

Minutes of a Meeting  
of the  
City of Bay Village Planning Commission  
held November 6, 2013

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

Present: Lee, Maddux, Majewski, Persanyi

Absent: Ms. Lesny Fleming

Resignation Submitted: Mr. Dzienny, Chairman submitted his resignation on October 4, 2013 to Mayor Deborah L. Sutherland.

Following the roll call, Mr. Persanyi proposed that the election of a Chairman be withheld until the December meeting, with the anticipation that the two vacant positions will be filled by that time. The members concurred. Mr. Persanyi agreed to serve as Chairman pro tem until a new Chairman is elected.

On the question of approval of the minutes of the meeting of October 2, 2013, Mr. Lee noted that he was not in attendance at that meeting and will abstain on approval. Mr. Maddux was also absent on October 2. The minutes of the meeting of October 2 will be held in abeyance for approval until Ms. Lesny Fleming is present.

Mr. Persanyi noted that he has questions regarding the five parcels that were submitted to the electorate on November 5, 2013 for rezoning. He noted that since the rezoning effort did not pass in Ward 2, the issue does become moot at this point in time. The question remains that the amount of acreage that was indicated in the rezoning ordinance was accurate due to how it was measured. Mr. Lee stated that he read that discussion in the October 2 meeting minutes, and it's possible there was a discrepancy in the measurements, but proposed Section 1158B is no longer relevant in the rezoning matters due to the vote defeating the measure. If those properties were to come up in the future, it would be advisable to verify the acreage. It sounds as though there are some discrepancies in some of that acreage, with some of the acreage being in the public right-of-way. Mr. Persanyi stated that when Mr. Dino Lustri appeared before the Planning Commission in 2008, it definitely was an issue because his plan showed the property going out to the center line. Mr. Persanyi noted that the public right-of-way must be maintained for any future projects. Mr. Lee suggested verifying the acreage with Law Director Ebert.

**Review of provisions of Chapter 1158 of the Codified Ordinances of the City of Bay Village as set forth in the September 5, 2013 memorandum by Chief Building Official**

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**John Cheatham, and reviewed in the meeting of the Planning and Zoning Committee Meeting of September 5, 2013, as well as the rezoning of the Cahoon West property, and Chapter 1158 (B).**

**Review of proposed parameters for revisions to Chapter 1158.**

Mr. Persanyi called upon Chief Building Official Cheatham for background on his work in the examination of surrounding communities.

Mr. Cheatham stated that he looked at what the City of Bay Village had, what other communities around Bay Village had, and came to the conclusion that Bay Village is unique. Mr. Cheatham took the intent of the other communities based on their demographics and tried to portray that in the proposed provisions for Bay Village. Consideration was given to the visions provided in the Master Plan, and this proposal mirrors that plan.

Mr. Lee related language he highlighted from the Council meeting of September 9, 2013 when the matter was referred to the Planning Commission:

“The Planning and Zoning Committee would like to refer the proposal to the City Planning Commission as the next step in the process to provide input as to whether it makes sense to have one set of rules that applies city-wide, or a set of rules that applies to different residence districts.”

Mr. Cheatham’s proposal is to have one set of rules for Residence District 3, and a different set of rules for Residence District 1. That was also part of the suggestions made in the Cuyahoga County Planning Commission memorandum written by Kristin Hopkins, AICP, Principal Planner, on October 24, 2008. Another issue was whether there should be a separate set of rules that would apply to the retail district or the commercial district, creating three sets of parameters. The last specific issue is if it makes sense to have it apply as an overlay approach following the Master Plan to identify specific areas of the city as opposed to what we have today, which is a city-wide approach with the current Chapter 1158. The measure passed in 2010 was to add as a permitted use in the Retail District attached residences with a density of 8 units per acre. This consideration would be to adopt a full set of rules applicable just to the Retail Business District, in addition to what is proposed in Mr. Cheatham’s memorandum regarding the two residence districts.

Mr. Persanyi asked if Mr. Lee would propose to have this all included in Chapter 1158, with different sections that would apply to each district and a separate section for the retail district where it is now permitted use.

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Mr. Lee responded that he was thinking that Chapter 1158 would be split into three separate sets of parameters for each of those districts.

Mr. Persanyi stated that it seems as though there is a major resistance to any attached residence district being created. He wondered about restricting it to areas that are immediately adjacent to a commercial district and the attached residence district would be a buffer between a retail district and a purely, single-family residential district. Mr. Lee stated that he believes that make sense, and that may be the way Rocky River has been established.

