

# City of Bay Village

Council Minutes, Committee Session  
Council Chambers  
Paul Koomar, President of Council, Presiding

September 6, 2016  
7:30 p.m.

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

Excused: Mayor Sutherland

Also Present: Finance Director Mahoney, Recreation Director Enovitch, Human Resource Manager Jen Demaline, Police Chief Spaetzel, Fire Chief Lyons, Chief Building Official of SAFEbuilt, Inc., Jeff Grassi, Director of Operations Landers.

## AUDIENCE

The following audience members signed in this evening: Jerrie Barnett, Jeff Gallatin, Lydia DeGeorge, Beverly Beran, Conda Boyd, Pam Cottam, A.J. Silver, Denny Wendell, Dennis Driscoll, Sarah Shofstall, Pam Moran, Jan Keberle, Patrick Graham, Dick Majewski, Thomas and Janet Kauker, Nancy Trainer, Karen and Terry Peterson, Susan Murnane.

## ANNOUNCEMENTS

### Boundary Survey: Cahoon Memorial Park

Mr. Ebert distributed a map to the members of Council of the historical section of Cahoon Memorial Park. The map is entitled "Boundary Survey, Cahoon Memorial Park" and is dated April 5, 2010. He advised that when the Bay Skate and Bike Park was approved the City re-designated the historical area of Cahoon Memorial Park. He suggested that the members of Council keep the map in their files for future reference.

### Humiston Road Property

Mr. Ebert also distributed a proposed plotting of land related to the Humiston Road issue. The illustration shows the land to the north of the existing home at 580 Humiston detailed with small garden plots. It represents the concept of Mr. Edward Pavicic, the builder of the home at 580 Humiston, of what would happen to the remnant of the property to the home at 580 Humiston if a portion of the land is donated to the residents of Humiston. The remnant would be created by the need to annex a portion of the northern lot to make the home at 580 Humiston legal with the Building Code requirements relating to side setbacks. Mr. Ebert stated that he is awaiting the consolidation of the property by the engineer prior to further discussion of the proposal.

### Bay Village Schools Renewal Levy

Mr. Koomar stated that in past years the City Council has passed a resolution in support of the Bay Village Schools levies. Mr. Koomar invited Mr. Tom Harkness, the Community Chair of the 2016 Bay Village Schools Renewal Levy to say a few words about how the funds of the last operating levy were used.

Mr. Tom Harkness addressed the audience stating that he is one of the co-chairs of the 5.9 mills renewal levy on the ballot November 8, 2016. Due to the exceptional management of the funds that are trusted to the Board of Education, the Bay Village City Council has endorsed levies for the Bay Village Schools in the past, and it is hoped that this support will continue. The last levy was in 2010 and was intended to last for four years. The schools were able to extend the levy cycle an additional two years through aggressive budget management. If passed this November, the 5.9 mills would help the schools maintain their current education program. The 5.9 mills would cost homeowners approximately \$17.21 more per month (about \$207 annually) for each \$100,000 of home valuation.

Mr. Koomar noted that unlike the City, the schools, because of House Bill 920, have a restricted buying power. Although homes may increase in value, the schools are limited to the set amount from the last levy. As income raises in the City, the City is able, because of inflation, to collect additional municipal income tax funds to operate the City, whereas the schools have to go back to the levy process and ask for the voters' approval.

Mr. Harkness noted that the residents of Bay Village live in an extraordinary place, and part of the reason it is so extraordinary is because the Bay Village Schools are in the top ten in the region every year, and top 500 out of 13,000 districts in the United States.

Mr. Harkness thanked Council for the opportunity to speak this evening on behalf of the Bay Village School District.

### Marijuana Legislation

Mr. Ebert stated that he has submitted a new draft of legislation concerning the new marijuana laws for the committee to review. He noted that many cities are looking at prohibition and/or moratorium. This is an evolving issue with the state, without guidelines established at this point.

Mr. Henderson stated that he has had an opportunity to review the draft prepared by Mr. Ebert. Mr. Henderson stated that he generally supports the drafts. It is his opinion that there are three reasons to fundamentally consider supporting them. One is legal in nature, another is medical and the third is social. From a legal perspective, state law absolutely gives municipalities the right to prohibit the sale of medical marijuana within the city boundaries, as well as the cultivation and processing thereof. That is very clear. Mr. Henderson stated that he had a chance to speak to two state representatives who followed the passage of the bill, and it is his interpretation from their comments that it is clear that this bill was passed because if it had not been there would have been an alternative measure potentially on the ballot this November that would have offered less control to cities. It wasn't the intent of the legislature to indicate that medical marijuana is necessarily a good or bad thing, but a law to regulate it.

