City of Bay Village

Council Minutes, Special Meeting
Council Chambers; augmented by Zoom.
President of Council Dwight A. Clark, presiding

August 31, 2020
6:30 p.m.

Present: Clark, DeGeorge, Kelly, Maier, Stainbrook, Tadych, Mayor Koomar.

Excused: Mr. Winzig

Also Present; Law Director Barbour, Finance Director Mahoney, Director Recreation Director Enovitch, Public Service and Properties Director Liskovec (via Zoom), Clerk of Council Kemper.

AUDIENCE

Clare Banasiak, Denny Wendell, Dee Williams, Molly Smith, Pat Haley, Alec Kamczyc, Tom Feser, Sarah Sweeney and additional audience members observed through Zoom Technology.

President of Council Clark called the meeting to order at 6:30 p.m. with roll call and the Pledge of Allegiance led by Lydia DeGeorge, Councilwoman of Ward 2.

Motion by **Tadych** to dispense with the reading and approve the Minutes of the Special Meeting of Council held July 27, 2020 as prepared and distributed. Mr. Tadych thanked Joan Kemper, Clerk of Council, for the hard work in transcribing 33 pages of minutes.

Motion passed 6-0.

Motion by **Tadych** to dispense with the reading and approve the Minutes of the Cahoon Memorial Park Trustees meeting of July 27, 2020 as prepared and distributed.

Motion passed 7-0.

Motion by **Tadych** to dispense with the reading and approve the Minutes of the Cahoon Memorial Park Trustees meeting of August 7, 2020 as prepared and distributed.

Motion passed 6-0, and one abstention. (Mr. Kelly)

ANNOUNCEMENTS

Mayor Koomar stated that Wolf Road will be closed in front of the Middle School due to the need for the Ohio Department of Natural Resources to re-cap an orphan gas well. This will require drilling down to a depth of 800 feet. Work is tentatively scheduled from September 8 through September 23. Police Chief Leasure and Director of Public Service and Properties Liskovec have been in contact with the schools. There will be no cost to the City for this project, and detours will be established as necessary.

Director Liskovec reported further regarding City projects, noting that the Cahoon Memorial Park Trails are being prepared for paving. The section of the trail heading to the north will be paved this week. Work is being done on the southern section of the trail to prepare it for paving in the near future.

The Sunset Area project is close to being finished with just a few miscellaneous items that need to be addressed. Many of the other outstanding City projects are close to completion which should occur within the next few weeks.

Recreation Director Enovitch reported that the Recreation Department is open for registration for tackle football, flag football, cheerleading, and volleyball. Mr. Enovitch met with the representatives of the Bay Soccer Club and went over their comprehensive plan regarding fall soccer. Mr. Enovitch has been in discussions with the schools regarding their plans for fall sports, cross country meets, etc., establishing the guidelines and ensuring compliance.

The swimming pool is at the end of the season. Limited hours are in effect until Friday, September 5 until 8 p.m., and on Labor Day from 10:30 a.m. to 5:30 p.m.

Mayor Koomar stated that the Bay Challenge Cup for 2020 was not presented to the Cahoon Memorial Park Trustees because of the Governor's orders that the schedule of advancing teams and mixing players would be in violation of health safety standards. The plans for this year's Challenge Cup were to include 175 teams from many areas around the State of Ohio and Michigan, with overlapping play between teams, which would not have been in compliance with state orders.

Mayor Koomar reported that the State Controlling Board has approved an additional $175 million in CARES Act money for local governments. It is expected that local governments will receive approximately half of what they received in the first allocation of funds, or approximately $119,000. The Mayor stated that the City is working toward receipt of those funds for COVID related expenses.

The Mayor advised that Mr. Clark, Law Director Barbour and he have been talking with Tracy Strobel, the Executive Director of the Cuyahoga County Library. The Library Board wants to take a pause on all projects, and Ms. Strobel informed the Mayor, Mr. Clark and Mr. Barbour that the new library is still a high priority in Bay Village. The plan of the City administration at this point is to attend a Library Board meeting in September or October, with follow up in November, for a discussion with them regarding timing of the project. The goal would be to rebid the construction of the new library in late December or early January, and Ms. Strobel was supportive of that suggestion.

