

# City of Bay Village

Council Minutes, Committee Session  
Council Chambers

February 24, 2014  
7:30 p.m.

Paul A. Koomar, President of Council, Presiding

Present: Clark, Henderson, Koomar, Lee, Lieske, Vincent, Mayor Sutherland

Absent: Mr. Tadych, excused due to illness.

Also Present: Law Director Ebert, Finance Director Mahoney, Service Director Thomas, Community Services Director Bock, Fire Chief Lyons, Recreation Director Enovitch, Operations Manager Landers

**Mr. Koomar** extended a warm welcome Brian Henke, Webelos 1 Den Leader and Cub Scout Pack No. 729 to this meeting of Council.

## **AUDIENCE:**

The following audience members signed in this evening: Dick Majewski, Doug and Gary Borchert, Kevin Krol, Russell Thompson, Denny and Tara Wendell, Barry Ward, Conda Boyd, Marty Mace, Bob Dorin, Ernie Minichello

## **ANNOUNCEMENTS**

**Mayor Sutherland** announced that there was a meeting today of the Fire District's Implementation Committee and they did vote to elect Dennis Clough as the Chair and Bay Village Fire Chief Lyons as the Assistant Chair. They will be coming back to all of their respective Council's with legislation to accept the \$100,000 grant that was received from the State of Ohio. More details to follow.

The Mayor announced the following appointments:

Appointment of Dr. Dennis Lekan to the Civil Service Commission to complete the unexpired term of Joseph O'Connor, ending January 24, 2016.

Appointment of Kevin Krol to the Architectural Board of Review for a three-year term expiring February 24, 2017.

## **COMMITTEE OF THE WHOLE**

**Mr. Robert Greytak, CT Consultants**  
**Rocky River Wastewater Treatment Plant Flow Study**

Mr. Greytak stated that they have conducted a review of the Rocky River Wastewater Treatment Plant (RRWTP) Flow Study and crafted a letter to the RRWTP committee regarding their thoughts about some of the anomalies that were in the results of the flow study. A meeting was held with the RRWTP committee approximately three weeks ago, and as expected there was push-back from the committee members. After some discussion, a review was promoted going forward as to how this flow study is done. It has been done every three or four years in the same way as it was done in 1996, insofar as sampling and locations, but it never really has been looked at as far as whether the approach makes sense. There are swings between flows and pollutants and most of those swings are between Bay Village and Westlake. Part of it is because of weighing the samples. For example, Westlake has one interceptor that goes into the RRWTP, and they do their pollutant sampling out of that one interceptor. Bay Village has three lines going into the RRWTP, all three have flow meters on them but only one is sampled. Mr. Greytak's firm does not think this is the way to proceed in the future, especially since one of the other lines that they don't sample is the other major interceptor, which is the 42 inch relief sewer. They suggested that maybe going forward that they sample not just one of Bay Village's interceptors but two of the major ones. This will give a better representative sample of the strength of the sewage coming in and be more consistent with the sampling done in the other three communities.

There was concern about the lack of rainfall data. The rain gauge they had at city hall during the sampling period was not functioning during 80% of the rainfalls. The push-back from Westlake in particular was that even if Bay Village had the highest rainfall and was even 5% higher than the highest rainfall in the other three communities the change in the rate would only be \$3,200 per year. Their claim was that the rainfall was a minor component of the study. Mr. Greytak questioned why it is being done if it is such a minor component. That is something that will be looked at in the future.

CT Consultants asked the committee to look at having the next flow strength study in three years time rather than in four years time, and that they have an opportunity at that time to review the protocol and procedures. There has been some discussion as to why CT Consultants does not do their own flow monitoring and take that information to the committee. That would result in one set of data from each year of 2013 and 2014. It is doubtful that anyone would agree that one takes precedence over the other. It also could be that the results are the same after spending the additional money to conduct the monitoring.

Mr. Greytak stated that he agrees it is advantageous for the city to look at the protocols and procedures and make sure that everything is covered adequately and try to come up with an approach when we see these swings from metering session to metering session, particularly on the pollutants. The pollutants should not change between metering sessions. There may also be some ideas about changing the flow metering to another location.

