AGENDA

Date: March 18, 2019
Time: 7:30 p.m.

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

ANNOUNCEMENTS

COMMITTEE OF THE WHOLE

Sunset Project.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE-Mace

Fence Regulations.

FINANCE & CLAIMS COMMITTEE-Tadych

February 2019 Financial Reports of the City of Bay Village.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Maier

Phase 1 of the Rosehill Museum Project (slope stabilization). Advertisement for Bids.

Skate Park Lighting.

Add the matter of Vacant Homes to Matters Pending before Council Committee.

Add the matter of Review of Existing Zoning Code per Master Plan Recommendations to Matters Pending before Council Committee.

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE-Stainbrook

Update on Capital Projects.

RECREATION & PARKS IMPROVEMENT COMMITTEE- Winzig

Prohibition of Smoking in Parks.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE-DeGeorge

MISCELLANEOUS

AUDIENCE
CAHOON MEMORIAL PARK TRUSTEES

Approval for the use of Cahoon Memorial Park by the Bay Village Historical Society on Saturday, June 15 for the Annual Antique and Craft Show, subject to receipt of insurance.

Review and approval of 50th Anniversary temporary signs in Cahoon Memorial Park for the Bay Soccer Club, to be installed during the 2019 Recreation Season.
President of Council Clark called the meeting called to order in the Conference Room of Bay Village City Hall at 7:30 p.m.

Present: Clark, DeGeorge, Mace, Maier, Tadych, Winzig, Mayor Koomar.

Excused: Councilwoman-at-large Stainbrook.

Also Present: Law Director Barbour, Finance Director Mahoney, Director of Public Service and Properties Liskovec, Fire Chief Lyons, Recreation Director Enovitch, Human Resource Director Demaline, Building Director Eric Tuck-Macalla, Community Services Director Selig.

AUDIENCE

Tara Wendell.

ANNOUNCEMENTS

Mayor Koomar advised that mobilization began today for the test digs in Cahoon Memorial Park by Partners Environmental Company. Results should be available within the next thirty days.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE - Mace

Amendment to Section 333.11 of the Codified Ordinances – Texting While Driving.

Mr. Mace will present Ordinance 19-12, an amendment to Section 333.11 of the Codified Ordinances, regarding texting while driving, for the third and final reading this evening. Section (c) of the original ordinance designates texting while driving as a secondary offense, meaning an officer cannot pull over a motorist for texting unless there is another violation. The ordinance on reading changes the offense to a primary offense, which allows the police to stop a motorist who is observed to be texting while driving and issue a warning or citation. The ordinance has the endorsement of the City administration and police department.

Ms. DeGeorge stated that some of the ordinances in other cities have a number change from the 333.11 ORC. She asked if this is a requirement. Mr. Barbour stated that the Ohio Revised Code Section is 4511. The City of Bay Village Section 333 is the Bay Village Traffic Code.

Mr. Clark expressed appreciation to Mr. Mace and the Environment, Safety and Community Services Committee, together with the Law Department for moving quickly on this legislation.
Submerged Land Lease for 26108 Lake Road.

A request for a submerged land lease for the property at 26108 Lake Road has been received from ETS Engineering. The documents submitted for consideration indicate that everything seems to be in order for submission to the Ohio Department of Natural Resources upon passage of a resolution this evening.

Mr. Mace announced that an Environment, Safety and Community Services Committee meeting will be held on March 18, 2019 at 6:30 p.m. in the conference room of Bay Village City Hall. A draft ordinance will be prepared for fence regulations.

FINANCE & CLAIMS COMMITTEE-Tadych

Amended Annual Appropriation Ordinance.

Mr. Tadych stated that the Capital Budget for 2019 will be adopted this evening as the Amended Annual Appropriation Ordinance. Appropriation changes are also included for the Operating Budget in the amount of $28,750 from the Bay Family Services Fund to change the schedule of payment to McKeon Education Services to an annual basis from the previous school year basis. There will also need to be an adjustment of the transfer from General Fund to Bay Family Services in the same amount of $28,750. This will be a one-time adjustment due to the timing issues.

In addition, McKeon is paid $5,800 annual from the Community Diversion Fund for the Court Intervention Program. In order to true up the year in which the contract obligated the payment, Mrs. Mahoney is requesting a double payment for this year only. This will result in an increase in the Community Diversion Fund (236) by $5,800 and a transfer from the General Fund in the same amount.

Administrative Compensation Ordinance.

Mr. Tadych stated that there has been no change to the Administrative Compensation Ordinance which will receive its third and final reading this evening.

New Accounting Software.

Finance Director Mahoney is requesting permission to seek information from various vendors to learn system information and pricing.

Mr. Mace commented on the debt issuance scheduled for 2019. Mr. Mace noted that he had said that he could be comfortable with $2.5 million, and it is now coming in at $2.6 million. He has pointed out things in the budget that he believes could use some tweaking, but the tweaking did not occur. This would be the packer truck that is still listed at $230,000. We do not have the finance software number to include now, but that is also anticipated to be a significant expenditure. For Reese Park, we have scheduled $100,000 with the expectation of Casino funds of $50,000, but the park expenditure is still listed at $100,000. Mayor Koomar stated that the
Casino funds have not been approved to date. There was an actual committee meeting today, with Kathryn Kerber in attendance. It is moving through the process, but it will not be formally voted on until next month. The Reese Park modifications would be a reconciling item.

Mr. Mace stated we will be bonding for the fire trucks specifically, but questioned whether other equipment and projects will be in the budget more accurately. Mr. Tadych stated that the bonding out process will not occur until May or June, and at that time there will be a better idea of what is needed. Mrs. Mahoney noted that the Finance software is expected to cost $250,000.

Mr. Mace stated that the estimated Capital budget figures are a high amount. In the past there has been diligence in keeping costs down and foregone improvements that needed to be made with City equipment or infrastructure, and now having to catch up. But, Mr. Mace noted, he does not want to give carte blanche to go ahead and issue debt for $2.6 million if it is not needed. He would like to have that commitment up front.

Mrs. Mahoney stated that the accounting for Capital expenses will insure that if an amount is borrowed for a piece of equipment or project that is received at a lower price than budgeted, the remaining funds will be kept in the account for equipment or projects for the following year. This is due to the recent creation of the General Capital Fund.

Mr. Clark added that ordinances are done for each department in three readings. There is a set of checks and balance so we know exactly what is going to be spent by department, by dollar amount. Police, Fire, Service, and Recreation ordinances are all done separately, with an accountability in three readings.

**PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Maier**

Phase 1 of the Rosehill Museum Project (slope stabilization). Advertisement for Bids.

Director of Public Service and Properties Liskovec stated that the final set of plans has been received for review. Phase 1 of the project will be to stabilize the hillside to a depth to be determined as drilling is done. The estimated cost is $165,000 for contracting services, with an additional $100,000 for in-kind services of the Service Department.

Mr. Clark stated that it is unique for Council to provide a motion for advertisement for bids without full information. Mayor Koomar stated that the engineer will provide detailed information regarding the project. The matter will be held until the Council meeting of March 18, 2019.

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

2019 Asphalt Resurfacing Contract.

**Director of Public Service and Properties Liskovec** reviewed the information contained in the memorandum from Curtis J. Krakowski, CSI, CDT, Infrastructure Manager, dated March 1, 2019, listing the following base bid streets:
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Lindford Drive  (Lincoln Drive to Norfolk Drive)
Norfolk Drive  (Linford Drive to Marygate Drive)
Marygate Drive  (Lincoln Drive to Norfolk Drive)
Lisaview Drive  (Marygate Drive to Welshire Drive)
Welshire Drive  (Osborn Drive to cul de sac)
Debbington Drive  (Lincoln Drive to cul de sac)
Buchanan Drive  (Debbington Drive to Dwight Drive)
Millard Drive  (Buchanan Drive to Dwight Drive)
Dwight Drive  (Osborn Drive to cul de sac)

Alternate Bid No. 1 is for Parkside Drive from Lake Road to Wolf Road, and Alternate No. 2 bid is for Parkside Drive (Wolf Road to south border). The Alternate No. 3 bid is for the Parkside Alley, from Parkside Drive to Huntmere Drive.

The lowest responsive and responsible bidder was Chagrin Valley Paving, Inc. for $530,542.00, below bidding estimate. After reviewing the option of selecting alternates to accept, Mr. Krakowski and Director of Public Service Liskovec determined that selection of Alternate No. 2 for the amount of $141,080 would be recommended and would bring the total bid amount to $671,622, within the $700,000 budget for 2019.

Discussion followed concerning Alternate No. 3, the Parkside Alley. Mr. Tadych noted that the road is in very poor condition. Mr. Liskovec stated that his thought is that it would be a candidate for full depth recycling, similar to what is being proposed for the Sunset area. The alley is used mainly for heavy fire apparatus, and the full depth recycling would provide a more stable surface.

Mr. Clark stated that including Alternate No. 2 in the bid would complete the entirety of Parkside Drive.

Ms. DeGeorge stated that when Council spoke in January of 2018, the comment was that Parkside Drive was slated for 2020. A map was given to Council in early 2018 with the five year road plan, and Parkside Drive is not on that map for 2020. If we don’t know when Parkside is going to be done, and it is certainly not planned for 2020, Mrs. DeGeorge does not want to break up the road project. She stated that she was never under the impression when talking about Parkside Drive that we were talking about three separate sections of Parkside Drive. It is a long street, but it was assumed it was the whole street.

Mayor Koomar stated it is always the intent, but when they bid alternates they try to find natural breaks because of the money involved in the project. We always have the option to accept the alternate mid-project if other savings are realized.

Ms. DeGeorge stated that she disagrees with the comment of Mr. Liskovec that Parkside Drive south of Wolf is just as bad as Parkside between Lake and Wolf. Mr. Tadych stated that the patches on Parkside Drive have failed. If re-patched, the north side can be let go for a while. He commented that he believes the south side is far worse than the north side. The problem with the north side is the patching. They have failed completely.
Ms. DeGeorge stated that she would like to know when Parkside is slated in the street resurfacing plan because it does not show on the map.

The Mayor stated that he would like to have all of Parkside done, but he wants to see where part of the project comes in and if there are efficiencies that result in asking for less money. As far as he is concerned it is still on the table, but from a construction standpoint this is how we have to bid it unless Council wants to appropriate more money at this point in time.

