

City of Bay Village

Council Minutes, Committee Session
Conference Room

April 14, 2014
7:30 p.m.

Paul A. Koomar, President of Council, Presiding

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

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, Lawrence Kuh, Jerrie Barnett, Mike O'Boyle, Eric Eakin, Susan Murnane.

Mr. Lawrence Kuh addressed Council regarding the Summer Kick-Off Contest being planned for the Bay Skate and Bike Park on Saturday, June 14, 2014. Mr. Kuh provided Council with flyers for the event which have not yet been distributed to the public. Mr. Kuh stated that after all these years of running the park, Joe Banks, one of the students who has been there since the 5th grade, approached Mr. Kuh about the possibility of putting on a contest. The event would be a three-user type event for scooters at 11 a.m., skateboard in the middle of the day, and in the evening, BMX. Beginner, intermediate and advanced will make up the Class 1 and Class 2 contests. There will be two contests for each class, one would be "Best Trick" and one would be "Best Run." A young man will be in charge of each one of those events, including acquiring the prizes. A sound system will be on site for the day providing music and announcing. Entry fee is \$10.00 per person for one contest, or \$15.00 per person for both contests. The last contests will be held from 6:30 p.m. to 8:00 p.m.

Mr. Koomar asked if the sound system could be pointed north, away from residential homes. The field to the north between the skate park and parking lot will be the site of the tents that will be erected. The registration tables and sound system could be placed in the same location. They will probably point one speaker toward the park and will be 100% open to modifications based on any concerns of nearby residents.

Mr. Lee noted that the Project Pedal event is being held the same day. Mr. Kuh stated that Project Pedal will not be using the park. Their event will be held at Bay High School.

Mr. Ebert has discussed insurance coverage with the city's carrier. Mr. Ebert stated that if the city is going to sponsor the event he believes we will be covered. The insurance agent is checking into this further. Otherwise, there will be further discussion.

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Mr. Ebert noted that the event should probably end at 9 p.m., which would allow time to close down the site.

Mr. Vincent asked if there are any plans for concessions for the event. Mr. Kuh stated that they have always said in regard to the skate park that they want to try to promote the local businesses. Their hope would be to really push people to Subway and Walgreens. They talked about bringing in a food truck, but this is the first time they are doing this and the plan at this time is to encourage use of the local businesses.

Mr. Ebert will provide further information for the Council meeting on May 5, 2014.

In review of the special meeting of Council to be held this evening, Mrs. Lieske asked that the minutes of the last meeting reflect that her absence was due to illness.

The ordinances amending Codified Ordinance Sections 905.01, 921, and 913.14 will be removed from the agenda of the special meeting per the request of Service Director Scott Thomas.

Regarding the ordinance authorizing the Mayor to enter into an agreement with SlideCare, LLC for restoring the Water Slide and Swimming Pool Play Feature at the Aquatic Center, Mr. Lee asked if the contractor will provide insurance, and a warranty document. Mr. Ebert will verify. Mr. Lee asked if references have been received and the company has done this work before and are qualified. Mr. Thomas stated that references have been received and they are qualified. Mr. Tadych asked if any of the chemicals to be used are carcinogenic. Mr. Enovitch stated that they are environmentally sound. He further noted that the company has done work for the city in the past.

Mrs. Lieske reported that the Planning, Zoning, Public Buildings and Grounds Committee met earlier this evening and talked about extending the moratorium on attached residence development. The committee is trying to conclude the study of Chapter 1158 and feels that it makes good sense to continue the moratorium to allow this study to be done without any specific proposals. The committee is reviewing the recommendations of Chief Building Official John Cheatham regarding attached residence development. They completed one-half of the recommendations this evening and are scheduling a meeting for Monday, April 28, from 5:30 p.m. to 6:30 p.m. to complete the review of the remaining recommendations. The committee will then submit their report to the Council Committee of the Whole.

