



City of Bay Village

350 DOVER CENTER ROAD
BAY VILLAGE, OHIO 44140-2299

Phone: 440/871-2200
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NOTICE OF MEETING

FINANCE COMMITTEE

BAY VILLAGE CITY COUNCIL

Dwight Clark, Chair
David Tadych
Tom Henderson

Monday, June 8, 2015

6:30 p.m.

**Conference Room
Bay Village City Hall**

Agenda

2016 Tax Budget
Review of May 2015 Financial Reports
Insurance Bid Results
Grass Cutting Charge Amount
Civilian Dispatch for Police Department
Council Salaries
Miscellaneous



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NOTICE OF PUBLIC HEARING

A SECOND PUBLIC HEARING will be held on Monday, June 8, 2015 beginning at **7:00 p.m.** in the Council Chambers of Bay Village City Hall, 350 Dover Center Road, regarding Natural Gas Aggregation as approved by the voters of the City of Bay Village on May 5, 2015. A draft of the Minutes of the First Public Hearing held June 1, 2015 is enclosed.

BY ORDER OF THE COUNCIL OF THE CITY OF BAY VILLAGE.

Joan T. Kemper
Clerk of Council

City of Bay Village

Minutes of Public Hearing
City Council Chambers

June 1, 2015
7:00 p.m.

Natural Gas Aggregation
Northeast Ohio Public Energy Council (NOPEC)

Dwight Clark, Vice President of Council, Presiding

Present: Mr. Charles Ramer, Senior Consultant, NOPEC

Also Present: Councilman David Tadych, Ward 1; Councilman Paul Vincent, Ward 2;
Councilwoman Karen Lieske, Ward 3; Councilman Tom Henderson, Ward 4

AUDIENCE

The following signed in this evening:

Lydia DeGeorge, Jerrie Barnett, Conda Boyd, Pam Cottam, Suzanne Graham, Walt VanTilburg, Marty Mace, Richard Fink, Denny Wendell, Tara Wendell

Vice President of Council Dwight Clark opened the public hearing at 7 p.m. He introduced Mr. Charles Ramer, Senior Consultant of the Northeast Ohio Public Energy Council (NOPEC), who addressed those present.

Mr. Ramer stated that NOPEC has been in existence for 15 years. They manage programs of natural gas and electrical aggregation for about 200 different communities in the northern part of the state of Ohio, covering 13 different counties. They began this in 2000, after the industry was de-regulated, giving cities, townships, and villages the opportunity to either join a Council of Governments or bid their natural gas or electric load individually to get a better price for the supply that individuals could otherwise obtain.

The most reasonable bidder is a company called NextEraEnergy, a Fortune 100 company, and the largest gas purchaser in the country. NOPEC uses a particular type of hedging strategy to purchase the gas at a competitive rate. In 2014, on a seasonal average, there are two pricing structures. One is called standard choice. If a customer has not chosen their own supplier, Columbia Gas puts you on standard choice, their default rate. NOPEC has a fixed rate, which is about 6% less than the standard choice of 2014. They also have a variable rate, which is always about 2 cents lower than the standard choice. Ninety-five percent of customers use the standard rate and NOPEC has a good track record of being below the standard choice.

The program is called an opt-out program. It passed at the ballot in November with 87% approval. After legislation is passed by Council to proceed, customers will receive an opt out letter in the mail this August. The opt out letter will define the pricing, and the program. If customers want to participate they take no action. If they do not want to participate, they call or mail in the opt out card and they can opt out at no charge. If a customer is ever dissatisfied with the program they can opt out at no charge.

Legislation to proceed will be introduced today, June 1, second reading on June 15, and final action on June 22, 2015. A second public hearing will be held on Monday, June 8, 2015 at 7 p.m.

The folks who are not currently in contract with another supplier will receive the opt-out letter. Customers who are currently in a contract with a supplier, will not receive an opt out notification from NOPEC. If the customer dissolves their current contract, or allows it to expire, they would be automatically enrolled in the next billing cycle and get an opt-out letter in the mail.

Questions and Answers:

Denny Wendell: "You said 5% in 2014 compared to standard choice. Previous years: 13, 12, 11%?"

Mr. Ramer: "I don't know if it is relevant because we have a new supplier now. I don't know the answer to that. I have been around for a year and a few months, and I think that previous to that we may have had some periods of time when we were above standard choice."

Denny Wendell: "How long have you had these 200 communities enrolled?"

Mr. Ramer: "We have had a gas aggregation program available since 2000."

Denny Wendell: "Anyway to find out what those savings were in those other years?"

Mr. Ramer: "I can get you that information."

Mr. Clark: "I am on Columbia Gas. When this matter completes itself, we automatically revert to the program you have?"

Mr. Ramer: "Yes. There is a 21 day opt out period in August when you receive your letter. After that, there is an additional 10 day rescission period.

A customer who is not current on their account (more than 30 days behind) will not get the opt-out letter."

Mr. Fink: "I think this is a great program but I was quite surprised that you do not have the information on the previous cost. Can you see it at your website? Is that information transparent?"

Mr. Ramer: "We do not have the history on our site but I can certainly provide you with that history."

Mr. Fink: If the variable cost has been considerably lower, it is worth looking into.

Mr. Ramer: "I cannot pledge that we will always be the lowest in the market place because there are always different competitive rates. If you go on the PUCO website there is something called Apples to Apples. They list every current offer that different suppliers have for natural gas. When I was here last time there were 37 different offers for that month. Our rate at the time I was at the last Council meeting was lower than 35 of those offers. You have our assurance that we will be at the lower end of the market. You are not going to overpay, and being a Council of Governments we are a transparent, non-profit organization. The program also includes engagement tools and a conservation program for equipment to be installed in homes to lower gas bills."