Mr. Majewski stated that there are areas in Rocky River where you cannot build attached residences. They have a number of different districts and some of the residential districts exclude attached residences. Others have different forms of attached residences permitted.

Mr. Majewski stated that at the October 2 meeting of the Planning Commission it was expressed that the Planning Commission was looking for direction from Council as to what they were looking for in a review of Chapter 1158. Are we supposed to go through the entire Chapter 1158, or just go through these very specific parameters?

Mr. Lee stated that the Council is looking for parameters that have been proposed and how those should be applied. We could take that and work with the Law Department with a re-stated Chapter 1158.

Mr. Majewski noted that in the light of the results of the election of November 5, 2013, this is the perfect time to rewrite Chapter 1158. There is no pending development and there is a six-month moratorium. The intent of passing the moratorium was to allow the Planning Commission to have its time to work through this and report back to Council. Council would then incorporate those thoughts into proposed legislation which would ultimately be passed after readings.

Mr. Cheatham stated that although he likes the idea of restricting attached housing next to commercial or retail business districts, it may limit the development in other areas that may be ideally suited for development. Mr. Persanyi noted that the Master Plan addressed this in citing that there were some areas of Knickerbocker that were still undeveloped, and the plan saw the potential for attached residences such as small town-house developments.

Mr. Persanyi noted that the only problem is that if you go to smaller development areas it necessarily comes with fewer units and there is the question of viability of an association to maintain exterior maintenance. Mr. Majewski noted that the Cuyahoga County Planning Commission expressed that there has to be enough of a homeowners association to maintain the property because this is a requirement of our code. The homeowners' agreement has to be submitted to the city.

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Mr. Persanyi noted that our present code has restrictions that there can be no unit less than two bedrooms. He asked if this is something we should maintain in the future.

Mr. Cheatham proposed building one-bedroom units of a minimum square footage of 900 square feet in District 3, and requiring two or three-bedroom units in District 1. Mr. Cheatham stated that many retirees just want one bedroom. Nine-hundred to one thousand square feet is very attractive to many retired couples. Mr. Persanyi noted that a builder needs the flexibility to supply that which is called for by the demand.

Mr. Majewski commented that one of the ideas that came from the Master Plan was a density bonus. The emphasis was on senior housing. If the developer would require ADA compliant units, they would get a density bonus. Thereby the goal of the city was fulfilled for senior housing and the developer also had options to build bigger attached residences. If we are looking for the senior demographic, we should consider the density bonus rather than a blind, across-the-board density. If we are not looking for the senior demographic, the density bonus is something that should be mentioned as a policy statement.

Mr. Cheatham stated that the ADA requirements must be very definitive, whether it is ADA adaptable, ADA accessible, or ADA compliant. Those are all different. Mr. Majewski stated that when it was defined in the Master Plan the requirements were spelled out. It was a very definitive list of criteria to meet the ADA requirements.

Mr. Cheatham noted that the value to the builder is if he makes the unit ADA adaptable they are very easy to make compliant or accessible. If he goes to all the expense up front to make them compliant or accessible and does not have a call for that he has wasted his money.

Mr. Majewski stated that a lot is going to depend on where this development would occur in the city, and is this Board the right source to decide the appropriate locations. The Cuyahoga County Planning Commission in their memorandum talks about appropriate locations. Is that something that a review of the Master Plan might address? A review of the Master Plan might be timely while we have nothing pending. Perhaps do a review of the focus areas mentioned in the Master Plan and see if those areas are still reasonable to be included, or if there are new areas. It may be something a Master Plan could consider.

Mr. Cheatham advised that SAFEbuilt did buy LSL Planning, which is one of the premier, smaller planning places in the country. They actually have done several Master Plans in Ohio and they do anything from ordinances to infrastructures to sanitary, etc. Master Plans for cities are one of their specialties. They would probably give the city a reduced rate.

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Mr. Majewski stated that when the Master Plan was done in 1999 the plan was to update it in ten years, and it is now fourteen years. When the Cuyahoga County Planning Commission did the last plan they came in with a consultant and a secretary who did all the minutes of the meetings. They provided the city with an unbelievable amount of background material and information, including aerial photographs of the entire city.

Mr. Lee stated that he has heard some feedback that even though the Master Plan is 14 years old the demographics of the city has not changed.

Mr. Pat McGannon, who was in the audience, stated that he was on the Master Plan Re-Write Committee that the Mayor started two years ago. The Cuyahoga County Planning Commission was called to give input. The city had budget cuts and stopped the work. The committee was told that there isn't a lot to do with planning the use of land. The focus was to make the housing stock sustainable so that future generations will continue to come to buy homes here and the property values won't drop as newer homes that are more efficiently built become available. The committee met twice a month for over a year.