Ms. DeGeorge asked Finance Director Mahoney about monies left over from previous years. She stated that she knows that money stays in the fund. Mrs. Mahoney stated that this would be the case only as of last year, 2018. She did look at 2018 and there is $8,500 is left. That $8,500 can be used on resurfacing this year in addition to the $700,000 being appropriated. Ms. DeGeorge stated that in prior years it was a substantial amount more, $20,000 or so. In 2016 it was $45,000, and in 2017 it was $37,000. Mrs. Mahoney stated that she did not look back farther than 2018 and she does not know if that is correct or not. Ms. DeGeorge stated that those numbers were given by Mrs. Mahoney at a meeting. She asked if that money was used. Mrs. Mahoney stated that this was just in 2018, when we started the Capital project fund. Those other years those funds went back in the cash fund balance, whatever was unspent. She is not sure if those were paid for out of Infrastructure Improvement, or if they were paid for out of Street Repair. But, in essence, it went into the cash balance. Most of that was probably in Street Maintenance, and we are considering $400,000 of our $700,000 in 2019 is coming from Street Repair. That probably is the cash balance in the fund left over from prior years, underspent.

Ms. DeGeorge stated that she is not happy committing to part of the street, as opposed to the entire street. Mr. Clark stated that he drove the entire street and he thought the whole street needed to be done. The patching might have failed, but he does not want to be in a position where we took care of some residents but not the residents on the other end of the street. We have all committed to try to do a little bit more for road improvements. We have a significant amount of money in various funds in the City. We should do the entire street, amend the ordinance and get it done.

Mr. Tadych stated that Wards 1 and 2 are represented on that street, and he has no problem with it, except do we have the money to do it?

Mayor Koomar stated that we can always go through with the intent and tighten down the money per Mr. Mace’s earlier comment. We have a $20,000 contingency in the base bid for the asphalt contract.

Mr. Clark stated that the subtle message is to try to find $38,000 somewhere else in some of the other Capital spending that has been identified so we can keep our borrowing levels where we had talked about initially. Mr. Clark stated he would endorse modifying the ordinance. It is a long street, and he would agree to let the emergency segment at the south end go for right now, because it is really a dead end. Mr. Liskovec stated that south end emergency road is not to be traveled on other than by emergency vehicles.
RECREATION & PARKS IMPROVEMENT COMMITTEE- Winzig

Mr. Winzig had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE-DeGeorge

Ms. DeGeorge had no report this evening.

MISCELLANEOUS

The Committee Meeting of Council scheduled for Monday, March 11, 2019 is cancelled.

Mayor Koomar advised that the Library architects are working on designs. There are two Planning Commission meetings in April: April 3, and April 17, 2019. The architects are hoping to meet the deadline for the April 3 meeting and do an informal pre-submission presentation. As part of the process, the Architectural Board of Review will be invited to attend.

There being no further discussion, the meeting adjourned at 8:00 p.m.

Dwight A. Clark, President of Council          Joan Kemper, Clerk of Council
Minutes of a Meeting of
Public Improvements, Streets, Sewers and Drainage Committee
held June 25, 2018
6:30 p.m. Council Chambers

Present: Nancy Stainbrook, Chair, Lydia DeGeorge, Sara Byrnes Maier

Also present: Mayor Koomar, Councilman Tadych, Councilman Mace, Councilman Winzig, Law Director Barbour, Special Counsel Ebert, Director of Public Service and Properties Jon Liskovec.

Audience: Steve Dever, Bill Barack, Kevin and Deb Busdiecker, Allen and Marcy Clever, Dorothy Stewart, Kevin Hinkle, Lynne and Ric Michaels, Eric Ripley, Kim Stearns, Regis Garrity, Jeff Gallatin, Don Zimmerman, Cindy Horst, Richard Fink.

Councilwoman Nancy Stainbrook, Chair, welcomed everyone to the third meeting of 2018 of the Public Improvements, Streets, Sewers and Drainage Committee. Mrs. Stainbrook introduced the other two members of the committee, Councilwoman Lydia DeGeorge, and Councilwoman Sara Byrnes Maier. Mrs. Stainbrook also noted the presence of additional members of Council and the members of the administration, including Director of Public Service and Properties Jon Liskovec.

Attached to these minutes, as if fully incorporated herein, are the handouts that were placed at the entrance to the Council Chambers for those in attendance.

Mrs. Stainbrook stated that the items on the agenda this evening are the acknowledgement of the letter received from the Bay Park Beach Company, the DOPWIC Grant Application, Temporary Road Repairs, and Assessment Calculations.

The goal for tonight’s meeting is to go through these agenda items. Mrs. Stainbrook stated that she also wanted to have this meeting because this will bring everything forward from the last two years on many different topics, and then we will be heading into the grant application for DOPWIC. The results of that grant application will be released sometime after the first of the year, as early as January or as late as March. After this meeting there will be a period of time of waiting to complete the application and submit by the deadline, and then waiting to learn if the grant application is successful.

The last meeting of the Public Improvements Committee was April 23, 2018. The committee had asked the homeowners association, the Bay Park Beach Company, to take a vote of their members concerning the request by the City to sign over the right-of-way that is an important part of this project. A letter was received from Jeff Foster, who is president of Bay Park Beach Company, indicating that at the annual meeting in May the committee proposed to the homeowners in attendance the calculations of assessments for the Sunset Project. There were 19 households present at the meeting of 49 possible households, and for proposal one, which represented the City’s calculation assessments,
the results of the straw poll that they took was one household in favor and eighteen opposed. The second proposal by the homeowners association is that they proposed signing over the right-of-way for an assessment that had no more than an average of $12,000 per household over twenty years. They arrived at that proposal based on the Cahoon Road average assessment of $9,000 plus adding another $3000 to account for present value of funds. That straw poll resulted in nineteen in favor and none opposed.

Ms. Maier stated that the second proposal was not an actual proposal from the Public Improvements Committee. It takes into account a very different project. Even though the members voted on it, that is not something that is on the table because we cannot do that type of project.

Ms. DeGeorge stated that she also thinks that the Cahoon Project brought up is not relevant to this project and it keeps getting referenced. This is a totally different project that took place in 1986. We need to take that off our thought process in terms of how we formulate the dollars.

Mrs. Stainbrook stated that she knows that was a consideration back in September, 2016 but that project was of completely different scope and size. The Cahoon Project in 1986 had a much smaller scope to it. It did not involve all of the roads, storm and sanitary sewers. The average assessment for that project is incomparable to the scope and size of this project. The additional $3000 is to bring that $9,000 to present value, but again you are really trying to compare apples to oranges.

Eric Ripley stated that the additional 33% is just what the homeowners felt they could bear. The $9,000 is present value. That’s what they were told two years ago. The $12000 is not what that project would have cost. The $9,000 is representative of what that project would cost today.

Mrs. Stainbrook stated “What the Cahoon Project would have cost today?”

Mr. Ripley stated that this is what they were told in September of 2016.

Mrs. Stainbrook stated that the Cahoon Project was a completely different scope and size of project. You are comparing a smaller project to a much bigger project.

Bill Barack, 320 Kenmore, stated that he hears Mrs. Stainbrook saying, different scope, different size, everything, and yet that was basically what was presented to them. Maybe at that time it seemed a good, relevant basis. There were numbers, and a 50 Power Point slide presentation given. There were never any words about a different scope, different size, that sounds like a justification to go in a different direction, not reality.

Mrs. Stainbrook stated that if you go back and read through all the minutes and the project details, there is a lot of information. One of the things included is regarding Mr. Henderson’s proposal for that $9,000 is that our Finance Director also went back and looked at the numbers and said, and this was in the minutes of September 11, 2017, and
that the percentage split on the Cahoon Project was 56%/44%. Mr. Henderson and that committee were trying to get that project back to the average assessment of Cahoon, but from May of 2017 through September of 2017, Mr. Henderson, if you read the minutes, also indicated that there was a $500,000 increase in the cost of the project, which would have meant, to keep that $9,000 average, the City would have to incur and take on that additional $500,000. From a practical standpoint, the City isn’t able to absorb that. That was presented back in September of 2017. From a chronology standpoint, back in September of 2017 the $9,000 assessment option is no longer under consideration based on affordability and based on the fact that as a committee and as a City we have to consider other projects which also include Bruce, Russell, Douglas, Lake Road Sanitary Sewer, Columbia Culvert, Ashton Lane and Queenswood Bridges. Only a few of those will be assessed, but anything that comes out of this committee and comes from City Council that has to be assessed, we are setting precedent in terms of the next project. It is not, from a practical standpoint, in my opinion, a good idea for the City to say that for the Sunset Project we are going to pay what we agreed to plus another $500,000.

Mr. Barack stated that $500,000 divided by 50 homes is roughly $10,000 per home. Nine thousand plus $10,000 doesn’t come out to $33,000 which is now the current average cost being presented.

Mrs. Stainbrook stated it is the entire assessable cost of the project.

Ric Michaels, Sunset Dr., addressed Mrs. Stainbrook stating that since she was here last time can she confirm that the Cahoon Project was not a billable project hit with an “all-of-a-sudden have no budget” as the Sunset people have been hit when there was an administration change and the funding was moved arbitrarily from the Sunset project. Can you explain what did or did not happen with the Cahoon Project? Is that the reason it stayed as low as it is - the Cahoon Project that we are not allowed to compare to, that Mr. Henderson did nothing but compare it to? We had these numbers presented, and all of a sudden, the next meeting, the City, by-the-way, red penciled the budget for our project. If we are going to look at this and see how it compares with Cahoon, did that happen with Cahoon?

Mrs. Stainbrook stated that how it compares to Cahoon is that the assessment for Cahoon was assessed at 56% and 44% for the City. The City paid 44%, the residents paid 56%. It is really the percentage that should be compared.

Mr. Michaels stated that the percentage of 44% for some reason is a heck of a lot less than the percentage we are talking about here. I don’t think we are talking about a difference. It is a similar scenario and it was explained that way by Mr. Henderson and the tables suddenly changed. That is why we are here today, and last year and last month.

Mrs. Stainbrook stated that there is another element, too. She stated that she cannot speak for Mr. Henderson when his committee proposed the $9,000, she was not on Council then. The cost has significantly increased since that proposal and the other element of that which was revisited, maybe perhaps after Mr. Henderson’s committee had
propose that number, was the sense of fairness. I alluded to it when I got on Council on 2017. What the Sunset residents are asking is that by the City significantly increasing the City’s cost, we are spreading that assessment out over other residents in the City who have already paid for their infrastructure assessments on their property. The Sunset residents have not been assessed for their infrastructure. Cahoon was assessed in 1986. Chapter 905 states that the carved out areas are Longbeach, Sunset, and Cahoon. Cahoon was assessed, based on that. Now, Sunset is up for assessment and Longbeach is one of the next projects that will go forward and there will be an assessment there. That is how the law is written. We can’t arbitrarily say we really want to provide additional help to the Sunset neighborhood and subsidize the 49 houses when the law says that has to be assessed because you have never been assessed before.