Mr. Majewski: "If Council takes this action, basically we are on our own after that to opt out. Is there a contract limit that Council is setting with NOPEC, or is this in perpetuity that Council is going to be part of that?"

Mr. Ramer: "The expectation is to sustain the membership but the City always has the option to cease. We would want to have a conversation with them before that happens."

Mr. Majewski: "What does that 87% represent for the affirmative vote on May 5, 2015, as far as total voting population?"

Clerk of Council: "948 votes were cast. 821 for aggregation; 127 against."

Mr. Majewski: "800 out of how many eligible voters?"

(The answer will be researched). (11,767, per the Board of Elections website at this writing of 6-4-15 and confirmed with Board of Elections).

"Mr. Ramer stated that at a special election it is usually a 12 to 15% voter turnout."

Mr. Tadych: "Am I correct in assuming that you are buying this gas cheaper than you are selling it to us so you can make your payrolls for your organization, and then you are taking a cut and giving us the 6%?"

Mr. Ramer: "Yes, we have a staff of 8 and have an overhead. We are buying it slightly less than we are offering it to you. We have a hedging strategy. We buy some portion three months ahead, 60 days ahead, 30 days ahead, and right before so we can insure a smooth pricing structure. Otherwise, it is just a roller coaster."

Mr. Henderson: "If Council votes for this, is the City or the people at risk for financial liability if any of your hedging strategies go awry?"

Mr. Ramer: "If our NOPEC rate was way out of market compared to standard choice?"

Mr. Henderson: "In energy markets there have been companies that have gone out of business, like Enron. Is there a situation where we would have to, if something went wrong with your strategies and your company went out of business, be liable as member participants for a bail out?"

Mr. Ramer: "No. The financial burden is really being managed by our contractor, which is NextEraEnergy. NextEraEnergy is a Fortune 100 Company, and the largest gas supplier in the country. They are the ones that are financially responsible for purchasing and paying for the gas that we use. The utilities then reimburse them. Being a Council of Governments we have some immunity in that respect."

Mrs. Lieske: "In the room here you have five members of Council, five residents who are at almost every Council meeting, and two from the newspapers. There is no one else from the community here. How are residents who aren't so inclined to come like these five dedicated citizens, supposed to find out about this, and especially the need to opt-out if they want to? There are still senior citizens that aren't tapped into the internet. How are they supposed to be well informed about all of this, especially the need to opt out rather than everything would stay the same and they could opt in."

Mr. Ramer: "In the opt out letter they will get it is very graphically detailed, with a question and answer section, and terms and conditions. It is very well outlined with language that is provided by the PUCO."

Mrs. Lieske: "Can we (Council) see the letter before it goes out?"

Mr. Ramer: "Absolutely. We are doing one for Gates Mills on the fifth of June. I sent them a copy of the letter so they are completely aware of all the terms and conditions, and prices."

Mrs. Lieske: "Are they addressed by name, or just to the occupant?"

Mr. Ramer: "They are addressed to the utilities mailing list; whoever has the account with the utility."

Mrs. Lieske: "So, if it is a renter and the renter pays for the utilities it would go to the renter?"

Mr. Ramer: "Yes."

Pam Cottam: "What is the name of the parent company?"

Mr. Ramer: "NextEraEnergy."

Mr. Tadych: "Charlie, you are offering two plans: a fixed plan and a monthly variable plan. The fixed is only like three months. Is there any anticipation in extending that period to a longer, true, fixed term policy that people used to get in the days past?"

Mr. Ramer: "The answer is yes. But, the reason we have been keeping that term short is because the market has been in such a roller coaster ride. It has dropped precipitously. Had we had that price fixed, we would not have been able to have savings when that market took a tumble in the third quarter of last year. So, we adjusted our price then accordingly, and if that price goes back up again we'll have opportunities by purchasing the gas now to hold that price down. When it makes sense to keep the term short because the market is in free fall, then we have the responsibility to adjust our prices."

Mr. Tadych: "It seems to me to be ridiculous to call it a fixed term for a three month plan but it is a variable three month plan."

Mr. Ramer: "In the past it has been fixed way longer than that, because the market was pretty stable until the third quarter of last year."

Mr. Vincent: "Have you ever gone less than the three months for any of your plans?"

Mr. Ramer: "Yes, we have gone two months. In November and December we were on two months because the price was dropping so we had to keep the term down so we could adjust our price down."

Mr. Vincent: "But, when it is going up you benefit from the short plan? You don't want to be at the low if the market is going high. It is a detriment to the consumer."

Mr. Ramer: "Yes, we are bright enough to purchase when it is low. We can try to shave the top off of that roller coaster rate."

Mr. Vincent: "Is it a fixed rate for all municipalities?"

Mr. Ramer: "Yes, it is the same for all members."

Mr. Vincent: "Typically what is the range for opt out per city?"

Mr. Ramer: "We did the Beachwood program. Beachwood had a 4% opt-out. Ten percent were already enrolled in another program for supply."

Mr. Vincent: "Is the educational part of it typically what is happening in our City, now that we've passed it. Is the educational part of two meetings across the Board? My thought is how many people will know about it; is there a level above the two meetings so we can educate folks or is this the standard for NOPEC?"

Mr. Ramer: "What I had talked with the Mayor about, is if Council takes action this month I will work with her on a promotional/educational campaign such as a booth at Bay Days over the Fourth of July. The two public hearings are required by law."

Mr. Vincent: "What does NOPEC do if Council requests additional public hearings?"

Mr. Ramer: "Of course we would accommodate that request."

