

# City of Bay Village

Council Minutes, Committee Session  
Conference Room

January 9, 2012  
7:30 p.m.

Paul A. Koomar, President of Council, presiding

Present: Clark, Koomar, Lieske, Miller, Pohlkamp, Young, Mayor Sutherland

Absent: Mr. Tadych, due to the death of his father

Others

Present: Law Director Ebert, Finance Director Presley, Service Director  
Galli, Police Chief Wright, Fire Chief Lyons, Community Services Director  
Bock, Recreation Director Enovitch, Operations Manager Landers

President of Council Paul A. Koomar called the meeting to order at 7:30 p.m. in the Conference Room of Bay Village City Hall and the meeting was open to the public.

## **ANNOUNCEMENTS**

### **Mayor Sutherland**

Mayor Sutherland advised that the City of Bay Village new website, [www.cityofbayvillage.com](http://www.cityofbayvillage.com) is up and running and the administration is quite pleased with the site.

Mayor Sutherland introduced Jennifer Lesny Fleming and announced that she would like to appoint Ms. Fleming to the Planning Commission to complete the unexpired term of Clete Miller ending August 17, 2015. Mayor Sutherland advised that Ms. Fleming is an attorney who specialized in real estate law and real estate development and has worked with zoning and related issues. The Mayor stated that an attorney on the Planning Commission would be important addition.

Ms. Fleming thanked the Mayor and Council for the opportunity to join the Planning Commission and expressed hope that she can contribute in the areas that Mayor Sutherland has highlighted in her introduction. Ms. Fleming stated that she has done a lot of real estate litigation, representing many developers, and was a partner for many years with the national law firm, Thompson Hine LLP. With one of her partners at Thompson Hine LLP, Jennifer formed the litigation boutique firm of Kaufman & Company, LLC and is still doing a lot of work with involvement in real estate litigation in a complex manner.

Mayor Sutherland noted that Ms. Fleming was referred to her by the outgoing chairman of the Planning Commission, Clete Miller.

A motion for approval of Jennifer Lesny Fleming's appointment to the Planning Commission will be placed on the agenda for the special meeting of Council to be held January 23, 2012.

## **AUDIENCE**

The following members of the audience signed in this evening: Jerrie Barnett, James Strunk, Dick Majewski, Pam DeFino, Christine, Simon and Paul Boutrous, Kent Silverberg.

Kent Silverberg, 24425 East Oakland Rd. made the following statement: "On November 19, 2009 many residents in my neighborhood received a letter from the City of Bay Village regarding exterior lighting. In this letter it reads, 'Chapter 1344.04 (m) states exterior light fixtures shall be sized, installed and directed so as to not create a nuisance to adjoining properties by illuminating or shining onto or into yards, dwellings or buildings.' Multiple complaints from three neighboring properties shows an external light at 24433 East Oakland, a resident who also received this letter, has been a nuisance to us by shining onto our properties and into our dwellings. These complaints have been both verbal and written to the Building Department and/or other city officials including during the audience sessions of these Council meetings. This light continues to shine onto and into our yards and dwellings over two years after the date of the above-mentioned letter. This light has been inspected against the clause 1344.04 (m) and many times the light was adjusted according to the inspector, only to be readjusted after the inspector left. The residents at this address are obviously and purposely going against said ordinance 1344.04 (m) and should be charged against the nuisance clause of this ordinance. I would like, on record, the response of the Mayor and City Council."

Mayor Sutherland stated that there is a long history regarding this and they certainly understand the situation over there. The Mayor deferred to the Law Director and Police Chief as far as the ongoing issues and challenges.

Law Director Ebert stated that as far as the light is concerned, Rick Kuznik, city inspector, goes out whenever there is a complaint.

Service Director Galli stated that he and Mr. Kuznik went to the site in late October during nighttime hours. The light was not shining at that time, but it is an adjustable light.

