

Minutes of a Meeting
of the
City of Bay Village Planning Commission
Held June 6, 2012

Present: Bruckman, Dzienny, Fleming, Krause, Majewski, Miller, Persanyi

Also Present: Law Director Ebert, Mr. John Swidrak, Aodk, Inc. Architects representing BV, LLC, Mr. John O'Neill, Mr. Ken Martin, Architect, Mr. Bob Yost
Sally Irwin Price

Prior to the calling to order of the meeting at 7:30 p.m., the Planning Commission held a conference in the conference room of Bay Village City Hall. The conference was open to the public. Chairman Dzienny explained that this will be an informal meeting of the Planning Commission to discuss the powers of the Planning Commission, Zoning Board of Appeals and City Council, and to address concerns expressed by Planning Commission member Dick Majewski.

Mr. Majewski thanked the commission for the opportunity to state his concerns. On April 5, 2012, Law Director Ebert expressed two schools of thought in considering whether the property at 605 Bradley Road owned by Bradley Bay Health Center should be rezoned as compared with granting a use/permit variance. Mr. Ebert stated that the Schoemaker Opinion is still the law which is followed by various Boards and Commissions of granting a use/permit variance, which is only granted by the Board of Zoning Appeals.

Mr. Majewski stated that the Schoemaker case came from the Village of Ottawa, Ohio. When you look through the Village of Ottawa's zoning codes and their Charter, the powers of zoning are in the hands of the Village Council and they designate the Planning Commission to frame and adopt plans for dividing the municipality, or any portion thereof, into zones and districts. Once that is done, the Village Council adopts the zoning. Their legislative authority is the Village Council.

The court found that in granting a use variance, the Planning Commission was executing and administering the ordinance of its legislative authority, the Village Council, and granting the use variance is not inconsistent with the zoning ordinance since it is expressly authorized therein, giving the state of the prerequisite conditions. The Planning Commission had variance power, as well as the power to set up districts. Mr. Majewski stated that his concern is the comparison of that action to Bay Village. While there is the Board of Zoning Appeals, and their legislative authority is City Council, where does the power of zoning come from when it is held in the Charter by the voters?

Mr. Dzienny stated that Section 7.5 of the City Charter states that Council passes zoning ordinances and regulations, and when they change something it must go to the vote of the electorate. The Planning Commission frames the zoning, presents it to City Council for approval, and if approved by City Council it is submitted to the voters for adoption.

Mr. Majewski read directly from the Bay Village Charter, stating that “If any ordinance or resolution affects a change in the zoning classification or district of any property in the City of Bay Village, it shall not become effective until it goes to the voters. All ordinances, resolutions, proclamations, motions and Charter provisions inconsistent with this amendment are hereby repealed.” He commented that those are strong words. The Board of Zoning Appeals by issuing the variance is changing the zoning.

Mr. Dzienny stated that if they tear down Bradley Bay tomorrow, the zoning would be the same, and it still would be able to be built as a residential area. The zoning doesn’t change because they give variances to allow certain things to be in the zoning.

Mr. Majewski stated that the variance also affects the use of the property. If there is an ordinance that allows the use to be changed, then it should go to the voters.

Mr. Dzienny stated that the ordinance has been established that the Board of Zoning Appeals has the power to grant a variance. They are not changing the zoning; they are giving a variance to the zoning that is there. Otherwise, everything would be going up for a vote – having a generator in your yard, having an arbor in your yard.

Mr. Majewski stated that if that is true, then any parcel of property in the City of Bay Village can be changed through a variance. The Board of Zoning Appeals, then, is the ultimate zoning authority in the city.

Mr. Persanyi expressed agreement with Mr. Majewski, stating that if the Board of Zoning Appeals can grant a variance that permits a use which is not enumerated, then essentially what they are doing is permitting a change in the zoning on that particular parcel.

Ms. Lesny Fleming stated that there are limits to that. The Board of Zoning Appeals can’t just grant any kind of variance; they have to be able to establish the fact that there is an unnecessary hardship. There are limitations. There will not be unbridled exercise of those kinds of variances.

Law Director Ebert commented that this is the reason the Board of Zoning Appeals went over those specific exemptions on two different motions, to meet the criteria of non-conforming use under the Board of Zoning Appeals criteria for variance.