Mr. Fink: "That was a very strange thing that you said that you vary a fixed period, sometimes three months, sometimes less. So, every period, you choose what that next period will be. It is not transparent at all how you set the period. You don't have a fixed period at all. You choose a period. It is very bad terminology."

Mr. Ramer: "There is a monthly variable. We have been calling it the program price. The program price has traditionally been fixed for three to six months. But, it was until just recently variable for a couple of months because what happened recently was just unprecedented in the history of natural gas."

The public hearing adjourned at 7:30 p.m. The next public hearing will be held on Monday, June 8, at 7 p.m.

Dwight Clark, Vice President of Council

Joan T. Kemper, Clerk of Council

**Public Hearing for Natural Gas Aggregation
will be held at 7:00 p.m.**

AGENDA

Agenda, Bay Village City Council
Committee Meeting
Conference Room
Dwight Clark, Vice President of Council, Presiding

June 8, 2015
7:30 p.m.

ANNOUNCEMENTS

COMMITTEE OF THE WHOLE

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE-Lee

Police Dispatch

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE-Tadych

FINANCE & CLAIMS COMMITTEE – Clark

Council Compensation

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Lieske

RECREATION & PARK IMPROVEMENT COMMITTEE-Henderson

SERVICES, UTILITIES & EQUIPMENT COMMITTEE-Vincent

MISCELLANEOUS

AUDIENCE

CAHOON MEMORIAL PARK TRUSTEES

City of Bay Village

Council Minutes, Committee Session
Conference Room
Dwight Clark, Vice President of Council, Presiding

June 1, 2015
7:30 p.m.

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

Not Present: Mr. Koomar, Mr. Lee (attending Bay High School Commencement 2015)

Also Present: Law Director Ebert, Finance Director Mahoney, Director of Public Safety and Service Thomas, Recreation Director Enovitch, Police Chief Spaetzle, Fire Chief Lyons, Director of Operation Landers, SAFEbuilt Chief Building Official Cheatham

AUDIENCE

The following members of the audience signed in this evening: Dick Majewski, Marty Mace, Pam Cottam, Lydia DeGeorge, Suzanne Graham, Richard Fink, Russell Thompson, Jerrie Barnett, Jeff Gallatin, Tara Wendell, Conda Boyd, Charles Ramer of Northeast Ohio Public Energy Council (NOPEC).

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE

Village Bicycle Cooperative – Lease expired March 31, 2015

During the audience comment portion, Conda Boyd asked why the Council is two months behind on renewing the lease for the Village Bicycle Cooperative's space at the Community House. Law Director Ebert stated that the expiration date passed without being caught. The lease has actually been changed since entering the agreement. The Village Bicycle Cooperative is using more space at the former Friendship Center site. Service Director Thomas will measure the space being used to determine the actual square footage of what is being used. The ordinance renewing the lease will be removed from tonight's agenda until further information is compiled.

Mr. Clark noted that the Village Bicycle Cooperative is giving a great service to the City. Procedurally, if Council has a copy of the lease and it is correct, the ordinance will be adopted with one reading. Mr. Ebert assured Ms. Boyd that the next time the lease is considered for renewal it will be noted in a timely manner so as to be subject to three readings. Mr. Clark stated that historically the Village Bicycle Cooperative has paid a prorated share of the overall utilities of the Community House, and asked if that is the anticipation going forward. Finance Director Mahoney responded affirmatively. Mr. Tadych confirmed with Mr. Ebert that the lease will be based on the space that is being used currently, rather than the space formerly used by the woodshop, and utilities are to be gas and electric. Mr. Henderson asked if there is a cost per square footage for the lease. Mrs. Mahoney stated that they do not base the rental on a square footage. A copy of the lease and the details, including the amount paid this past year as requested

Committee Meeting of Council
June 1, 2015

by Mrs. Lieske, will be included in the Council packets the weekend of June 5, 2015, and the ordinance will be introduced on Monday, June 8, 2015 at a Special Meeting of Council.

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE

Memorandum of Understanding – Cuyahoga Soil and Water Conservation District

Mr. Tadych stated that there was nothing in the Council packets concerning the Memorandum of Understanding, and asked who would like to address the matter.

Service Director Thomas stated that the Memorandum of Understanding with the Cuyahoga Soil and Water Conservation District (CSWCD) has been done annually for a number of years. The agreement is to insure that our storm water, creeks, and outflows into Lake Erie are being supervised with their technical assistance. The CSWCD provides reports to the Environmental Protection Agency as well. Their sample project list for this year includes the Bay Village/Avon Lake Shared Basin, Bay Village High School, Bay Village Police Department, the Service Center, St. Raphael's Catholic Church, the Bradley Bay Nursing Home, and the Crestview extension. The CSWCD has been sending out people consistently to check on these projects and to provide technical assistance. The Memorandum of Understanding (MOU) is very common in Cuyahoga County.

The renewal of the MOU for the Cuyahoga Soil and Water Conservation District will be addressed at a Special Meeting of Council on June 15, 2015. Information will be included in the Council packets.

FINANCE & CLAIMS COMMITTEE

American Fireworks Company Agreement

Mr. Tadych advised that the American Fireworks Company agreement for the July 4 fireworks display will be considered by Council this evening. The cost is \$11,000, which has been standard since 2010. The cost is offset by the efforts of the Fireworks Committee. Mayor Sutherland stated that her assistant, Sue Kohl, has raised \$3,600 in profits for the Fireworks Fund from the T-shirt project.

Mr. Ebert noted that Section 2 of the ordinance approving the fireworks has been added to the ordinance to be in compliance with Ohio Revised Code Section 3743.54.

Mrs. Lieske asked how the rain date for the fireworks can be scheduled for Sunday, July 5, 2015. Mr. Ebert stated that there is no prohibition in the Cahoon Will about having fireworks on a Sunday in Cahoon Memorial Park. He noted that many times the Kiwanis would rather have the fireworks on a Monday because that is the busiest day for Bay Days, and Bay Days cannot be held on a Sunday.