From a medical perspective, the Cleveland Clinic, University Hospital, and Metro Health have all formerly spoken out against the legalization of medical marijuana. Also, since the last time the Council spoke about this in the spring, the United States Drug Enforcement Administration (DEA) reconfirmed its classification of medical marijuana as a Schedule 1 drug, which has no known medical use. Research continues on the front of uses of parts of the marijuana plant, which is great, and Mr. Henderson would like to see some drugs developed that are FDA approved in the future.

From a social standpoint, it is important to recognize that we are in the midst of a Heroin epidemic in the state of Ohio. The Westshore Enforcement Bureau (WEB) sent to all of the Mayors in the region a letter stating their opinion. Mr. Henderson noted that he generally shares their opinion. A few highlights of the letter are that legally it is imperative to stay one step ahead of those who would turn medical marijuana scenarios into recreational marijuana, which would be another step to destroy our neighborhoods. Additionally in place is additional physical and financial burden on the local law enforcement. With the current Heroin epidemic, it is vitally important to focus on the opiate abuse and trafficking issues. Not only would such legislation deter marijuana shops from setting up in a particular city, it would send a clear message that we don't welcome this form of mind altering hallucinogenic.

Mr. Henderson stated that while there may be some details to work out, he generally supports the drafts in the Council packets this week.

Mr. Vincent asked Mr. Ebert what neighboring communities are doing in regard to this issue. Mr. Ebert stated that some have passed legislation and two cities have passed moratoriums waiting to see what the rules and regulations are before passing legislation. Mr. Tadych noted that Westlake and Fairview Park have moratoriums. Rocky River has passed legislation. Mr. Tadych stated that he would prefer a moratorium.

Mr. Henderson stated that a moratorium with a finite duration of six months, for example, like the other cities are doing, is not appropriate. The rules and regulations will not be promulgated for probably two years, and, therefore a six month moratorium is not consistent with the plan of the state to promulgate the rules. Mr. Tadych noted that moratoriums can be extended.

#### Interim Mayor Designation

Mr. Koomar stated that this is the question he is asked most frequently. Mr. Koomar noted that he still has that very nice opportunity under consideration. He has not made a decision yet, and will talk about that later in executive session.

### **ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE**

#### Wellness Incentive Program for Full Time Employees

Mr. Vincent called upon Human Resource Manager Jen Demaline for her comments regarding this proposal.

Mrs. Demaline stated that they would like to encourage the Wellness Incentive Program here at the City for the full time employees that are enrolled in health care. Those employees would be offered a \$20.00 discount on their monthly health care premium contribution if they take a biometric screening which will be held onsite here at the City, complete an on-line health assessment, and meet with the nurse practitioner on site through Up-Shot Health and get a plan in place for improvement of health or maintenance of good health. If an employee is in generally good health they would meet quarterly with the nurse practitioner. If there is more need, the meetings would be held monthly.

Mr. Henderson asked what the discount represents approximately on a percentage basis for a person who has single coverage, or a person who has family coverage. The percentage rate was not readily available, but the \$20.00 per month discount is one rate per employee participation. Spouses and dependents are not required to participate.

Mr. Vincent asked if there has been feedback from employees. Mrs. Demaline stated that she has spoken to some of the union representation and they are encouraging people to participate.

Mr. Henderson asked how the Wellness Incentive Program will evolve over the next few years. Mrs. Demaline stated that this will be a good way to launch the program with a three step process that will get employees involved. Spouse involvement would be the next step, with the contribution incentive increased slightly. An evaluation of the three step process can be done at the end of this year with an eye to seeing how a wellness plan can be developed moving forward into 2018.

Mr. Tadych stated that he saw a target of 35% participation. He asked what Mrs. Demaline expects, according to other cities that have done this, in participation. Mrs. Demaline stated that the first biometric screening they did for employees they were able to get 50% of the employees to participate. This was done last May and was open to full time and part time employees. Ninety-two employees are covered under the City's health care plan. Those people who participated in May will not have to have the biometric screening done again in October. The discount will go into effect January 1, 2017.