Mr. Michaels stated that the memory of the neighbors here is that at one point there was more help by the City. That law was in effect when that statement was made. For some reason, it seems that protocol may have been dodged and we end up with an average of assessment much, much higher than Cahoon or any other average.

Mrs. Stainbrook stated that came out of the committee of 2016. Until the project is engineered, designed and gets out of committee and goes to Council, things are changeable. Times change; projects change. The only comparable item is that Cahoon was assessed at 56%/44%.

Mr. Ebert stated that in Cahoon the water line wasn’t replaced. The scope of the storm and sanitary wasn’t even close to what is going to be done in Sunset. The scope of the projects are completely different, as far as how much is being replaced, and how much is being done. The scope of the project in Cahoon was helped with $3,000 from the county because Cahoon is a county road. Hopefully we will get some kind of grant that will help with the Sunset Project. A couple of the neighbors of the Cahoon Project appealed all the way to the Supreme Court on the benefit being received by the residents.

Ms. DeGeorge stated that she sat for four years as a resident at these meetings before being elected to Council. Some of the numbers are out of sight. Ms. DeGeorge stated that she remembers those committee meetings and things were questioned. It was always like a work in progress. I never took anything, from my perspective, as solid, where I could take these numbers to the bank. Mr. Henderson and his committee were trying to really do everybody a favor. I remember sitting there, probably the September 2017 meeting, when they brought up our ordinance and the Ohio Revised Code, and thought, well, if that is the law, then it was a nice thought what they were trying to do. And, when our ordinance and the ORC came into play, that’s what we have to do then. As a resident I felt that way. I don’t know how you get around the law. That is how I am looking at it now. This is what is presented, I now understand, I understand Mr. Henderson’s trying and trying. He really tried everything. He did a very good job. Maybe he did too much. Maybe he presented it too much and now everyone is stuck on that $9,000 figure. We have a piece of legislation in front of us that tells us it has to go a different way. When we know better, we do better. That is no comfort to the numbers, but that is my personal experience as to what happened over the years.
Mr. Ripley stated that the law does not tell you what methods to use to assess. It just says you assess. That linear footage can be whatever you decide it to be, which is part of the problem. You set it so high. The average assessment is $33,000. You don’t have to make it $33,000. It is a method you have to follow. It is not a number you have to come up with.

Mrs. Stainbrook stated that looking at Chapter 905, you see Part B that talks about areas that will not participate in this ordinance are Longbeach, Sunset and Cahoon. That’s where Chapter 905 is off the table. What Chapter 905 says actually is that assessments will be 75%/25%. The City will pay 75% of the total cost of improving streets. Also other streets are carved out because they have county money.

Mr. Ebert stated that ordinance was done because at that time they were looking at the streets that had already been assessed previously. Streets that had been assessed once would be a 75%/25% split. That is what the ordinance was adopted for because there were some other streets in the City at that time they were looking to repave. The question was whether we were going back to the original assessment. That is how that came about.

Mr. Ripley stated that nowhere in there does it say Sunset you shall be assessed $33,000 per house.

Mr. Ebert stated that if in fact there was a Writ of Mandamus filed that said they wanted their streets done the City would go to the ORC method of assessment and use that method for the purpose of assessment.

Mrs. Stainbrook stated that the Ohio Revised Code directs that formula.

Mr. Ripley stated that his point is that nowhere in the ORC or this law that a specific number has to be assessed. Follow the law, reduce the linear footage and reduce everybody’s assessments. We are objecting to the number. It is presented like you can’t do certain things. You can do this.

Mr. Barack stated that one of the big mistakes Mr. Henderson made in his numbers, there are portions of this project that are 100% the City’s responsibility. He didn’t take those out when he made those calculations. This is a $3.2 million project. That 56% of 50 households comes out to about $32,000 to $33,000 per household. But, roughly half of the project is 100% of the City’s responsibility, the sanitary sewer and a few other things like that. Take half of that out, water lines and everything. If you take the City’s responsibility that they can come in and do those, it will lower the assessment for the neighborhood. The other half that we are responsible for, storm sewers, and things like that and run the 46% against that it comes out to about $16,000 per home. Just make sure you don’t make the same mistake Mr. Henderson did. The neighborhood is not responsible for 46% of $3.2 million.
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Mrs. Stainbrook stated that it is defined in the costing sheet what the City is responsible for and what the residents are responsible for. It is $1.4 million for the residents, and $1.8 million for the City.

Mr. Barack stated that if you take 46% of $1.4 million you are down to around $15,000 to $16,000 as an average assessment.

Mrs. Stainbrook asked Mr. Ebert and Mr. Liskovec if they had any comments.

Mr. Liskovec stated that if you exclude some of the components, the sanitary and water lines, the assessable components are roadways and storm sewers. As prescribed by the Ohio Revised Code, the City responsibility is the intersections, and 2% of the cost of the project. When you deduct that, it is based on the linear foot. That is how the rest of the calculation is spelled out.

Mr. Barack stated that if you look at sanitary and roadway, 46% of that is about $16,000 on the average per household.

Mrs. Stainbrook stated that the overall project assessment...I understand what you are saying but that is not how it is calculated.

Mr. Barack asked Mrs. Stainbrook if she wants them to be responsible to pay for the items that are normally 100% the City’s responsibility. Please look at that. Please go back and revisit it. That is a mistake Mr. Henderson made. That is all I ask.

Mrs. Stainbrook stated that they will look at the cost calculations. That is a good point.

An audience member stated that Mr. Henderson also mentioned that Council could choose the Ohio Revised Code or they could make up their own, do whatever they want as far as assessments. Is that correct?

Mr. Ebert stated that is not correct. If the City gets a grant and applies that to the residents’ portion, that is making up a different assessment. It is trying to reduce the residential assessment. At one point in time the water line was discussed with the City of Cleveland Water Department. Those are all methods of trying to reduce the whole assessment, both to the residents and the City.

Mrs. Stainbrook stated that by using Ohio Revised Code Section 727 it is defensible in court. If we take Mr. Henderson’s comment that we can do whatever we want, we have to be able to defend it in court also. If we’re doing whatever we want and someone sues us, we have to be able to defend our position.

Mr. Ebert stated that there are two methods of assessment, the benefit method or the linear foot method. The linear foot method changes on corner lots. The benefit method will be in court most in assessable projects. Because, you get in very objective issues, such as how many cars are owned that drive on the roadways. That is why the linear foot
method has been the one that most cities utilize for a calculation method for assessment.

The audience member stated that most cities probably don’t have lots where one-third of the households are corner lots. You are putting an untoward weight on the homeowners. My neighbor uses my long side of my road more than I do. He uses it to get to his front.

Mr. Ebert stated that goes to defending then the person that has one person living in the house, or two people, or three people, with more cars. You can’t argue that. It is difficult, impossible, to try to go the benefit method to determine how many times you use the road, or somebody uses your side of the lot.

The audience member stated that Mr. Henderson’s point was there are three different ways: the linear way, the benefit way, and whatever Council could legally decide is fair or just.

Mr. Ebert stated that is what they are trying to do in getting the grant. In 1995 they changed the assessment portion of the ordinance. They looked at a 75%/25% split; that wasn’t in the ORC, it was trying to prevent another assessment for a project after you have already been assessed once.

Ms. Maier stated that it might be beneficial to move on to the next agenda item. We can revisit the assessment calculation later.

Ms. Stainbrook stated that the City did receive the letter from the Bay Park Beach Company (the homeowners’ association), so that is of record. Of the 49 households, 19 households attended that meeting and voted on their Proposal 1 and Proposal 2.

**DOPWIC Grant Application**

Don Zimmerman, Lake Road, stated that there are several homeowners that are not part of the association, have no input or knowledge regarding the letter that was sent. Mr. Zimmerman wants to make it known that it does not represent the full constituency.

Mrs. Stainbrook asked if Mr. Zimmerman means the 49 households.

Mr. Zimmerman stated that not all of the members of the Bay Park Beach Association have anything to do with the granting of the right-of-way, have no voice in that. I don’t even know why we are being included as part of Sunset, because I don’t think we are. We are not included for anything else, but all of a sudden we are getting included for assessments.

Mrs. Stainbrook asked Mr. Ebert how households were determined to be part of the association.

Mr. Ebert stated that he does not have the Bay Park Beach Association Bylaws. Mr. Zimmerman is on Lake Road. He stated to Mr. Zimmerman that his situation is unique.
because he was assessed when Lake Road was done, years ago. That is why your property is different as far as the Sunset area is concerned. Sitting here today, I can’t tell you what properties are not part of the Bay Park Beach Association.

Mr. Zimmerman stated that their property is definitely not. They are not on the same sanitary sewer. Mr. Ebert stated that the Zimmerman storm sewer was connected back when Lake Road was done.

Mr. Zimmerman stated that everything is different, and now they are being asked to be included in the assessments.

An audience member stated that the other house is the Cook’s, Rockledge East.

Mrs. Stainbrook stated that they will search for more information.

Mrs. Stainbrook asked Mayor Koomar if he has any information on when the DOPWIC application is available. Mayor Koomar stated that it should be very soon, hopefully in the next week. The submission will be late September or early October.

Mrs. Stainbrook elaborated that this is a public works grant that the City will be applying for. There is a project staff member that will be the lead on completing the application once it is available. It should have a late September submission deadline, and the response should be received in the first quarter of 2019, depending on how many projects are submitted for consideration.

Ms. Maier stated that going for that grant to offset the costs meets the commitment of the City to try to put resources toward lowering the overall cost of the project.

Mrs. Stainbrook stated that it was not part of the discussions years ago. The City has not done a lot until recently on grant applications. There has been a lot done recently and we have been successful.

Mr. Ebert stated that there is one issue that came up recently regarding storm water. Storm water does qualify for grants. There are only 46 homes and before that it would not have qualified, but now it does qualify because of storm water.

Mr. Barack stated that they appreciate the City seeking grants.

Deb Busdiecker, Lakeview, stated that grant applications have to specify who they are going to and what they are going to. How do we know if all of the funds will be allocated to the City’s part and not to the residents’ share?

Mayor Koomar stated that Council President Dwight Clark has publicly stated that the grant award would be applied 50%/50%. Mrs. Stainbrook stated that the starting point has been a 50%/50% split. Some grants specify what money can go to what particular part of the project. We would have to get the award, see how that was split out and then
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go from there.

Ms. Maier stated that she does know that this particular grant cannot be all fully attributed to the residents. Most of the time it is applied to the entire project cost, lowering the project cost.