Mr. Persanyi stated that the original Master Plan was preceded by a questionnaire that went out to a huge number of families. There were good returns that gave the committee at that time insight as to what the community wanted in the future, and what they needed then. That could even be done by the city now since the demographics have changed. It would be an inexpensive way to start the process.

Mr. Majewski stated that if nothing else we could determine if the goals established in 1999 are still the goals of the community, or re-establish the goals of the community. People are talking again about recreation centers and it would be a good time to talk about that with the city as a whole. Mr. Persanyi suggested that perhaps the city could get together with Avon Lake and create something that both cities could use. Mr. Majewski noted that we hear talk about the Walker Road Park and the possibility of sharing services. A gentleman came before Council with a proposal for Cahoon Memorial Park for a Bay Village stadium a few months ago. There is a lot of talk about recreation and it would be a worthwhile exercise to look at the Master Plan. It may not be as extensive a review as last time since so much of the work was done. If nothing else, to look for areas for attached residence housing.

Mr. Persanyi noted that the vote of the electorate on November 5 does not really show great resistance to attached residences but it was the way the process happened. It was not brought to the public's attention and they had nothing to go by other than the fact that Council was passing an ordinance with an emergency clause attached. Mr. Lee stated that the neighbors in particular wanted to know what the development would look like and with all the important details.

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Mr. Cheatham noted that he sits on the state board and nearly every board meeting the master code body for the whole nation sends a representative from Washington to the board meeting each month. Nationwide the movement is to green energy and green building. Green codes have been adopted. The federal government is giving credits to communities that do attached housing to utilize the best amount of space for the most people. They have rules for density and ownership within a certain distance of medical offices, hospitals and groceries that, if met, will qualify a community for funds from the government to provide this housing. This would also be good for the city economically. There is a lot of help out there to be had, if you know where to look.

Mr. Persanyi suggested that the Planning Commission members take a hard look at Chapter 1158 and the information supplied by Mr. Cheatham. Mr. Majewski asked if the intention is to look at Chapter 1158 from beginning to end. Mr. Lee stated that is his understanding of the intention of Council at this time. Council recently passed an extension of time to the Planning Commission to January 6, 2014. Mr. Majewski noted that the January meeting falls on New Year's Day, and re-scheduling will be required. Mr. Lee discussed the option of a second meeting during the month of November as a work session for Chapter 1158.

Mr. Majewski noted that the rezoning issue of the Cahoon West property was referred to the Planning Commission, as well as Chapter 1158B. If the Planning Commission does not take some sort of action it will mean that those items were approved. There should be a statement in the minutes relative to some kind of action. Chapter 1158B was not referred properly to the Planning Commission; it should have been referred to the Planning Commission prior to being adopted by Council, according to the City Charter. The rezoning issue should have met the requirements of the Administrative Code, Section 115. There should have been applications and the property owners should have come before the Planning Commission to present their request. A statement should be made to the effect that these were not properly referred to the Planning Commission and there is no action taken by the Planning Commission. Mr. Persanyi expressed agreement with Mr. Majewski. He asked that the Council representative take the necessary actions in the future whenever issues of zoning come forward to bring it to the Planning Commission as described by the Charter and the administrative code.

Mr. Majewski stated that the minutes of the Planning Commission of 2008 when there was a presentation by Mr. Dino Lustrì, reflect that the chair person at that point in time said that there needed to be an ordinance that went to first reading and then to the Planning Commission for review. When Mr. Lustrì came there was no ordinance. He came with an application for preliminary discussion, which is allowed under Section 1129, the approval process. There was never any formal action taken by the Planning Commission. Mr. Persanyi noted that Mr. Lustrì came to the Planning Commission with a land consolidation plan and a re-division, and as

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another matter showed his plans for developing his property. It was not an official application for rezoning or attached residences.

Mr. Lee stated that as long as he is Council's representative on the Planning Commission he will see to it that zoning matters are referred in this manner. In June or July, Mr. Lee noted, he brought the matter to the attention of the Planning Commission and invited them to the public hearing but did not realize there was a formal referral process. Now that he is aware of that he will see to it that it is referred in accordance with the Charter.

Mr. Majewski stated that one of the sections he lighted in the 2008 minutes of the Planning Commission was that Building Director Milburn had been in touch with the Law Director and advised that the Charter states that the first step in any rezoning is a review by the Planning Commission and recommendation to Council. In 2008, the first step was to come to the Planning Commission. Mr. Lustrì brought the question of rezoning to the Planning Commission. It never got past the preliminary discussion stage because the Planning Commission asked Council if they were interested, and Council said no. It never got into the Section 1129 Approval Process stage.