Finance Director Mahoney stated that the percentage will be 3.7% for a single person and 1.4% for family coverage. Mr. Henderson stated that he thinks this sounds like a great plan. His employer has implemented over the course of several years a comprehensive wellness program, and working in the Finance Division he has been able to observe that it has reduced the health expenditures for employees. Mr. Henderson stated that he is very supportive of launching a program like this.

Mr. Koomar asked about the honoring of union contract terms. Mrs. Demaline stated that she discussed this with the Law Director and their feeling is that the terms that are outlined in the contracts with the bargaining unit is that the City must offer something equal or greater. This will offer something greater than the current amount they are required to pay. Mr. Ebert stated that based on the ordinance draft the contract can be terminated at any time there may be a grievance. Mr. Koomar asked if there is a confirmation from the union leadership required on that interpretation. Mr. Ebert stated that confirmation would not be required.

Mr. Clark asked if an employee does not do the biometric screening, would that be tracked to the extent that the discount would be disingenuous at that point in time. Mrs. Demaline stated that they would work on getting everyone on board and involved for the remainder of calendar year 2016, and launch this January 1, 2017. The benchmarks would have to be met before receiving the incentive.

Mr. Tadych asked if personal privacy is guarded. Mrs. Demaline stated that no information is released to a third party and the Hipaa law is in full effect.

The necessary legislation will be prepared for passage by Council. Mr. Koomar noted that the cost to the City will be included in budget preparations.

Mr. Koomar noted that he has had an opportunity to speak with the nurse practitioner who was on site and we are very lucky to have someone with that experience. Her personality is welcoming and encouraging to employees as well.

Minotti's Beer and Wine Transfer Notification  
Minotti's Liquor Agency Reassignment Notification  
Walgreen Co. Liquor Permit – Change of Corporate Stock Ownership

Mr. Ebert explained that the notifications from the Ohio Division of Liquor Control deal with transfers of ownership. Police Chief Spaetzel stated that they have no objections to either permit applications.

Vicious Dog Ordinance –Update to Codified Ordinance Chapter 505

Mr. Vincent stated that next steps will be taken to revise Codified Ordinance Chapter 505 to help protect residents and pets. Since the day this past August of a fatal attack to another dog, a public meeting was held by Councilman Henderson to receive input from residents. A meeting of the Environment, Safety and Community Services Committee will be held on Monday, September 12 at 6 p.m. to discuss in detail the amendments to Chapter 505.

Mr. Henderson stated that a very good public meeting was held under dreadful circumstances on Monday, August 29, 2016. Approximately 110 people attended and the community was spoken with for quite some time with an exchange of ideas. Communications were also received by Council through email and Facebook. Mr. Henderson would like everyone to consider from an action standpoint a two-phase approach to addressing this. The first phase, which could be implemented on an expedited basis would be to implement provisions to the penalties associated with our existing laws. The second phase, which will be taken up by Mr. Vincent's committee beginning Monday evening, September 12, 2016, would be a more comprehensive review of our entire dangerous dog and related ordinances. Mr. Henderson stated further that one of the things he has done in the past few days is to prepare a green paper for the committee that enumerates 18 specific recommendations from various constituents and third party experts. Including this list does not necessary indicate a personal endorsement from Mr. Henderson, (there are ideas on the list that he does not endorse), but given the high level involvement it is important that the subcommittee thoroughly vet each and every one of the recommendations, even if they are not

ultimately included in the final result. Mr. Henderson handed the list to Mr. Vincent, Mr. Clark, and Mr. Tadych, the gentlemen on the subcommittee.

Mr. Koomar stated that since the subcommittee will meet on Monday, September 12, the Council will not entertain the first reading of the amendments to Chapter 505 as listed on the agenda for the Regular Meeting of Council this evening.

Mr. Henderson agreed, and addressed Law Director Ebert stating that he sent Mr. Ebert an email regarding recommendations Mr. Ebert sent today for 505.99 penalty. Mr. Ebert called upon Police Chief Spaetzel for his comments.

Chief Spaetzel stated that he looked at the draft in regard to the penalty increases and noted that the first offense would be an M-3 (third degree Misdemeanor). This is punishable by a maximum fine of \$500 and carries with it potential for jail time. Given that a first offense could be a small child opening a door and a dog running out, with the dog picked up by the Police, that could be a heavy penalty for a first offense. We talked about having escalated penalties, however, the Chief would not take away the first Minor Misdemeanor classification because it is important to let people know that we are willing to work with them and it could be an isolated incident. What we want to do is go after the repeat offenders, those that continue to act irresponsibly or have continuing issues. We also talked about eliminating the time frame in which those escalating penalties could take place. In the current ordinance it is twelve months. The Chief advocated removing that and having escalated penalties starting from the Minor Misdemeanor level and working up from there.

