

City of Bay Village

Council Minutes, Committee Session
Conference Room

March 10, 2014
7:30 p.m.

Paul A. Koomar, President of Council, Presiding

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

Absent: Mr. Tadych, excused due to illness; Mrs. Lieske, vacation.

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

AUDIENCE:

The following audience members signed in this evening: Dick Majewski, Russell Thompson, Denny and Tara Wendell, Conda Boyd, Marty Mace, Ted Vovos, Carl Gonzalez, Ernie Minichello, Lawrence Kuh, Patrick McGannon, Peg Ludwig, Jerrie Barnett, Liese Nainiger, Kent Silverberg, Mike O'Boyle, Warren Remein, Susan Murnane

ANNOUNCEMENTS

Mayor Sutherland announced that she has been notified by Karen Kirsch, the Government representative from First Energy, that First Energy will be doing some additional tree trimming and spraying in the Kenilworth area and other trouble spots on the east end of the city in May of 2014.

The Mayor advised that she will be in Columbus, Ohio on Wednesday regarding two pieces of legislation. One was sponsored recently by the State Auditor and there are unintended consequences to the legislation that in the future would prevent the city from saving money in the sewer account for spending. They are trying to outlaw deficit spending and that would fit that definition. Some cities are in fiscal stress and actually going to local banks to have to borrow money for operating. The legislative committee of the Mayors and City Managers Association will be going to Columbus on Wednesday.

Mr. Lee asked the status of House Bill 5. Mayor Sutherland stated that House Bill 5 is still working through the process. It is in the Senate at this time and they have slowed it down. There are four very problematic provisions. Language has been worked out on three; the fourth one doesn't affect communities in Northeast Ohio but it does effect the City of Columbus and other cities down state. At this point the bill would have very little impact on cities in Northeast Ohio.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE

Do Not Knock Registry

Mr. Lee presented an update on the Do Not Knock Registry. He noted that it is part of the Peddlers and Solicitors code that was adopted at the end of 2013, in which a Do Not Knock Registry was implemented for residents. It is similar to the Federal Trades Commission Do Not Call list. The home address of the residents registering for the Do Not Knock Registry will be kept on a list by the Police Department. Work is underway on establishing the paperwork associated with the establishment of the program. Law Director Ebert displayed the form that will be placed on the city's web site where residents will be encouraged to register. He noted that the registry will apply to solicitors and peddlers, but not canvassers.

Mr. Lee explained the difference between canvassers and peddlers/solicitors. Canvassers are not selling a product. It could be a candidate seeking signatures for their petition to be on the ballot, or someone raising money for a cause.

Mr. Ebert added that the city is very sensitive to the issues with the schools' fundraisers. Unfortunately, the federal court has mandated the time of 9 a.m. to 9 p.m. for canvassing to occur. Residents have the ability to place a sticker that they can obtain at the city hall or the police station advising "No Solicitation." Mr. Lee explained that a home owner can prevent someone from coming on their property but the city cannot be involved. Due to the First Amendment, the city cannot operate a system that discourages soliciting or canvassing. Canvassers are permitted to operate from 9 a.m. to 9 p.m. Peddlers and solicitors are not allowed on Sundays; canvassers are permitted from 12 p.m. to 5 p.m. on Sunday.

History of Fire Study and Grants

Mr. Koomar noted that this item was placed on the agenda this evening for the benefit of an update for the new Council members. There was an original study in 2010 and for a base understanding as we are moving forward it will be helpful to have this quick overview. Mayor Sutherland stated that she asked the Fire Chief to prepare a basic timeline of how the Fire Study progressed. There is a grant outstanding and legislation will be prepared for the participating Councils in the four cities to accept the grant.

Fire Chief Lyons advised that the process began in 2008. Fire Chiefs and Mayors from the Westshore communities began discussing the idea of a Joint Fire District. The Mayors asked the Chiefs to put together a matrix from which they prepared Requests for Proposals and Requests for Quotations. Those were sent out across the nation with a number of responses received back. Those responses were paired down and eventually they ended up with Emergency Services Consulting International (ESCI), paid for by a partly-funded grant from Efficient.gov.now. Mayor Sutherland stated that one reason they got the \$100,000 grant was that there was a competition and they were one of the finalists. People in Northeast Ohio could vote on this project as most meaningful and had the best chance of being successful. Based on that they were one of the three winners. Three projects were funded with \$100,000 each. The grant was funded by the Cleveland Foundation and the Gund Foundation.