Mr. Lee noted that this has been helpful to him as far as attaining background information and he appreciates the input from all of the members of the Planning Commission.

Mr. Persanyi asked if Mr. Lee will always be the representative to the Planning Commission as long as he is on the Planning, Zoning, Public Buildings and Grounds Committee. Mr. Lee stated that he assumes whoever is the Chair of the Planning and Zoning Committee is the representative to the Planning Commission. Committee assignments are normally reviewed for change in the beginning of every other year.

Mr. Majewski noted that it must be made clear that the Planning Commission has taken no formal action on the two referrals from Council and that the election basically rendered the one question moot due to the defeat of the rezoning issue in Ward 2 which also means that Chapter 1158B is not effective. Mr. Lee stated that by its terms, the ordinance was conditioned upon approval of the voters. The Secretary noted that the certificate from the Board of Elections indicating that the measure did not pass will be attached to the ordinance for the permanent record.

Mr. Persanyi asked if there are other projects in the city to come before the Planning Commission. Mr. Majewski noted that an extension to January 25, 2014 was granted by Council for the time for the Planning Commission to review the plans for the proposed restaurant at 27115 East Oviatt. The plans will be reviewed by the Architectural Board of Review on

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Wednesday, November 13, 2013, and should come back to the Planning Commission on December 4, 2013.

Mr. Persanyi stated that at the December 4 meeting the Planning Commission can also take up the referral of Chapter 1158, as well as set up a new date for the January meeting since the first Wednesday in January is New Year's Day.

Mr. Cheatham noted two forthcoming projects for the Board of Education. There will be additions proposed for Westerly School and Normandy School.

Mr. Majewski publicly acknowledged the service of Andy Dzienny, former Chairman of the Planning Commission, for his to his service to the Planning Commission and the City of Bay Village. The members of the Planning Commission concurred.

### **Council Update**

Mr. Lee stated that in October there was a charette, or public brainstorming session held by the Public Improvements, Streets, Sewers and Drainage Committee with CT Consultants and the residents of the Sunset area regarding potential drainage and street improvements in the Sunset area. A follow-up session will be held on Thursday, November 14, at 6:30 p.m. in the Bay Village Community House. CT Consultants will be doing some preliminary design work based on the natural conditions of the area with input from the residents in the neighborhood. This is an area that will not have storm sewers with streets and curbs, but perhaps pervious pavers or some other alternate drainage. More work must be done on determining the sharing of the cost between the city and the residents.

On Thursday, November 7, 2013, there will be a public meeting regarding the replacement of the sewer main on Cahoon Road. The meeting will be held at 6:00 p.m. at the Dwyer Memorial Center. An 8 inch sewer will be replaced with a 24 inch sewer from the railroad tracks to Wolf Road. That project is expected to run to the end of 2014, and was mandated by the Environmental Protection Agency.

The Planning, Zoning, Public Grounds and Buildings Committee is reviewing proposed revisions to Chapter 13, the Building Code. These revisions have been proposed by Chief Building Official John Cheatham for the purpose of removing any inconsistencies between the city's code and the state building code, and to simplify the process for calculating fees for building permits. These revisions will be introduced for passage by Council by year end, and then be placed on readings after the first of the year.

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Mr. Cheatham noted that it is mandated by the state that there be no conflicts between jurisdictions. Our ordinance book has many conflicts in Chapter 13 with the state code. Some are quite simple changes; some changes are moving codes to Chapter 11, the Zoning Code. Other changes include codes in conflict that can no longer be included in our local ordinance. Basically, if the city does not make these changes the state will either require the change or decertify the Building Department. The hope is to have these changes completed by the deadline date of May 1, 2014.

Labor negotiations have been completed with the Police and Service Unions and are still ongoing with the Firefighters.

The Environment, Safety and Community Services Committee is reviewing revisions to the city's bicycle ordinances to update the ordinances and remove any inconsistencies with the state code. Mr. Lee acknowledged the work of Mr. Pat McGannon for his work in that regard.

Lieutenant Detective Mark Spaetzel has accepted the position of Chief of Police and was administered the Oath of Office by Mayor Sutherland on Friday, November 1, 2013.

There being no further discussion, the meeting adjourned at 8:35 p.m.

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Bela Persanyi, Chairman pro tem

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Joan Kemper, Secretary