Mr. Henderson asked if this contract has been put out to bid to attract multiple vendors. Mayor Sutherland stated that they reached out to a couple of vendors and also had people call. The Fire

Chief asked that the vendors be in touch with him in December, because a decision is usually made in the beginning of January or February to insure a contract. It was the Mayor's understanding that a couple of people never responded and one got back to the Fire Chief in March, which was too late. Chief Lyons stated that they need to reserve the fireworks company in January since companies are booked up for the Fourth of July early in the year.

The ordinance approving the contract for the fireworks display will be considered by Council for adoption at the Regular Meeting of Council to be held this evening.

Property Damage and Liability Insurance – Review of Bids

Mr. Tadych reported that the second lowest bid for renewal of property damage and liability insurance for the City of Bay Village includes a fireworks insurance that the lowest bid does not include. The second lowest bid of \$144,533 will be considered for acceptance for the 2015-2016 year.

Finance Director Mahoney stated that the first three bids are all bid through McGowan Insurance Company. The fourth bid was through the Jackson-Deiken Insurance Company. McGowan Insurance Agency has been with the City of Bay Village for a number of years. It is not recommended to move to another carrier for less than \$1,000. The premium has been reduced by \$50,000 due to additional bidders, and because the claim experience has dropped off during the past five years. Mrs. Mahoney stated that she dealt with Argonaut Insurance, the successful bidding company, in Shaker Heights where she worked previously and recommended their services.

The ordinance approving the contract will be introduced for first reading this evening, with final adoption at a Special Meeting of Council on June 8, 2015. The Finance Committee members agreed.

Tax Budget – 2016

Mr. Tadych stated that Inside Millage is provided by the Constitution of the State of Ohio, and the Outside Millage is voted millage, such as the Recreation Millage, Paramedic Millage, and expenses for the General Operations of the City of Bay Village. We do not use all of the Outside Millage. Inside Millage of 3.89 is used. Millage has not increased since the 1980's, when Paramedic Millage was implemented in 1986. Mr. Clark noted that there is unencumbered but voted Millage that can be spent, but Finance Director Mahoney has recommended that with the present revenue flows an increase is not needed at this time. Mrs. Mahoney commented that resident property taxes are calculated by taking 35% of the fair market value of property and multiplying that by the millage of the City. Most of those funds go to the schools. The number that is realized through that calculation is adjusted for roll backs and credits from the state. That figure is multiplied by .8750 which gives a rough estimate of an individual's property tax. Mr. Henderson stated that an easy way of estimating tax this year is multiplying the fair market value by 2.9%.

Committee Meeting of Council
June 1, 2015

The Resolution adopting the Tax Budget for 2016 is included in the agenda of the Regular Meeting of Council scheduled for June 15, 2015.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE

Handicap Parking Spot for U.S. Post Office

Mrs. Lieske stated that it is her understanding that consideration of the provision of a handicap parking spot on East Oviatt to serve the customers of the United States Post Office is to be referred by motion of Council this evening to the Planning Commission for their approval. The Planning Commission agenda of June 17, 2015 will include this referral.

Jerrie Barnett asked about parking for the new Panorama Deli and Restaurant that will open on Dover Center Road. Mr. Ebert stated that there is a City parking lot next to the building that will house the restaurant. After post office hours, the post office parking lot can also be used for restaurant customers. Mr. Ebert stated that in order to provide retail and commercial establishments in Bay Village, the Planning Commission considers all available nearby parking when approving an application.

Mrs. Barnett asked if the former post office site in the Dover Junction shopping center is empty. Mr. Cheatham of SAFEbuilt replied that the site is occupied by a leather shop and a tailor.

Mr. Vincent asked when the handicap parking spot would be available for use. Mr. Ebert recommended that the ordinance to provide for the handicap parking spot be adopted after the Planning Commission consideration. Mr. Ebert stated that the spot will be prepared immediately after adoption of the ordinance.

Chapter 1158 – Moratorium expires June 23, 2015

Mrs. Lieske stated that the moratorium for development under Chapter 1158, Attached Housing, expires June 23, 2015. Mrs. Lieske asked Mayor Sutherland if there is any update from the professional planner that was contracted to review the chapter.

Mayor Sutherland stated that together with the Law Director she had a conference call with the planner last week. He did a very good job on the first draft. There was a little bit of tweaking necessary and Mr. Ebert is researching a question on private streets and the requirements thereof. The Mayor stated that she would expect another follow-up with the planner in another week or so and then they would be able to forward the revised chapter in ordinance form to Council.

Law Director Ebert stated that there is no need for the moratorium. As long as Chapter 1158 is the way it is and until it is modified nothing will be done.

Mr. Vincent stated that we have had the moratorium in place for so long, he would be in favor of extending it again. Mr. Tadych agreed. Mr. Ebert will prepare an ordinance to extend the moratorium an additional 90 days for inclusion on the Council agenda at the Regular Meeting of Council to be held June 15, 2015.

Ms. Boyd asked how long the moratorium has been in existence, and is there an idea of the time line and the process. Law Director Ebert stated that the draft of Chapter 1158 as prepared by the planner will be submitted to the Planning, Zoning, Public Buildings and Grounds Committee for review and recommendation to Council. The Planning Commission has declined to take action and referred it back to City Council.

Ms. Boyd asked if 90 days will be adequate for an extension of the moratorium. Mr. Ebert stated that Council can again extend the moratorium if they feel it necessary. It is hoped to see the review of the draft occur before Council recess at the end of June.