In regard to the ordinance to be presented to continue the agreement with Bay Village School District and McKeon Education Group to provide prevention and intervention services, Police Chief Spaetzle commented that both Mr. Koomar and he are on the Bay Family Advisory Board and highly recommend continuance of this program which has been in place since 1996. There is a \$1,000 increase in cost this year, to be shared jointly by the Bay Village Board of Education and the City of Bay Village. Mr. Koomar noted that this is the first increase in several years and the entire cost of the program has been built into this year's budget by Finance Director Mahoney. Mr. Lee clarified that the city's portion of the increase is \$500.

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Mr. Lee reviewed Resolution No. 14-39 authorizing the Mayor to accept the grant awarded by the Ohio Local Government Innovation Fund for Phase II of the Westshore Regional Fire District Study in the sum of \$100,000. He noted that the resolution was introduced and placed on first reading on April 7, 2014, and will be moved for adoption this evening. Mr. Lee asked for an update on the action taken by the other three communities involved in this project. Mr. Ebert stated that he thought the City of Westlake passed the acceptance resolution last Thursday, but he has not heard from Rocky River or Fairview Park. Mayor Sutherland stated that she thinks Fairview is putting their legislation up for passage next week, and Fairview has already passed it.

Mr. Ebert stated that there are no objections from any of the communities for acceptance of the grant.

Mr. Clark will move for adoption three ordinances this evening that create a new Private Property Maintenance Fund requested by the Finance Director to provide for the deposit of reimbursement fees collected for services on private property. Mr. Henderson asked the status on the inclusion of the administrative fee. Mr. Ebert stated that the administrative fee was removed. The ordinance that had been introduced allowing the administrative fee has been withdrawn.

Mr. Clark will also present Resolution No. 14-45 for second reading and adoption this evening. The resolution is adopting updated formal policies governing the use of cell phones by employees of the City of Bay Village, and amending Resolution No. 04-153.

Mr. Henderson will introduce an ordinance this evening to enter into an agreement with the American Fireworks Company for the 2014 July 4th Fireworks Display. Mr. Clark will recognize the members of the Fireworks Committee this evening when the ordinance is introduced. Mr. Lee stated that he knows the company maintains a very high level of insurance, and asked the Law Director to verify the coverage.

Jerrie Barnett commented that since the Bradley Bay Nursing Home has taken down all the trees on their property she has deer in her backyard on Bay View Road. Mrs. Barnett suggested that something be put in the minutes or on the city website about looking out for them because a lot of them have come from that area where all the trees were taken down.

Stephen Kaye, President of Bay Village Firefighters Association Local 144, stated that he sent the Mayor and the City Council a study and report that the city did detailing some inaccuracies in numbers and things found in the grant application. The only reason they did so, is on the grant itself, Number 15, Letter (f), there is a falsification of information clause that says if there are any inaccuracies the grant can be repealed and the association would not be eligible for any more future grants. This is their concern, knowing that they use many grants as a city, and especially at the Fire Department. Mr. Kaye is asking if the resolution being presented this evening to accept the grant can go to a third reading, or at least there be some discussion or clarification on what they found.

Mayor Sutherland stated that the grant application was put together with the aid and the help of the folks in the State of Ohio. They knew everything that was in it, talked through every single

line of the submittal. This was actually the second time that they applied for the grant. They did not get it the first time. So, Mayor Sutherland worked very closely with the State of Ohio to make sure that they had the information in there that would secure the grant. The State of Ohio was very much behind the whole idea, from the Governor on down, and they really wanted to see this get funded. They worked with them very closely and this was not just something that they were making up numbers. They worked very closely with the state, gave them all the documentation and the background information and they were really good coaches. They ended up getting the grant. Mayor Sutherland stated it is not worth the time to go through point by point. They have already been awarded the grant. It is just up to Council now whether or not to accept the award.

Mr. Koomar asked if there are any comments from the Law Director. Mr. Ebert stated that he had no comments. One meeting was held recently, the first meeting in quite a while. The whole idea was to accept the grant and put the parameters in place for who the person will be who will do the study for the four cities. This is one of the steps to move forward. Mr. Ebert stated that he has no direct comment to the issue raised.