Steve Dever, Lakeview, asked about applying for County Casino Advance Funds. The City of Rocky River received funds last year.

Mayor Koomar stated that they would absolutely go after that funding.

Temporary Road Repairs

Mrs. Stainbrook stated at the last meeting there was an ask for what could be done for temporary road repairs between now and the start of the project, which could be as late as spring of 2020.

Director of Public Service and Properties Liskovec stated that short term this summer they would regrade the areas of gravel. They are working on cost projections for the short term fixes, whether it be something that looks similar to a sealing type product or from an overlay perspective, similar to what is done on the City’s road maintenance program.

An audience member stated that about 15 years ago some work was done by the City and it had a nice life of about five years.

Mrs. Stainbrook stated that there are concerns about the state of the storm and sanitary sewers and the costs associated with temporary repairs. The committee is waiting for cost estimates on some of the things being researched such as the overlay. The committee is questioning how much we want to spend on temporary repairs given that it could be money that could go to the project. You don’t want to do significant temporary repairs and tear it up a year and a half or two years later when that is money that could be committed to the overall project.

Mr. Ripley asked Mrs. Stainbrook to please keep in mind that the residents are worthy. Their roads have been bad for thirty years. Dorothy, sitting here, has a lake in front of her house. They have received no benefit all the years they have paid taxes over and over again. If any neighborhood deserves repairs, it is the Sunset area.

Mayor Koomar stated that they are getting estimates on different types of repairs. They will look to put a placeholder in the budget for 2019, and depending on what happens or not with DOPWIC they will know how quickly that project will move forward. We would be in a position next year if we weren’t going to start that project at the end of 2019 then temporary repairs would be appropriate. In February or March we will know how successful the DOPWIC application is and when that project will move forward. That would be the time to plan for next spring.
Lynne Michaels asked, to clarify, if these are the roads they are going to have until March?

Mayor Koomar stated that spot repairs will be made and concerns addressed. Estimates are being obtained now.

**Assessment Calculations**

Mrs. Stainbrook stated that in reviewing all of the minutes from the last several years, in November of 2017, at the November 27th meeting, the committee recommended using ORC 727 for the assessment calculations. It is most defensible in court. Mrs. Stainbrook asked the committee members their thoughts on ORC 727.

Ms. Maier stated that Mr. Ebert advised that with the Cahoon project there was a lawsuit that went to the Ohio Supreme Court. Mr. Ebert stated that the case was outside of the assessments. It was the same argument that the City should pay more. Some money was obtained from the Cuyahoga County Commissioner for the project at that time. The method of the assessment is the issue. If someone files a Writ of Mandamus to have the roads fixed, the cost would be higher. The ORC is the method that you can assess for the improvement. Back then they felt the assessments were high. The person filed suit based on the cost of the total project. It was a different project totally. The method is the same, involving the appointment of an Assessment Equalization Board. If there is disagreement, the party can file suit. That was the last big suit concerning an assessment project. There were a couple smaller ones with other improvements, but that was the one that was well known throughout the City.

Mrs. Stainbrook noted that the City did do the favorable park assessment which added another $350,000 to the City’s costs away from the residents’ costs. Mr. Ebert stated that it is a unique piece of land. It is not taxed as a buildable lot.

Mrs. Stainbrook stated that the Cahoon Project was a 56%/44% split. In the packet distributed this evening, there is an example of property in the City of Bay Village that reflects infrastructure cost. Included in the packet is a print off from the county. There is a new addition to the street that is Crestview, off of Ashton Lane. Crestview has a new cul-de-sac that was added and it represents seven or eight properties. The print off in the packet is for the first house that was finished on that new extension of Crestview, 608 Crestview. The land for the lot was sold for $95,000 in March of 2017. The house was built and sold in November of 2017 for $485,000. Mrs. Stainbrook noted that she is not making any grand claims about this piece of land, but the market value for the land itself, which included the infrastructure improvements, was $95,000. The taxable market value is $44,000. The point in providing this information is that it represents current value, and the infrastructure does represent significant value.

Ms. Horst stated that when they bought their home 22 years ago the property value was never offset by any idea that they did not have the improved roads that they should have.
They never bought into these properties thinking they were way behind everyone else. Ms. Horst stated that she believes they have been highly taxed.

An audience member asked if Mrs. Stainbrook is suggesting that $95,000 was for infrastructure on one lot. Ms. Stainbrook stated that she is suggesting that this is new infrastructure and one of the lots in that new development sold for $95,000 and then the house was built and sold for $485,000. In that lot there is infrastructure costs associated with it, somewhere between zero and $95,000.

Back and forth discussion followed concerning the infrastructure value of a home and Mrs. Stainbrook stated that she understands the residents’ frustration. We also have to consider that if this project doesn’t get done, going through the minutes and referencing some of the comments former Service Director Thomas made, the storm and sanitary sewers are in serious disrepair. Mr. Liskovec expressed agreement, stating that regarding the storm sewer system, there is minimal service at best. One of the main objectives of the project is to provide storm service. There are questionable areas of sanitary systems that are still functioning to the best of their ability, but they are on borrowed time.

Mrs. Stainbrook stated that this Public Improvements Committee, and the Council Committee of the Whole has to decide how best to move forward with this project and what options there are for doing the project. Chapter 905 clearly provides the carve-out for this neighborhood. ORC 727 is the code to use for determining calculations for assessments. Mr. Ebert noted that this will change if any grants are received. Ms. Maier commented that the commitment for grant proceeds is a 50%/50% split to City and residents share.

An audience member asked if they can assume from the cost sheet that the linear calculation for the neighborhood is 5200 feet, or approximately one mile. Mrs. Stainbrook stated that there is a sheet that gives individual assessments. The audience member stated that it appears as though this is showing the formula of $1.4 million assessment total for all of the homes combined. With that 5215 feet of assessable, if you divide the two you come up with an average for the linear footage. The calculation of $1.4 million divided by 5215 feet equals $350 per foot. When he did the calculation, he arrived at the figure of $270 per foot. He stated that he does not know if there is an error in the arithmetic or if there is some other reason. But, that is a big difference. If the committee is using these numbers, they should be absolutely sure they are the right numbers.

Mrs. Stainbrook states that the cost sheet states that the total assessable frontage used is 5215 feet. The audience member stated that as a starting point it looks as though the numbers might be askew. Mrs. Stainbrook stated that as everything starts to move forward all of these numbers would be checked and re-checked. Residents also have the Assessment Equalization Board to review individual assessments.

Lynne Michaels asked if the correct figures should be established now before residents receive their numbers. Mrs. Stainbrook agreed to review these numbers further.
Mr. Zimmerman stated that getting that number is going to be very important because when the City identified the possibility of these huge assessments they wiped out $1 million worth of property value overnight. The second those assessments went out anybody who wanted to sell their property had to report that to the buyer. It wiped out $1 million worth of value overnight with no apparent thought given to it except Mr. Clark claimed it was done intentionally. Mr. Zimmerman stated that he does not know why anyone would do that intentionally, but it seems there should be more care with the numbers.

An audience member asked if a resident goes before the Assessment Equalization Board and they reduce the amount of the assessment, who makes up the difference. Mr. Ebert stated that it becomes part of the City portion. The adjustments must go to Council for their approval. The audience member asked if there is an assessment for the water line. Mr. Ebert stated that there is not an assessment for the water line. The audience member asked if the water line installation costs are part of the cost, or are the City and residents covering the cost of the roadway and the water line is just going to piggyback on that construction as far as the excavating. Mr. Ebert stated that there is a cost to put the water line in and it is included in the City’s portion.

Mr. Liskovec addressed the discrepancies on the linear feet. On the cost sheet there is a gray bar that says Frontage Assessment Calculation. The total cost of the project is $2.4 million. If you subtract the local share which is 2% and intersections ($548,000), you arrive at $1.8 million. That is the number used to derive the legal foot price. The difference between there and the $1.4 million is the excess valuations which are the park properties and any property that has exceeded the one-third value of cost. That $409,000 is transferred to the City’s responsibility for picking up that share. That is where the total of $349 per linear foot versus $279 per linear foot came about.

An audience member asked if the $409,000 goes to the City’s cost, then why is it added to the residents’ assessments. Mr. Liskovec stated that as prescribed by ORC 727, the assessment is based on the assessable portion of the project which is $1.8 million. That is how you get the $349 per linear foot. The rest of the calculation for the excess valuation is transferred. If it did not exceed the one-third value of the cost, whoever would have had the excess valuation would be paying full price. The audience member stated that the total assessments are $1.8 million, not $1.4 million, but it is labeled $1.4 million. Mr. Liskovec stated that this is correct, that would be like the total receivables. He noted that these are not the numbers he created, but they are the numbers he is interpreting based on his understanding of ORC 727.

Mrs. Stainbrook reiterated her comments about the favorable park valuation reducing the residents’ cost by $350,000. Those at prior meetings have heard that the City will also be bearing the interest cost for the project which could be up to two years overall from start to end. That total interest is about $120,000, and the loans are zero interest loans. Mrs. Stainbrook noted that we are all trying to do what we can within the boundaries that we have in terms of legislative authority and trying to go after additional funding sources and
trying to get the project cost down as low as possible. Mrs. Stainbrook asked Ms. Maier and Ms. DeGeorge’s thoughts about the fairness of the process. She noted that with the legislative authority, the legislative due diligence and duty to all residents of the City, it is a tough ask for Council to give what she would deem preferential treatment to one neighborhood over other neighborhoods relating to how assessments are calculated.

Ms. Maier stated that going out and aggressively seeking outside funding is a big part of that and part of the City’s commitment for that fairness piece, because it is a huge assessment. You would not necessarily have known that when you bought your home. Knowing there are other projects out there and the City does not necessarily have the reserve to pay for it outright, we are trying to come up with what we think is going to be the most equitable way to do the project.

Mrs. Stainbrook stated that Council does have to be mindful that when this project comes to fruition and there are other projects coming right behind it, depending on what they recommend or vote to do, then the next group will be Longbeach residents saying that for Sunset you did this, you came up with extra money to support that project and you need to do that for us as well.

Ms. DeGeorge stated that it is about being fair. We do understand where you are coming from. You have to understand from Council’s point too. If you have 16,000 residents to be responsible to and you have a group, and this has been going on for 35 years back and forth what each want, and here we are saying, in earnest, we want to do what is right by you and by every other resident in town and the time is now. You see how the cost is going up and up. I hope we can work together and figure it out.

