

# City of Bay Village

Council Minutes, Special Meeting  
Council Chambers 7:30 p.m.

September 14, 2015

Paul Koomar, President of Council, Presiding

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

Also Present: Law Director Ebert, Director of Public Service/Safety Thomas, Police Chief Spaetzel, Operations Manager Landers, Bob Greytak, CT Consultants

## AUDIENCE

The following audience members signed in this evening: Jerrie Barnett, Marty Mace, Conda Boyd, Lydia DeGeorge, Russell Thompson, Denny and Tara Wendell, Jeff Gallatin, Lawrence Kuh, Jean Juhas, Jerrie Barnett, Joe Hochman, Mark Chernisky, Clete Miller, Susan and Dennis Driscoll, Rich Norcross, Elaine Mayer, Lois Murphy, Tom Stevens, Joe TePas, John and Carole Guska, Claire Banasiak.

President of Council Koomar called the meeting to order at 9:15 p.m. with a roll call and Pledge of Allegiance led by Steve Lee, Councilman-at-large.

Mr. Koomar called for comments from the audience.

Mr. Joe Hochman, Glen Park Drive, stated that he is present this evening to discuss major issues he has with erosion of the Glen Park culverts and erosion of energy control measures around the creek. Most of them are in pretty bad shape. He stated that he made the issue plain several years back before he took on the project for which he did not receive funding assistance from the City. He stated that there is a good chance there will be a major flood in the area and he would like it put on record that he would like someone from the City walk the creek that has the eyes and experience to gauge what has to be done to the structures. He has done all he could about maintaining the property. He has received a letter that says his property has issues and he would like to get that addressed sometime soon.

Mr. Koomar stated that an issue on Mr. Hochman's property would be a private property issue. In response to some of the concerns on Mr. Hochman's property, and that of adjacent property owners, Service Director Thomas went out and walked the property, and consulting engineer Bob Greytak has also come out to the property.

Service Director Thomas stated that in the second week of July he met with Mr. Hochman in regard to his property. On July 17, 2015, Mr. Thomas looked at the property, and took photographs. Mr. Hochman was informed that within a two week period, Mr. Thomas would talk about his concerns of safety for the area of Wischmeyer Creek, and that he would get Mr. Hochman in touch with consulting engineer Bob Greytak. Mr. Greytak and Mr. Thomas returned to Mr. Hochman's property.

Mr. Greytak reported that he and Mr. Thomas looked at the property, took photographs, and reviewed the file of the property back to 1994. Mr. Greytak's understanding is that there was an original timber wall that was cited for its condition and replaced by a concrete wall that was done by a contractor engaged by Mr. Hochman. The concrete wall was constructed under Mr. Hochman's supervision and the design was totally within his control. At this point, Mr. Hochman is concerned about the upstream end of the wall that is exposed to erosion. However, that termination was entirely under his control. The recommendation Mr. Hochman requested was to extend the wall onto his neighbor's property and terminate it into the hillside of the neighbor's property. Mr. Greytak's response to Mr. Hochman was that the design was his responsibility, he chose the design, the remediation that he is proposing falls on the neighbor's property, over which neither Mr. Hochman or the City has control. Therefore if he needs to do something he should do it within his own property under his direction and supervision. Mr. Greytak stated that he does not believe the City of Bay Village has any responsibility for this wall.

Mr. Koomar asked Mr. Greytak if he saw any issues with the creek flowing on the property out to the lake. Mr. Greytak stated that he did not walk any area other than Mr. Hochman's property.

Mr. Ebert stated that he did receive from Mr. Hochman the name of Mr. Bill Votruba who constructed Mr. Hochman's wall. Mr. Ebert did try to call Mr. Votruba on two occasions, and left a message for him to call Mr. Ebert back. Mr. Ebert stated that in the early 1990's Issue 2 funds covered the upstream widening of some of the culverts. The work ended around Mr. Hochman's property. Mr. Hochman engaged a private contractor to remove the timber wall that was there. Mr. Ebert stated that the City is not responsible for private property.