Mr. Majewski stated that the use is being changed. The property is zoned for attached residence and single family housing, and they are not putting single family housing or attached residence on the property. The use that is going on the property doesn’t even exist in the code anywhere. It hasn’t existed since 1960. Mr. Majewski asked why this is not going to the voters. They can do it, but it has to go to the voters in accordance with the Charter.

Mr. Dzienny stated that it is not going to the voters because it is a variance; it is not a zoning question. This has all been done before. The whole project has been gone through and approved. This project is much smaller, much more likable to the people. Many of the things that were argument at the original application have been scaled way back.

Mr. Majewski stated that the zoning code has changed since that all took place. Mr. Dzienny stated that this is where the hardship lies there. The people bought this property prior to the change and because people changed the code, the hardship lies because he cannot use the land for the use which he intended. The Board of Zoning Appeals made that very clear. It is not a zoning change; it is a variance to the existing zoning.

Mr. Persanyi commented that a lot of this controversy could have been avoided by considering a different section of the zoning code, and if the applicant had considered Section 1124 specifically. Under Section 1124.04, non-conforming use, structure, or site conditions states that the purpose of this section is to recognize the existence of uses, buildings, lots and structures that lawfully existed in a First and Third Residence District at the time of the zoning code amendment but which now do not conform to the new regulations. This code provides for a situation like this. At one time it was a permitted use and now it is not. This section recognizes that and sets forth conditions under which you can continue, and even extend the use. The only question becomes this non-conforming use is not enumerated in our ordinances as a non-conforming use, but essentially it is. If the applicant had come in under this section, we would not have all this controversy.

Mr. Dzienny stated that the Board of Zoning Appeals accepted the fact that this is a non-conforming use as part of their motion.

Mr. Majewski stated that where he differs is that this would have been a non-conforming use when the zoning code was passed. Mr. Persanyi stated that at the time it was built it was a permitted use. Commercial Projects Coordinator Doug Milburn noted that hospitals/nursing homes were omitted from the permitted uses in Section 1141 in 2005.

Mr. Ebert stated that this issue has been litigated in substantial form, all the way through the Court of Appeals for a number of years. It is a moot issue as far as the Law Department is concerned. Mr. Ebert stated that he understands the concerns and questions being raised, but it is a permitted non-conforming use in the zone district. The Board of Zoning Appeals had to vote on both the issues separately, and not combined.

Mr. Persanyi stated that the Board of Zoning Appeals did not mention Section 1124 in their motions. Mr. Milburn stated that they mentioned Section 1125; Section 1124 does not apply to this application because this is not a conditional use. It is a non-conforming use.

Mr. Dzienny confirmed with Law Director Ebert the accuracy of his statements that the Board of Zoning Appeals is given the right to grant variances, changing specific things about existing zoning, not changing the zoning, but allowing certain things. Mr. Ebert stated that the zoning isn't being changed. Specific non-conforming uses are being permitted. This is not something that has to go to the vote. The Board of Zoning Appeals has that authority if the criteria set forth are met.

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Mr. Majewski stated that his problem is that in the presence of a Charter, which is probably the most powerful document the city has, the voters approve changes in zoning classifications and uses. He questioned how the Board of Zoning Appeals can have power to issue a variance to a use or zoning classification without it going to the voters. The Charter states that any ordinances, resolutions, proclamation, motions, or charter provisions inconsistent with that are hereby repealed. If it is inconsistent with changing the use or zoning classification, then it doesn't exist. If this doesn't go to the voters we are violating the Charter.

Mr. Dzienny stated that the legal opinion has been given that the Board of Zoning Appeals is granting a variance to the existing zoning. Mr. Ebert stated that the issue has been tried, researched and there have been court opinions that support the litigation that pre-dates this application.

Mr. Majewski stated that in the court case Mr. Ebert cited the Council and the Planning Commission had zoning power. They specifically say that their rules are under the Ohio Revised Code. In our city, the zoning power is held by the voters through the Charter. They did not release that zoning power to the Council, Planning Commission, or to the Board of Zoning Appeals. The use is being changed and the use falls under the same Charter.