An audience member stated that this is the reason they get upset. When they hear things like this neighborhood is getting preferential treatment, or would be. The fact of the matter is nobody in this town has ever been assessed anywhere near what we are being asked to pay. Saying that we are getting preferential treatment is disingenuous and completely unfair. I do not analyze where my tax dollars are spent. Ninety five percent of the residents in this town would say this is absolutely not fair if they saw our roads. Asking the residents for $36,000 to do that is completely unfair. Nobody has ever been asked to pay anywhere near that.

Ms. DeGeorge stated that other residents, believe it or not, will see it as preferential treatment. She stated that she has had residents come to her and say if the City is going to do all of this for Sunset then they need to turn over that park so they can go down to that beach. It is a feeling out there. There are all kinds of opinions out there and that is what we have to factor into our decisions, in all fairness.

Mrs. Stainbrook stated that she has been on Council for years, this is the second time around, and those people will come in and point out that the City covered this percent for this project, now you need to cover that same percent for my project.

An audience member stated that this discussion started years ago. The Sunset area is a
unique area and that point seems to be lost. The second point is of the 16,000 residents in Bay Village, are 5000 of them corner lots. If you are talking about fair, those 16,000 people each bore an equal burden. You are putting most of the burden on all of our corner lots. Mr. Ebert stated that the Ohio Revised Code does recognize that on the method of assessing corner lots.

Lynne Michaels commented that as far as fairness, she does not think any resident in Bay Village would think that being assessed $36,000 is fair. There should be a cap. We factored in the highest rate, added in today’s dollars and added on top of that. There should be a certain level where the burden is too heavy for the homes to carry on their own. It is why you live in this community. The community counts on me for my tax dollars for the school system. I don’t have kids in school; I vote every school levy in. I support it not because it directly affects me every single time, but I am part of this community and we all lift fairly. This is not lifting fairly when you ask us to pay four times the highest assessment ever put out there. We live in this community so all hands help lift. I don’t think the rest of the taxpayers would argue that our fair share should be $36,000 or $55,000.

An audience member stated that a lot of the residents walk through the Sunset neighborhood constantly, on a daily basis.

An audience member asked Mrs. Stainbrook if the total project cost is probably a year or two years old. Given that, and we will go out for bids in the fall of 2019, we will be three or four years with a cost increase. Are there any estimates on an average construction cost, and what is the $3.2 million is really going to be?

Mr. Liskovec stated that in 2017, the engineering report indicated a zero percent increase across the board. This year, it is estimated to be about 2% for the year. The audience member suggested calling the increase to construction costs by 2019 at about 5% overall. The $3.2 million would go up to $3.5 million. Mrs. Stainbrook noted the project started out in the past at $1 million, and here we are 35 years later.

An audience member asked if a resident filed a Writ of Mandamus would they be entitled to damages. Mr. Ebert stated that he did not believe so. The audience member asked if the Judge would be able to consider the past years of neglect as a way of compensating for the residents for services that they paid for and did not receive. Mr. Ebert stated that he remembers in the past the President of the Homeowners Association coming to City Hall to tell them to stay away from their area, just give them more patching. When the breakwall was done, the City was putting in slag and stone to try to fill in the damage from the trucks. If the City would proceed with the assessments right now, you would probably not see the right-of-way granted even though the City needs that for improvements in the City’s portion. If a Writ of Mandamus were filed, the City would be mandated to do the project as it is being proposed, taking the most recent numbers.

The audience member stated that the point he is trying to make is when Council goes through their numbers and how they are going to apportion these costs to landowners,
Public Improvements Committee
June 25, 2018

there should be some level of compensation for the years of neglect and failure to deliver services, and how do you weigh what is there. Other neighborhoods have had good roads, good streets, good sewers, and good waterlines all these years, in Sunset we have not. He is suggesting that this is a way of looking at this to balance it out if Council is worried about setting a precedent for other public projects.

Mr. Ebert stated that argument comes into play if the City does get some grants. Some say it has to go to the City’s portion, some say it goes to the residents’ portion. You could, theoretically charge the association for the improvement for the park land, if you take the argument to the other side.

Mr. Zimmerman stated that the point is that for 35 years they have not been provided with the same level of services that the rest of the City gets. There ought to be some consideration of that because they have been paying for other people having improved roads, improved sewers, and in 35 years they haven’t experienced that. Now, it is their turn to help pay for theirs.

Mrs. Stainbrook stated that at the November 27, 2017 meeting the committee did recommend that Council put forward a motion authorizing the City to seek grant funding. This shows good faith effort in that we are seeking grant funding for the project.

Mrs. Stainbrook thanked everyone for coming and stated that the committee will keep everyone informed.

There were no further comments and the meeting adjourned at 7:54 p.m.

[Signature]
Chairman, Public Improvements Committee

[Signature]
Joan T. Kemper, Clerk of Council
905.01 - Policy established.

The City hereby adopts the following street improvement program policy for neighborhood streets where previous assessments for streets, curbs and road drainage had been made.

(a) The City will pay 75 percent of the total cost of improving the street surface, road base, curbs and gutters and street drainage. Storm drains are not included in this program. This three-quarter payment of the total cost of the improvement, including engineering and legal costs, will substitute for the normal legal requirement of the City's payment of two percent of the project plus the cost of intersections.

(b) Individual property owners on all neighborhood streets to receive resurfacing and other related improvements to an already improved and assessed street would be liable for the remainder of the cost, and would be so assessed under a minimum of a five-year property assessment.

(c) The following streets and/or areas will not participate in the program until they have been initially improved and assessed: Longbeach area, Sunset area and Cahoon Road.

(d) Special cases that will not participate in this program because they are subject to County, State or Federal funding include: Clague Road, Columbia Road, Dover Center Road, Bassett Road, Bradley Road, Wolf Road east of Dover Center Road, Walker Road, Lake Road and Naigle Road.

(e) For assessments of corner lots, it will be the policy of the City to assess the shortest side at the full rate, and the longest side at 25 percent of the full rate of the assessment.

(Ord. 85-59. Passed 6-17-85.)
Cuyahoga County, Ohio - Property Summary Report
Parcel: 202-16-011

Owner
Address
(5000) R - RES VACANT LAND
Legal Description
Neighborhood Code
03105

Building 0

Sketch not available for this parcel.

BUILDING INFORMATION

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Information included on this report is believed to be accurate, but is not guaranteed. Cuyahoga County is not liable for errors or omissions.
Minutes of a Meeting of
Public Improvements, Streets, Sewers and Drainage Committee
held February 11, 2019
6:15 p.m. Council Chambers

Present: Councilwoman Nancy Stainbrook, Chair, Councilwoman Lydia DeGeorge, Councilwoman Sara Byrnes Maier.

Also present: Mayor Koomar, Councilman Tadych, Councilman Mace, Councilman Winzig, Law Director Barbour, Director of Public Service and Properties Jon Liskovec, Engineer Don Bierut, Director of Building Eric Tuck-Macalla, Finance Director Mahoney.

Audience: Mary Deutschman, Dorothy Stewart, John J. Cook, Eric Ripley, Kevin & Deb Busdiecker, Karen and David Brill, Jerry Dowling, Bill Barack, Mary Wise, Jan Rybka, Brent Eysenbach, Lynn Bennett, Rick Michaels, Tom Kelly, Suzanne Graham, Clare Banasiak, Tara Wendell.

Councilwoman Stainbrook called the meeting to order at 6:15 p.m., introducing herself as Chairman, and Ms. DeGeorge and Ms. Maier, as the other members of the Public Improvements Committee, and acknowledging the presence of Mayor Koomar and the administrative staff.

Sunset Area Improvement Project

Mrs. Stainbrook advised that there are handouts in the back of the room relating to the topic this evening. Copies are attached to these minutes as if fully incorporated herein.

The first handout advises the application of Ohio Revised Code 727 to the Sunset Improvement Project, and defines the assessment calculations for the project. The next document is a Cost Sheet, describing the total list of project costs, with nothing changed from September, 2017 when distributed at the September 11, 2017 Public Improvements Committee meeting. The third handout is titled, “Assessment Amounts based on Front Foot, Based on ORC.” which explains the assessment process for the project.

The agenda for this evening will include the District One Public Works Integrating Committee (DOPWIC) grant request results, the project status, and time for audience questions. If the committee agrees, there will be a committee recommendation out of the Public Improvements Committee.

DOPWIC Results

Ms. Stainbrook stated that the District One Public Works Integrating Committee (DOPWIC) provides funding through grants and loans. The City applied for this funding, and scored better than the City had ever scored, but were just short of scoring well enough for funding. Kathryn Kerber, Administrative Project Leader for the City of Bay
Village did a lot of the grant work. The City scored 69, and funding started at 71. Mayor Koomar added that a lot of time was spent internally and with the DOPWIC Committee, insuring that no stone was left unturned. The scoring system is straight forward, a function of how many projects for which applications were submitted. Five or ten years ago, there were project that scored in that 69 range that received funding, but it is dependent on how many projects were submitted. Due to the many needs there are, the bar, over time, has risen slightly.

Mrs. Stainbrook thanked the administration and Kathryn Kerber, noting that there is a lot that goes into applications for this type of funding, and there was a lot of work done on behalf of the City and the project.

**Current Sunset Improvement Project Status**

From that perspective, the project stands as is, regarding the overall scope of the $3.25 million project. The City portion of that is $1.8 million, and the assessed resident portion is $1.4 million.

City Council and the administration have been working on the Capital Budget which includes large infrastructure projects that are considered Capital improvements. Included in that budget, is $489,000 allotted for limited infrastructure improvements for the Sunset Project. Mrs. Stainbrook cautioned that this Capital Budget has not yet been approved. There have been many Finance Committee meetings related to the budget, and it will come before Council and the administration and it is expected that those dollars allocated will be considered as part of critical infrastructure most in need of repair related to the project.

**Ms. Maier** stated that it is important to understand that this is a temporary solution to the issue that would help with the roadway surface. It is not fixing the underlying issue, by putting in sewers or fixing water lines. It is getting a better surface on the roadway as a stopgap measure. The project costs have not shrunk; this is more of a temporary solution.