Mr. Koomar asked if it is definitive that there will be remetering in three years. Mayor Sutherland stated that there was discussion. Mr. Greytak concurred but there was concern whether that would be a one-time event or whether that it is something that would be done every three years. That has not been advanced beyond the discussion stage at this time.

Mr. Koomar stated that assuming it is three years from now, is there any reason with the work that Mr. Greytak has put into it that we wouldn't go to an exercise right now and decide right now how that study should be conducted?

Mr. Greytak stated that he does think this coming year we should get that nailed down so that when they put out their requests for proposals the next time they have the protocol revised. Mr. Koomar asked if there is any reason in the next four months that we can't decide what those would be. In three or four years, who knows if within the three or four member cities things will change, why not agree at this point in time of the different components of the study so that when it comes up for bid in a couple of years we are not going to open this up and relive it again. Mr. Koomar noted that it would give him peace of mind to know all the things that are being talked about this evening are not going to have to be recalled three years from now, trying to remember what they are.

Mr. Greytak stated it is certainly something they can get on the agenda for further discussion. At this point it will have to be a discussion item they will have to memorialize. It is something we will be able to advance and see before the end of the year.

Mr. Lee stated that looking at the per dwelling and per capita discharge from Bay Village we were off the charts in 2013 in comparison to our neighbors. He asked Mr. Greytak if that is still his conclusion after digging deeper into the data and the URS reports.

Mr. Greytak stated that he asked for the raw data from URS but cannot find anything in the data that suggests there are errors in it. The metering sites are not the best sites; they are not as concise or tight as Mr. Greytak would like to see them. But, they have always been those metering sites. Part of the problem is with the way the flow keeps changing at metering sessions that these are not good sites to meter from. Let's look at some other sites that may be more representative and have better control on them than the sites they have been using all these many years.

Mr. Clark stated that his concern is whether the numbers were really accurate. One of the three interceptors was tested. The economic consequences to Bay Village are significant. It is \$450,000 per year to the city. The residents have to bear that cost. We are looking at a 25% to 30% sewer bill increase, for at least three years.

Mayor Sutherland commented that there are five members of the committee that vote. They alternate on an annual basis as to which community gets the extra vote. This year Westlake has two votes. That's why it is difficult right now to try to make any changes because we already had two votes against remetering. Mr. Clark noted that he would like to have testing done every year.

Mr. Greytak reiterated that the pollutant strength should not change that much at each metering session. They may be able to advance the idea of not sampling but just use population figures as a representative sample. We do flow monitoring of all three sewers, but only a strength sample on one of the three right now. The two major ones are the ones we want to sample. The third

one is a local sewer, without much flow. We at least ought to be able to get the two major interceptors coming in from Bay Village.

Mr. Clark clarified that with the absence of metering for each home the cost for sewer use would be the same for each resident. The increased yearly cost will have to be divided by the number of households. Mr. Greytak stated that the only variable will be the amount of flow coming from each community.

Mayor Sutherland stated that the city does not have the capability of doing a usage per resident. The only way that could be done would be to bill it through the Cleveland Water Department. Mr. Clark asked if we know what that cost would be to do that. Mayor Sutherland stated that they have not looked at that lately. Mr. Clark stated his concern that someone on a fixed income is paying the same amount as someone else who is using much more water flow.

Mr. Lee asked if part of this exercise of evaluating the amount of the increase we can relook at the availability of that data from the Cleveland Water Department and being able to do more of a usage-based billing as opposed to a fixed charge per residence. The best proxy we have would be the amount of water each home is consuming because we don't have separate meters at each sewer and storm outflow for each resident to determine what each resident is contributing.

Mayor Sutherland will keep Council posted. She expressed the thought that the RRWTP may have another meeting toward the end of March to further discuss the issue. Mr. Koomar stated he would like to have a plan in place for later this summer or fall. Mayor Sutherland stated that she is sure they will, and now is the time to try to get that all ironed out.

Conda Boyd stated that she would like to believe that this will all be looked at again in a few years, but the lawyers for the Rocky River Wastewater Treatment Plant said that the change in the frequency would require a change in the basic agreement. Ms. Boyd would like to see on the horizon some kind of agreement among the four cities that they will actually get another look at it in three years. Three years down the road, people may have forgotten the discussion.