Mr. Milburn stated that Chapter 1125 which is a non-conforming chapter, does not use the word "variance". It says "permit." If you want to add on to an existing non-conforming structure you seek a permit from the Board of Zoning Appeals.

Mr. Majewski stated that he is fine with them doing that on an existing lot. It is going to the adjacent lot is where the problem lies. If they want to go ahead and introduce an application to expand on their existing lot, there is not a problem. If they want to go to the adjacent lot, they need to go to the voters to have that change approved. The use is changing.

Mr. Milburn stated that the use is expanding. Mr. Majewski stated that the use of that property was passed by the voters in 1979.

Mr. Dzienny informed Mr. Majewski that he would not argue this point in the Planning Commission meeting. He stated that the Planning Commission has an opportunity to shape a project that will benefit the community in many different ways. The Board of Zoning Appeals has already said that they allow this use. The next step is for the Planning Commission to put their touches on it.

Mr. Ebert noted that the time period to appeal the Board of Zoning Appeals action has passed.

Mr. Dzienny stated that the next step is for the Planning Commission to listen to the proposal and decide what they can do to shape it in the way that fits this community the best.

Mr. Ebert stated that he understands the difference of opinion about this issue. It has been discussed at great length, even before his opinion was given to the Board of Zoning Appeals. Research and discussion has been done over issues that are raised now and in the past when

litigation was before the Court of Appeals. He stated that he feels very comfortable with the city's position. The only thing that puts a twist to it is that in 2005 City Council changed the ordinance right after the approval was done, which is why they must pursue the route that they are pursuing now through the Board of Zoning Appeals.

Mr. Krause noted that many communities do not allow use variances. He asked if there is a lot of legal opinion along that line, because, in effect, it is rezoning. The results are rezoning.

Ms. Lesny Fleming stated that she assumes when Mr. Ebert did this research he looked at all of this law. In Ohio, even if other states may be doing that, apparently that is not the law in Ohio and we are bound to apply the law that exists in Ohio.

Ms. Lesny Fleming asked if she is correct in saying that if somebody was going to contest what was done for the Board of Zoning Appeals that the time has expired. Mr. Ebert stated that the thirty days has expired. The Board of Zoning Appeals action was taken May 3, 2012.

Mr. Majewski stated that his concern is that the Charter says any change in use or change in zoning must go to the voters. The court case cited by the Law Director is in a village where Council and the Planning Commission hold all the zoning power. In our city, there is a Charter amendment that says the voters have approval. The voters have the zoning power in the city. They approve the zoning classifications and use. In effect, the variance is changing the use of the property. The ordinance that allows the Board of Zoning Appeals to issue the variance is an ordinance of Council, and that allows the change. The change of any use in the city should be approved by the voters.

Mr. Ebert stated that the action taken in 2005 did not prevent the applicant from applying for the use of a variance/permit. Otherwise, you are basically making retroactive legislation that is going to prohibit him from the use of his property. Mr. Majewski stated that the only thing that changed in 2005 was taking contiguous use out and adding conditional uses. The legislative authority, Council, did not include the hospital or nursing home in the conditional use category. Mr. Ebert stated that you still cannot prohibit Bradley Bay from applying for a use/permit variance. Mr. Majewski stated that his question is can the Board of Zoning Appeals approve that without going to the voters. Mr. Ebert responded affirmatively. Mr. Majewski stated that this is where his opinion differs. Mr. Majewski noted that the court case cited by Mr. Ebert in his legal opinion is completely different than what we have in Bay Village. This is why he questions whether this is the law of the land as it applies here in the city.

Mr. Dzienny stated that he respects Mr. Majewski's opinion. He commented that there is so little here in the city to work with. We have good neighbors that are already here. We can twist the technicalities but we still have a good neighbor that wants to improve his business and improve an amenity that is available in our city. It is an opportunity for us; not something that we would put up a wall against.

Mr. Persanyi commented that he does not think the Charter should be called a technicality. The Village of Ottawa operates under the Ohio Revised Code. The City of Bay Village operates by its Charter. It seems we are ignoring the Charter.

Mr. Ebert stated that he does not believe we are ignoring the Charter. The Charter is the law of the land in Bay Village. He would like it perfectly clear that he is not slighting the Charter in any factor concerning this whatsoever. There is a difference in opinion on the procedure based on the contiguous property.