After receiving the \$100,000 grant, they engaged the services of ESCI. They went through a year-long process of gathering information and interviewing Chiefs and union officials. They had a whole team on site for quite some time. They released their draft report in February of 2010 which all stakeholders received. In 2010 they released their final report, and shortly after that a Joint Implementation Committee (JIC) was formed at the recommendation of ESCI. This committee was comprised of the Mayors, Fire Chiefs, and labor representatives to work through the process that happened after the report was released. They continue to meet on a monthly basis. In 2011 Avon Lake approached the cities to be part of the process. Late in 2011, four of the cities decided to withdraw from the process, deciding it wasn't in their best interests for a variety of reasons. The remaining four cities, Bay Village, Fairview, Rocky River, and Westlake decided to continue exploring this potential Fire District. The Fire Chiefs then prepared a proposal for a potential structure for a four-city fire district. Mid-way through 2012 they prepared an analysis of some of the recommendations that appear in the back of the report, ESCI's 29 functional cooperative strategies, which the Fire Department will engage in even if they don't legally merge. They actually had 76 recommendations which were just minor holes they saw in our operational structures. Most recently, in July of 2013, due in large part to the Mayor's hard work, the four remaining cities were awarded another \$100,000 this time from the State of Ohio from the Local Government Innovation Fund, to conduct what they are calling Phase II of the project. The main focus of Phase II is to be using the grant money to hire a Project Manager to look at the myriad of issues that would face a legally merged fire district, and then coming up with solutions to those challenges.

Last month the most recent meeting of the JIC was held. Mayor Dennis Clough of Westlake was appointed the Chair. Fire Chief Lyons was appointed the Co-Chair. They will be continuing to meet. Each of the four cities will pass their resolutions to accept grant money from the state, and the JIC will create a job description and advertise for a Project Manager. The grant is a reimbursement grant and the funds must be expended by July of 2015.

Mr. Koomar noted that he recalls when there was a meeting with ESCI the take-away was to do further collaboration and then outright consolidation. The stations were well-placed and over-all manpower for shifts was good. Sharing large pieces of equipment, coordinating training and fire prevention and looking at the over-all management structure were the big take-aways from the study.

The next meeting of the JIC will be held when the legislation to accept the grant is drafted and approved by the cities.

Mr. Koomar noted that Chief Lyons has provided him with Mutual Aid statistics, which could possibly be Phase 2 of the discussions. He noted that we continue to be in a deficit position which concerns him.

Mr. Ebert stated that one of the largest expenses for a city is the purchase of a brand new ladder truck. They do not get used that often and cities should share because mutual aid responds when there are large structural fires. Chief Lyons commented that fire staffing for an initial response to a fire is recommended to be at least seventeen firefighters at the site within the first ten minutes. In Bay Village there are typically five people on duty at one time. It is not possible to

have enough people, for any of the four cities, on their own for a fire response. When there is a structural fire at least three or four, sometimes five or six, departments respond. Mayor Sutherland stated that they would never have been able to survive the fire at the Service Garage if it had not been for mutual aid. There was a fire involving two homes in the past when there were only two firefighters in the station because the emergency squad was on call. If not for mutual aid, fires such as these would burn out of control.

Mr. Koomar noted that the mutual aid agreements also affect the insurance rates for homeowners. Without mutual aid, it would be required to have an increased level of staffing.

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE

Bridge Inspections

Mr. Ebert advised that Cuyahoga County Department of Public Works has proposed a 2014 Bridge Inspection Structural Cost Proposal for bridges throughout the city. Service Director Thomas will determine, based on funds available, what needs to be done. Mr. Thomas advised that once they determine if there is a bridge that needs to be fixed they will come back to Council for an appropriation to fund that specific bridge. Mr. Lee asked if we are approving expenditures for the Ashton Lane Bridge at this point. Mr. Ebert stated that we are not approving that at this point. Mr. Thomas will determine the needs for repair and request approval from Council before moving forward.

FINANCE & CLAIMS COMMITTEE – Clark

Update of Cell Phone Policy for Employees of the City of Bay Village

Finance Director Mahoney stated that the last time the Council approved a cell phone policy was in 2004. The Internal Revenue Service does not include cell phones as listed property. It is the same as picking up the phone on the desk. The guidelines for assigning a cell phone is that if the city needs to contact an employee at all times for work-related emergencies, or if the employer requires that the employee be available to speak with residents at times when the employee is away from the office, or at times outside his/her normal work schedule. There are 11 cell phone assignments now. Some employees have indicated that they do not want to carry two phones. Instead of the city paying for a city cell phone for those individuals, the city would like to reimburse them on a monthly basis for the same amount that the city would pay for a city cell phone. The city will pay \$50.00 per month for a Smart Phone, or \$38.00 per month for a basic phone, \$28.00 for a basic non-text phone. All cell phone assignments are signed off by the Mayor.

