

City of Bay Village

Council Minutes, Committee Session
Conference Room
Paul A. Koomar, President of Council, Presiding

March 2, 2015
7:30 p.m.

Present: Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Acting Mayor Ebert

Absent: Mayor Sutherland

Also Present: Finance Director Mahoney, Police Chief Spaetzel, Fire Chief Lyons, Safety/Service Director Thomas, Recreation Director Enovitch, Director of Community Services Selig, Director of Operations Landers

AUDIENCE

The following audience members signed in this evening: Dick Majewski, Ilona Farkas, Tom Vickers and Tracy Stier, Allen and Marcy Clever, Mary Wise, Diane DeRubba, Jennifer Voss, Regis Garrity, Dennis McNulty, Jeff Kellerman, Laura Keane, Russell Thompson, Denny Wendell, David and Karen Brill, David Coury, Jeff Gallatin.

ANNOUNCEMENTS

President of Council Koomar announced that a Town Hall Meeting will tentatively be held April 20, 2015 at 7 p.m. the Dwyer Memorial Center.

COMMITTEE OF THE WHOLE

Cleveland Water Department Contracts

Law Director Ebert stated that at last week's Council meeting there was a draft distributed to Council of the three different agreements that are being proposed. One draft was the authorization to enter into a contract for the restatement of a new Water Service Agreement with the City of Cleveland. In conjunction with that, is what is termed an Asset Transfer Agreement where the City of Bay Village turns over the water lines to the City of Cleveland. The third item is a Joint Economic Development Zone Agreement, which is to prevent poaching. In addition, the City of Bay Village has an ordinance that is going to authorize entering into a Side Agreement. Once the agreement is signed, the City of Cleveland would give the City of Bay Village \$1.2 million during a term to be determined. They are looking at five years; during that five year period of time if the City of Bay Village decides to do a project up to \$1.2 million would be included in the agreement.

The City of Cleveland, originally in February, after discussions with Mayor Sutherland and Mr. Ebert, agreed to move the date to March 20, 2015 to have an agreement signed. The reason the March 20, 2015 date is critical is because they are planning to announce a new program plan for

all the cities that are part of the City of Cleveland Water District, whereby cities will be rated based on the area to be improved, the age of the water lines, the number of leaks to the water lines, and the number of residents it would affect. Cities would qualify, on a scale, for proposed project improvements. Last week there were discussions concerning that, and the City of Bay Village submitted to the City of Cleveland drafts of the Side Agreement. The standardized agreement that all cities are signing is the Restatement of Water Service Agreement, the Asset Transfer Agreement, and the Joint Economic Development Agreement. Those are standardized; they do not want to deviate from those agreements at all. There have been side letters entered into by various cities once they signed as part of the capital to be received at some point in time. Just because there is a commitment to the money doesn't mean the money will be received to do a project. They will replace a water line, but the city will be responsible for everything else above the water line.

A prime example of projects for which these funds would not be available is Lake Road. Lake Road, when it was done in five phases, included the sewers and road improvement but the water line was left intact. It represents millions and millions of dollars. That is where there are a lot of leaks in Bay Village, especially around the Bruce/Douglas area, and even the west end. But, they take that into consideration in qualifying for this new program they are going to roll out to the community. The concern that the City has is to make sure we are committed from them for \$1.2 million. There has been a lot of discussion between Council, the Mayor and the City of Cleveland. Since discussions last week, the Side Agreement was circulated to the Council and also to the City of Cleveland about three weeks ago. It was understood that the only problem area was the term of the agreement. Mr. Ebert stated that he received notice on Friday that there was a problem with the agreement, as such. There is a difference of opinion as to the terminology in the agreement and some of the content. Mr. Ebert spoke with Mayor Sutherland today, and then by emails with the City of Cleveland. The City of Bay Village was originally told to draft the Side Agreement, which they did. The City of Cleveland has not accepted it. Mr. Ebert has asked the City of Cleveland Law Department to draft an agreement with their language that is acceptable that Mr. Ebert can circulate to the City of Bay Village. That is where the situation stands now.