At the conclusion of the pre-meeting conference, Chairman Dzienny called the meeting to order at 7:30 p.m. in the Council Chambers. The following members responded to roll call: Bruckman, Dzienny, Fleming, Krause, Majewski, Miller, Persanyi. Absent: None.

MOTION by Miller, second by Fleming, to approve the minutes of the meeting held May 2, 2012, as prepared and distributed. **Motion carried 7-0.**

Mr. Dzienny stated that he has just been informed that an application has been received for a permit to have an Open Air Market at the former Shell Station site adjacent to the Bay Village Square shopping center on Wolf Road. Time is of the essence in order to capture the summer market season. A special meeting is requested during the month of June.

Mr. Majewski noted that the Fourth of July falls on the next regular Planning Commission date, pushing the date for the next regular meeting to July 11, 2012. In light of that he would be in favor of another meeting in June. Discussion followed. Mr. Milburn stated that plans will be presented at the meeting. It is his understanding, at this time, that the structure will be a shelter with a tent roof and no sides. Produce will be brought in by truck and placed on tables under the roof. There will be no sanitary facilities. Mr. Krause noted that there are portable facilities at the Westlake, Crocker Park open air market.

A special meeting of the Planning Commission will be held on Wednesday, June 20, 2012.

**BV, LLC for Bay Square Shopping Center
Storefront Renovation (Space Currently Not Occupied)
27245 Wolf Road**

Mr. John Swidrak, Architect for Aodk, Inc., representing BV, LLC, was present regarding the storefront renovation for 27245 Wolf Road. The application was reviewed by the Architectural Board of Review on Wednesday, May 9, 2012 with no comments. Mr. Milburn advised that the Architectural Board of Review approved the application as submitted.

Mr. Majewski asked if there is a possibility, when the storefront becomes occupied, that there will be changes again outside the store. Mr. Swidrak stated that there will be no changes outside the store. They will be required to apply to the city for signage approval.

Motion by Persanyi, second by Bruckman to approve the plans as submitted for the renovation of the storefront at 27245 Wolf Road, by BV, LLC. **Roll Call Vote: Yeas – Bruckman, Dzienny, Fleming, Krause, Majewski, Miller, Persanyi. Nays – None. Abstained – Dzienny. Motion carried 6-0-1**

**Bradley Bay Health Center
605 Bradley Road
Expansion of Facilities**

Mr. John O'Neill addressed the commission advising that they were granted a use variance by the Board of Zoning Appeals on May 3, 2012. They are before the Planning Commission this evening to present the plan that Mr. O'Neill submitted for discussion by the Planning Commission in April, 2012. Mr. O'Neill commented that the plan is to bring an addition to Bradley Bay Health Center that will keep up with the ever-changing health care world, providing more services and more units, and addressing issues in the front of the building. This year is their 50th year in Bay Village and part of the addition is a front lounge. It will be the first time the entranceway is touched since 1962. New signage has been added, which is on the smaller plan with the submission.

Mr. Ken Martin, 31 East Bridge Street, Berea, Ohio, architect for the project, addressed the commission stating that the project before them is basically a unit that deals with dementia and Alzheimer's Disease. Mr. O'Neill has created, in other locations, a situation where there is almost an indoor street that the patients use that reinforces what they used to be familiar with. Activities and shops are included on the street, such as a woodworking shop, and beauty shop, that are remembered by the patients and is what the Pathways Program is all about. There is a central location where there is a dining room and the residents help in the preparation of food and are involved in the familiarization of the process of their condition. There are rooms on both sides of an extremely large corridor, 20 feet wide, and the rooms on the side are the residents' private rooms. Bathrooms specifically designed for dementia patients are included. The planning for the residents also includes as much light into the building as possible, and enclosed courtyards where the residents can go out and enjoy pleasant weather. Many places for guests are part of the design. The new Memory Care building will house 36 residents. Including porches, the size of the building will be 26,000 square feet. The existing building is 76,900 square feet. In terms of the area of the lot, there are 386,000 square feet. In the entire Bradley Bay site area there is 27.75% of building on land. Additional parking has been added to the existing parking, which will be redefined. Approximately 900 square feet of physical therapy use will be added to the existing physical therapy use on the property.