After finishing the review of the Special Meeting agenda, the Committee Session of Council continued.

COMMITTEE OF THE WHOLE

Report of Ad Hoc Committee regarding Write-in Election Candidates

Mr. Koomar stated that he would like to have a brief discussion this evening regarding the work of the Ad Hoc Committee regarding Write-in Election Candidates. Mr. Ebert was included in this work, and the Mayor attended one of the meetings. The question arose last election season when there was a candidate that filed as a write-in candidate and subsequently withdrew. It was not an issue this time but there was a question of whether we should look at the Charter amendment for a primary election and consider tightening it up. The idea was whether we would essentially be incurring a cost if we ended up not coming up with two candidates which was the intent of the primary election process. Mr. Koomar called for comments from Mr. Lee and Mr. Clark who were on the Ad Hoc Committee.

Mr. Clark stated that there were several meetings in which three different options were considered. Mr. Clark's opinion was that we were going to go in one of two directions: keep the current Charter provision in place, or change the Charter by a vote of the electorate to accept no write-in candidates, subject to verifying the cost with the Board of Elections.

Mr. Lee stated that he shares the concern and if we can get an accurate estimate of the cost it would make sense to correct this issue and insure the purpose of the primary which is to have two candidates at the general election. But, if it is a significant cost over the \$2,500 estimate then it would not be the best money spent. However, it could save us legal expense down the road.

Mr. Koomar stated that if we chose to wait because our Charter amendment was silent on write-in candidates that could be a point of discussion in the next Charter Review Commission.

Mr. Lee added that it doesn't mean that the issue won't be brought up again if it is not put on the ballot this fall.

Mr. Ebert stated that the Board of Elections has estimated the cost at \$2,500 if the issue is placed on the ballot at a general election. He noted that when the issue occurred with the write-in candidate last year he gave the Board a legal opinion. The Board generally takes the legal opinion and turns it over to the Prosecutor's office to review. Between that process of turning in the legal opinion that the candidate would not be allowed to be on the ballot, the candidate withdrew. Mr. Ebert stated that he was subsequently told it was a civics lesson for school that promoted this candidate to enter his name as a write-in to demonstrate how the process works. Mr. Ebert further noted that he did not think the candidate would have been successful if he were trying to circumvent the primary election. The issue discussed was to try to make it as simple as possible or leave it alone, or try to be very careful. In changing this one charter amendment, you have to change two other sections. The whole issue of denying a write-in candidate may bring to question a person's constitutional rights.

Mr. Koomar stated that there was comment that the cost might differ because of the length of the ballot.

Mr. Clark stated that one of the things they are concerned about is the third option discussed. Certain conditions had to be met. The concern is that third option would make the wording so muddy that it is difficult for people to understand. That is why the committee chose the first two options because it was simple, concrete and to the point.

Mr. Tadych stated that he has no problem leaving the charter provision as it is.

Mr. Henderson asked if the consideration is to not allow write-in candidates at all. Mr. Clark stated that is one of the options. The concern is that you have people that have walked the ward in running for an office, and the write-in candidate did not. There is history of other cities prohibiting write-in candidates. Or, we just keep the charter as it is and we could run the risk of something happening in the future.

Mr. Koomar stated that, as Mr. Ebert pointed out, you get into a pragmatic discussion of having to change multiple sections of the charter. That becomes problematic of explaining to voters the true intention. If the intent was to come down to two final candidates in the charter, the simplest and clearest way to make a mid-course correction is to not allow write-in candidates. You could have an issue where several sections of the charter would need to be changed and one would pass and one would fail. We have looked at several other cities, Lakewood, Fairview Park, and Westlake of what they do and thinking through that we came back with the idea of either hold for the next Charter Review Commission or consider one simple direct change to the charter.

Mayor Sutherland stated that as a former member of the Board of Elections the Board will, 99% of the time, go along with the recommendations and interpretations of the city's law director

because they are the experts of the charter, not the county prosecutor. You can't make every municipal charter 100% perfect, which is why we all have jobs and why there are law directors to make those interpretations. The next charter review is in nine years.