Mr. Ebert stated that he thinks there was a miscommunication at the Council meeting on February 23, 2015 as to what people thought was said, or their representation was. It is not the Sunset area project for which the City of Bay Village would receive the \$1.2 million, which would reduce the assessment. The City is waiting for the engineers to come back with the project design, and for him to determine, pro or con, whether the City of Bay Village should replace the Sunset area water lines. The question is how many breaks there have been. That has not yet been determined. But, people left the Council Chambers last week thinking that whatever that project number is, \$1.2 million is going to come off of that to bring the assessment down. That is not true. The water line was never part of the assessment. If, the water line needs to be replaced, whether the City of Cleveland does it, or the City of Bay Village does it, is yet to be determined. The engineer has not yet designed the project, so we don't know whether or not the water lines do or do not need replacement.

Last year the City did Cahoon Road. Probably that water line should have been replaced. The City did not have the funding; the water line was not replaced. The new road and new sewer

went in, but the water line was left the way it was. People had the misnomer when they left here on Monday, February 23, that if the City gets that \$1.2 million it will lower the assessments. That is not the case.

The Water Service Agreement has been in the process of being negotiated with the various cities since 2006. The City of Bay Village agreement expired then, and we are on an annual new agreement every year. They are trying to get all the cities to sign a new agreement. Everyone knows what is going on in the City of Westlake. The City of Westlake and the City of Cleveland are in litigation on whether the City of Westlake is going to stay with Cleveland or move on to the City of Avon Lake. That has come into play somewhat in some of the discussions with City Council, as far as affecting Bay Village in some way. We have asked in the Side Agreement that if the City of Bay Village signs the agreement, and the City of Westlake would leave the City of Cleveland Water Department, that Bay Village would not be hindered in any way by the reconnection and looping of lines. There have been some high estimates, \$16 million, to reconnect and reloop the lines to Bay Village. Our concern is that Bay Village would not be assessed that in the water charge they get from the City of Cleveland, and also that we would maintain the same water pressure when those loop lines are corrected. The City of Cleveland's response to Bay Village is that Bay Village would not be charged singularly; all of their users or contributors of the City of Cleveland may pay a charge to connect those lines. Bay Village would not be isolated because we are Bay Village and because they disconnect our lines we have to have \$16 million to reconnect those lines. We have asked for written assurance from the City of Cleveland that Bay Village would be held harmless and any money to reconnect the lines would be distributed among all of the users of City of Cleveland water; not just Bay Village. That is also in the Side Agreement, which is an important point.

Regarding the looping of water lines, Mr. Koomar noted that Bay Village, Westlake, and all of the west shore communities were put together as a system. For consistent water pressure they like to have those lines looped. Our lines are connected with Westlake at every north south interchange there is, including Clague, Columbia, Dover Center, Cahoon, Bassett, Bradley. If Westlake would leave the system, all those lines potentially could be severed. The \$16 million to loop those lines and reconnect Bay Village to make us whole with the same water pressure for daily use, as well as for firefighting needs, is what the City of Bay Village is concerned about. We want to make sure we are protected. That is a real concern of many Council members.

Mr. Ebert stated that the City of Bay Village has been assured, at least verbally, that the cost would be distributed among all of the contributors in the City of Cleveland, if that should happen. But, we want to make sure that's also in the Side Agreement so it is saved in perpetuity. Regardless of what happens and the decision comes out of Common Pleas Court with the City of Cleveland and the City of Westlake, there will be appeals that will take several years to iron out through the system.

Mr. Lee stated that the funding that the Cleveland Water Department is offering comes with a 100 year payback commitment. If Bay Village were to ever leave Cleveland Water, we would have to reimburse on a 100-year amortization any of the funds received. It is not free funding or grants that are coming; there are a lot of strings attached to the money. Who knows if Bay Village would ever be in a position to leave, but as we sit in these chairs today and consider the

long term ramifications, should we be burdening the future with that repayment obligation? That is an important consideration to have on the table.

Mr. Clark noted that the City of Cleveland is offering a 20-year term, which is what they want to do with every community. They are talking to several of the communities at this point in time.