Mr. Ebert asked how often this changing of the light happens – is it right after the inspector leaves or is it changed the next night or week after the inspector has been there. Mr. Ebert stated that the complaints do not fall on deaf ears – the administration is very sensitive to the whole issue and everyone in the department has been involved in some form or fashion. Mr. Ebert stated that if the light is shining in the neighbors' direction tonight, Mr. Silverberg should contact the city and Mr. Kuznik will go out and check it. Mr. Silverberg stated that he would like the light checked at night, since it is shut off just before the owners retire for the night. Mr. Silverberg stated that it is turned on when it gets dark and when the neighbor sees someone pull into one of their yards. Mr. Silverberg noted that when Mr. Kuznik came out in October, the neighbors adjusted the light and after the inspector pulled out they turned it back up. Mr. Ebert stated that he will have the inspector go out at night and Mr. Ebert will write a letter in the morning. Mr. Silverberg stated that it is an adjustable, Halogen light that does not have a shade

and it is not sized according to what it is really there for. It is more like a street light that is on their house and pointed onto the neighbors' property.

Mr. Koomar asked what the nuisance clause entails. Mr. Ebert stated that if a person is given a warning and doesn't change the situation or changes it and changes it back he is cited and goes to Rocky River Court for a violation of the building code. There are increased fines for first, second and third offenders. Mr. Ebert stated that he does not know how this issue specifically has been handled in the court. Once a complaint is filed, the court costs begin and are added to the fines.

Mr. Koomar asked if the building department and police departments can proactively work together. He suggested that someone go by the property tonight to determine an understanding of where the light is pointed, noting that this is not a first time offense.

Chief Wright commented that it must be a complaint driven situation because a police officer on patrol would ignore loud music or a light if there is not a complainant. It was suggested that Mr. Silverberg call the Police Department when he arrives home this evening to lodge a complaint. Chief Wright stated that the police officer would then investigate and report the conditions to the building department. Mr. Silverberg stated that this has been done in the past and one of the officers responded. There are lights on the garage as well as the Halogen light, and two sets of stanchion lights which are work lights that people use to work on garages. When the police came they did not even mention the stanchion lights pointed at them on their report, even though they have pictures of them, other than to say it was "awfully bright." Mr. Silverberg stated that he can obtain the date of that report.

Mr. Koomar asked if Mr. Silverberg can call the police the next few nights to get this on record since this is an ongoing issue. Chief Wright agreed.

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

**Ordinance No. 11-91 amending Codified Ordinance Section 351.99 "Penalty" relative to handicap parking and overnight parking(First Reading 12-19-11) (Second Reading 12-28-11)**

**Ordinance No. 11-92 amending Codified Ordinance 307.01 (a) (10) Impounding of Vehicle Redemption (First Reading 12-19-11) (Second Reading 12-28-11)**

**Mr. Clark** advised that he will submit Ordinances 11-91 and 11-92 for third reading and adoption this evening. Ordinance No. 11-91 is relative to parking penalties for overnight parking violations and handicap parking violations. Ordinance 11-92 describes the events that would occur prior to vehicles being impounded.

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

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

## **FINANCE & CLAIMS COMMITTEE**

### **Monthly Fund Transfers for January**

**Mr. Young** will introduce a resolution this evening authorizing the Director of Finance to proceed with the January transfer of funds. Mr. Presley advised that this represents one-twelfth of the actual 2011 budgeted transfers, since the complete 2012 budget has not yet been adopted. The same numbers have been maintained with the exception of the transfer from the reserve which was eliminated for the January transfer at this point.

### **2012 Budget Update**

Mr. Young reported that the Finance Committee met this evening and will meet again next Tuesday evening, January 17, 2012 at 5 p.m. to take a “first crack” at the 2012 budget. Mr. Young displayed and described a new display and printing format for the budget that has been created by Finance Director Presley. This new form will have a column entitled “December 15” and this will be used for analysis going forward. The new form will be in the Council packets this weekend.

Mr. Presley stated that it is the same information that has gone to a landscape format and goes to the printer from a Pdf file. It is clearer to read than the former system used.

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

### **Discussion regarding Mayor Sutherland’s appointment to Planning Commission**

**Mr. Miller** asked if there are any questions concerning Jennifer Lesny Fleming’s appointment by Mayor Sutherland to the Planning Commission.

Mr. Young commented that he thinks it great to have an attorney and especially one who is specialized in this type of work.