Mr. Clark stated that clearly we would not want to do this at a special election. If we didn't do it this fall we would have to wait two years, in 2016.

Mr. Tadych stated that the comment was made that if someone were running as a write-in that candidate did not have to go out and interface for petition signatures. I think, personally, that the person that is a write-in candidate has to interface a lot more than just worrying about 50 signatures. He has to really beat the path to get his or her name out. And, I see no problem in allowing that.

Mr. Lee asked if there is any concern about having a general election with three candidates. Mr. Tadych stated that we have had presidential elections with three candidates.

Mr. Vincent asked about the \$2,500 quotation from the Board of Elections as the cost of placing the amendment on the ballot. Mr. Ebert stated that the estimate is based on the cost of the verbiage on the ballot. Mr. Koomar asked if there were any way we could propose an example of a certain number of lines to confirm the estimate. Mayor Sutherland stated that it depends on what else is on the ballot and if it forces it to go to another page.

Conda Boyd stated that Susan Fink went to the Board of Elections today and spoke to Sean Webster who is the Fiscal Services Manager for clarification. The League of Women voters raised the question as to whether having two issues on the ballot, such as a zoning issue, would make it cheaper. Mr. Webster told Mrs. Fink that the cost is variable. The City of Berea, for example, paid \$1,250 for an issue in an even numbered year. Mayor Sutherland stated that at the present time the cost is \$1,250 a precinct. Mrs. Boyd stated that the question is whether it goes to a third page ballot. If an amendment bumps it out to the third page that is more expensive.

Mrs. Boyd stated that the League of Women Voters has committed to putting boots on the ground, flyers in windows and yard signs. She displayed a yard sign from the 2007 election that instituted the primary election in the first place. Mr. Ebert had questioned as to whether the League of Women Voters could support an issue. The League does have a position on the issue and worked very hard to get it passed in 2007 and in fact Council's support for that amendment was at best lukewarm. With the name of the League in support of the amendment, unless there were active campaign against it, it should pass.

Mr. Koomar asked if there is any way if we could get a sense of the cost if the ballot went to a third page because of the amendment. Mr. Ebert will check with the Board of Elections. Mr. Tadych noted that they should know what an additional page will cost.

The matter of Write-in Election Candidates will be placed on the agenda for the May 5 Council meeting for further discussion. As Mr. Clark has stated, we can always look at it again through the Charter Review Commission in nine years. We can also look at it at subsequent regular elections.

Mr. Henderson stated that he once heard that the ballot language is not determined by the city. It is determined by the Board of Elections. Mayor Sutherland stated that we send it to the Board of Elections. The Board of Elections sends it to the Secretary of State. They approve it or modify it, send it back to the Board of Elections and then it gets sent back to the city for final approval. It is approved by the city administratively.

Mrs. Lieske stated that Council seats will be up for reelection in 2015. She asked if this would be able to be put on at that election. Mr. Clark stated that he mentioned 2016 earlier because it is a general election during the presidential election year.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE-Lee

Review of Mutual Aid Contracts and Experience

Mayor Sutherland stated that the City of Bay Village has mutual aid agreements with all of the surrounding communities as well as some of the hospitals. The Mayor called upon Fire Chief Lyons, noting that many things are done with surrounding communities in special teams, and it is a very complex relationship that has been built up over a period of almost forty years. It is constantly evolving, depending on what the needs are and how to make it better doing more with less.