Mr. Ebert read an excerpt from the November 17, 2014 letter to Mayor Sutherland from the City of Cleveland, stating: "If Cleveland is unsuccessful in recovering the cost from Westlake, the cost would then be borne across the entire base of the Cleveland Water System. Bay Village would bear no special portion of these costs." He noted that he wants to make sure this is part of any agreement that is going to be passed by the Council of the City of Bay Village and part of the City of Cleveland's agreement.

Mr. Lee stated that the Cleveland Water Department hopes they will prevail in the litigation and Westlake will have to pay that \$16 million, if Westlake leaves. That is yet to be determined, and if Cleveland Water does end up having to incur that cost to reloop all of those lines that come up each northbound road from Clague to Bradley, we want to make sure that burden does not end up on any of the Bay Village residents through their water rates.

Mr. Ebert stated that one of the things that is unique to Bay Village is that we own all of our water lines right now. The agreement says that any lines over 24 inches are owned by the City of Cleveland. None of Bay's lines are over 24 inches. Westlake is different. That is why you are hearing that the City of Cleveland is telling Westlake they need to pay the stranded costs for the water lines. Those are the lines that exceed the 24 inches and there are several in the City of Westlake.

Mrs. Lieske asked if we will also emphasize the water pressure. Mr. Ebert stated that the discussion has been held with Fire Chief Lyons. In the 1980's the water pressure was an issue in the City of Bay Village. We want to maintain our current pressure, if not greater. That is also in the Side Agreement; that the current water pressure and volume will be the minimum that we shall receive. Mrs. Lieske noted that it is a concern in the case of fires.

Right now we are waiting for the City of Cleveland to draft the language that would be acceptable to the City of Cleveland. The draft of February 25 is still the only draft that was circulated. We are waiting for whatever language they will draft for the City of Bay Village to consider.

Mr. Koomar opened the discussion for comments from members of the audience.

David Coury, 25024 Sunset Drive, thanked Mr. Ebert for the summary. Mr. Coury stated that he came to express some concerns he has, and there were multiple points in the summary and he is going to try to break down what he heard and address them from the Sunset area neighborhood's perspective. Mr. Coury stated that he personally did not leave the Council meeting last week thinking that the Sunset project would be defrayed by \$1.2 million. What Mr. Coury heard was that the synergy of the Cleveland project with the Sunset project would defray their cost by some number. It is logical to assume that if you are tearing up the roads and putting water lines in, it

would defray the cost of the project. The second point about the City of Westlake and the \$16 million is not related to what the Sunset neighborhood is suffering. Living in that neighborhood it is embarrassing to drive down the street. This is the City of Bay Village and that's where we live. My 4 ½ year old son can't ride his bike on our street. To talk about the \$16 million issue with Westlake is a little bit offensive. Mr. Coury is focused in on getting their streets fixed and what can help that. If their lives are deemed necessary and qualified for that \$1.2 million, he would urge Council to strongly consider it as it would defray the cost of their project. As far as paying back the \$1.2 million over 100 years, if you live on Sunset you really don't want to hear that right now. This Council and the City has an obligation to the Sunset area to give them streets that their kids can ride their tricycles on and they cannot continually have to drive 2 miles per hour so that they don't damage their cars, streets can be plowed. These are access and safety issues.

Mr. Lee stated that he agrees the Sunset area deserves streets. He is 100% with the residents on that. One of the other alternatives for that \$1.2 million is a 30 year bond, so paying it back over 30 years versus 100 years is one of the considerations. Mr. Lee stated that from his perspective he feels the Sunset residents deserve a project sooner, rather than later. Council appropriated money for design work in 2014 and we hope to have that feedback and be in a position to move forward. Mr. Lee stated that he wants to see it happen, regardless of what happens with Cleveland Water.

Service Director Scott Thomas stated that engineering and design for the Sunset area project will be completed this year. The amount of \$136,000 has been designated for that which includes the sanitary sewer as well as the streets. Because this is a total rebuild, there are Environmental Protection Agency requirements that are necessary such as permeable pavers. The final engineering plan will include those.

