **Motion** by Persanyi, second by Majewski, to approve the minutes of the meeting held June 5, 2013, as prepared and distributed. Motion passed 7-0.

Mr. Majewski left the Council Chambers during the St. Raphael's Catholic Church portion of the meeting.

**St. Raphael's Catholic Church  
525 Dover Center Road  
Phase 2 Expansion – Worship Space and Community Room**

**Mr. James Malik**, Architect with Zarzycki and Malik Architects, addressed the Commission advising that they have met with the Board of Zoning Appeals and Architectural Board of Review regarding the Phase 2 expansion of St. Raphael's Catholic Church. A height variance was granted by the Board of Zoning Appeals, and the Architectural Board of Review has reviewed and approved the plans submitted for the church, including the signage. They are now requesting final approval of their plans.

Mr. Dzienny stated that one stipulation for the approval is that the storage bins located on the property not include any advertisement for the storage bin company. Reverend Gareau took note of the comment and will have the storage bin painted.

Mr. Persanyi asked if the soil left by the demolition of the home to the north of St. Raphael's will be used for a specific purpose. Reverend Gareau stated that the soil is almost gone. Mr. Persanyi asked if it has been determined how people will gain access to the parking area during construction. Mr. Malik stated that they will pave over the former site of the rectory. The current access will also remain open. Access for construction equipment will be from Dover Center Road.

Mr. Bruckman asked what point in the season the landscaping will be replaced or enhanced as needed. For certain types of plantings, the best time for planting is in the fall of the year. Mr.

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Bruckman suggested that planting this fall might provide some additional screening during construction and also give a full part of a calendar season to see if the plantings will take.

Mr. Malik stated that all new Arborvitae has been added along the back of the property. Staggered fencing will also be added. There are holes dug for plantings on the south side.

**Motion** by Lesny Fleming, second by Maddux, to approve the plans presented by St. Raphael's Catholic Church for the Phase 2 Expansion Project, with the stipulations for screening outlined by the Planning Commission.

**Roll Call Vote: Yeas – Bruckman, Dzienny, Lesny Fleming, Maddux**  
**Nays – None**  
**Abstained- Lee, Persanyi**

**Motion Passed -4 yeas, 2 abstentions.**

### **Council Up-Date**

Councilman-at-large Steven Lee provided the following report:

During the month of June, City Council authorized the Service Director to advertise for bids for the resurfacing of Lake Road, from Longbeach to the Avon Lake border, and also for this year's resurfacing overlay program which will mainly occur in Ward 1.

An ordinance was passed increasing the salary for the Mayor and members of Council. The salaries will be increased by one percent in 2014 and two percent each year in years 2015 through 2017. This is the first increase in over five years. The increases must be done before the filing deadline for candidates, which occurred on June 12. Council can act to reduce these amounts in the future during the terms of office, but cannot increase the amounts during the terms of office. With these increases, Bay Council salaries are still 25% below the average of the neighboring cities.

Council also adopted the tax budget for the fiscal year beginning January 1, 2014. By charter, Council is normally on recess during July and August, but will occasionally meet for special meetings. Council is going to meet on Monday, July 8, and the following Monday, July 15, to discuss the rezoning of the property on the west side of Cahoon Creek at the corner of Wolf Road and Cahoon Road. There may be additional meetings scheduled in July and August. The July 15 meeting will also be a public hearing on the subject of rezoning of the Cahoon Creek west bank property. This is similar to what was done in 2010 on the east side of the creek, with the former Shell Station property, and the property where the Key Bank ATM is currently located. More than one developer has approached the city about building attached residences on both sides of the creek. The current property owners have sent letters to the city requesting the rezoning to Attached Residence District. Following what was done in 2010 on the east side of the creek, the acreage requirement would be reduced from the five acres required by Chapter 1158, the Attached Residence Chapter, and the density per acre would most likely be increased

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from six to eight units per acre. The Master Plan, done in 1999, contemplated townhouses on both sides of the creek. The reason that Council will meet in July and August is that the deadline for including items on the ballot for the November election is August 7. Council will welcome any input from the Planning Commission on the rezoning consideration. If the rezoning ordinance is approved by Council to be placed on the ballot, the electorate must approve the rezoning both in Ward 2 and city-wide.

