

September 23, 2016

(\*There will not be a committee meeting at 7:30 p.m.)

A Special Meeting of the Bay Village City Council will be held on **Monday, September 26, 2016** at **8:00 p.m.** in the Council Chambers of Bay Village City Hall, 350 Dover Center Road, to take action on items listed below:

1. Roll Call; Pledge of Allegiance led by Councilman Tom Henderson, Ward 4.
2. Announcements/Audience/Miscellaneous
3. **Motion** to approve minutes of Regular Meeting of Council held September 19, 2016. **\*Clark\***
4. **Ordinance 16-64** amending Chapter 505, Animal Control, and declaring an emergency. **\*Vincent\*** (First Reading 9-19-16)
5. Adjournment

Charter Reference 2.11

Paul A. Koomar  
President of Council

Agenda  
Special Meeting of Council  
September 26, 2016

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 8:17 p.m.

September 19, 2016

Paul A. Koomar, President of Council, presiding

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

Excused: Mr. Henderson, Mayor Sutherland

Also Present: Finance Director Mahoney, Recreation Director Enovitch, Community Services Director Selig, Police Chief Spaetzle, Director of Operations Landers.

### AUDIENCE

The following audience members signed in this evening: Russell Thompson, Amanda Luckay, Patrick McGannon, Fred Green, Sarah Aerni, Robert A. Bonnett, Warren Remein, Nancy Brown, Clair Banasiak, Jeff Gallatin, Lydia DeGeorge, Tara Wendell, Dennis Driscoll, Susan Murnane.

Mr. Koomar called the Regular Meeting of Council to order at 8:17 p.m. in the Council Chambers of Bay Village City Hall, with roll call and the Pledge of Allegiance led by Councilman-at-large Dwight Clark.

Following the roll call, Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held September 12, 2016. Mr. Clark **MOVED** to dispense with the reading and accept the minutes of the Special Meeting of Council held September 12, 2016 as prepared and distributed. Motion carried 6-0.

### ANNOUNCEMENTS

**Acting Mayor Ebert** reported a power outage on the west end of Bay Village on Saturday, September 17, 2016. Ready-Notify was activated to alert residents. Mr. Ebert expressed appreciation to Director of Operation Landers for his presence and work in the vicinity the entire day. A tree fell due to the storm and blocked traffic all day on Lake Road, west of Bradley Road.

Mr. Ebert further reported that the Columbia Road railroad tracks will be closed beginning September 26 for a period not longer than two weeks to perform much needed maintenance work. Mr. Tadych expressed appreciation to Mr. Ebert for his quick response in attending to the railroad tracks condition after Mr. Tadych reported it to him.

Mrs. Lieske expressed appreciation as well for the quick response to all the City workers on Saturday, September 17. She asked the method of notification to residents for the Bradley Road water main break incident. Ready-Notify was not used in this case. Was the notification door-to-door? Mr. Ebert stated that he is not sure, but in that incident and similar incidents affecting

residents Ready-Notify would be useful. In today's society communication is important. The guidelines for the use of Ready-Notify will be circulated to Council.

Chief Spaetzel encouraged residents to sign up for Ready-Notify. This can be done through the city's website, [www.cityofbayvillage.com](http://www.cityofbayvillage.com). Mr. Tadych asked how many residents are signed up for Ready-Notify. Chief Spaetzel stated that Fire Chief Lyons may have that information.

Mr. Vincent asked about having a siren in the City for emergency notifications. Mr. Ebert stated that in most cities a siren is not effective because of the sprawling nature of the community. Bay Village being condensed the way it is, it would be very easy to have siren notification. Mr. Vincent noted that at 10 or 11 p.m. his cellphone is silenced and he would not know if there were a tornado alert. Mr. Ebert agreed that the possibility of sirens should be reviewed again.

Chief Spaetzel stated that a simple solution is a weather-radio which has battery back-up if the power goes out. The radio will alert the owner to a serious weather condition. Chief Spaetzel noted that he has one in his home, and it has gone off three or four times this year. It is loud enough, clear enough and detailed enough to let the listener know exactly what is going on. He suggested that these radios are inexpensive, but very valuable tools for weather concerns.