Mayor Sutherland stated that this is what they would do but they have to work through the process. And then they would come back to respective Councils. They will have to pass an addendum. We have done that in the past. It could be a very detailed addendum, or something that is very simple. Once we get an agreement with all the parties, we wouldn't sit on it; we would go ahead and bring it to our Councils. Mr. Greytak stated that he would expect whatever addendum comes back to Council will be more comprehensive than just a flow study every three years, and that other things will be included in that.

Mr. Lee asked if it takes a majority of the cities' votes to amend the agreement, or is it more complicated than that. Mayor Sutherland stated that as a management committee the Mayors would have to vote on the language. Once they agree on it then it has to go to all the different city councils. Mr. Lee stated that it sounds like Westlake has two votes on that management committee. Is it just a majority vote? How many votes are there total? Mayor Sutherland stated that there are five votes, with Westlake having two of the five. Bay Village has one. Fairview Park has one. Rocky River has one. We would have to have three to vote for it. Mayor

Sutherland stated that back in 2009 the City of Bay Village, at their expense, had a remetering because a sewer line in Wischmeyer Creek was running into the pipe. The best that we can do without circumstances of that type are to take a vigorous look going forward and make some of those changes. They were amenable to getting rid of the rain gauges. All of the communities had made significant investment in the collection system and it may be waiting for four years might be too long of a time frame. Going too soon might produce wild variations due to the construction projects.

Mayor Sutherland noted that the Environmental Protection Agency is going to continue to ratchet down on Bay Village and all of the communities.

Mr. Greytak was thanked for his presentation this evening.

### **ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE**

**Mr. Lee** stated that at the special meeting this evening there will be the third and final reading of Ordinance No. 14-04 which is correcting the number of places where we are posting notices to three from five. Posting of public notices occurs at the Library, City Hall, and the city's website.

Mr. Lee is scheduling an Environment, Safety and Community Services Committee meeting this Thursday, February 27, at 5:30 p.m. in the conference room of Bay Village City Hall to continue their work on the bicycle ordinance. The objective is to have the ordinance on the agenda for the regular meeting of Council on March 3, 2014.

### **PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE**

There was no report this evening.

### **FINANCE & CLAIMS COMMITTEE – Clark**

**Mr. Clark** reported that a Finance Committee meeting was held earlier this evening to discuss January financial results, plan of Finance for 2014 for borrowings, the Kiddie Kollege lease, and the capital budget on a five-year go-forward basis.

Ordinance No. 14-05 increasing video service provider fees will be read this evening for the third and final reading.

Ordinance No. 14-06 with regard to rates of compensation for those employees who are not involved in a collective bargaining or labor contract unit is being moved to third and final reading this evening.

A second reading will occur for Ordinance No. 14-08 amending Codified Ordinance Section 151 regarding employment provisions that the Council and administration have been working diligently through the last six weeks.

Mr. Koomar noted that Ordinance No. 14-08 has a clause about benefits (holidays and vacation pay) for part time employees. On a recent copy there was a change defining part time as less than thirty hours per week. Mr. Lee stated that historically part time was not so defined. Mr. Koomar stated that all Council wanted removed was the reference to the year 1995 and stating that all part time employees will not receive holiday or vacation pay.

Director Mahoney stated that all the federal legislation considers 30 hours to be a full time employee so that is why they defined part time as people working less than 30 hours per week.

Mr. Koomar stated that the federal government considers 30 hours subject to health care. They are not making a full time equivalent statement. Mrs. Mahoney stated that to be consistent they consider anyone who works less than 30 hours per week to be not eligible for any benefits.

Mr. Koomar stated that he understands that we have the healthcare law and the new discriminatory rules and the other section of the law that says for 30 hours we have to provide health care, but to his knowledge the healthcare law is silent as to whether we would provide sick or vacation pay. Mrs. Mahoney stated that is true, but just to be consistent anyone who is part time does not get holiday or vacation pay, and most of the part time employees work less than 30 hours per week.

Mr. Koomar stated that the healthcare law does not address sick or vacation pay, and historically the city has said that part time people will not get sick or vacation time. He is asking that it remain the same. He is happy the healthcare law is out there but these are two different things.

Mrs. Mahoney stated that historically the part time people get sick pay, but no vacation or holiday pay.