Final testing is being done on the Nixle Dial-Up System. The text notification system has been in place for several months. The dial system will be similar to a Reverse 911 system, where the city can send out voice messages to land lines. The delay for setting up the dial-up system has been getting the file from the phone companies of all the land lines in the city. Unlike the text system, it is not required that residents register their land line phone number. All the existing land lines will be automatically entered into the system. If a resident wishes to add their cell phone number to the system to receive the voice messages in addition to the text messages on a cell phone, that will be an option available through the city web site once the land line system is up and running.

Police Chief Wright resigned at the end of June, 2013 to take a position with the Cleveland Clinic. The search for a replacement is now underway through the Civil Service Commission.

Council continues to work on amending Chapter 721 of the Codified Ordinances, regulating peddlers, solicitors, and canvassers, in an effort to resolve any litigation brought by the Ohio Citizens Action Group.

Labor negotiations with the Police, Fire, and Service Departments continue.

Mr. Dzienny asked if Chapter 1158 for Attached Residence District will be changed with the potential rezoning of the Cahoon Creek property. Mr. Lee stated that Chapter 1158 would just be changed for that parcel, not city-wide.

Mr. Dzienny stated that he would think that may be more difficult than changing the Attached Housing code. Mr. Lee stated that it may be spot zoning, but the Law Director has advised that this is the best route to go for this particular parcel. It is consistent with what was done on the east side of the creek.

Mr. Dzienny noted that the property on the east side of the creek was commercial property. Mr. Majewski noted that it is still commercial property. It was a permitted use for all business districts. Mr. Lee clarified that Attached Residence was added as a permitted use in the Retail Business District, which also picked up the Clague Road property. When that was approved, it did not change the Attached Residence code.

Mr. Lee stated that this rezoning measure will be approved with the creation of a new Chapter 1158B, just for that parcel on the west side of the creek.

Mr. Dzienny stated that it has been years trying to get Chapter 1158 redone. Mr. Dzienny stated that he would have a problem with it being changed for just that particular parcel. There are

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other people in the city, who have asked the same for their property, and they may not have the same muscle as the developer, to get that done, and now we are going to spot zone. That doesn't make any sense. The Council needs to fix Chapter 1158, and then we can talk about rezoning. You cannot move ahead with spot zoning like that and be fair to everyone else. It is the same acreage issue; it is the same density issue that's been a problem.

Mr. Persanyi added that Chapter 1158 should be fixed for future parcels. Mr. Majewski expressed agreement.

Mr. Lee stated that Council has tried on several occasions over the years and has not been able to do anything with it. It hasn't been revised since 1974.

Mr. Persanyi noted that Council members have changed over the years. The right way to handle this would be to change the entire Chapter 1158, reduce the minimum acreage and come up with reasonable densities and look at the green space that would be left as opposed to pure numbers. Right now, Cashelmarra has ten units per acre and it has its own zoning chapter. It is wrong to create separate chapters with spot zoning with special favors for special developers.

Mr. Majewski asked if there is a reason to push this to the ballot this year. Mr. Lee stated that the developer would like to proceed. Mr. Maddux stated that the property owners would like to sell, and the developer would like to build.

Mr. Lee stated that he does not think there is anything unique about this year, other than having to wait another election cycle to the next November without having to incur additional costs.

Mr. Dzienny suggested that the two special sessions of Council be work sessions on Chapter 1158, get that into shape, and have something that can be taken to the voters.

Mr. Lee responded that based on history it is unrealistic to believe that Council would be able to come to a consensus on Chapter 1158 in five weeks.

Mr. Persanyi stated there are new Council members that were not there when the issue came up before. Why can't Council do it for the entire city?

Mr. Lee reiterated that it hasn't been done since 1974.

Mr. Persanyi stated that he worked on committees with Jack Norton and others and came up with recommendations that were not acted on by Council. Yet, now they are willing to do it for one developer.