**Mayor Koomar** stated that one of the things being looked for is that back in 2010 funding for cities was reduced at the state level. Federal portions have shrunk as well. Cities have been advocating to have some of those funds restored. Those funds helped projects like the Sunset Project that were larger in scope. The State of Ohio is at a maximum for their Rainy Day Fund, so with a new administration, the City is looking forward to see what may come out of that situation. There was a lot of talk during election time about restoring some of that funding back to the cities. As of late last Thursday, that process at both levels is not going to move very quickly. There needs to be some type of relief provided to the residents for the roadway and make some limited, additional improvements underneath the roadway to provide a good surface and utilities until some of the funding flows through to go further on the project. The administration put this forward based on the thinking that if the DOPWIC funds are not available, and the whole project cannot be done right now as is, something substantial needs to be done to improve the roadway and underlying utilities so they are functioning as we look to
Director of Public Service and Properties Liskovec stated that in consultation with Chagrin Valley Engineering, represented by Don Bierut, Consulting Engineer, they are suggesting recycling the existing surface and adding a two inch overlay on top of the recycled surface. This is considered to be a seven-year fix, possibly longer, and will provide a much more pleasant driving experience in the neighborhood. There are a couple of areas underground that also need to be addressed. These improvements are along the sanitary sewer line to make sure everyone stays serviceable until funding is released through the state and the City can start planning long term to put together a project that will meet everyone’s expectations.

The Mayor added that there will also be some water line replacement under this plan. Some of the north-south streets, Kenmore and Rockledge, have water lines coming off of Lake Road that will need attention. Mayor Koomar noted that it would not be in the best interest to dig up the new surface to make water line repairs. The idea is to make the improvement last for a number of years and take care some of those areas that are critical.

Mrs. Stainbrook stated that from an engineering perspective if you are looking at a limited infrastructure improvement you are looking at some of the worst areas most in need of repair, and pavement for the neighborhood.

Mr. Bierut explained the asphalt recycling process. He stated it is basically a large machine that comes down the street, pulls the asphalt up, mixes it up, rejuvenates it and puts it back down. It is basically the same pavement that is there today, rejuvenated and put back down, with asphalt put over the top.

Mrs. Stainbrook called for questions from the members of the Public Improvements Committee.

Ms. Maier stated that it is important to be clear that this is not a long term solution and we still have to find that long term solution and funding. This is something that makes the area more passable in the meantime, which has been a huge concern for residents. It is important for the residents to know that we are trying to find the different angles to fund the improvement wholly.

Mrs. Stainbrook stated that from a timing perspective, Council must first approve the Capital Budget and then understand the scope of the work to be done in order to arrive at the timing. Mrs. Stainbrook stated that she does not want to assume that this is the option that is going to be chosen by Council from a project perspective. Mr. Liskovec and Mr. Bierut were asked what the timing would be if the Capital dollars are approved and this is the option chosen by Council. Mayor Koomar stated that the Capital Budget will go on first reading this evening for consideration, and will be passed on February 25, 2019. This is when the funding would be available. Mr. Bierut stated that he would say a June or July start of construction would be realistic after the bidding process is completed.
Mrs. Stainbrook thanked the Mayor for the administration's intent to go after additional funding. We are all hopeful that the fund limits of the Rainy Day Fund of the state have been reached, and hopefully some of those dollars will be coming back to municipalities.

Mrs. Stainbrook suggested that the Sunset Drive Storm Sewer and Roadway Improvements Project be moved from the Public Improvement Committee of the Whole. This committee will request that the President of Council put a motion before Council to request that this project move to the Committee of the Whole where it can be considered by the entire Council. From a strategic perspective, the Capital Budget goes on first reading his evening, with a possible vote for adoption on February 25, 2019. That would allocate dollars, and Council, as Committee of the Whole, would decide on how those dollars would be used and the scope of the project.

Ms. Maier stated that she likes the approach suggested by Mrs. Stainbrook. To be clear, if Council agrees to move forward with this project, it is possible that in five years we might be in the same exact position of trying to still find funding.

Ms. DeGeorge stated that she agrees with everything that was said. It would be a temporary fix, and a fix that was asked for by a couple of the residents at the last meeting. That was taken under consideration when looking at the whole picture.

Mrs. Stainbrook opened the floor for audience questions.

Bill Barack, 320 Kenmore, stated that in the previous meetings there was discussion about the City floating a bond issue to cover their portion. All of a sudden, tonight, it seems like, “Oh, we didn’t get the DOPWIC funding and now we can’t do anything.” He asked what happened to floating a bond issue to cover the City’s portion. Mr. Barack stated further, “Second question, this is not a 2019 Project, it is a 2019 – 2020, and at that, if you approve the project as a go ahead, $500,000 would cover probably most of the expenses that you could incur this year. And then, we are talking about 2020. What is your thinking about bond issue and multi-year project where this is just not you have to pay for it in 2019?”

Mrs. Stainbrook answered that if this goes to the Committee of the Whole, there could be consideration that the full project still is an option, as well as, perhaps, using the not-quite-half-million dollars as a phase, if you want to call it that, limited infrastructure. If it is a whole project, then we are bonding out. If it is comfortable to do the entire project, as is, as described in the original assessment documents and the total scope of the project, then that is a bonding out project. The Public Improvements Committee is recommending that this project be moved to the Committee of the Whole so that Council can consider all of those options, with the Council of seven members.

Mayor Koomar stated that this project is a 2019 project to be completed in 2019. Looking at the other City’s needs, relative to issuing long term debt, we have a lot of other needs in the City that we are balancing right now. This year, and next year in particular, we are faced with some large pieces of City equipment, a fire vehicle that is
going on 23 years old that we have to purchase, that we delayed for a few years. When we talked to the Finance Committee about their comfort level with the amount of debt we could issue this year, going for a long term project and trying to handle all of those needs of those pieces of equipment that we have to do this year, the numbers don’t work. So, looking at this, and saying, let’s put down a good roadway that is going to last for seven or eight years, let’s make some infrastructure improvements, and some limited storm water, sanitary, and water line improvements that would fit into the larger project when it is done, and supplement it now without having to tear up the roadway when it is done. It would increase the useful life of the utilities underground and allow us to look for more funding. Issuing debt right now on that project, and trying to balance these other expenditures we need to do in 2019, the numbers won’t work. The recommendation of our Finance Committee, with our Council President, and Mr. Tadych as Council Chair of the Finance Committee, was to say what can you do to improve this area and give the residents some relief. Anything we do underground will be a perfect fit with the longer term plan. We would be biting off a little piece of some of these areas that need some improvement and take care of those now.

Mr. Bierut stated that any underground improvement would be reflected in the assessed plans. We wouldn’t be tearing those out if we found additional funding. They would supplement that plan.

Mayor Koomar stated that to be clear it is the recommendation because the administration, while there will be some improvements, looks at this as more of a repair, although a longer term repair. The residents will be pleasantly pleased with the driving surface after what they have been putting up with. This will be part of the City funding; there will not be residents’ responsibility of this as proposed by the City administration.

An audience member asked, “Why not?”

The Mayor responded that it is a repair and if we are going to make a long term Capital improvement in a number of years that would be the appropriate time to consider an assessment.

The audience member stated that they have what used to be storm sewers, and they have streets. You just need to repair that. “Isn’t it all repair?”

Mrs. Stainbrook stated that the whole project would be repair and replace.

Mayor Koomar stated that under that project there would be new storm water lines added.

Director of Public Service Liskovec stated that the storm and water repair is limited at best for that area.

The audience member asked exactly what the City is preparing to do there for the storm water.
Mr. Liskovec stated that there is a limited stretch that would be undertaken on Sunset Drive which would basically be the building block for the whole target area. The way the project is designed, everything is actually funneled in toward the Sunset/Rockland intersection and contributes to the storm water run-off. There would be a starting point there, and also some of the sanitary lines would need some improvements underground, and also the water lines.

Mayor Koomar added that the sanitary lines, along with the storm, are things that we look at that we want to insure they are functioning. One of the things in this is that there is a section of line that is on private property. Our goal would be to get easements from six or more property owners so we can maintain those lines. But, there is a section that is in worse shape, and that is the section that Mr. Liskovec mentioned we would want to go in and replace that right now to make sure it functions for the foreseeable future.

Jeff Foster, 329 Kenmore, asked if the engineering has been done on all these improvements, and, if so, can the residents have a review of those drawings. Second question is for the mill and overlay, are our roads a good candidate for that judging the sub-straight of what is there and the condition of it?

Mr. Bierut stated that the plans for the assessment project were done a year or two ago by CT Consultants. While those are being incorporated into this option, they wouldn’t be used for that; it would be limited. Secondly, Mr. Liskovec and I had a conversation today about milling and resurfacing the roadway which you see many times on a curbed street or on an asphalt street that needs a better surface. In this case, that wouldn’t work, just scraping two inches and putting two inches on would be a very, very temporary fix. The recycling type project would pull the entire thing up, eight or nine inches thick, put it back down and compact it. The asphalt that is pulled up and recycled has new asphalt put in and rejuvenated so it looks like brand new asphalt coming out, it is put down, and it is rolled with a roller. If there are soft spots those have been dug out and fixed, and then it is resurfaced with asphalt over the top. It is more extensive than we typically know as a mill and fill.

Mr. Foster stated that he just wants to point out that there are areas that have no base. For the first section, he was referring to the first scope of work, the $489,000 that Council is currently talking about, if there is an opportunity for the residents to see what that scope of work is so they have an understanding especially when talking about a summer time construction project. The neighborhood comes to life in the summer so they would like to have some level of expectation of what they will see.

Mrs. Stainbrook stated that this all has not been finalized yet, there are still some questions to that option. As this moves forward and goes to Council there will be a lot of discussion about those details.

An audience member stated that there is hardly any time. February 25, as we talked earlier, and then going out for bids. When would we expect that the drawings that will go out to bid will be done?
Mr. Bierut stated that the drawings will be done in April or May.

Mrs. Stainbrook stated that there will be meetings of the Committee of the Whole related to this project and we will move forward from there.

Mrs. Stainbrook asked if there were any further questions.

Mrs. Stainbrook stated that she would like to request, and she will follow this up with Council President Dwight Clark, that the Public Improvements Committee requests a motion for the meeting of February 25, 2019 to officially take the Sunset Project from the Public Improvements Committee to the Committee of the Whole. Ms. Maier and Ms. DeGeorge expressed agreement.

Mrs. Stainbrook encouraged everyone to follow the process and, if not already on the list of notifications, to sign up with the Clerk of Council, Joan Kemper, to stay on top of meetings that will be held related to City Council and the Committee of the Whole.

A resident stated that it was stated that if this all falls into place, this construction will be done in June. Mr. Bierut stated that it would be early summer.

The resident asked if the project scope will be for three months, six months, or six weeks.

Mr. Bierut stated that the project will run for ten to twelve weeks.

Mary Wise, Sunset Drive, asked if there is a reason they can’t wait until August or September.

Mr. Bierut stated that the sewer work can be done anytime. The asphalt is temperature dependent. The later it is done, the more the risk of not getting it done. The recycling process requires a core temperature of a little earlier.