An audience member stated that the project isn't going to happen if there is a \$50,000 assessment and people can't afford it. There are a lot of people in the neighborhood who can't afford it. What is needed is a financial shot in the arm and this is an opportunity to receive that. There is an overlap in those two projects, and as Mr. Coury pointed out, we don't think there will be a dollar to dollar reduction of the assessment. We just think we will get some help and that's what we need to get this done.

Mr. Koomar stated that there were some assessment numbers put out early on in the process. We will work through the engineering numbers and look at how the assessment process works and make sure it is fair. Assessing someone \$100,000 for a project obviously doesn't make any sense. We will have to step back and look as we get those assessments in and work through that process so that any resident portion is fair.

Mr. Tadych stated that \$100,000 assessment was a first number and now it has been reduced significantly, at least in half, and we are working to reduce it even further.

Mr. Koomar stated he would be hesitant to make any statement until the engineering numbers are in, but that obviously is the intent.

Mr. Clark stated that one of the things that has been done in capital projects in the past, whether it was the Cahoon Aerial Sewer or the Cahoon Sanitary Sewer, or the Lake Road Interceptor Cleaning Project, is that we knew exactly what the price of the project was going to be. When we knew what the price was, we could drill down and figure out what our resources were to help pay for that project. Whether we get money from the City of Cleveland Water Dept. or not, we do have resources to assist in the project. We have them from a various number of resources; we would vet those through in meetings with the Finance Committee just like we do with any other topic when there is a major capital project. Once you know what the final price is, then we can figure out how we are going to legitimately assess the project, whether we are going to borrow for it, whether we use the City of Cleveland Water money, whether we use some of our money in debt service retirement. We have various pockets available, but until we know what the final dollar amount is, it is difficult for us to say what we are going to spend and what we are not going to spend. It would be expected that we would have a great public meeting on that topic.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE

Purchase of two (2) Lifepak 15 ECG Monitors and one (1) Lucas 2 Chest Compression Machine, and declaring an emergency

Mr. Lee reported that the Lifepak Monitors and Chest Compression Machine to be purchased were in the 2015 Budget in the amount of \$60,000. The purchase of this equipment is in the amount of \$58,000. Mr. Lee noted that some of the current equipment is obsolete and will no longer be supported by the manufacturer.

Fire Chief Lyons stated that the support of the existing Lifepak Monitors used by the Fire Department will no longer be supported at the end of this year. A trade-in value is being received for the existing equipment, which will no longer be the case in a month or two. Chief Lyons expressed appreciation to Council for their support on this project.

Mr. Koomar commented that the ordinance approving this purchase will be presented at the Regular Meeting of Council this evening.

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE

Foundation Drain Disconnection (new C.O. Chapter 916)

Mr. Tadych reported that the Public Improvements, Streets, Sewers and Drainage Committee met on Wednesday evening, February 25, 2015 regarding the proposed new Codified Ordinance Chapter 916, Foundation Drain Disconnection. The minutes of that meeting, indicating the changes to the proposed ordinance made by the Public Improvements Committee, were distributed to Council. Mr. Thomas will prepare a rewritten version of the proposed ordinance, and a meeting of the Public Improvements Committee will be held on Thursday, March 5, 2015 at 6:30 p.m. for review. The final document will be presented to the Council of the Whole for three readings.

Mr. Koomar commented that he had the opportunity to sit in on the Public Improvements, Streets, Sewers and Drainage Committee on Wednesday, February 25. Mr. Koomar stated that for a new section of the code it is extremely well thought out by Service Director Thomas and Engineering Consultant Greytak of CT Consultants. It will be a great tool in moving forward consistently from district to district in the City to implement the requirements of the code. Mr. Koomar complimented Director Thomas on a job well done.

2015 Pavement Maintenance and Resurfacing Program

Mr. Tadych stated that Service Director Scott Thomas has identified the streets to be included in the 2015 Pavement Maintenance and Resurfacing Program. Mr. Tadych read the following letter to be sent to the area residents on March 2, 2015:

“To the residents of Walmar Drive, between Bexley and Walker Roads:

The City is making every effort to obtain bids to have a contractor in place by April so that we can move forward with scheduling and reconstruction of Walmar Drive, between Bexley and Walker Roads.