Mr. Clark stated that he had the good fortune of being in the presence of others when the recent Ready-Notify alerts were issued. All that received the notifications expressed gratitude to the City for the communication.

## **REPORTS**

**Law Director Ebert** had no report this evening.

**Finance Director Mahoney** had no report this evening.

**Recreation Director Enovitch** had no report this evening.

**Community Services Director Selig** stated that Holiday Caring and Sharing time is quickly approaching. If there are families in Bay Village that need help, or if one desires to make a donation to this worthy project, Community Services Director Selig can be reached at 440-899-3409.

**Director of Operation Landers** had no report this evening.

**Police Chief Spaetzel** had no further report this evening.

## **COMMUNICATIONS**

The following communication was received and is on file in the Clerk of Council office for public inspection:

An email communication to the Mayor and Cahoon Memorial Park Trustees from Jennifer Smillie, President, Village Bicycle Cooperative, sent Sunday, September 18, 2016 regarding renewal of Bicycle Cooperative's lease in the Community House, and their request to expand the area they use to include the western side of the ground floor of the Community House to allow more space for their Fix-It-Forward program.

Mr. Koomar stated that he did respond to Jennifer Smillie and suggested that she reach out to Mr. Ebert in regard to the contract renewal.

Mr. Clark asked if environmental testing was done in the building. This was a safety concern in regard to the proposed expansion. Mr. Landers stated that the testing was done, and the results were received, but Mr. Landers does not have that information at the meeting this evening.

#### **Offer of a donation from the Bay Village VFW and American Legion**

**Fredrick Green, Commander**  
**Bay Village VFW Post 9693**  
**Speaking for Bay Village American Legion Post 385**

Commander Green addressed the Bay Village City Council with a request to honor deceased members through plaques and brass placards in a space to be provided by the City. Mr. Green delivered the following address:

“We have two Veteran groups that call Bay Village home, VFW Post 9693 (I am the Commander), and American Legion Post 385. The legion post is not located in BV but that is just a physical location. Their Post is just South of Bay on Cahoon across the tracks.

In truth, many of our members are not residents of BV, some due to retirement others due to jobs, and we have some that reside in elsewhere but are still affiliated with our posts due to family ties. In many ways, we support the West Shore Area since there are no VFW posts in Westlake, Rocky River, or Avon Lake.

We honor our veteran's annually on Memorial Day and in some ways on Veteran's Day. We do not have a public place that we list the names of our residents past, present, and future that have served and died in combat and in peace.

Recently, a family member of a passed VFW member, Burton Wolf, yes the family that Wolf Rd is named after, provided a bunch of records and VFW related material. Among this, were two new wooden plaques with the names of past members on brass plates. For example, Burt and Jake Schock, both BVHS grads and residents both fought in the Battle of the Bulge, were wounded, and received many medals. Both Burt and Jake were recently awarded the French

Minutes of Regular Meeting  
Bay Village City Council  
September 19, 2016

Legion of Honor for their service in WWII. While there are few Burts and Jakes, there are many that gave a lot to their country and community.

Our VFW Post does not have a building, we meet in the BV Police Department community room. I contacted the AM Legion and they have no place where they honor passed members. Using their post for this request would not be optimal since it is not a public area.

The VFW post has discussed this topic since our membership is dwindling and we are fighting to keep our post operational. The Legion can probably hang on but they have similar problems. The difference between the groups is the qualification, VFW requires combat, hostile file, certain medals, etc.

The plaques we have are driving this request. We feel that these are an appropriate way to honor our passed veterans. What we do not have, is a public place to display these plaques. My request was to see if there was a place that the city could allow us to use to honor these veterans. A wall in a public place would be wonderful. The Dwyer Center would be a great choice, but we are not targeting a specific area. The police station room community would be great as well.

We have two plaques now, but this will grow if we are allowed to do this. What I do not know is the protocol to present this idea or who to contact.