Rick Michaels, 24817 Sunset, stated that he is one of the people who advocated this several years ago. He thanked the committee for listening, and besides being a repair it is a lot of pay back because they have all been struggling with horrific conditions. He would also like everyone to recognize that it is recompense for what has been neglected in the past. There are places where there, pretty much, is no asphalt. There are places in the Sunset, Rockland area where it is concrete merged with asphalt. He would assume that this would be dressed somehow right. Last week the construction project that is going on at the end of Rockledge is rough on Rockledge. Mr. Michaels says he assumes that by the time the project would get to Rockledge the construction project would be sufficiently underway so that it doesn’t destroy fresh asphalt.

Ms. DeGeorge asked if the temporary fix will affect any type of funding the City might go for down the road. As they continue to look at grants and other sources, would a temporary fix be looked at negatively on that application?
Mayor Koomar stated that from a DOPWIC perspective, it would because of the roadway component. But, knowing how competitive that has been and that we really have done our best, he would not view that as a true, viable option. Many times when we are looking at new storm water for managing that, and sanitary lines, programs coming down the pike from the federal and state government that have not been determined yet, many times for those underground lines that are in need, not knowing what those will look like, we will be in the best shape we can be. The Mayor stated that he does not feel we can afford to wait any longer and not have the residents have a better driving surface.

Mr. Bierut stated that eleven projects were funded by DOPWIC, which aren't many. Sixty to seventy percent of the money was given to the City of Cleveland and Cuyahoga County. Everybody has needs, including Cleveland and Cuyahoga County, and we are not afraid to ask. Mayor Koomar stated that the City of Euclid was funded and a component of that is economic health, which we are never going to score better on. They are in true economic hardship and need, and they are always going to score above us.

Mr. Bierut responded to the question, “Does fixing it hurt us going forward?” He stated that it doesn’t help, but he does not think the area can be ignored with hope that if we let it get worse we will get funded. It is plenty bad now, and did not get funded on this round.

Karen Brill, 24901 Lakeview, asked if this project is ever going to happen. She stated that there has been talk about this going back to the 1950’s. “Are we looking at another sixty years? Are we going to wait to put in storm sewers until Lakeview just falls into the lake and then you don’t have to worry about that street?”

Mrs. Stainbrook stated that as the Mayor mentioned, we are trying to work with funding, we are trying to provide Capital Budget dollars to repair the areas that are in most need of repair. Mrs. Stainbrook cautioned everyone to understand the process of how this works. The committee is just recommending that this goes to the Committee of the Whole. Once it gets to Committee of the Whole, there could be support for completing the entire project, there could be support for a phased project, and there could be other ideas that come up as part of Council related to this project. There is a lot still to be determined from a Council standpoint. The administration has done a really good job of working with the engineers to come up with a phased solution to start with getting us by for seven years in terms of asphalt and infrastructure. Now, Council has to look at all of those options and come up with a recommendation.

Mrs. Brill stated that she feels like by the time we do this Lakeview will have eroded into the lake because there are inadequate storm sewers and her home will be worthless. She stated that this literally keeps her up at night, and she does not feel good about that.

Mrs. Stainbrook stated that she was on Council fifteen years ago and this was also a topic then, but she does have to say we have made a lot of progress in 2018 and now, starting in 2019. We have come a long way from where we were. This project has been talked about for thirty years.
Ms. Maier stated that the cost has been the biggest hurdle. Hearing what people were saying that the assessment fee was too high for the homeowners to bear that is why the DOPWIC application was put in to see if that was a viable alternative. The City is going to keep seeking other alternatives because that is such a huge number for people to have to bear. The City is not in a position to pay for the entire project. The ORC information that was handed out this evening is for that cost share and the City was even going to a very beneficial approach to the cost share advantageous to the homeowners to try to lower that number. The City is going to continue, should this smaller project be done at this point that gives a little time to seek out other sources. The City has ramped up their grant seeking abilities and tried to assemble more funding to lower the cost for the City and for the residents. It could be done, if the assessment came through and the project was bonded.

Kevin Busdiecker, 25035 Lakeview Drive stated that forty percent of the project are corner lots. Following ORC 727, this adversely taxes or bills these corner lots. ORC 727 doesn’t have to be followed. There are other options the City can use for assessing that work fairly to any individual in this project.

Mrs. Stainbrook stated that this committee has talked in the past that ORC 727 is the recommendation to be used for that calculation. It is most defensible in court. A lot of the other options are very subjective so if it were challenged it might not be favorable in court. The question of how that calculation is to be drawn is off the table. We talked about that last June, as ORC 727 being the calculation as to how those will go forward. Regarding the specific calculations, if we are doing an assessable project, there will be an Equalization Review Board that will validate the calculations themselves. Many times residents have questions about their individual calculation on an assessed project. There will be a board established that would confirm accuracy of those calculations.

Mr. Busdiecker asked Mrs. Stainbrook if she is saying that other City residents got 40% assessments on corner lots. Mrs. Stainbrook stated she is not saying anything about corner lots. She is saying that for this project ORC 727 is what will be used for those calculations.

Jeff Foster asked if there were any recommendations for us city wide as to how we can get over that hump in the funding range of DOPWIC.

Mr. Bierut stated it is unfortunate, but given the financial stability of the community it is very difficult to overcome that challenge. There are communities like Euclid and others that receive many more points. The Bay Village project scored the maximum amount of points in every category, except for the financial situation of the City.

Mayor Koomar added that Mayor LoCastro in Bratenahl is the head of the DOPWIC Committee and Mayor Koomar has attended some of those meetings. There is always the discussion of how everything should be weighted. The City of Cleveland and Cuyahoga County get the lion’s share of the programs, which leaves very little for communities like
Bay Village, Rocky River, Westlake, and others. Only those with economic hardship are able to sneak in. There is a lot of debate about what that scale ought to be. They are going to stay with this for at least the next two years. They were also in the habit of tinkering with it and you never had a sense of how you were going to position yourself for the next year because they changed the rules every year. They want to standardize that, but that is not going to change until 2021 which is another reason we brought this project forward. We are trying to be realistic on the short term funding options.

Mr. Michaels asked if there are other projects that are going to be down the road, projects that are going to be completed this summer.

Mayor Koomar stated that the standard road overlay program with an allocation of $700,000 debt that is done every year will be done again this year. The Sunset project would be an addition to that and the Finance Committee has been open to issuing notes this year above and beyond what we normally do, but we have the capacity do that and thought we needed to take care of Sunset.

Mr. Michaels stated that the steel plate on Columbia Road has been in place for going on two years now. The Mayor stated that project has gone out for bid and Finance Director Mahoney was able to get funding through the State Infrastructure Bank with a lower interest rate over ten years. We would expect construction to start in 90 days. Mr. Bierut stated that the culvert is being made. Mayor Koomar added that legal easements were needed from property owners, but because of the death of one of the property owners there was a delay.

Summary

The Public Improvements Committee is recommending that they request the President of Council make a motion to move the Sunset Drive Storm Sewer and Roadway Improvements Project to the Committee of the Whole where it will be considered for discussion and debate, and up for resolution.

There being no further comments, the meeting adjourned at 7:02 p.m. Mrs. Stainbrook thanked everyone for their attendance.

Nancy W. Stainbrook  
Chairman, Public Improvements Committee

Joan T. Kemper, Clerk of Council
342 Kenmore: Based on ORC language, this parcel will receive a 100% assessment on the Kenmore footage since the property fronts/receives the project (physical address is part of the project scope).

163.40 x current linear footage assessment amount = total assessment cost

48.40 + 135.00 = 163.40 total assessable footage

Lengthwise footage: 135.00

Breadthwise footage: 48.40

24915 Lakeview

Calculation Example:

will include both sides of a corner lot per the ORC.

• The remaining corridor lots in the project will be assessed at 100% of the front footage that, which for the purpose of this description,

50 x current linear footage assessment amount = total assessment cost

Lengthwise footage (front side) = 135.00

Breadthwise footage (lake rd side) = 50 (footage assessed in 1994)

24928 Lake Rd

Calculation Example:

that is not included in the project (reference ORC 727 note 9 page 842).

277 they bound and about the Improvement Project. For those parcels, the breadthwise footage (parcels front/receives a street)

24744 Lake Rd, 24800 Lake Rd, 24928 Lake Rd, 25008 Lake Rd, and 25098 Lake Rd will qualify for assessment since as defined by ORC

• In the project area, there are five parcels that have side yards (lengthwise side of property) that about the project. These five parcels

• As the language from ORC 727 is applied to the Sunset Improvement Project, corridor lots will be assessed one of two ways and include

September 2017: Application of ORC 727 to Sunset Project
City of Bay Village
Sunset Drive Storm Sewer and Roadway Improvements
Based on ORC With Park Assessment

### Project Cost Calculation

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveying/Engineering/Bidding</td>
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<tr>
<td>Construction Inspection/Testing - Roadway, Storm, Misc., Constr. Cont.</td>
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<td>Legal/Permits/Advertising - Roadway, Storm, Misc., Constr. Cont.</td>
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<td>Capitalized Interest (3.25% of Loan Amount) - Roadway, Storm, Misc., Constr. Cont.</td>
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<tr>
<td>Project Contingency (5%)</td>
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<td><strong>Total Project Cost - Roadway, Storm, Misc., Constr. Cont.</strong></td>
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### Frontage Assessment Calculation

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<th>Description</th>
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<tr>
<td>Total Project Cost - Roadway, Storm, Misc., Constr. Cont.</td>
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<tr>
<td>Less Ohio Public Works Commission (OPWC) Grant</td>
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<tr>
<td>Less Local Share (2%)</td>
<td>$46,420</td>
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<tr>
<td>Less Intersections</td>
<td>$546,765</td>
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<td><strong>Assessable Project Cost - Roadway, Storm, Misc., Constr. Cont.</strong></td>
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### Summary of Assessments

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<tr>
<td>Frontage Assessments</td>
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<td>Total Assessments</td>
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### Front Foot Assessment

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<th>Description</th>
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<tr>
<td>Assessable Frontage (private property)</td>
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<tr>
<td>Front Foot Assessment (private property)</td>
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### Summary - Source of Funds

<table>
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<th>Description</th>
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<tr>
<td>State Funding (OPWC Grant)</td>
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<td>Construction Financing through OPWC (0% Loan)</td>
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<td>City/Portion</td>
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<td>Local Share (2%)</td>
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<td>Intersections</td>
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<tr>
<td>Excess portion of property valuation</td>
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<tr>
<td>Assessments</td>
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<tr>
<td><strong>Total Source of Assesable Funds</strong></td>
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- City Portion - Roadway, Storm Sewers, Miscellaneous, Related Contingency: $1,006,795
- Sanitary Sewer Construction: $203,580
- Water Main Construction: $405,828
- Related Construction Contingency for Sanitary/Water (10%): $60,941
- Bidding/Construction Admin & Inspection/Testing (10%) for Sanitary/Water: $67,035
- Capitalized Interest (3.25%) for Sanitary/Water: $23,965
- Legal/Permits/Advertising (6%) for Sanitary/Water: $33,517
- Add'l Contingency (5%) for Sanitary/Water: $33,517

**Total City Cost**: $1,835,179

**Total Source of Funds**: $3,248,407
Subject: Draft of Changes: 1163.05 Fence Regulations

Good morning/afternoon Kateri,

Would you please include this draft of the proposed changes to 1163.05 Fence Regulations in the packets for the next BZA Meeting? If there is anything else I can do to help, please let me know.