Drainage is provided by a swale that goes to a catch basin and continues on to a detention basin. All of the water from the parking lots is taken into the detention basin, which will be used for both the quantity and quality of water.

A traffic study was done by Polaris and they stated that Bradley Bay is not generating more than 100 cars in its peak period. There will be no change to the traffic load on Bradley Road by this addition.

New landscaping will be installed around the perimeter, providing a lower buffer to the trees that are on site. A series of fencing will be integrated into the landscaping that will provide a buffer from the condominiums on the neighboring Cambridge Drive site.

Mr. Martin continued, stating that the addition will be a one story building with some architectural drama. The idea is to create a tower near the front entry and a tower in the back that leads to porches to accommodate residents and visitors. The towers are part of the porches and have a glass cupola above the porch with a chandelier within. The two entries to the spaces on the site are installed with the idea that when one approaches the site, the towers and cupolas indicate the entranceway. The building will have the same brick, windows, roof, and white trim of the existing building. It is a much smaller version of what was previously presented in 2007, and this addition is further back from the rear property than the proposal before. The rear setback is 50 feet and the side setback is 30 feet, with 50 feet from the condominium side.

Mr. Persanyi asked for further explanation of the 20 ft. hallway. Mr. Martin explained that there is an 8 ft. corridor, and in the middle of the corridor are the activity spaces. The idea is to get the residents to help in the everyday cycle of what goes on in that section of the building. The activity spaces are 10 ft. wide and 15 to 20 ft. long. Some of the activity spaces are permanent and some can be changed based on the interest of the residents. The wide corridors help with the residents who are very active. Mr. O'Neill further explained the use and appeal of the activity spaces.

Mr. Persanyi asked the total area covered by structure and the total area covered by pavement. Mr. Martin stated that 27.75% is the percentage of building coverage on the two lots. The existing parking area is 27,650 square feet. New parking area is 35,740 square feet. The parking and building area combined totals approximately 170,000 square feet. The entire area is 386,000 square feet. The green area will be approximately 50% of the property.

Mr. Dzienny asked if the proposed fire lane is grass pavers. Mr. Martin stated that it is a green paved fire lane. Mr. Dzienny asked if the Fire Department has been provided with the plans for the addition. The Fire Department was given a copy of the plans on May 25, 2012, but due to

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bereavement leave of the fire inspector, and change of personnel, they have been unable to respond as of this date. Mr. Dzienny noted the tight radius on the plans and expressed concern about the fire trucks being able to access the property efficiently. He noted that the former plan had a hammer head entry created off of Crestview Drive. Mr. O'Neill stated that he has been discussing the new plans with the Fire Department. There is no need, at this point, to come off of Crestview Drive because of the change in the layout of the plans. The plans meet the maximum distances a fire department apparatus can follow according to the State of Ohio Fire Code without providing a fire lane off of Crestview Drive.

Mr. Dzienny explained that islands and curbs may have to be moved according to the dictates of the Fire Department when the plans are reviewed. Mr. Persanyi noted that the Fire Department will not allow their equipment to go on to an unpaved area and that will have to be taken into consideration as far as distances are concerned. Mr. Martin stated that the green pave will support 30,000 lbs. Mr. O'Neill stated that there is fire access along the north side of the building that is in use currently.

Mr. Dzienny commented that there are two other parcels that are not addressed. He stated that in previous discussion these parcels were never part of the plan. He asked the plan now for those two parcels. Mr. O'Neill stated that the plan for those two parcels is to continue Crestview and develop as residential lots.

Mr. Martin commented that the purpose of the hammer head to the south was to provide access for a pumper truck. Mr. Dzienny responded that it is up to Bradley Bay to create a situation where they could use a hook and ladder. He noted that if they get a piece of equipment in there, they need to get it back out.

Mr. Bruckman asked if the privacy fence is continuous or a series of pieces. Mr. Martin stated that it is a series of pieces to avoid a long, continuous fence. The fencing will be accentuated by white pine trees, red maple trees, and other lower shrubs to provide an interesting, 20 ft. wide buffer.

Mr. Persanyi stated that it was mentioned that the buffer being put in will complement what is in existence and noted that a lot of the existing vegetation is coming out. Mr. O'Neill stated that some of the dead trees will have to be removed.