Mr. Ebert stated that he thought the moratorium was originally established in 2013.

RECREATION & PARK IMPROVEMENT COMMITTEE

Mr. Henderson advised that the Committee of the Whole two weeks ago received a primitive camp site proposal from Mr. Kuh and Mr. McGannon. President of Council Koomar has indicated that this may be taken up for discussion next week. Mr. Ebert stated that he has prepared a memorandum based on research including one court opinion. The memorandum will be provided to Council in their packets of June 5, 2015.

Mr. Henderson thanked Mr. Ebert for his attention to this matter.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

Mr. Vincent stated appreciation to Mayor Sutherland, Finance Director Mahoney and Clerk of Council Kemper for their working together to provide initial Council meeting recordings on the City's web site. Mr. Vincent will ask each member of Council to listen to the recordings and report back on their impression of the sound. While you can certainly hear the voices it is hoped to improve on the sound. The City's technology provider found Copy.com where the recordings can be placed without charge, at least temporarily. Mr. Vincent stated that he has heard from a few residents saying they appreciate this work.

Mayor Sutherland suggested that podium in Council Chambers be moved forward to insure that voices from the audience are heard and that if there are comments from the audience the speaker move to the podium.

MISCELLANEOUS

Mr. Clark announced that Destination Bay will be held on June 13, 2015 and encouraged participation. Activities will be held throughout the City, including in Cahoon Memorial Park, BAYarts, the Lake Erie Nature and Science Center, and the Bay Village Fire Station from early morning to late afternoon. Project Pedal is part of the day's activities, and shuttles will be moving from one activity to another. Maps and further information are available at City Hall and throughout the City.

Committee Meeting of Council
June 1, 2015

Mr. Tadych advised that he and **Councilwoman Lieske** walked through Walker Road Park on Saturday, May 30, 2015, looking for the borders of the park, in anticipation of the plans of Avon Lake next December in the park for the culling of deer. Mr. Tadych stated it was difficult trying to understand where the property started and ended to determine how close it is to the nearby residences, and the location of the tree stand on the south side of the park. Mr. Tadych asked if someone could take Council on a tour of the park to look at the borders. Mayor Sutherland will make the necessary arrangements.

The meeting adjourned at 8:05 p.m.

Paul Koomar, President of Council

Joan Kemper, Clerk of Council



City of Bay Village

350 DOVER CENTER ROAD
BAY VILLAGE, OHIO 44140-2299

Phone: 440/871-2200
Fax: 440/871-5751

Public Hearing for Natural Gas Aggregation 7:00 p.m.

June 5, 2015

A Special Meeting of the Bay Village City Council will be held on **Monday, June 8, 2015**, immediately following the Committee session at 7:30 p.m., in the Council Chambers of Bay Village City Hall, 350 Dover Center Road, to take action on items listed below:

1. Pledge of Allegiance to the Flag/Dwight Clark, Councilman-at-large
2. Roll Call
3. Announcements/Audience/Miscellaneous
4. **Motion** to approve the minutes of the Regular Meeting of Council held June 1, 2015***Clark***
5. **Motion** to acknowledge receipt of the May, 2015 Financial Report of the City of Bay Village prepared and submitted by Renee Mahoney, Director of Finance.***Clark***
6. **Ordinance No. 15-44** fixing the salary of the President and Members of Council and Repealing Ordinance No. 13-44, and declaring an emergency.***Clark*** (Second Reading) (First Reading 6-1-15)
7. **Ordinance No. 15-46** authorizing the Mayor to enter into an agreement with the McGowan Insurance Agency as Agents of Argonaut Insurance for Public Officials Liability, Law Enforcement Professional and Firefighters Professional Liability, General Liability, Automobile Physical Damage and Liability, Property and Equipment, Boiler & Machinery and Crime Coverage, and Umbrella Insurance, and declaring an emergency.***Clark*** (Second Reading) (First Reading 6-1-15)
8. Adjournment

Charter Reference 2.11

Paul A. Koomar, President of Council

Agenda
Special Meeting of Council
June 8, 2015

Procedure

Section 2.14 - Effective Date
C.O. 111.10 - Council Rules for Legislation

Roll call on suspension of Charter Rules:

Every ordinance or resolution shall be read on three different days unless two-thirds (2/3) of the total number of Council members provided for in this Charter dispense with the rules.

Roll call on suspension of Council Rules:

No ordinance or resolution shall be passed unless a written copy thereof is before the Council ...at least 24 hours before any meeting of Council at which action...is contemplated.

Roll call on inclusion of the emergency clause:

All ordinances and resolutions shall become effective forty (40) days after their passage by Council unless a later effective date is set forth or an earlier date is established. Resolutions to initiate any public improvement shall become effective immediately upon their passage and approval by the Mayor.

It is required that two-thirds (2/3) of the total number of Council members provided for by this Charter vote affirmatively to enact with the emergency provisions. This clause allows legislation to become effective immediately upon passage and approval by the Mayor.

NOTE: Regular and Special Meetings of Council are scheduled for 8:00 p.m. However, Council generally meets informally at 7:30 p.m. prior to a Regular or Special meeting, and said portion, usually held in the conference room, is open to the public.

CITY OF BAY VILLAGE

Council Minutes, Regular Meeting
Council Chambers 8:00 p.m.

June 1, 2015

Dwight Clark, Vice President of Council, presiding

Not Present: Mr. Koomar, Mr. Lee (attending Bay High School Commencement 2015)

Also Present: Law Director Ebert, Finance Director Mahoney, Director of Public Safety and Service Thomas, Recreation Director Enovitch, Police Chief Spaetzel, Fire Chief Lyons, Director of Operation Landers, SAFEbuilt Chief Building Official Cheatham

AUDIENCE

The following members of the audience signed in this evening: Dick Majewski, Marty Mace, Pam Cottam, Lydia DeGeorge, Suzanne Graham, Richard Fink, Russell Thompson, Jerrie Barnett, Jeff Gallatin, Tara Wendell, Conda Boyd, Charles Ramer of Northeast Ohio Public Energy Council (NOPEC).