At this time, if the weather permits, our Service Department can provide a more stable, temporary pavement. We will be closing this portion of Walmar Drive to local access and school bus traffic only. We greatly appreciate your cooperation this winter in dealing with extremely difficult conditions. As spring arrives and the base condition begins to dry out, we should be able to stabilize and improve the temporary road surface until conditions are right for paving and concrete.

If you have any questions or need immediate attention regarding the roadway, or access to your driveway, please contact your Service Department.”

Mr. Tadych advised that this letter is going out to the Walmar Drive residents. There were problems there last fall when winter was approaching. He stated that the street is in a horrific mess.

Director Thomas added that the roadway itself is falling apart. There is now a water leak over there, which hopefully will be fixed soon. The muddy conditions have actually gotten worse; the road has settled a little bit more than what it was before. Through traffic had to be shut down. There is no way the City can maintain that road until some type of permanent surface is placed. It is about 400 linear feet; the approximate cost for concrete is \$100,000. That is a large project by itself that must be taken care of. Mr. Thomas stated that they would get to it as quickly as they can, as weather permits.

In addition to the Walmar project, the other roads included in the 2015 Pavement Maintenance and Resurfacing Program are: Humiston, Sandalwood, Lincolnshire, Huntley Court, (approximately 4800 linear feet). Because the remainder of Walmar Drive, from Bexley Road to Wolf Road is in not very good condition, a pavement overlay will be done to Wolf Road, and continue on Wolf Road to Bradley Road, and possibly the intersection. That portion of Wolf

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Road is not part of the county road and is the City's responsibility to maintain. The total 2015 Pavement Maintenance and Resurfacing Program comprises 8000 linear feet.

FINANCE & CLAIMS COMMITTEE

Bureau of Workers Compensation Safety Grant Application, and declaring an emergency

Mr. Clark will introduce a resolution this evening authorizing the application for a Bureau of Workers Compensation Safety Grant application.

Finance Director Mahoney advised that Fire Chief Lyons, and Human Resource Director Jennifer Demaline have been working together to complete an application. Chief Lyons stated that a few years ago, former Fire Chief Sammon and the City invested in power cots, to eliminate half of the lifting required by the paramedics. With a push of a button, the cots will raise from ground level to waist level. Now the department is looking to invest in the other part of the system, the Power Load System. If the grant is successful, the backs of ambulances will have an arm that comes out, lifts the cot off the ground and bring it into the ambulance. This will practically eliminate the risk of lower back energy and other sprains for the paramedics while lifting. The history of the department includes two full disabilities due to back injuries because of lifting of this nature.

The chances of the Bay Village Fire Department to obtain the grant are very good. The City has never received a safety grant. The representative of the Bureau of Workers Compensation has informed the Fire Chief that the funds are nearly expended this year which is why they want to proceed with expediency.

Mr. Clark will introduce the resolution authorizing the application for the grant at the Regular Meeting of Council this evening, and move for adoption.

Mrs. Lieske asked what the City's portion of the expenditure would be if the grant is approved. Mrs. Mahoney stated that the lifter is approximately \$58,000. The City's 25% portion would be approximately \$16,000 and includes a 7 year warranty. Mrs. Mahoney noted that one back claim easily amounts to that 25% portion.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE

Mrs. Lieske reported that there are several ordinances scheduled for second reading this evening at the Regular Meeting of Council, including Resolution No. 15-07 approving the southern extension of Crestview Drive. At the meeting of Council on February 23, the Law Director was asked for additional documents to be included as an amendment to the Resolution. Mr. Ebert will be asked to respond to this request prior to placing the ordinance on second reading.

RECREATION & PARK IMPROVEMENT COMMITTEE

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Mr. Henderson had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

Mr. Vincent had no report this evening.

MISCELLANEOUS

The motion for Executive Session was removed from this evening's Committee agenda.

There being no further discussion, the meeting adjourned at 8:00 p.m.

Paul Koomar, President of Council

Joan Kemper, Clerk of Council