Mr. Vincent announced that the meeting of the Environment, Safety and Community Services meeting regarding Chapter 505, the animal ordinance and dog regulations, will be held Monday, September 12 at 6 p.m. in the Council Chambers of Bay Village City Hall. He invited all to attend and welcomed input from all residents. Mr. Henderson stated that all ideas will be evaluated independently. One of the key ideas is that it is important to respect the rights of good dog owners in the City while we protect the public from dangerous dogs and their owners.

## **FINANCE AND CLAIMS COMMITTEE**

### Supplemental Appropriation Ordinance

This ordinance was discussed at the Finance Committee meeting held at 6:30 p.m. this evening and addresses the transfer of monies to the Jefferson Group to cover advance health care claims of employees that are likely to be incurred through the end of the year. The ordinance also addresses payments to be made to the Play-in-Bay fund from donations from the Bay Village Foundation.

### 2017 Tax Budget

Council filed the tax budget for 2017 with the Cuyahoga County Fiscal Officer in June of this year. The resolution to be adopted by Council this evening confirms the need to collect these property taxes for the benefits of the City. All the tax rates approved remain the same and are

Committee Meeting of Council  
September 6, 2016

unchanged from prior years. Mr. Tadych noted that the tax rates have not been increased since 1997.

Request to the County Fiscal Officer for Tax Advances in 2017

Finance Director Mahoney will file this request with the County Fiscal Officer to receive funds in 2017 on a timely basis.

**PLANNING, ZONING, PUBLIC BUILDINGS AND GROUNDS COMMITTEE**

Submerged Land Lease – Peter and Elaine B. Korte, 31146 Lake Road

**Mrs. Lieske** will introduce a resolution at the Regular Meeting of Council this evening to approve the use of submerged lands of Lake Erie to the property owner at 31146 Lake Road.

St. Raphael’s Catholic Church – Sign Request

A motion will be introduced by Mrs. Lieske to allow yard signs along the church/school driveway between Dover Center Road and Douglas Road thanking parents for their support of a school fundraiser. The signs will be erected on September 14, 2016 for one day only.

A 4’ x 8’ banner will be erected on the front lawn of St. Raphael Church advertising a church related program, from September 7, 2016 to October 21, 2016, pending an affirmative vote by Council to a motion to be introduced by Mrs. Lieske.

Overflow Commercial Parking Request – City Hall Parking Lot – Reference C.O. 351.15

Mr. Ebert noted that this formal motion will not be needed based on the approval of the parking plans by the Planning Commission for the business use at Dover Center and Wolf Roads. Mrs. Lieske stated that she advised the Planning Commission that if this permission were to be granted her concern would be adequate parking for City Hall department personnel.

**PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE-  
Henderson**

Matters Pending before Council

Mr. Henderson asked the Clerk of Council to add the Bruce/Russell/Douglas Sewer Improvement to the Matters pending before the Council Public Improvements, Streets, Sewers and Drainage Committee list. With the change of administration and other personnel matters, there will likely be a new set of recommendations coming forward for both Bruce, Russell and Douglas, as well as the Sunset neighborhood, at the appropriate time. Mr. Henderson stated that it is his intent to keep the community focused on those projects to the extent possible, but we will be awaiting a change in administration before moving forward with anything additional on these topics.

**RECREATION & PARK IMPROVEMENT COMMITTEE-Mace**

**Mr. Mace** had no report this evening.

**SERVICES, UTILITIES & EQUIPMENT COMMITTEE-Tadych**

**Mr. Tadych** had no report this evening.

**AUDIENCE**

Sarah Shofstall, 415 Pellett Drive, asked when the green paper referred to by Mr. Henderson will be available to the public. Mr. Henderson stated that the document will be available as an attachment to the meeting agenda for the Environment, Safety and Community Services Committee meeting to be held Monday, September 12, 2016 at 6 p.m. in the Council Chambers. The agenda and attachment will also be available on the City's website under City Government, City Council agendas. It will be available Wednesday, September 7, 2016 at 8 a.m.

Conda Boyd, 27896 West Oakland Road, stated that she appreciates that Mr. Koomar is thinking about becoming the Mayor. Ms. Boyd asked what happened last time when Mayor Jelepis left and Mayor Sutherland was appointed, and do we need to think about a Charter amendment in the future to address the subject of an interim Mayor, as there is no designation of that sort in the Charter.