Mr. Clark added that it is important for the City to support the new library, and he would welcome any Council member to attend the Library Board meeting to offer additional encouragement. He anticipates that the meeting will most probably be held in late September or October, since Election Day is November 3, with the Library Operating Levy on the ballot.

Mr. Tadych asked if it looks as though the delay for the new library will be a sizeable amount of time.

Mayor Koomar stated that Ms. Strobel's goal is to begin moving the project the first of the year 2021.

Mr. Clark stated that the goal is still to have the entire project covered by the Cuyahoga County Public Library. Would this include the patio as well?

Mayor Koomar stated that it would include the patio.

Mr. Tadych asked if the patio is included in the project now.

Mr. Clark stated that the patio will be the City's request, as it has been, and it is very possible they may have to bid the project out again.

Mr. Tadych stated that the City has spent a lot of time and money this year moving things around within the City so that the Library Board could begin construction of the new library. It is very unfair of them to delay it too much.

Mayor Koomar expressed agreement.

The Mayor advised that the first public input session was held by The Smith Group for the Cahoon Memorial Park Master Plan, specifically for the lakefront area. There were fifty to fifty-five participants in the WebEx hearing last week. There is a survey on the City website, www.cityofbayvillage.com, and by Friday afternoon of last week, there were 100 completed surveys. Mayor Koomar encouraged participation, noting that the input of residents is very valuable. The Smith Group will leave the survey open until the end of September.

Moving forward, the Smith Group has obtained some geo-technical information. There will be more of that information coming through after Labor Day. After that is processed, initial, rough concepts will be introduced based on the public session and stakeholders' meetings. A second public input session will be held in mid-October. The Smith Group is also working in the cities of Rocky River and Euclid, and if their travels take them to this area it would be beneficial to coordinate a visit in Bay Village.

In regard to zoning overlay legislation, Law Director Barbour, Building Director Macalla and the Mayor have met, along with conversations with Councilwoman Sarah Byrnes Maier, to get the legislation back on track. The goal to have it completed by the end of June has been moved to completion by the end of 2020. The Mayor suggested that Ms. Maier review the proposed legislation with the Planning, Zoning, Public Buildings and Grounds Committee, with referral back to the Planning Commission. Mr. Jeff Foster of the City Planning Commission has been briefed on the process by Mayor Koomar.

Mayor Koomar noted that the Rocky River Municipal Court, which is funded jointly with neighboring cities, is experiencing a negative volume of cases which reduces their revenue. This

situation will be monitored further. Mr. Barbour stated that there are less cases now due to the COVID Pandemic.

Mr. Clark asked Mayor Koomar to schedule a time for a representative of the Metroparks to address City Council regarding the improvement projects underway by the Metroparks.

Mr. Clark also noted the tour of the newly renovated Knickerbocker Apartments that was put on hold due to the COVID Pandemic. It is hoped that the tour for the members of Council can be rescheduled in the near future.

Mayor Koomar advised that the voting location at the Knickerbocker Apartments will be moved to the Bay Presbyterian Church. Ms. DeGeorge had questioned the Mayor about the move since the voting at Bay Presbyterian Church will not be in Ward 2. But taking into consideration the Middle School parking situation, there is concern there would not be adequate parking at the Middle School for voting purposes.

Mr. Clark noted that the members of Council have received copies of the newly revised Employees' Handbook.

Motion by **Tadych** to acknowledge receipt of the July 2020 Financial Reports of the City of Bay Village as prepared and submitted by Director of Finance Renee Mahoney. Mr. Tadych advised that a Finance Committee Meeting will be held on Monday, September 14, 2020, at 6:15 p.m. The agenda for the meeting will include City revenue, and review of swimming pool receipts and expenditures.

Motion passed 6-0.

Mr. Tadych introduced and read **Resolution No. 20-75** accepting the amounts and rates as determined by the Budget Commission, authorizing the necessary Tax Levies, certifying them to the County Fiscal Officer, and declaring an emergency, and moved for adoption. Mr. Tadych noted that there would be no additional taxes in 2021. The millage is unchanged from previous years. There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Resolution No. 20-75.