Fire Chief Lyons stated that the city has well-established agreements and relationships with all of their mutual-aid partners. That is all of the contiguous cities like Rocky River, Westlake, Avon Lake, Fairview Park, North Ridgeville, and Avon. These agreements cover the normal day-to-day emergency operations of the departments. Beyond that there is the Westshore HAZMAT Technical Rescue Team that covers not only hazardous material responses but all sorts of technical rescues from rope, trench, and dive rescue. In addition to that there are intangibles. One of the requirements to getting on the Bay Village Fire Department is the necessity to demonstrate good swimming abilities for water rescue purposes. When candidates are hired, as they have been over the past several months, Westlake and Fairview Park have been very accommodating in letting the city use their pool without charge to test candidates. The Westlake Service Department has some capabilities in terms of making signage for vehicles. It is a very nice relationship to have. If you look at some of the hard data with emergency runs you will note a slight imbalance in terms of the fact that Bay Village tends to respond slightly more often to Westlake than Westlake responds to Bay Village. If you total all of those numbers up on an annual basis, we have an imbalance with all of our surrounding cities for a sum total of about 50 runs per year. If you put that in context in a relationship to the total run volume every year it equals about two to three percent of the year. The price paid for that is reaped many-fold over. Another great relationship with Rocky River is every year during the fireworks show they send their boat out to patrol the waters and make sure the boaters stay the required distance away from the fireworks.

Police Chief Spaetzel stated that from a practical standpoint for law enforcement they don't usually quantify their mutual aid. Westlake may have a domestic issue and Bay will send a car to assist. We may have our car out on an alarm call and Westlake will come down and take care of

that. We do have our specialized units, such as the Fire Department HAZMAT. We have our SWAT team, our Negotiator Team, and Bomb Unit. Those officers receive specialized training through these mutual aid agreements, which they then bring back to our department which benefits all of us. We utilize training with all of our mutual aid partners. Lakewood had a school that was going to be torn down. Our officers were able to go and practice room clearing techniques and searching techniques, free of charge. This is something we would have had to pay big dollars for to go somewhere else. It is a very unique, cooperative relationship we have with all our partners. It works well; it is flexible; it works in a moment's notice. It is something that has worked in my 28 years without a hitch.

Mayor Sutherland added that it is not just the safety forces that have their own mutual aids. We also have our Finance Department using Rocky River as a back-up. If something should ever go down we can go over there and do all our payroll. The same thing with the Service Department if a piece of equipment breaks down, either with Westlake, Rocky River, North Olmsted. When you look around this entire Northeast Ohio region, the Westshore is by-far a leader, even across the State of Ohio, as far as our collaborative efforts over the last thirty to forty years. If you look at what some of the communities on the east side are starting to do, they really have been functioning truly as an island and they think it is a great thing that they are going to share SWAT. We have been doing that for 35 years. We are really way ahead of the curve when you look at other municipalities. We have a very special relationship with our neighbors, not that we don't fight sometimes like siblings, but overall it has been really good. We are always looking for other ways we can collaborate and provide better service for our residents utilizing the great talent we have here in our city.

Mrs. Lieske stated that this is the kind of thing that the residents really appreciate hearing too; the collaboration and what that means in terms of cost savings and sharing.

Mr. Koomar asked Chief Lyons asked how many total fire and EMS runs the department does in a year's time on an average basis. Chief Lyons stated that they are averaging now between 1400 and 1500 a year. About 70% of those are EMS runs.

Mr. Koomar addressed the Mayor stating that there are definitely intangibles. He noted that he has always been one to watch the imbalance and thinks you have to put it in total perspective but as cities grow or budget cuts hit other cities we have to continue to watch that. The Mayor stated that they do watch.

Chief Lyons stated that if a fire district is formed some of those points become moot, because you are looking at closest force response. You are talking about no longer mutual aid you are talking about response from different departments in a district. It will be interesting to see how that develops.

Mr. Koomar stated that if that would occur and Bay Village would be responding to more calls there would be a cost allocation that would change. Mayor Sutherland stated that there are many variables as we move forward.

Mr. Vincent, as a new member of Council, thanked Mayor Sutherland for the information.

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PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE-Tadych

Sewer Connection Fees

This matter will be placed on the agenda of Council in May of 2014.

MISCELLANEOUS

Mr. Koomar noted that Council meetings of April 21 and April 28, 2014 will not be held to provide a brief hiatus since some of the members of Council and the administration will be on vacation.

There being no further business to discuss the meeting adjourned at 8:10 p.m.

Paul Koomar, President of Council

Joan Kemper, Clerk of Council