Mr. Koomar asked the Clerk of Council to enter into the record the letter that was given to Mr. Hochman from Mr. Greytak, as follows:

“September 4, 2015

Mr. Joseph S. Hochman  
304 Glen Park  
Bay Village, Ohio 44140-2219

**Re: *Retaining Wall***  
***Permanent Parcel No. 203-15-015***

Dear Mr. Hochman:

My understanding of the issue regarding this property is that you are concerned high water events in Wischmeyer Creek may impact the stability of your retaining wall on the east bank of the creek. This retaining wall is a precast concrete structure that was designed to replace a timber wall in the same location. You engaged the services of a contractor to construct the wall. The City of Bay Village was not contractually involved in the project.

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During my site visit on August 3, 2015, you expressed concern about the south terminus of the retaining wall which is exposed to oncoming flow. You pointed out that the wall, composed of stacked straight sections of 2' x 2' x 6' long concrete block, was installed without an upstream abutment or return into the bank leaving the wall open to oncoming water at its south terminus. You indicated the wall needs to be extended to the south, turned and embedded into the east bank on the property located immediately south (310 Glen Park). You expressed a desire to sell the property, but feel that the state of the south end of the retaining wall will impact the marketability and value of this property. You voiced an opinion that the City of Bay Village should be responsible for taking corrective actions to prevent potential damage to the wall and that you are unable to undertake the modifications because it involves work on property that you do not own.

The design and construction of the current retaining wall was entirely under your control. The south end of the wall could have been embedded into the stream bank within the limits of your property at the time of construction but for whatever reason, this was not done. It may have been an oversight, but regardless, you did not construct the wall in the way that you now want it.

It is my opinion that the condition of this retaining wall is an issue that is separate and distinct from other stream bank issues along Wischmeyer Creek in that the construction details for the retaining wall were fully within your control, and not as a result of any directive from the City of Bay Village. I do not believe the City has any financial responsibility for adding to or modifying any portion of the retaining wall either on your property or adjacent to your property.

If you have any questions, please do not hesitate to contact our office.

Respectfully,

**CT CONSULTANTS, INC.**

Robert H. Greytak, P.E.  
*Bay Village City Engineer*

RHG/saa

cc: Scott Thomas, Director of Public Services and Properties  
Gary A. Ebert, Director of Law  
John Cheatham, Building Official, SAFEbuilt™

Further discussion followed between Mr. Hochman and Mr. Koomar. Mr. Hochman expressed his concern of the condition of the erosion control structures. Mr. Hochman stated that he was not included in the funds for the project. Mr. Hochman stated that originally the culvert under Lake Road was supposed to be replaced, and the channels past his property and upstream were to be concrete lined. He asked if the City is planning on asking the state to replace the culvert or enlarge the culvert on Lake Road, and the stretchers between the two culverts.

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Director Thomas stated that there are no such plans at this point. Mr. Koomar stated that the Service Department is putting together a five-year capital plan now. There have been improvements with the sewers and the streams are part of that. If the Service Department feels that in year three or five of that plan that something should be done, then Council will entertain that. If they feel it is in good working order right now and there are higher priorities, we will follow their recommendation.

Mr. Hochman stated that if anyone decides to walk that creek for an inspection, he would like a copy of that report as soon as possible. Mr. Hochman stated that this should be done at least once per year, as required by the state.

Mr. Ebert stated it has been twenty years since the work was done. The wall has done a good job. It will not last forever. Mr. Ebert did call Mr. Votruba to express Mr. Hochman's concern, and Mr. Ebert will report his response to Mr. Hochman.