Roll call on Suspension of Charter Rules:
Yeas- Clark, DeGeorge, Kelly, Maier, Stainbrook, Tadych.
Nays – None.
Roll call on Suspension of Council Rules:
Yeas- Clark, DeGeorge, Kelly, Maier, Stainbrook, Tadych.
Nays – None.
Roll call on Inclusion of the Emergency Clause:
Yeas- Clark, DeGeorge, Kelly, Maier, Stainbrook, Tadych.
Nays – None.
Roll call on Adoption:
Yeas- Clark, DeGeorge, Kelly, Maier, Stainbrook, Tadych.
Nays – None.

Mr. Barbour announced adoption of Resolution No. 20-75, an emergency measure, by a vote of 6-0.

Mr. Tadych introduced and read **Resolution No. 20-76** authorizing the Director of Finance to request Tax Advancements before Settlement Dates for Fiscal Year 2021, and declaring an emergency, and moved for adoption. Mr. Tadych noted that this resolution submitted to the County Fiscal Officer results in the City receiving tax revenue on a more timely basis.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Resolution No. 20-76.

Roll call on Suspension of Charter Rules:
Yeas--DeGeorge, Kelly, Maier, Stainbrook, Tadych, Clark.
Nays – None.
Roll call on Suspension of Council Rules:
Yeas- DeGeorge, Kelly, Maier, Stainbrook, Tadych, Clark.
Nays – None.
Roll call on Inclusion of the Emergency Clause:
Yeas- DeGeorge, Kelly, Maier, Stainbrook, Tadych, Clark.
Nays – None.
Roll call on Adoption:
Yeas- DeGeorge, Kelly, Maier, Stainbrook, Tadych, Clark.
Nays – None.

Mr. Barbour announced adoption of Resolution No. 20-76, an emergency measure, by a vote of 6-0.

Ms. DeGeorge stated that an email was received earlier today from a resident asking for an explanation of the next item on tonight's agenda, a resolution approving use of submerged lands of Lake Erie for shoreline improvements at the property of Jeffrey Kissinger. Ms. DeGeorge explained that any resident who wants to do work along the Lake Erie shoreline needs permission from the Ohio Department of Natural Resources, and essentially the City signs off saying they have no use for that particular section of the lake.

Mr. Barbour concurred, stating that for this particular parcel, 27216 Lake Road, there is no planned use, or contemplated planned use as addressed in the Ohio Revised Code specifically for docks and other types of public improvement. The homeowner needs some type of resolution indicating this so that they can continue with their lease application with the Ohio Department of Natural Resources which is the body that can grant permission to use submerged lands because once you get into the water that property belongs to the state of Ohio.

Ms. DeGeorge commented that all the necessary documentation is attached for the resolution.

Ms. DeGeorge introduced and read **Resolution No. 20-77** approving use by Jeffrey Kissinger, Trustee, of Submerged Lands of Lake Erie for Shoreline Improvements, and declaring an emergency, and moved for adoption.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Resolution No. 20-77.

Roll call on Suspension of Charter Rules:
Yeas- Kelly, Maier, Stainbrook, Tadych, Clark, DeGeorge.
Nays – None.
Roll call on Suspension of Council Rules:
Yeas- Kelly, Maier, Stainbrook, Tadych, Clark, DeGeorge.
Nays – None.
Roll call on Inclusion of the Emergency Clause:
Yeas- Kelly, Maier, Stainbrook, Tadych, Clark, DeGeorge.
Nays – None.
Roll call on Adoption:
Yeas- Kelly, Maier, Stainbrook, Tadych, Clark, DeGeorge.
Nays – None.

Mr. Barbour announced adoption of Resolution No. 20-77, an emergency measure, by a vote of 6-0.

Ms. DeGeorge explained that the next item on the agenda this evening is the work plan for the deer management program. Included in the information provided to Council in their packets was the plan of action specifying the donation of meat, the financial plan, and the service agreement. This is the continuation of the program that has been conducted for the past few years. It is standard to go forward.

Mr. Clark asked Mayor Koomar if there is any change on the cost of the culling program. Mayor Koomar stated that it is very close to previous years. Finance Director Mahoney commented that it is the same price as in previous years.

Mr. Clark asked how many deer were culled in Bay Village in 2019. The Mayor stated that 45 deer were culled. Once the City commits to the program, they reach out to the Metroparks to commit to culling on their property as part of the overall effort.

Ms. DeGeorge introduced and read **Ordinance No. 20-78** authorizing the Mayor to enter into an agreement with the United States Department of Agriculture to provide Wildlife Services, and declaring an emergency, and moved for adoption.