Mr. Miller noted that a memorandum has been received from the Tree Commission approving the landscape plan. Mr. Miller stated that he hoped the Tree Commission would have measured the buffering ability. Mr. Persanyi noted that 50% opacity must be met on the smaller vegetation.

Mr. Miller asked if there is any reason why it would be necessary to retain the patients within the structure of the dementia unit. Mr. O'Neill stated that it is very important to retain them within the structure. They are creating an environment where they will be content, the stimulus will be reduced, and they will not agitate other people or become agitated by any outside influence that cannot be controlled in the environment. It is a unit that is designed so the residents can go through the day with the least amount of agitation.

Mr. Miller asked if the outside courtyard shown on the prior application will serve both Alzheimer's patients as well as dementia residents. Mr. O'Neill stated that on the prior application the courtyard was on the west front of the building. It has been moved into the inside corner that doesn't impinge on the neighbors and variances for sideyards.

Mr. Miller asked if the residents will be permitted to have overnight guests. Mr. O'Neill stated that they will not have overnight guests.

Mr. Dzienny commented about the light fixtures for the parking lot. He stated that the plans indicate a decorative, period piece fixture. He stated that he is aware that those can be purchased in two different ways. The inexpensive pieces are "glare bombs." He stated that he would expect the fixtures, especially along the Cambridge side, to have controls that will keep the light on the Bradley Bay property. Mr. Dzienny asked Mr. Martin to bring a sample of the fixture to be used to the Planning Commission at the next meeting.

Mr. Persanyi asked if there has been any contact with the neighbors concerning the development of this plan. Mr. O'Neill related that he held two meetings for the neighbors. The meeting during the day was not attended, but some neighbors did come to the 7:30 p.m. meeting and reviewed the plans. These attendees included residents from the Bay Commons and residents across Bradley Road.

Mr. Persanyi asked for details on the parking provisions. Mr. O'Neill stated that the 36 unit Alzheimer's addition will not create parking problems. The residents do not drive. Visitors are normally short term. There will be five staff members for the unit at the peak of the day. The additional parking provided in this plan anticipates solving the need for more parking at the existing Bradley Bay Health Center.

Mr. Dzienny asked if there are any plans for additions in the future. Mr. O'Neill stated that there are no plans for future development at the site. The facility is very manageable and anything beyond this addition would take it to the realm of being more difficult to manage. Mr. O'Neill stated that he has three other facilities which are all getting to be about the size of the Bradley Bay facility. Future plans are for renovations to the building for updates as time goes on. Mr. O'Neill stated that any service oriented business that caters to a changing population does not stay the same over a 50 year period of time. What was started in 1962 started the foundation

well. It has been renovated several times and kept up well. An entry way of 50 years ago isn't the same as an entry way today.

Mr. Persanyi advised that the application calls for a public hearing, a sample of materials and a birds' eye rendering of the project in accordance with Section 1179 of the codified ordinances. Section 1177.01 also references this requirement.

Mr. Bruckman suggested that pictures be supplied to the Planning Commission of the specific species included in the plant schedule. These pictures will give a sense of what the vegetation will look when they are planted, mature, and how they will change seasonally. This will give an idea of how effective the buffering will be on a seasonal basis. If there is a need to make adjustments, it can be discussed using the actual photographs. The growing deer population should also be taken into consideration. Mr. O'Neill stated that as the deer population grows and they consume all the plants that they like they move on to the species they don't like. What is not edible by the deer today may still be eaten if the deer are hungry.

Mr. Miller noted that the challenge of the task of the side and rear setbacks. He asked if Mr. O'Neill could work the plans away from the street with respect to the neighborhood. He noted the restrictions in the rear yard as well. Mr. Miller asked if there is any way in the plans that the entire structure could slide forward without the necessity of granting an exception for that setback. Mr. O'Neill stated that the services for the residents will move through the corridor. Mr. Miller asked if the right hand turns in the corridor will be adversely affected by another ten feet. Mr. Martin stated that the parking in front of the addition would be affected and it would challenge the movement pattern of the pumper truck that goes back into that space. Mr. Martin will review the plans with the Fire Department personally.

Mr. Miller stated that the facility is very large. If one of the staff had to walk ten feet farther, it would seem a minor adjustment in the greater scheme of things.