Mr. Lee asked if the insertion of the reference to 30 hours per week actually puts someone into receiving holiday or vacations that haven't been received historically. Mrs. Mahoney stated it would not. Mr. Lee asked if by taking that out we are not taking away from someone who is already getting that benefit. Mrs. Mahoney stated that is true.

Mr. Koomar asked that the change be made in the ordinance.

Mr. Henderson advised that the Ordinance No. 14-08 also contains a couple of lists in the document at various points. One example is on Page 8, there is a list of unlawful employee harassment categories. This list appears in at least three places in the document but the list varies in those three places. Mr. Henderson will email Mr. Ebert those three locations where the lists should be made to match.

## **PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Lieske**

### **Westview Drive right-of-way**

**Mrs. Lieske** advised that Law Director Ebert has received a request on January 17, 2014 from C. Thomas Roehl on Nantucket Row, stating their interest to purchase a part of the eastern sideyard of

31005 Nantucket Row and requesting an opportunity to purchase the eastern portion of the right-of-way equal to the depth of the adjacent parcel to the south at 30907 Nantucket Row. The question is how Council will respond to this request concerning the right-of-way.

Mr. Ebert produced a map, a copy of which has been distributed to City Council prior to the meeting, stating that Westview Drive is a paper street that has been there ever since the development on Nantucket Row was established. Assistant Service Director Sears did check the records as far as whether we have any utility easement there. There is none showing on the map, nor did Mr. Sears or Service Department employee Curtis Krakowski find an easement in that area. The paper street is not wide enough for a dedicated public street. Nothing could be built there because the land backs up to two properties.

Generally in these situations they look at the properties and see if we are going to offer to divide it between the homeowners where that paper street goes through at a nominal price. Mr. Ebert would like to put a committee together to look at the property and devise a proposal for all the properties and not just the one corner.

Mr. Koomar noted that if the one parcel only is sold we would run the risk of not having access to the remaining parcels for purposes of maintenance.

Mr. Lee asked if the right-of-way is currently intact the whole distance. Mr. Ebert responded affirmatively. It runs all the way to Plymouth Road.

The property is undeveloped; it would not increase real estate taxes unless developed. The deeds would show additional footage.

Mr. Henderson asked what would happen if there was a piece right in the middle that was not purchased. Mr. Ebert stated that the city would still own that small piece or sliver of land.

Mrs. Lieske asked the timeframe for this process. Mr. Ebert will create a letter for all of the residents to offer what is being planned.

Mr. Lee asked if the needs of the Roehls would be solved if they only purchased half of the property area they have requested. Mr. Ebert stated that there would have to be a variance to the square footage required to be able to build.

Mr. Lee asked if the homeowners will bear the cost of recording fees, deed preparation, etc. in addition to the cost to acquire the property. Mr. Ebert answered affirmatively and stated that there will be no cost to the city.

Mr. Koomar confirmed with Mr. Ebert that the next step in the process is a Law Department matter.

#### **Extension of time for Planning Commission to review Chapter 1158 – Expires March 8, 2014**

Mrs. Lieske stated that this extension was discussed at the last Planning Commission meeting, noting the desire on the part of City Council to try to get Chapter 1158 concluded in a timely

fashion. It is viewed as being somewhat necessary to do so, since there are no developers right now who have expressed an interest, and the Council would like to have this taken care of before anybody comes forth. It would also give us time if something needs to be put on the ballot.

The Planning Commission will again review Chapter 1158 on March 5, 2014. After talking with Mr. Koomar, it was thought that Council might want to give the Planning Commission an extra thirty days to conclude their work after the March 5, 2014 meeting as a goodwill gesture, noting that Council really needs to get this completed. Mr. Koomar noted that there was some turnover on the Planning Commission and it is the desire to give them some time, but the Council would like to get this put into place without a developer waiting. As we've said in the past the recommendations from the Building Department are a starting point but do not mean that it cannot be added to or enhanced over time.

Mr. Lee noted that a moratorium on development under Chapter 1158 was passed by Council in 2013 for a period of six months. We may want to track that expiration date.

The motion to extend the time of 30 days for the Planning Commission to review Chapter 1158 will be placed on the March 3, 2014 agenda of Council.