Mr. Clark called the Regular Meeting of Council to order at 8:10 p.m. in the Council Chambers of Bay Village City Hall, with roll call and the Pledge of Allegiance led by Joan Kemper, Clerk of Council.

Following the roll call, Mr. Clark called for a reading of the Minutes of the Regular Meeting of Council held May 18, 2015. Mr. Henderson **MOVED** to dispense with the reading and accept the minutes of May 18, 2015 as prepared and distributed. Motion carried 5-0.

ANNOUNCEMENTS

Mr. John Cheatham, SAFEbuilt, Inc., Chief Building Official presented Mayor Sutherland with a check in the amount of \$1,000 dedicated to the cost for repair of the Clock Tower at Bay Village City Hall. Mr. Cheatham noted that SAFEbuilt, Inc., has now been with the City of Bay Village for two years, and it is their pleasure, after one year, to give back to the cities and organizations for projects that are dear to the cities hearts.

Mayor Sutherland announced that the Clock Tower is up and running and thanked the Village Foundation which took the initiative, SAFEbuilt, Inc., a very generous anonymous donor, and the Bay Village Historical Society.

Mayor Sutherland gave kudos to the Bay Village Police Department who were asked to step it up over the past few weeks because of unusual situations going on in the City of Cleveland. The Police worked 12 hour shifts, accumulating overtime, and made the City of Bay Village proud.

Mr. Clark advised that at 7 p.m. this evening the first required public hearing was held for the Natural Gas Aggregation Program. Mr. Charles Ramer, Senior Consultant of Northeast Ohio Public Energy Council (NOPEC) addressed the interested residents who were present. A second

Minutes of Regular Meeting
Bay Village City Council
June 1, 2015

public hearing will be held Monday, June 8, 2015 at 7 p.m. Mr. Vincent, Chairman of the Services, Utilities, and Equipment Committee, will present ordinances for entering into the program for first reading this evening, second reading on June 15, 2015, and final adoption on June 22, 2015.

Mr. Ramer will provide the information requested by the public to both the Council and members of the public prior to the next public hearing.

Law Director Ebert had no report this evening.

Finance Director Mahoney had no report this evening.

Recreation Director Enovitch advised a slow start to the pool season today due to the very cool weather. The pool will be open on Tuesday, June 2 for Senior Splash Parties. On Thursday, June 4 and Friday, June 5, the pool will be open from 3 p.m. to 9 p.m. On Saturday, June 6 the Toddler Area will be open at 10 a.m., and full pool use will begin at 12 Noon and continue to 9 p.m. The pool water is heated.

Mayor Sutherland stated that when the pool was being filled it was discovered that a couple of leaks were present at the toddler features. They are operational, but not up to full speed. They will not be fixed until the pool is emptied in the fall. Mr. Enovitch stated that the leak impacts only the waterfall that comes over the top at the toddler area.

Director of Public Safety/Service Thomas advised that the last overlay of the east side of the 2015 road projects will begin Tuesday, June 2, and will probably be completed the same day. The concrete installation on Walmar should be completed by Thursday, June 4. Mr. Thomas congratulated his crews for the excellent work they have done with these projects.

Mr. Clark asked if there are any remaining funds left over from this year's road projects. Mr. Thomas stated that they are looking to do some crack sealing of the roads, to include some roads that may not have had crack sealing, and to stabilize some of the roads to avoid further deterioration. A final itemization of expenditures should be available soon. Street striping will be done in September.

Fire Chief Lyons reported that they are making progress on the fire hydrant cleaning and thanked residents for their patience. The Fire Department is preparing for their annual Open House on Saturday, June 13, as part of Destination Bay. Parents and grandparents are encouraged to bring their children for a tour of the Fire Station.

An offer of employment was extended to a Fire Department candidate today. When that employee is up and running, the Fire Department will be back to a full complement of officers. Chief Lyons thanked Council for their support.

COMMUNICATIONS

The following communications were received and are on file in the office of the Clerk of Council for public inspection:

Certification of Election of May 5, 2015 indicating a positive vote for Natural Gas Aggregation in the City of Bay Village by a vote of 821 for the issue, and 127 against the issue.

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE

Mr. Clark advised that the ordinance on the agenda this evening extending the lease agreement for a portion of the Community House by the Village Bike Co-Op will be pulled from tonight's agenda awaiting further information for review.

FINANCE AND CLAIMS COMMITTEE

Mr. Tadych introduced and read **Ordinance No. 15-44** fixing the salary of the President and Members of Council and Repealing Ordinance No. 13-44, and declaring an emergency.

Mr. Tadych stated that he will ask that this Ordinance be placed on first reading and advised that he will review it further.

Mr. Clark stated that the matter will be placed on the agenda for review by the Finance Committee on Monday, June 8 at 6:30 p.m. Mr. Henderson stated that he has some thoughts in relation to the ordinance that he will discuss with the Finance Committee.