Mr. Dzienny stated that in reviewing Section 1129 of the codified ordinances, it appears that all of the information has been supplied to the Planning Commission. Mr. Persanyi has asked for additional renderings, including a view from above. Sample materials will be provided, including the vinyl fencing. A cut sheet of the lighting fixture is also to be provided.

Mr. Bruckman asked if entry signage will be discussed as part of the review. Mr. Dzienny stated that a signage application will need to be submitted to the Architectural Board of Review.

Mr. Persanyi asked Director of Public Service if he will need further information from the applicant for the sanitary and storm sewer drainage. Mr. Galli stated that they are satisfied with the information provided.

Mr. Dzienny asked Mr. Milburn to follow up with the Fire Department for the information required.

Motion by Bruckman, second by Krause, to submit the proposal of Bradley Bay Health Center to public hearing on June 20, 2012 at 7:30 p.m. **Roll Call Vote: Yeas – Bruckman, Dzienny, Fleming, Krause, Majewski, Miller, Persanyi. Nays – None. Motion carried 7-0.**

COUNCIL UPDATE

Mr. Miller reported the following:

Deer Feeding Prohibited

Council passed an ordinance on May 7, 2012, prohibiting the feeding of deer in the City of Bay Village. The feeding of deer by residents does not include landscaping vegetation, or bird seeding that is placed out for birds. The ordinance is an attempt to eliminate the placing of food out specifically for deer such as salt licks and corn cobs, and other items that are intended for the feeding of deer. The City of Avon Lake has passed a similar ordinance.

Capital Improvement Projects

Mr. Miller advised that bids will be opened for the aerial sewer project on June 15, 2012. The city has also initiated the fixing of damaged sidewalks in the city. The Dover Center Road tennis court refurbishing project will be advertised for bids shortly. The tennis courts will be a three month project and will include redoing the entire playing surface, installing a new fence, and redoing the lighting for the courts. Work should begin in late summer.

Anti-Poaching Legislation

A resolution was passed authorizing the Mayor to sign an agreement with Cuyahoga County to restrict poaching of businesses. The City of Bay Village, while not a mecca for businesses, does not want to lose their businesses to neighbors or other areas. One of the attempts is to be more good-natured in how we approach our economic development. The anti-poaching agreement also includes a fair warning that if a company expresses an idea of leaving a city they can go to the administration of the city and seek options that may be offered from the city that would encourage them to stay. The agreement has now been adopted by 24 communities in Cuyahoga County.

Mr. Krause stated that he believes that the City of Westlake has signed the agreement as well. He noted that the real problem with poaching is beyond the Cuyahoga County borders. Most of the movement of companies is from outside of Cuyahoga County to outlying suburbs. Westlake has had to be defensive in terms of offering different types of economic incentives to stop poaching of Westlake's businesses to another county that is west of Cuyahoga County. Mr. Krause commented that this is also true on the east side of Cuyahoga County.

Mr. Miller stated that there has been no interest on the part of the surrounding counties to enter into an anti-poaching agreement with Cuyahoga County.

Charter Review Commission

Mr. Miller related that he is a member of the 2012 Charter Review Commission. The commission has had seven, full member meetings, in addition to meeting as individual sub-committees assigned to specific components of the Charter. A draft of suggested Charter Review Commission amendments will be ready for the June 18 meeting. Topics included are the idea of giving more flexibility to the development of departments in the event that there is a regionalization of services. Article IV of the Charter may be altered to allow the flexibility of having a regional Law Department or Finance Department representative. The commission is also discussing Article VI of the Charter, Civil Service Commission, which has developed a lot of discussion from those departments associated with civil service. Articles 6.1 through 6.3 include language that may belong in the Civil Service Rules and Regulations, and not necessarily in the Charter. Section 6.4 would be more of a purpose to the article and would maintain the need for civil service but in a more refined definition.

The Charter Review Commission has benefited from the expertise of three former Councilmen on the commission, two of which are attorneys.

ADJOURNMENT

Meeting adjourned at 8:47 p.m. The next meeting of the Planning Commission will be held Wednesday, June 20, 2012 at 7:30 p.m.

Abe Bruckman, Vice Chairman

Joan Kemper, Secretary