We are not asking the city for anything but wall space. We will provide the plaques and brass placards. This will be an on-going process, we have many WWII and Korean Vets in our post now. It will take the VFW some time to catch up from when the existing plaques were made. In addition, we may always learn of new names to add. We are also willing to work with the City on any related ideas if this is not acceptable.

I recently contacted the Historical Society for archive of some documents and listings, and I was turned down. We did not ask them about these plaques. But my point is that our VFW Post was recently threatened with closure by the VFW State of Ohio Dept. The thought of information pertaining to honored veterans from Bay Village just disappearing was sobering.

As the Commander of the BV VFW Post, I am one of the youngest members at 60 yrs. old. In the last 14 months, I came close to joining the long list of passed veterans myself 3 times. Now that I am recovering, this thought has become a goal.

I am looking for some help from the City. It would be nice for Memorial Day and Veteran's Day to continue to mean something more than a day off or a sales event. They will only be names on a wooden plaque, but they will remain for our future residents. This does not have to be on one wall or in one building. We are open to working with the city for a solution.

Respectfully,  
Fredrick Green  
Commander Bay Village VFW Post 9693  
Speaking for Bay Village American Legion Post 385”

Community Services Director Selig acknowledged the request of Commander Green and expressed a willingness to accommodate his request at the Dwyer Memorial Center. Mr. Koomar stated that Councilman Henderson is not present this evening, but suggested that Commander Green continue working with Mr. Henderson as the point of contact in accomplishing this goal of finding a home for these plaques.

#### **COMMITTEE OF THE WHOLE**

**Mr. Clark** introduced and read **Resolution No. 16-63** recommending the passage of Issue No. 106 on the November 8, 2016 ballot, and declaring an emergency.

There being no further discussion, Mr. Koomar called for a vote on the motion for adoption of Resolution No. 16-63. Mr. Koomar noted that this is a continuing levy, and not a renewal levy.

Roll Call on Suspension of the Charter Rules:

Yeas- Clark, Koomar, Lieske, Mace, Tadych, Vincent

Nays -None

Roll Call on Suspension of the Council Rules:

Yeas – Clark, Koomar, Lieske, Mace, Tadych, Vincent

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas- Clark, Koomar, Lieske, Mace, Tadych, Vincent

Nays -None

Roll Call on Adoption:

Yeas– Clark, Koomar, Lieske, Mace, Tadych, Vincent

Nays–None.

Mr. Koomar announced adoption of Resolution No. 16-63, an emergency measure, by a vote of 6-0.

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

**Mr. Vincent** introduced and read **Ordinance 16-64** amending Chapter 505, Animal Control, and declaring an emergency.

Mr. Koomar announced that Ordinance No. 16-64 is placed on first reading.

Mr. Vincent introduced and read **Ordinance 16-65** amending Chapter 513 of the Codified Ordinances by enacting Sections 513.15 and 513.16 prohibiting the establishment and operation of Medical Marijuana dispensaries, the indoor and outdoor cultivation of Medical Marijuana, and the delivery of Marijuana, and declaring an emergency.

Mr. Koomar announced that **Ordinance No. 16-65** is placed on first reading.

Mr. Vincent commented that he does like the idea, if possible, of having an Environment, Safety and Community Services Committee meeting regarding this ordinance for further education and input on this topic. Resident Amanda Luckay who commented this evening offered good points. If an opponent and a proponent could be found, it will be helpful for Mr. Vincent and other members of the committee to review.

Mr. Vincent introduced and read **Ordinance No. 16-66** amending Codified Ordinance 513.01 regarding Drug Abuse Control/Definitions, and declaring an emergency.

Mr. Koomar announced that **Ordinance No. 16-66** is placed on first reading.

#### **FINANCE AND CLAIMS COMMITTEE**

**Motion** by **Mr. Clark** to acknowledge receipt of August, 2016 Financial Reports of the City of Bay Village as prepared by Finance Director Renee Mahoney.

Motion passed 6-0.

**Mr. Clark** introduced and read **Ordinance No. 16-67** to amend appropriations for the current and other expenditures of the City of Bay Village for the Fiscal Year 2016, as previously appropriated in Annual Appropriation 16-09, and amended by Ordinances 16-23, 16-46, 16-55, and 16-57.