Mr. Clark asked how much is spent on cell phones per year. Mrs. Mahoney did not have that information available. There are a total of 30 city cell phones including the 11 assigned to individuals. The Community Services Department has one in each car. Fire and Police each have one in their vehicles. The Recreation Department has one cell phone. The Service Department does not have cell phones in their vehicles.

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Mr. Vincent asked if these phones are assigned to non-exempt employees, or are all the assignments to exempt employees. Mrs. Mahoney stated the 11 are all exempt. The phones assigned to the vehicles and safety forces are basic phones.

Mr. Lee asked the source of the policy for cell phones, and if there was any input from the Human Resource Consultant. Mrs. Mahoney stated that she created the policy and there was input from the Human Resource Consultant and the Mayor.

Mr. Lee asked if the employee is reimbursed if a personally owned phone is damaged during the work hours. The Mayor stated that they would not be reimbursed since it was the employee's choice to use their personal phone.

Mr. O'Boyle asked if there is a policy in place in how employees communicate with each other and what they can or cannot say on telephone messages, either text or live messages. Mayor Sutherland stated that the Technology Policy in the Employee Manual is referenced in that regard. Mr. Koomar noted that something inappropriate face-to-face would be inappropriate in a text message.

Mr. Lee asked if the employees are informed that they will have no expectation of privacy when they are using city property. Mayor Sutherland stated that this is correct.

Mr. Lee suggested including this notification regarding privacy in the cell phone policy. Mrs. Mahoney stated that the guidelines do include the statement that "all business conducted on a personal and/or city cell phone related to city business are subject to Ohio records laws." The Mayor noted that all individuals who have city cell phones attend public records training.

Mr. Clark asked Mrs. Mahoney to send him the information regarding the total cost for cell phone usage for 2013.

Mr. McGannon asked if the records can be erased if the phone is stolen. Mr. Vincent suggested that the employees have a four-digit security code on their phone if possible. Mayor Sutherland stated that they will check with the Verizon representative.

Kiddie Kollege Lease

Mr. Clark stated that approval will be asked this evening by ordinance to proceed with the extension of the lease this evening. The Certificate of Insurance has been received as well as the Certificate of Good Standing in the State of Ohio. The agreement has been finalized by the Law Department and reviewed by the members of Council. The contract includes a monthly rental amount through the year 2016. The fourth and fifth year of the lease would be open to mutual discussion between the city and Kiddie Kollege.

Administrative Compensation Ordinance

Mr. Clark advised that an Administrative Compensation Ordinance was approved last week that covered a number of employees. At this time we are looking at a reclassification of some of the

Service Department staff. The increase to the city is not significant, amounting to approximately \$10,000, but it allows us to take some resources and put them into new areas.

Service Director Thomas stated that the situation that the city is in with the sewers, and looking at how the Service Department is structured, it appears to be that we need to address a full-time working environment with more direct supervision in the Sewer Department. Mr. Rick Kuznik, who currently works for the city, will be made a Foreman in charge of sewer collections in the city. He would be responding to hot spots in the city but more importantly looking at areas where we can assess and address issues concerning inflow and infiltration into the system which may be causing increases in our sewer rate fee. We would be able to have a larger crew to go out and look for these issues, and go back to dye testing which was done very efficiently a number of years ago. To help oversee this would be Curtis Krakowski, who currently is our Systems Manager. Curtis would be made the Infrastructure Manager overseeing everything from pavement projects, sewer projects, and building projects. These are issues that are facing the city and he is very well qualified and has done an outstanding job with the city.

Mr. Clark noted that the ordinance will eliminate one full time position and some of the costs that go with that. These increases and changes in assignment are for existing employees and Mr. Clark will be recommending one reading of this ordinance in order to proceed.

Mayor Sutherland clarified that the sewer collections referred to by Mr. Thomas is the collection system for the waste matter, not the sewer fees.

Mr. Koomar noted that from his calculations these changes are cost neutral, with possibly even a saving. Mr. Clark stated that there is a savings on pension and health care. The cost difference is approximately \$7500 additional.

Mr. Henderson stated that he is assuming there is no negative impact to the services provided by these employees by reallocating their assignments.