Thanks!

-Julie
1163.05 - Fence regulations.

(a) General. Fences shall be designed to be aesthetically attractive and shall present a finished side to the adjoining property, which side shall not be adorned with signs, graphics or paintings of any kind. Fences shall be maintained in good repair and appearance.

(b) Placement. Fences shall be confined to the area within the lot line of the fence owner's property. Fences may be constructed anywhere within the limits of any required yard provided, however, the fence meets the regulations for that yard and the regulations that apply to any yard. In the event of property line dispute, it will be the responsibility of the party installing the fence to provide a survey at their cost.

(c) Any yard.

(1) The requirements for swimming pool protective barriers shall take precedence where such requirements are in conflict with the regulations of this chapter.

(2) Any enclosing structure intended to serve exclusively as a dog run shall conform to the setback requirements for an accessory use or structure in Residence Districts.

(3) A chain link fence or other substantially open fence not used as a sight barrier, privacy screen, windbreak or dog run, shall not exceed four feet, four inches in height. The fence posts shall not exceed four feet, six inches in height.

(4) Any fence within ten feet in any direction from a point where any driveway, either on the fence owner's lot or the adjoining lot, intersects with the public sidewalk shall have a minimum of 75 percent open area.

(5) At least one unlocked gate or fence opening of a minimum of three feet in width shall be provided in each yard to permit emergency entrance from the street.

(6) No electrified or barbed wire fence shall be erected or installed in any location.

(7) Any living fence within ten feet in any direction from a point where any driveway, either on the fence owner's lot or the adjoining lot, intersects with the public sidewalk shall not exceed three feet in height.

(d) Front yard. Fences within the front yard shall not exceed three feet, four inches in height. The fence posts shall not exceed three feet, six inches in height. Fences shall be setback at least one foot from public sidewalk.

(e) Rear yard. Fences within the rear yard shall not exceed four five feet, four inches in height. The fence posts shall not exceed four five feet, six inches in height. (Ord. 04-65. Passed 5-17-04.)

(f) Side yards. Fences within side yards shall not exceed four five feet, four inches in height with fence posts maximum four five feet, six inches in height. Fence shall be setback at least one foot from public sidewalk. (Ord. 04-140. Passed 11-15-04.)

(g) Lakefront yard. Fences on a lakefront lot that are within the rear yard or the side yard which is adjacent to Lake Erie, lakefront yard, shall not exceed four five feet, four inches in height confined to a distance not greater than 20 feet toward the lake from the main building. Only protective barriers which are not to exceed four five feet, four inches in height with a minimum of 75 percent open area are

As of 3/1/2019
permitted elsewhere within the lakefront yard. Fence posts shall not exceed four five feet, six inches in height.

(h) *Privacy screen.*

(1) A privacy screen may be constructed only behind the established building setback line or building line whichever is greater so that the length of the screen shall not exceed ten percent of the perimeter of the total lot.

(2) The privacy screen shall not exceed six feet, four inches in height. The posts shall not exceed six feet, six inches in height.

(3) The privacy screen shall not exceed \( \leq 40 \) feet in any direction. In addition, the privacy screen may have a transitional section not to exceed eight feet in length in either direction that provides a gradual decrease in height from six feet, four inches to four feet, four inches (or five feet, four inches?) to be approved by the Building Director.

(4) No privacy screen between four feet, four inches and six feet, four inches in height with fence posts maximum four feet, six inches and six feet, six inches in height respectively shall be installed closer than ten feet from the adjacent neighbors' houses except when specifically consented to in writing by the neighbor, a copy of which shall be filed with the Department of Building Engineering and Inspection.

(i) *Adjacent to nonresidential uses.* Fences on residential properties adjacent to nonresidential uses may be six feet, four inches in height along property lines which abut such nonresidential use; however, such fence shall be no closer than 20 feet from the front property line. The fence posts shall not exceed six feet, six inches in height. (Ord. 04-65. Passed 5-17-04.)

(j) *Temporary wildlife fences.* Temporary fences to prevent the entry of animals into vegetable gardens are permitted when installed and maintained in compliance with the following requirements:

(1) Temporary fences may only be constructed using vinyl/plastic mesh open style netting material being either black or green in color. The material used shall be designed, manufactured and advertised for the prevention of animal entry. Fence post material shall be steel and either black or green in color and must be designed, manufactured and advertised for this type of fence.

(2) Temporary fences may be installed in the rear yard only and must be at least three feet from property lines.

(3) Temporary fences shall not exceed eight feet four inches in height and fence posts shall not exceed eight feet six inches in height.

(4) Temporary fences may be installed on or after April 1 and shall be removed no later than November 15 of each year.

(Ord. 10-70. Passed 6-21-10.)

*As of 3/1/2019*
Comments below by Clete Miller, CLM

1163.05 - Fence regulations.

(a) **General.** Fences shall be designed to be aesthetically attractive and shall present a finished side to the adjoining property, which side shall not be adorned with signs, graphics or paintings of any kind. Fences shall be maintained in good repair and appearance.

(b) **Placement.** Fences shall be confined to the area within the lot line of the fence owner's property. Fences may be constructed anywhere within the limits of any required yard provided, however, the fence meets the regulations for that yard and the regulations that apply to any yard. In the event of property line dispute, it will be the responsibility of the party installing the fence to provide a survey at their cost.

(c) **Any yard.**

(1) The requirements for swimming pool protective barriers shall take precedence where such requirements are in conflict with the regulations of this chapter.

(2) Any enclosing structure intended to serve exclusively as a dog run shall conform to the setback requirements for an accessory use or structure in Residence Districts.

(3) A chain link fence or other substantially open fence not used as a sight barrier, privacy screen, windbreak or dog run, shall not exceed four feet, four inches in height. The fence posts shall not exceed four feet, six inches in height.

(4) Any fence within ten feet in any direction from a point where any driveway, either on the fence owner's lot or the adjoining lot, intersects with the public sidewalk shall have a minimum of 75 percent open area.

(5) At least one unlocked gate or fence opening of a minimum of three feet in width shall be provided in each yard to permit emergency entrance from the street.

(6) No electrified or barbed wire fence shall be erected or installed in any location.

(7) Any living fence within ten feet in any direction from a point where any driveway, either on the fence owner's lot or the adjoining lot, intersects with the public sidewalk shall not exceed three feet in height.

(d) **Front yard.** Fences within the front yard shall not exceed three feet, four inches in height. The fence posts shall not exceed three feet, six inches in height. Fences shall be setback at least one foot from public sidewalk.

(e) **Rear yard.** Fences within the rear yard shall not exceed four feet, five feet, four inches in height. The fence posts shall not exceed four feet, five feet, six inches in height. (Ord. 06-65. Passed 5-17-04.) The fence Any fence greater than four feet, four inches (suggested by BZA) shall have a minimum of 75 percent open area. CLM - Agree

(f) **Side yards.** Fences within side yards shall not exceed four feet, five feet, four inches in height with fence posts maximum four feet, six inches in height. Fence shall be setback at least one foot from public sidewalk. (Ord. 04-140. Passed 11-15-04.) The fence Any fence greater than four feet, four inches (suggested by BZA) shall have a minimum of 75 percent open area. CLM - Agree

As of 3/11/2019
(g) **Lakefront yard.** Fences on a lakefront lot that are within the rear yard or the side yard which is adjacent to Lake Erie, lakefront yard, shall not exceed four five feet, four inches in height confined to a distance not greater than 20 feet toward the lake from the main building. Only protective barriers which are not to exceed four five feet, four inches in height with a minimum of 75 percent open area are permitted elsewhere within the lakefront yard. Fence posts shall not exceed four five feet, six inches in height.

(h) **Privacy screen.**

1. A privacy screen may be constructed only behind the established building setback line or building line whichever is greater so that the length of the screen shall not exceed ten percent of the perimeter of the total lot.

2. The privacy screen shall not exceed six feet, four inches in height. The posts shall not exceed six feet, six inches in height.

3. The privacy screen shall not exceed 22 40 feet in any direction. In addition, the privacy screen may have a transitional section not to exceed eight feet in length in either direction that provides a gradual decrease in height from six feet, four inches to four feet, four inches (or five feet, four inches?) to be approved by the Building Director. **(Not favored by BZA) CLM – Agree with 40 ft. not favored, prefer to keep at 22 ft., but do agree to having transitional section(s) not exceeding 8 ft (or 16 ft total) in same direction**

4. No privacy screen between four feet, four inches and six feet, four inches in height with fence posts maximum four feet, six inches and six feet, six inches in height respectively shall be installed closer than ten feet from the adjacent neighbors' houses except when specifically consented to in writing by the neighbor, a copy of which shall be filed with the Department of Building Engineering and Inspection.

(i) **Adjacent to nonresidential uses.** Fences on residential properties adjacent to nonresidential uses may be six feet, four inches in height along property lines which abut such nonresidential use; however, such fence shall be no closer than 20 feet from the front property line. The fence posts shall not exceed six feet, six inches in height. (Ord. 04-65. Passed 5-17-04.)

(j) **Temporary wildlife fences.** Temporary fences to prevent the entry of animals into vegetable gardens are permitted when installed and maintained in compliance with the following requirements:

1. Temporary fences may only be constructed using vinyl/plastic mesh open style netting material being either black or green in color. The material used shall be designed, manufactured and advertised for the prevention of animal entry. Fence post material shall be steel and either black or green in color and must be designed, manufactured and advertised for this type of fence.

2. Temporary fences may be installed in the rear yard only and must be at least three feet from property lines.

3. Temporary fences shall not exceed eight feet four inches in height and fence posts shall not exceed eight feet six inches in height.
(4) Temporary fences may be installed on or after April 1 and shall be removed no later than November 15 of each year.

(Ord. 10-70. Passed 6-21-10.)
BAY SOCCER CLUB

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