Mr. Clark commented on the qualifications that Ms. Fleming brings and expressed full support of the appointment.

Mr. Miller advised that Ms. Fleming and her family have been residents of the City of Bay Village for eight years and are very active in the sports programs in the city.

## **RECREATION & PARK IMPROVEMENT COMMITTEE**

**Mrs. Lieske** had no report this evening.

## **SERVICES, UTILITIES & EQUIPMENT COMMITTEE**

In Mr. Tadych’s absence, Mr. Clark advised that Donny Landers, Operations Manager, has been helpful to circulate the trash collection dates for 2012 and has provided other information with the help of the Green Team on the recycling and the round up dates. Mr. Clark asked that these be circulated to those on the email information lists.

## **MISCELLANEOUS**

### **Holiday Schedule 2012**

**Mr. Koomar** advised that the holiday schedule for 2012 as signed by Mayor Sutherland has been distributed to Council.

Council will not meet on Monday, January 16, which is a holiday in observance of Dr. Martin Luther King, Jr. Day.

The Bay Schools spring break is April 9 through April 13, 2012. Mr. Koomar is not anticipating having a Council meeting on Monday, April 9 due to many being out of the city.

### **Trash Collection Fee**

**Mr. Young** stated that Council has, for the past few years, approved a trash collection fee to residents expiring annually. This is something that needs to be done for 2012. The rationale behind it is the increased cost and the cost of fuel. Mr. Young continued, stating that the reason it was done on a yearly basis needing reapproval each year is because it is a fee that they wanted to put every year in front in case it could be taken off, possibly through a regional contract. They also wanted to have each Councilman every year having to vote on it. Mr. Young stated that his comment, as representative to the Finance Committee, that based on the increased cost and the fuel recovery cost of \$40,000 additional this year it is something that is needed revenue for the city. The issue will be placed on the agenda of the special council meeting by legislation on Monday, January 23, 2012.

### **Matters Pending Before Council Committee**

**Mr. Koomar** asked that the chairs of the various committees review the Matters Pending before Council list and discuss with him their thoughts or need for clarification of any of the items. Mr. Koomar noted that he would like to have the committees meet in the near term and discuss and prioritize the items on their committee lists. The list will be updated and included in the Council packets this weekend.

### **List of Items that Repeat from Year-to-Year**

A list, by month, of items that come before Council each year will be included in the Council packets this weekend for review. In January, the purchase of vehicles is listed, and Mr. Koomar asked if there are deadlines for the purchase of vehicles through the state purchasing agreement, those dates be furnished to Mr. Young and Mr. Koomar in order to discuss and plan in advance of the deadline.

Mr. Koomar invited any member of Council or the administration to add any items to the list which will serve as a monthly work list.

## **Cahoon Memorial Park Trustees**

### **Cahoon Memorial Park Rental Home**

**Mr. Young** advised that the trustees have discussed the possible demolition of the librarian's home at the northeast corner of Cahoon and Wolf Roads. Mr. Young stated that questions have arisen as to whether the Planning Commission should be involved based on historic legislation. Mr. Young stated that he did not believe so and asked Mr. Ebert if he agreed. Mr. Ebert stated that based on the historic ordinance the home was going to be included if it was going to be taken over by the Historical Society. Mr. Young stated that the Planning Commission would get involved if it were an "historic" structure and within that term it specifically defines what is historic. It says that it is a structure built before 1900. The home was built after 1900. Mr. Young noted that this is why when the legislation was written he wanted to see 1900 included.

Mr. Miller stated that there is something also in the ordinance that describes that the removal of that structure and the replacement that would go in its place, whatever that might be, a garden, or a piece of ground, is supposed to be reviewed by the Planning Commission. It would seem that the Building Director or Park Trustees would at least have to acknowledge to the Planning Commission that nothing was intended to be replaced by the removal of the home. Mr. Ebert stated that he will have to review the ordinance. Mr. Miller also referred to 7.2 of the City Charter and Mr. Ebert stated that he would review that section of the charter as well. He noted that the issue is whether that is an improvement in the park or taking down a structure. Mr. Miller stated that the second section refers to the fact that removal of structures needs to be referred to the Planning Commission.