Mr. Henderson commented further that after Mr. Tadych and Councilwoman Lieske got done walking around in the rain and checking out the Walker Road Park, Mr. Tadych stopped at Mr. Henderson's house to chastise him a bit about bringing up the emergency clause last week. Mr. Henderson distributed a print out from Cleveland.com to explain why he tends to look at this. On May 19, Cleveland.com, *The Plain Dealer*, ran an article saying that "The Bay Village City Council is considering an emergency resolution that would give council members pay raises." For those of us that follow this very closely, we understand the nature of the emergency clause, and we understand it to be a tool to expedite enactment of legislation once it is passed. From a public perception standpoint, it definitely causes confusion, particularly the way the media sometimes picks it up and portrays it. The League of Women Voters, at their event two years ago, presented a question regarding the emergency clause. That is why, Mr. Henderson stated, he brought it up and he brings it up again in the context of this particular ordinance. Mr. Henderson stated he asked Mrs. Mahoney whether or not the emergency clause is needed in this particular item because it looks like all the pay rates are staying the same until 2018. Mr. Ebert expressed that maybe we do need it because of the timing of the elections. Mr. Henderson would like to discuss whether or not the emergency clause is needed.

Minutes of Regular Meeting
Bay Village City Council
June 1, 2015

Mr. Ebert stated that the legislation must be passed 75 days before the election. Mrs. Lieske stated that the Board of Elections bases it on the Primary Election in September. June 10 would be 75 days prior to the Primary Election date.

Mr. Tadych stated that it would be nice if they could call the emergency clause by another name. Mr. Vincent asked Mrs. Mahoney what is done in Shaker Heights, where she worked previously. Mrs. Mahoney stated that it is called the emergency clause.

Mr. Henderson suggested that one thing that could be done is to introduce it earlier in the year and the emergency clause would not be needed. He stated that he did look at the way Bay Village's use of the emergency clause compares to Rocky River and Fairview Park. Bay Village does use the emergency clause a lot more, on a percentage basis, than those other cities do, based on his analysis. That is why he brings it up. Mr. Tadych stated he understands.

Mr. Ebert stated that even if an ordinance is placed on readings, the emergency clause determines the effective date of the legislation. Without the emergency clause, the legislation does not become effective until 40 days after passage. The newspaper may not be picking up that distinction correctly. It is a misinterpretation.

Mr. Ebert will devote additional review to the time needed for passage of the Council salary and the needed filing by a certain date with the Cuyahoga County Board of Elections. If the ordinance is passed without the emergency clause, it would not take effect for 40 days. He will determine by further review if the Primary Election in September has bearing.

Mr. Tadych stated that the reporting that occurred in Cleveland.com stating that "Bay Village City Council is considering an emergency resolution..." throws the wrong idea in front of people. He stated that he wished a different term than "emergency" could be used to help that interpretation along. Mr. Clark noted the requirements of the Ohio Revised Code, and the practical trade-off is that we attempt on most material items to go three readings.

Mr. Henderson stated that he fully understands that and is glad we go for three full readings. The main concern is that in case we pass something of importance that people disagreed with and we did it on one reading with the emergency clause there would be no opportunity for the people to speak up on it before it goes into effect. Mr. Henderson stated that he understands the basic structure. His point is primarily on the way that the majority of the public receive and also the way the media portrays it.

Mr. Tadych read Ordinance No. 15-44 in its entirety noting that if the emergency clause is to be removed in the future, by virtue of the guidance of the Law Director, it can be done at that time.

Ordinance No. 15-44 was placed on first reading

Mr. Tadych introduced and read **Ordinance No. 14-45** authorizing the Mayor to enter into an agreement with American Fireworks Company for the 2015 July 4th Fireworks Display, and declaring an emergency, and moved for adoption.

Minutes of Regular Meeting
Bay Village City Council
June 1, 2015

Mrs. Lieske stated that she noticed that the contract was prepared on February 3, 2015, and Council is just now seeing it. If it had been submitted earlier, picking up on the discussion of the emergency clause, we would not have to have it take effect immediately.

Fire Chief Lyons stated that one of the reasons the contract is delayed is that we need to make sure before we enter into a legal and binding contract that the funds are actually raised. Chief Lyons generally tries to communicate with the Fireworks Committee to make sure that we actually have funds ready to go. American Fireworks Company works with the City, reserving the date based on the City's word and gives the contract later when the City is ready to go forward. That is the reason for the delay in time. This company has been providing the fireworks since the mid-1990's and in the Chief's opinion provides the safest product on the market.

Mrs. Lieske asked when we found out we had the funds to cover the cost of the fireworks. Mr. Clark stated that procedurally the goal is to have the City cover half the cost and the other half is raised by the Fireworks Committee. That would not have been completed until a few weeks ago. There are several different components of the fundraising effort: The Freedom Boat Club, the sale of t-shirts, and other efforts of the committee, which includes Tara Wendell, Jennie Mace, and Eric Eakin who are still selling raffle tickets. That element is winding down shortly.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Ordinance No. 15-45.

Roll Call on Suspension of the Charter Rules:

Yeas- Clark, Henderson, Lieske, Tadych, Vincent

Nays -None

Roll Call on Suspension of the Council Rules:

Yeas – Clark, Henderson, Lieske, Tadych, Vincent

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas- Clark, Henderson, Lieske, Tadych, Vincent

Nays -None

Roll Call on Adoption:

Yeas– Clark, Henderson, Lieske, Tadych, Vincent

Nays–None.

Mr. Clark announced adoption of Ordinance No. 15-45, an emergency measure, by a vote of 5-0.

Mr. Tadych introduced and read **Ordinance No. 15-46, amending by reading**, authorizing the Mayor to enter into an agreement with the McGowan Insurance Agency as Agents of Argonaut Insurance for Public Officials Liability, Law Enforcement Professional and Firefighters Professional Liability, General Liability, Automobile Physical Damage and Liability, Property and Equipment, Boiler & Machinery and Crime Coverage, and Umbrella Insurance, and declaring an emergency, and moved for adoption.