There being no further discussion, Mr. Koomar called for a vote on the motion for adoption of Ordinance No. 16-67

Roll Call on Suspension of the Charter Rules:

Yeas- Koomar, Lieske, Mace, Tadych, Vincent, Clark

Nays -None

Roll Call on Suspension of the Council Rules:

Yeas –Koomar, Lieske, Mace, Tadych, Vincent, Clark

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas- Koomar, Lieske, Mace, Tadych, Vincent, Clark

Nays -None

Roll Call on Adoption:

Yeas–Koomar, Lieske, Mace, Tadych, Vincent, Clark

Nays–None.

Mr. Koomar announced adoption of Ordinance No. 16-67, an emergency measure, by a vote of 6-0.

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

**Mrs. Lieske** introduced and read **Resolution No. 16-68** granting permission to St. Raphael

Church to erect a ground sign, and declaring an emergency.

Mr. Vincent, who represents City Council on the Architectural Board of Review, commented that Mr. Jeff Grassi, Chief Building Official of SAFEbuilt, Inc., has been in attendance at every Architectural Board of Review meeting with a professional presence and he has been very helpful to the Board in their reviews. Mr. Vincent expressed appreciation for the great work of Mr. Grassi in helping the Board.

Roll Call on Suspension of the Charter Rules:

Yeas- Lieske, Mace, Tadych, Vincent, Clark, Koomar

Nays -None

Roll Call on Suspension of the Council Rules:

Yeas –Lieske, Mace, Tadych, Vincent, Clark, Koomar

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas- Lieske, Mace, Tadych, Vincent, Clark, Koomar

Nays -None

Roll Call on Adoption:

Yeas–Lieske, Mace, Tadych, Vincent, Clark, Koomar

Nays–None.

Mr. Koomar announced adoption of Resolution No. 16-68, an emergency measure, by a vote of 7-0.

## **PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE**

**Mr. Henderson** was excused this evening.

## **RECREATION AND PARK IMPROVEMENTS COMMITTEE**

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

## **SERVICES, UTILITIES AND EQUIPMENT COMMITTEE**

**Mr. Tadych** pointed out that the spelling of Marijuana in the ordinance should be corrected. Mr. Ebert stated that there are two spellings of the word. The one that is in the ordinance is from the Codified Ordinances of the City of Bay Village.

Mr. Tadych asked if there is a possibility that this Council can consider banning active cellphone use at the Council table in the future. Mr. Koomar stated that he will take Mr. Tadych's request under consideration.

Mr. Ebert stated that he has recently circulated a new Tree Ordinance to the members of the Tree Commission. The ordinance is being created to prevent the cutting of all the trees on lots when undertaking construction, especially those that are not in the footprint of construction. The

ordinance will be reviewed further by the Tree Commission and will eventually be sent to City Council for consideration.

Mr. Tadych stated that at the request of Mr. Ebert the Tree Commission reviewed this ordinance for the last five months, working on it diligently. Mr. Ebert will review the ordinance with the Tree Commission at least once more prior to sending it to City Council.

Mr. Koomar stated that it is worthy of consideration. Over the years landscaping plans have been submitted for commercial and public buildings. While that would probably be too far reaching on the residential side, just asking for trees to be replaced is an understandable request given the nature of Bay Village.

Mr. Tadych stated that many cities are starting to realize that their structure of trees are being cut down irresponsibly in some cases. This legislation is being created in response to those concerns.

#### **MISCELLANEOUS**

**Mr. Mace** asked that the word “medical” be placed in front of the words “delivery of Marijuana” in the edit of the ordinance.

**Mr. Tadych** asked Community Services Director Selig if any of the seniors in her programs have a need for Medical Marijuana to her knowledge. Mrs. Selig stated that there are none that she is aware of.

There being no further business to discuss, the meeting adjourned at 8:55 p.m.