Regarding the Building ordinances to be read this evening, most for the third time, Mrs. Lieske commented that we are looking at consistency in the wording of the Building titles in the ordinances. There is one ordinance that refers to Building Director/Building Official. The others, for the most part, still refer to Director of Building, Building Director, etc. To maintain consistency, Ordinance No. 13-97 will be changed to clarify the definition of the department. We are also pulling Item No. 23 on the agenda, Ordinance 13-106 to provide an opportunity to clarify any definitions so they will be consistent throughout.

Mrs. Lieske will work with Mr. Ebert to be sure these meet with her approval after the adjustments are made. They will be included in the agenda for March 3, 2014.

Mr. Koomar noted that Items 18 and 19 on this evening's special meeting agenda will contain the emergency clause so that they can take effect immediately since they are fee-based and the building season will soon begin.

## **RECREATION & PARK IMPROVEMENT COMMITTEE-Henderson**

### **Hartman Field Lighting**

**Mr. Henderson** stated that this evening he will introduce two resolutions related to a lighting project at Hartman Field, just north of the swimming pool in the park center.

Recreation Director Enovitch stated that the Hartman Field lighting is archaic and not functioning at times. After many years of looking at the possibility of replacing and/or repairing the lights, they thought it was time to do a complete renovation.

Mr. Henderson stated that the Finance Committee has been discussing this since last year. The original estimate last year was anywhere from \$128,000 to \$138,000. The committee put \$130,000 in the Capital Budget for the project this year. Once they got the actual costs fully developed, it looks like it is going to be \$139,900. Rather than increasing the total expenditures out of the fund, there will be a reduction in expenditures from the City Hall component of the fund.

From a cost standpoint, looking at this from both a capital cost and an operating cost perspective, the operating costs are lower than the alternative lighting since this is a green technology using less energy with fewer bulbs and better control. The lighting can actually be controlled over the internet so it can be scheduled and controlled more precisely. The up-front capital costs are surprisingly lower than an alternative system. The proposal was reviewed this evening with a consultant. The reason for this is because it is a prefabricated system with fewer parts and is quicker and easier to install. This system is about 34% cheaper overall than going with a traditional lighting system even though it is a green system. It is good on both fronts; it is lower energy and less money at the same time.

The first resolution to be introduced this evening is to allow participation in a purchasing network, Keystone Purchasing Network, the vehicle through which the products will be procured. Mr. Koomar noted that the Law Director has verified that purchasing through the cooperative allows us to know that we are getting the lowest and best bid. Mr. Henderson noted that we have used this process with the purchase of recreation equipment in the past. The bulbs are called Halite, which is a green product. Mr. Enovitch stated that the contract comes with a 25-year warranty for parts and labor. They will replace all burned out bulbs during that 25-year period within 24 hours of outage.

The second resolution will authorize the actual purchase of the product. Mr. Lee commented that the lighting company has guaranteed that the level of illumination will be equal to or better than what we have currently.

Mr. Henderson commented further that he will recommend these resolutions be passed this evening even though they are on first reading to assure that the lighting will be completed by the end of April which fits well with the schedule for use of the field. If we push this out to three readings, that would not be the case. This is why he is recommending Council accelerate these particular resolutions.

#### **SERVICES, UTILITIES & EQUIPMENT COMMITTEE-Vincent**

**Mr. Vincent** had no report this evening

#### **CAHOON MEMORIAL PARK TRUSTEES (MEETING REVIEW)**

Mr. Henderson will also seek permission of the Cahoon Memorial Park Trustees in regard to the installation of Hartman Field lighting this evening.

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Mayor Sutherland explained that the Bay Village Garden Club has donated projects on an annual basis. This year they would like to donate a Blue Star Memorial, which is a tribute to the armed forces of the United States and will be placed in the Rose Garden. This is appropriate since there is already a Vietnam Veterans memorial in the Rose Garden. Mr. Koomar noted that the trustees established consistent signage throughout the park and this definitely fits in with what was discussed a few years back. The Mayor noted that this memorial is consistent on a national basis.

Mr. Henderson asked the value of the donation. Mayor Sutherland stated it is about \$1300 and when it is ready the city will accept the donation formally.

### **MISCELLANEOUS**

The Executive Session on the agenda will not be held this evening based on the information received through Mr. Greytak's presentation.

There being no further business to discuss, the meeting adjourned at 8:29 p.m.

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Paul Koomar, President of Council

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Joan Kemper, Clerk of Council