Mr. Young noted that legislation does state that any structure, whether built before or after 1900, if there is a desire to remove it and it is within the park historic area, there has to be a thirty day notice beginning from the date it is voted to remove the structure.

Mr. Clark asked if any clarity has been received from Habitat for Humanity regarding the removal of items from the home. Mayor Sutherland stated that they have their personnel tied up right now but they would definitely want to come in and take doors, windows, etc. Mr. Clark stated that one of the concerns is if we do demolish is having it sit around for three months. Mayor Sutherland stated that they would coordinate all of that and it would be \$2500 to have the structure demolished by bringing in a contractor. Otherwise they would have to rent equipment. The Service Department can do a lot of the preparation and finish work. Utility shut off would be taken care of by the city.

Mr. Young stated that if Council wants to take it down within a reasonable time period there has to be a vote to take it down.

Mayor Sutherland stated that Mrs. Lieske has asked if it is possible for her to do a walk-through of the home and she urged both Mrs. Lieske and Mr. Miller to contact Service Director Galli who will be glad to walk them through the home. The Mayor stated that what was written in the newspaper regarding the home was misleading because the administration has three or four pages of things that would have to be done to bring the property up to code and they are

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anticipating it would be close to \$100,000 in order to do that, without ADA improvements that would have to be made. If the home was going to be open to the public there would have to be a restroom on the main floor. The Mayor noted that this would be a big investment for a very small property.

The Mayor continued, stating that over the weekend she was contacted by an alumnus from the Class of 1971 who said they had heard about the possible demolition of the property and they would like to do fundraising. They were thinking that it was \$20,000 and the Mayor wrote back that the historic aspect of the home has been compromised decades ago by siding, windows and the 1970's kitchen. It is not historically pristine from an architectural standpoint. The Mayor stated that this would not be included in the \$100,000 to bring it up to code, and what she tried to focus the individual on was where the city could use help in fundraising would be focusing it on the Community House. A study was done, it is on the historic register, and about \$500,000 worth of improvements could be put there for foundation and infrastructure work on that property. Mayor Sutherland stated that she is hoping people will understand that the historic and architectural significance of the Cahoon Memorial Park rental home is long-gone but it is not gone at the Community House.

Mr. Young noted that within the ordinance itself, which the Historical Society agreed to, the rental home is not an historic house.

Mr. Clark stated that a very specific historic district was carved to preserve those elements in Rose Hill and the Community House that were important. That is where we want to put the lion's share of our resources.

Mr. Pohlkamp asked if it would be possible in the weekend packet of Council to have a memorandum from either the Law Department and/or the Building Department to make sure that we do this properly.

Mr. Koomar asked Mr. Miller if it is worth having the Planning, Zoning, Public Buildings and Grounds Committee meet to review this briefly before the next meeting. Mr. Miller stated that if we are using the December 28, 2011 meeting when the discussion of the home was tabled for thirty days it would be nice to just have that outlined, the costs identified and discussion with Mr. Ebert to make sure what is being presented to the Planning Commission is accurate or if it needs to be presented at all.

Fire Chief Lyons stated that while they have no desire to enter the debate about the historical nature of the home, if the trustees and Council do decide to go forward with demolition they would see it as a wonderful opportunity for the fire department and the SWAT members to do some training in the home, such as search and rescue training, ventilation training, and SWAT training. Chief Lyons asked to be kept advised. Mayor Sutherland noted that she went through one of the training sessions with the Fire Department and they actually helped her out of a smokey house. The Chief stated they would be happy to take the Council through once they smoke the house up to give them an idea of that experience.

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Mr. Clark asked if any of the old tiles or insulation would include asbestos. Mr. Galli stated that this is not an issue in residential property.

Mr. Koomar acknowledged receipt of an inquiry from a resident regarding lakefront property setbacks. This discussion will be included in the committee meeting of Council on January 23, 2012.

There being no further business to discuss, the meeting adjourned at 8:00 p.m.

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Paul A. Koomar, President of Council

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Joan Kemper, Clerk of Council