Law Director Ebert gave a brief overview of the transition from Mayor Jelepis to the appointment of Debbie Sutherland as Mayor in 2000. Mr. Ebert at that time served as interim Mayor for that period of time, a period of four months. His salary stayed as it was with an additional \$500 per pay for serving as interim Mayor.

Regarding a Charter amendment, there has been discussion over the years and it would probably be a good idea to look at that. Mr. Clark expressed agreement. The next Charter review is in six years, but Council can introduce legislation at any time for placement of an amendment to the Charter on the ballot.

Richard Fink, 30102 Wolf Road, stated that as he understands from the comments that there is nothing stipulated about an interim Mayor or acting Mayor except by Councilmanic action. Mr. Ebert stated that if the Council President should not choose to accept the position, Council, by a majority vote, shall chose a Mayor until the next regular election is held. The next general election is in November of 2017.

Mr. Fink noted that the Charter states the Mayor's position shall be a full time position. Mr. Ebert stated that the time he served as interim Mayor in 2000 he spent full time here at the City Hall.

A North Olmsted resident stated that as a former Animal Control Officer, she would be more than happy to contribute to the drafting of the ordinance for animal control.

Committee Meeting of Council  
September 6, 2016

Carol Miller, an Olmsted Township resident, stated that she is a survivor of a violent dog attack in 2007 and has served on the Board of Directors of dogsbite.org since 2007 and offered her assistance.

Dennis Driscoll, 30509 Willoway Lane, Bay Village, stated he is willing to help after studying the ordinances and providing feedback, and will attend the subcommittee meeting on September 12, 2016. One of the goals of an amendment is to prevent the escalation of a dog from becoming a minor nuisance to a dangerous dog. He strongly recommended that consideration be given to expanding the definition of a nuisance dog to a dog that causes injury to animals as well as to a person. The language could be used as a serious injury definition to accomplish that. Mr. Driscoll also thinks it is important to amend the phrase “without provocation” to insure that covers the circumstances of a dog’s self-defense, or the defense of another domestic animal owned by the person. Mr. Driscoll discussed the requirement of dog obedience training for dangerous and vicious dog and suggested it be extended to the classification of a nuisance dog. He also suggested giving the Police Chief and/or the Director of Public Safety authority to diverge from the statutory requirements in their determinations when there are mitigating, extenuating circumstances.

Mr. Henderson stated that Mr. Driscoll’s comments have been incorporated into the green paper distributed this evening, and thanked Mr. Driscoll for his hard work in reviewing these ordinances.

Terry Peterson, 432 Pellet Drive, expressed his sincere appreciation to Councilman Henderson, Councilman Tadych, and Councilman Clark, Chief Spaetzel, and Law Director Ebert for their attendance at the public meeting held on August 29, 2016. Mr. Peterson stated that there is a level of concern as to what action is being taken by the City beyond the revisions to the ordinance. Is there a communications protocol to find out what current actions have been taken to mitigate what has happened in the Pellet neighborhood?

Mr. Koomar stated that the minutes of the Environment and Safety Committee meeting will be posted on the City’s web site, and the recommendations of the Environment and Safety Committee will be sent to the Council Committee of the Whole. Any questions should be sent to Paul Vincent, chairman of the Committee and Joan Kemper, Clerk of Council, can guide website visitors to the proper site for the posted information. Chief Spaetzel will also provide information to the public as it is requested.

Mr. Vincent stated that the Police Chief handled himself very well at the public meeting. He is very accessible to the public.

Betsy Kapp, 30406 Crestview, asked if Mr. Vincent is looking for input from every spectrum so that when the ordinances are revised the goal is to put together the best ordinance with input from the residents of Bay Village. Mr. Vincent stated that this is correct, and that Mr. Henderson and he are also meeting with Council members of Avon Lake for additional input.

Mr. Henderson stated that he appreciates the Police Department and Law Department’s quick work in drafting the ordinance for consideration this evening. He prefers not voting on them this evening because there hasn’t been enough time in reviewing all of the details of the ideas. This is the point

Committee Meeting of Council  
September 6, 2016

of the two-phase approach of reviewing the penalties and a more thorough approach to the comprehensive change.

There being no further comments, the Committee meeting adjourned at 8:20 p.m.

---

Paul Koomar, President of Council

---

Joan Kemper, Clerk of Council