

## 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 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).

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 4<sup>th</sup> 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.

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.

---

Dwight Clark, VicePresident of Council

---

Joan Kemper, Clerk of Council