Amendment to Codified Ordinance 921.02 (a) Sewer Rental Rates

Mr. Clark advised that there are four cities that comprise the ownership in the Rocky River Wastewater Treatment Plant. Based on the sewer strength and flow testing done in the spring of 2013, it was represented that the flow into the sewer system representing Bay Village went up significantly. This Sewer Fund is an enterprise fund which does not allow a deficit to be carried at the end of the year. There will be first reading of the ordinance this evening with a lot of discussion to follow, much of which will be at the Town Hall Meeting on March 31, 2014 regarding this increase of sewer rates to our residents. We are looking at the possibility of a \$25.00 per quarter increase in the sewer rental fee over the final three quarters of 2014. At this juncture that tackles a number of different elements. Do we bill on a fixed price basis? Do we bill on variable? There are a lot of different things that go here, and they will all be vetted as well. We have had much discussion with our consultant. We have tried to hold the line on sewer rates the last couple of years. We've known about this for about six months. We don't charge for capital; other cities do charge for capital. We are going to look at this very closely but

we don't have a lot of time. We will put this on first reading tonight. This will clearly go on three readings and be vetted and talked about quite a bit.

Mr. Koomar stated that part of the town hall meeting will be a public meeting on the sewers when Scott Thomas, Service Director and Bob Greytak of CT Consultants will be present to answer questions from the residents. That will probably be a larger part of this particular town hall meeting.

Mr. Lee asked about the transition assuming a change in March or April of 2014 that is going to be phased in for the remaining quarters of the year. Mr. Clark stated that they are looking at approving this in late March, or early April, to reflect in the second quarter bills. They will have to do a little catch-up on the increase because the first quarter was already paid at the existing \$65.00 per quarter level. We will run this through the end of the year, and just like the trash fee, it will have a sunset and we will have to address it some other way. Those are all things we have to talk about. I see this as something that we will continue the fixed rates to the end of this year, but it leads into a much larger discussion as we talked about.

Mr. Lee stated that this particular ordinance provides for \$325.00 effective January 1, 2014. He asked if this is sufficient for the extra \$25.00 for the remaining three-quarters. This is a \$65.00 increase over last year. Mr. Clark stated that at \$25.00 per quarter it is \$75.00 over last year. Mayor Sutherland noted that she would say to be careful about that because we may have additional capital expense and we need to build up that capital account.

Mr. Clark stated that we have attempted to do four major capital projects involving sewers in the city to which the city has undertaken the cost of doing so, receiving 0% financing. Other cities like Rocky River charge \$25.00 per quarter for capital investment. We have held off on that. This is something we have talked about for some time now. It is one of the largest economic issues we will face in 2014 as a city.

Finance Director Mahoney acknowledged that the amended rate in Section 1 for Single Family should be \$335.00 per year, rather than the \$325.00 per year as written in the ordinance.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Lieske

There was no report this evening.

RECREATION & PARK IMPROVEMENT COMMITTEE-Henderson

Mr. Henderson had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE-Vincent

Advertising for bids for Decanting Station at Service Garage

Mr. Vincent will request permission by motion at the special council meeting this evening for the Service Director to advertise for bids for the Decanting Station at the Service Garage. Mr. Vincent

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noted that this was discussed in the Finance Committee meetings when appropriations were being planned for 2014. The amount of \$190,000 has been received from insurance proceeds; an additional \$100,000 has been appropriated.

Mr. Ebert advised that there is an item on the Special Meeting agenda this evening to remove the fence regulations from lakefront yards. He stated that there is a different height restriction for Lake Road yards. It is done for a purpose and it is a proper Planning and Zoning tool for a charter city. It has been challenged over the years and has always been upheld and we feel comfortable the way it is without having to modify it whatsoever. Mr. Koomar noted that it had been listed on the Matters Pending before Council Committee list because there was litigation pending. Mr. Ebert noted that it is a constant issue concerning property owners on Lake Road, due to the view of the lake.

Regarding the Town Hall Meeting on March 31, 2014 at 7:30 p.m. at the Dwyer Memorial Center, Mr. Koomar stated that a regular meeting format will be used. In the middle of the meeting, a public meeting portion will be held regarding the sewers, as discussed by Mr. Clark. For each of the committees, the Council members who are Chairs of the committee will spend three or four minutes speaking of the function of their committee and any priorities or active legislation they may be working on in 2014.

Mr. Koomar asked Mayor Sutherland if she would like to use the same amount of time of three to four minutes each for reports from the department Directors. Mayor Sutherland stated that they will use the same time frame and will focus on a couple of major projects.

At the end of the Town Hall meeting, it will be opened up for audience participation once the comments are heard from the Council and Directors. The middle portion regarding sewers will be open for public comment regarding sewers only.

At the end of the meeting there will be break-out sessions to accommodate those who want to meet with Council representatives.

Mayor Sutherland stated that they will advertise the Town Hall Meeting on the sign in front of city hall, the web site, and through an email blast. The League of Women Voters will also get the word out.

There being no further business to discuss the meeting adjourned at 8:27 p.m.

Paul Koomar, President of Council

Joan Kemper, Clerk of Council