Mr. Dzienny stated that the acreages and density seem to be the sticking point. Chapter 1158 doesn't need to be totally revamped at one time. If you target those specific areas, why couldn't there be a version of Chapter 1158?

Mr. Lee stated that he does not think there is enough time in the five weeks for a consensus of Council to do that. We are trying to get it in front of the voters.

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Mr. Dzienny stated that the voters won't understand what they are voting on. They will agree to put houses there but won't understand the ramifications for everyone else who wants to do something similar.

Mr. Bruckman stated that there are some characteristics of that specific site that are somewhat unique relative to the rest of the city. It is going to be a really big challenge. There needs to be some revisions. In the course of making those revisions we are still going to have to look at areas like this, which, in many ways functions like a commercial district except of that area which is the back of a commercial district. There are other areas where there is going to have to be some language to talk about density and also density relative to other units where the density won't change. We are going to have to work to make sure that the character of that particular area stays the same somehow. That is going to be difficult to parse out. It's a different conversation than what might take place here but it is part of what has to happen. Mr. Bruckman stated he would look forward to seeing something like this come to Council so it could be discussed. It would be very engaging for all of us, speaking of everyone who has a stake in the future of the city.

Mr. Dzienny referred to the situation with Bradley Bay. The property originally was bought by a developer to put in attached residences. It was chased away because of restrictions there. That was one developer that was not allowed to proceed because of Chapter 1158. Other people have said they would like to do something. It does seem very targeted, and the voters may not know what it means if they vote yes.

Jennifer Lesny Fleming asked about the developers. Mr. Lee stated that Mr. Dino Lustri, who owns the second house south of Wolf Road, and Mr. Brickman, who was at Council in May and presented a proposal, are the two that he is aware of but there have been others. There have been some that have talked about developing just the east side. Others have talked about developing both sides. The idea of having a scale to do both sides and create more of a community was attractive. The fact that the property has never been developed as single family homes, other than the first two homes south, suggests that it probably is not suitable for that.

Mr. Dzienny noted that the area used to be a drop-off and when they dug out Bay Middle School they put all their fill there.

Mr. Lee stated that if any of the Planning Commission members are available on July 15 for the Public Hearing that would be helpful.

Mrs. Lesny Fleming asked if Law Director Ebert has issued a memorandum on this proposal. Mr. Lee stated that he has done some research and is preparing ordinances for Council's consideration. There are many files on Chapter 1158 and there was input from the Cuyahoga County Planning Commission with memorandums talking about residence districts' overlay districts, and that was one of them identified. The Master Plan in 1999 also suggested 24 to 26 townhouses on those properties. That may have picked up some of the property farther south on Cahoon Road.

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Mr. Persanyi noted that Mr. Lustri's property was a little less than two acres at that time. He spent quite a bit of time and effort in coming up with a set of plans for townhouses. There was no other land available beyond his property at the time. The property to the south of his property has a house on it.

Mr. Lee stated that the property owner at the corner of Cahoon and Wolf has expressed an interest in being part of the development. It is still being verified by the Law Director that it is around 3 acres on the west side of the creek. The proposal to this point is more conceptual and Council hasn't seen any specifics as far as design.

Mr. Majewski noted that the Master Plan studied the east side and the west side of the Cahoon Creek, and did not recommend condominiums for the east side. The Master Plan recommended a commercial restaurant for the east side.

Mr. Lee stated that he believes that was everybody's first choice but the Shell property has been vacant for a very long time without any developers who have moved forward with any restaurants there.

Mr. Majewski stated that what he is saying is that you can't say the Master Plan is supporting the project if you don't use it to say it didn't support this project on the east side. Mr. Lee stated that there is an alternative proposal in the Master Plan. It may not have been the first use. One of the alternatives in the back of the Master Plan is townhomes on both sides, but it may not have been the first recommendation.

There being no further discussion, the meeting adjourned at 7:58 p.m.

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Andy Dzienny, Chairman

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Joan Kemper, Secretary