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Paul A. Koomar, President of Council

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Joan Kemper, Clerk of Council

**AN ORDINANCE**  
**AMENDING CODIFIED ORDINANCE SECTION 505.01 DOGS,**  
**CATS, AND OTHER ANIMALS RUNNING AT LARGE AND**  
**REPEALING SECTION 505.99 PENALTIES,**  
**AND DECLARING AN EMERGENCY**

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

**SECTION 1.** That Codified Ordinance 505.01 which presently reads as follows:

**505.01 DOGS, CATS, AND OTHER ANIMALS RUNNING AT LARGE.**

(a) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain upon any public Street or place within the City except when accompanied by a responsible person and upon a leash. The length of a leash shall be no longer than that which is reasonably necessary to maintain control of a pet and to prevent the pet from trespassing on private property, or from chasing or attacking any person, animal or vehicle. As against the owner or person in charge or control of any such dog, cat, or other animal, evidence that such dog, cat, or other animal, was found at large upon any public street or place within the City shall be prima- facie evidence of a violation of this section.

(b) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain on any city park property without reasonable restraint and leashed and under control. Reasonable restraint and under control is defined here as restraint which conforms to the animals weight, size, and strength, being controlled by a person who is of suitable age, size and discretion to control the animal.

(c) While on private property, it shall be unlawful to allow any dog, cat, or other animal, outdoors on private property unless the animal is leashed, or contained in a fence or under the control of a responsible individual. It shall be unlawful for any owner to allow his or her animal to cross outside the property line of its owner to any extent, including reaching over, under or through a fence. Any method of pet containment is not considered valid during a period of time when failure or lack of maintenance renders it non-effective. Visible signage to an electronic pet containment system must be posted.

(d) Whoever violates or fails to comply with this section is guilty of a minor misdemeanor and is subject to incremental increases in misdemeanor degrees with repeated offenses that occur within the first twelve (12) months of the first offense.

(Ord. 03-07. Passed 4-7-03.)

**be and the same is amended to read:**

### **505.01 DOGS, CATS, AND OTHER ANIMALS RUNNING AT LARGE.**

(a) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain upon any public Street or place within the City except when accompanied by a responsible person and upon a leash. The length of a leash shall be no longer than that which is reasonably necessary to maintain control of a pet and to prevent the pet from trespassing on private property, or from chasing or attacking any person, animal or vehicle. As against the owner or person in charge or control of any such dog, cat, or other animal, evidence that such dog, cat, or other animal, was found at large upon any public street or place within the City shall be prima- facie evidence of a violation of this section.

(b) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain on any city park property without reasonable restraint and leashed and under control. Reasonable restraint and under control is defined here as restraint which conforms to the animals weight, size, and strength, being controlled by a person who is of suitable age, size and discretion to control the animal.

(c) While on private property, it shall be unlawful to allow any dog, cat, or other animal, outdoors on private property unless the animal is leashed, or contained in a fence or under the control of a responsible individual. It shall be unlawful for any owner to allow his or her animal to cross outside the property line of its owner to any extent, including reaching over, under or through a fence. Any method of pet containment is not considered valid during a period of time when failure or lack of maintenance renders it non-effective. Visible signage to an electronic pet containment system must be posted.

~~(d) — Whoever violates or fails to comply with this section is guilty of a minor misdemeanor and is subject to incremental increases in misdemeanor degrees with repeated offenses that occur within the first twelve (12) months of the first offense.  
(Ord. 03-07. Passed 4-7-03.)~~

(d) Penalties.

(1) Whoever violates this section is guilty of a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the second degree on the third or any subsequent offense. Upon a third conviction an owner shall be subject to the dangerous dog provisions as outlined in 505.19.

(2) Notwithstanding division (d)(1) of this section, if the animal bites a domestic animal without provocation as a result of violation of this section, then whoever violates this section is guilty of a misdemeanor of the third degree.

(3) Notwithstanding division (d)(1) of this section, if the animal bites a human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the second degree.

(4) Notwithstanding division (d)(1) of this section, where the animal bites a human or domestic animal without provocation and causes serious injury as defined by Ohio R.C. 955.11(A)(5), as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree.

**and present Sections 505.01 and 505.99 are hereby repealed.**

**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 committee 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, 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

9-15-16