Marty Mace, Elmwood Road, stated that during the conversations about the Panorama Restaurant that just opened, there was a suggestion that the parking lot behind the post office may be utilized for parking after hours of the post office. During recent activities at St. Raphael's Parish, attendees were asked to move their cars or face towing. He stated that this parking may not be a viable option for the restaurant. Mr. Tadych stated that he was at St. Raphael's when they announced that four cars were going to be towed by Bay Village if they weren't moved immediately.

Mr. Vincent suggested speaking with the post office management. Mr. Ebert will look into the matter further.

Mr. Koomar called for approval of the minutes of the Special Meeting of Council held August 17, 2015. Mr. Henderson called for a correction to the minutes on Page 5, third paragraph from the bottom to correctly attribute comments made by Mr. Henderson, rather than Mr. Thomas. **Motion by Clark** to dispense with the reading of the minutes of the Special Meeting of Council held August 17, 2015, and to approve as prepared, distributed and amended by Mr. Henderson. **Motion passed 7-0.**

**Motion by Clark**, to acknowledge receipt of the financial reports of the City of Bay Village for the month of August, 2015, as prepared by Finance Director Renee Mahoney.

**Motion passed 7-0.**

**Mr. Lee** introduced and read **Ordinance No. 15-63** amending The Traffic Control Map and File of the City by enacting Two "No Parking" signs, and declaring an emergency.

Ordinance No. 15-63 was placed on first reading. Mrs. Lieske asked for clarification of the word "side" in Section 1. The Law Director will advise if the word should be "side" or "sign."

**Mr. Clark** introduced and read **Ordinance No. 15-64** amending Section 1 of Ordinance No. 15-51 regarding rates of compensation for the officers and employees of the General Administration

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Department and those employees of the City not covered by separate labor contract for the Calendar Year 2015 and thereafter, and declaring an emergency. Line No. 9 will be corrected to sunset as of October 31, 2015.

Ordinance No. 15-64 will be placed on first reading.

**Mr. Clark** introduced and read **Resolution No. 15-65** accepting the amounts and rates as determined by the Budget Commission, authorizing the necessary tax levies and certifying them to the County Fiscal Officer, and declaring an emergency, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion for adoption of Ordinance No. 15-65.

Roll Call on Suspension of the Charter Rules:

Yeas- Clark, Henderson, Koomar, Lee Lieske, Tadych, Vincent

Nays -None

Roll Call on Suspension of the Council Rules:

Yeas – Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas- Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent

Nays – None.

Roll Call on Adoption:

Yeas– Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent

Nays–None.

Mr. Koomar announced adoption of Ordinance No. 15-65, an emergency measure, by a vote of 7-0.

**Mrs. Lieske** introduced and read **Ordinance 15-66** extending the moratorium on the development under Chapter 1158, Attached Residences in the City of Bay Village, and declaring an emergency, and moved for adoption. Mrs. Lieske noted that since the existing moratorium will expire in the next day or two, the emergency clause to extend the moratorium makes sense.

There being no further discussion, Mr. Koomar called for a vote on the motion for adoption of Ordinance No. 15-65.

Roll Call on Suspension of the Charter Rules:

Yeas- Henderson, Koomar, Lee Lieske, Tadych, Vincent, Clark

Nays -None

Roll Call on Suspension of the Council Rules:

Yeas – Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Clark

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas- Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Clark

Nays – None.

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Roll Call on Adoption:

Yeas– Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Clark

Nays–None.

Mr. Koomar announced adoption of Ordinance No. 15-65, an emergency measure, by a vote of 7-0.

Item No. 10 on the agenda to convene to Executive Session regarding Outside Legal and Related Litigation Olson/Pavicic, Tasse, O'Donnell Updates has been removed. In its stead, Law Director Ebert stated that on the Olson/Pavicic matter a settlement has been signed and circulated. The Tasse matter with the City of Cleveland has been settled. The O'Donnell matter is still pending.

There being no further business to discuss, the meeting adjourned at 9:30 p.m.

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Paul Koomar, President of Council

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Joan Kemper, Clerk of Council