Mr. Clark noted that the Second Harvest Foodbank was the recipient of the meat from the 2019 culling program. Mayor Koomar stated that a local foodbank would receive the venison.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Ordinance No. 20-78.

Roll call on Suspension of Charter Rules:
Yeas- Maier, Stainbrook, Tadych, Clark, DeGeorge, Kelly.
Nays – None.
Roll call on Suspension of Council Rules:
Yeas- Maier, Stainbrook, Tadych, Clark, DeGeorge, Kelly.
Nays – None.
Roll call on Inclusion of the Emergency Clause:
Yeas- Maier, Stainbrook, Tadych, Clark, DeGeorge, Kelly.
Nays – None.
Roll call on Adoption:
Yeas- Maier, Stainbrook, Tadych, Clark, DeGeorge, Kelly.
Nays – None.

Mr. Barbour announced adoption of Ordinance No. 20-78, an emergency measure, by a vote of 6-0.

Ms. Maier introduced and read **Resolution No. 20-79** accepting donation of Shoreline Work to be performed at Lakeside Cemetery, and declaring an emergency.

Mr. Clark expressed appreciation to the Mayor, the Law Director, City Engineer Bierut, Service Director Liskovec, and a host of other people for shepherding this process through and having the patience and collaboration to work with Mr. and Mrs. Tallie Young, who have made a very, very generous donation to the City for this work. Mr. Clark noted that the erosion situation at this portion of the lakefront continues to get worse, and hoped that the work can be done this year.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Resolution No. 20-79.

Roll call on Suspension of Charter Rules:
Yeas- Stainbrook, Tadych, Clark, DeGeorge, Kelly, Maier.
Nays – None.
Roll call on Suspension of Council Rules:
Yeas- Stainbrook, Tadych, Clark, DeGeorge, Kelly, Maier.
Nays – None.
Roll call on Inclusion of the Emergency Clause:
Yeas- Stainbrook, Tadych, Clark, DeGeorge, Kelly, Maier.
Nays – None.
Roll call on Adoption:
Yeas- Stainbrook, Tadych, Clark, DeGeorge, Kelly, Maier.
Nays – None.

Mr. Barbour announced adoption of Resolution No. 20-79, an emergency measure, by a vote of 6-0.

Ms. DeGeorge introduced and read **Ordinance 20-80** authorizing a contract with Carron Asphalt Paving, Inc. for resurfacing the Reese Park Basketball Courts, and declaring an emergency, and moved for adoption.

Director of Public Service and Properties Liskovec stated that Carron Asphalt Paving, Inc. was the company that performed the work for the Reese Park Pickleball/Tennis Courts last year. They did a phenomenal job of getting the courts done and the City is looking forward to another good quality project by this firm.

Mr. Clark stated that there is a $19,000 favorable cost to what was originally budgeted to be a $160,000 project. It is hoped to have this work done before the end of the year.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Ordinance No. 20-80.

Roll call on Suspension of Charter Rules:
Yeas- Tadych, Clark, DeGeorge, Kelly, Maier, Stainbrook.
Nays – None.
Roll call on Suspension of Council Rules:
Yeas- Tadych, Clark, DeGeorge, Kelly, Maier, Stainbrook.
Nays – None.
Roll call on Inclusion of the Emergency Clause:
Yeas- Tadych, Clark, DeGeorge, Kelly, Maier, Stainbrook.
Nays – None.
Roll call on Adoption:
Yeas- Tadych, Clark, DeGeorge, Kelly, Maier, Stainbrook.
Nays – None.

Mr. Barbour announced adoption of Ordinance No. 20-80, an emergency measure, by a vote of 6-0.

Mayor Koomar stated that a preconstruction meeting will be held this week. The project will begin on September 8 and completed within 60 days, with weather cooperating for the surface coating which is temperature dependent.

Mr. Tadych thanked the City for the project on behalf of Ward 1.

Resolution of Support for the Cuyahoga County Public Library Operating Levy to be submitted to voters on the November 2020 Ballot, and declaring an emergency. (For Discussion).

Mr. Clark stated that the members of Council have received a resolution drafted by the Law Director, with support from other members of the administration. Mr. Clark has reviewed the resolution as well, relative to the support for the operating levy which will be on the ballot on November 3, 2020. He asked for input from the members of Council, noting that it is not to be voted on tonight but is open for comments and any potential changes that would be requested.