Minutes of Regular Meeting
Bay Village City Council
June 1, 2015

Ordinance No. 15-46 was placed on first reading. Mr. Clark thanked Finance Director Mahoney and the City administration for their good work on the renewal, with a competitive bid. The quotation is about \$50,000 less than the amount paid in previous years. Mrs. Mahoney stated that the ordinance must be adopted on June 8, 2015, using the emergency clause due to the fact that the current contract will expire June 15, 2015.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE

Mrs. Lieske MOVED to refer Ordinance No. 15-43 amending the Traffic Control Map and File of the City by enacting new handicap parking space, and declaring an emergency to the Planning Commission per 7.4 of the Charter of the City of Bay Village.

Motion carried 5-0.

PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE

Mr. Tadych had no report this evening.

RECREATION AND PARK IMPROVEMENTS COMMITTEE

Mr. Henderson had no further report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

Mr. Vincent introduced and read **Ordinance No. 15-47** authorizing the City to enter into the Northeast Ohio Public Energy Council (NOPEC) and the Execution and Delivery of the Agreement Establishing NOPEC and approving the Bylaws of NOPEC, and declaring an emergency.

Ordinance No. 15-47 was placed on first reading.

Mr. Henderson asked Mr. Ebert if the City of Bay Village would be exposed to any financial risk if NOPEC were to go bankrupt. Mr. Ebert stated that the City would not be exposed to any financial risk because they can leave the aggregation program at any point in time.

Mr. Vincent asked Mr. Ramer of NOPEC to send the information to Council as well that he has been asked to provide to residents. Mr. Ramer responded affirmatively.

Mr. Vincent introduced and read **Ordinance No. 15-48, amending by reading regarding the numbering of Section 5 to Section 4**, authorizing the City to enter into a Natural Gas Program Agreement with the Northeast Ohio Public Energy Council ("NOPEC"), and declaring an emergency.

Ordinance No. 15-48 was placed on first reading.

Minutes of Regular Meeting
Bay Village City Council
June 1, 2015

Mr. Vincent introduced and read **Ordinance No. 15-49** approving the Plan of Operation and Governance for the NOPEC Gas Aggregation Program for the purpose of Jointly Establishing and Implementing a Gas Aggregation Program, and declaring an emergency.

Ordinance No. 15-49 was placed on first reading.

MISCELLANEOUS

There being no further business to discuss, the meeting adjourned at 8:45 p.m.

Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council

AN ORDINANCE
FIXING THE SALARY OF THE PRESIDENT AND MEMBERS OF
COUNCIL AND REPEALING ORDINANCE NO 13-44,
AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That effective on the dates listed below, the salaries for the office of President of Council and Member of Council shall be as follows:

<u>Position</u>	<u>Salary</u>	<u>Effective Date</u>
President of Council	\$9,410.00 per annum	1/1/2015
	\$9,598.00 per annum	1/1/2016
	\$9,790.00 per annum	1/1/2017
	\$9,985.00 per annum	1/1/2018
	\$10,184.00 per annum	1/1/2019
Ward Councilman	\$8,300.00 per annum	1/1/2015
	\$8,466.00 per annum	1/1/2016
	\$8,635.00 per annum	1/1/2017
Councilman-at-Large	\$8,300.00 per annum	1/1/2015
	\$8,466.00 per annum	1/1/2016
	\$8,635.00 per annum	1/1/2017
	\$8,807.00 per annum	1/1/2018
	\$8,983.00 per annum	1/1/2019

SECTION 2. That ordinance No. 13-44 be and the same is hereby repealed.

SECTION 3. That the Clerk of Council is directed to forward a certified copy of this ordinance to the board of Elections of Cuyahoga County immediately upon its adoption and approval by the Mayor.

SECTION 4. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 5. That this ordinance is hereby declared to be an emergency measure

immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is immediately necessary to provide said compensation before deadline, wherefore this resolution shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

5/15/15 ll

ORDINANCE NO. 15-46
INTRODUCED BY: Mr. Tadych

First Reading 6-1-15

AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH
THE MCGOWAN INSURANCE AGENCY AS AGENTS OF
ARGONAUT INSURANCE FOR PUBLIC OFFICIALS LIABILITY,
LAW ENFORCEMENT PROFESSIONAL AND FIREFIGHTERS PROFESSIONAL
LIABILITY, GENERAL LIABILITY, AUTOMOBILE PHYSICAL DAMAGE AND
LIABILITY, PROPERTY AND EQUIPMENT, BOILER & MACHINERY AND
CRIME COVERAGE, AND UMBRELLA INSURANCE,
AND DECLARING AN EMERGENCY.

WHEREAS, the current agreement between the City of Bay Village and McGowan Insurance Agency as agents for the City's general liability and property insurance coverage as authorized by Ordinance No. 14-65 expires June 14, 2015;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That the Mayor be and she is hereby authorized to enter into an agreement with McGowan Insurance Agency as agents of Argonaut Insurance for Public Officials Liability, Law Enforcement Professional and Fire Fighters Professional Liability, General Liability, Automobile Physical Damage and Liability, Property and Equipment, Boiler & Machinery and Crime Coverage, and Umbrella insurance for a one year period beginning June 15, 2015. The annual premium for Argonaut Insurance which includes Comprehensive Municipal Liability coverage, Public Officials Errors & Omissions, Automobile Liability & Physical Damage coverage, Police Professional Liability, Property (Business & Contents) coverage, Inland Marine coverage, Boiler & Machinery coverage, Electronic & Data Processing Equipment coverage, Valuable Papers & Records and Umbrella coverage is One hundred forty-four thousand five hundred and thirty-three dollars (\$144,533.00). Payments shall be made from the appropriate account.

SECTION 2. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is immediately necessary to provide uninterrupted insurance coverage to protect the assets of the City, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

5-22-15 ll