Ms. DeGeorge stated that she would encourage everyone, if they haven't already done so, to go to the VoteforCCPL.org site which explains what the issue is, why they are seeking a levy, how much it will cost, and what will happen if the levy doesn't pass. Ms. DeGeorge stated that this levy has nothing to do with the new library building. That is a commitment that was made, and the City expects that to be honored. The Greater Cleveland Partnership does not support the levy. They do not support a permanent tax levy, which are becoming increasingly rare in Greater Cleveland, as the way to proceed with this. They feel it is an uncertain economy and the library would be better served to look at potential leadership changes and use an uncompetitive tax environment and accountability for structural reform. To provide an example, a one-mill operating levy would cost the homeowner of a $100,000 home $35.00 a year. The Cuyahoga County records from 2018 show that the median home sale price for Bay Village was $236,000, which is a lot more money. The levy would generate $18 million annually for the library, and would be a permanent levy.

Mr. Tadych noted that the $35.00 per year (per $100,000 property valuation) would be additional dollars on the tax bill.

Mr. Kelly stated that he thinks it is a reasonable idea to try to seek support of the levy in part for the reasons that are expressed in the proposed document. Looking at this selfishly, from the vantage point of our community and our community alone, the library system has made a pledge to our community, and yet, if this levy fails, the project is a risk. That is just math. If they are going to prioritize something, they are going to prioritize their operating expenses over future development and we can challenge that and we can decry it, and we can make efforts on behalf of our constituents to see to it that they hold to that pledge, and yet, we should be seeking to ensure the plan to build and the best way to do that is to support the levy.

Mayor Koomar stated that the Greater Cleveland Partnership came to a Mayors and Managers meeting last fall. They are trying to look at the tax burden, especially in Cuyahoga County, and encourage looking for efficiencies. Obviously, they are taking a stand on this. The question would be why there is a Cleveland Public Library and a Cuyahoga County Library. Why is there a Cleveland Department of Health, and a Cuyahoga County Department of Health? There are a lot of redundancies and the Greater Cleveland Partnership is trying to stress that there has to be some long term visions where there are opportunities to collaborate more to eliminate overhead and increase efficiencies. To Mr. Kelly's point, we can fight this pretty hard, but if it doesn't pass, that timeline of spring for building (the new branch in Bay Village) could slide back.

Mr. Tadych stated that he agrees entirely with Mr. Kelly's statement, but, if indeed they intend to back out there are a lot of repairs to be done in the current library building that they must do. They are going to be very expensive. Mr. Tadych stated further that he does not think they (the Cuyahoga County Public Library Board) would back out if City Council neglected to endorse the levy.

Mr. Clark stated that Mr. Tadych has made a good point. We need to position Bay Village in the most favorable light, just like we would support an operating levy for the schools, as we have done in the past. It is important that Council show up in person at the next Library Board meeting with the Resolution signed in hand to provide every impetus to get this project done.

The resolution will be included on the agenda of Council for voting on Monday, September 14, 2020. Mr. Clark asked Mayor Koomar and Law Director Barbour to keep Council advised of the next Cuyahoga County Public Library Board meeting dates to determine the optimal date for maximum participation.

Discussion of Invasive Bamboo Plant.

Mr. Clark opened the floor to Councilwoman DeGeorge, who took the time to research the topic of invasive Bamboo plants.

Ms. DeGeorge stated that she has been contacted by residents in her ward, and there are also residents in Ward 1 and a couple in Ward 4 who have had increasing problems with invasive Bamboo. The Bamboo plant has recently been placed on the State of Ohio's noxious weed list, which therefore allows the City to follow the Ohio Revised Code regulations. We also have the City of Bay Village ordinance, copies of which have been provided to Council this evening.

521.07 - Noxious weeds and other undesirable vegetation, unkempt landscaping, undesirable vegetation in gutters, debris.
(a)
No person, whether the owner, lessee, agent, tenant or other category of person having charge or care of land in this City, shall permit a nuisance to exist such as, but not limited to, noxious weeds or other undesirable vegetation, grasses, etc., or to grow thereon to a height in excess of seven inches, or to mature their seeds thereon or fail to cut and destroy such weeds and other undesirable vegetation. It shall also be unlawful to permit unkempt landscaping, including the excess overgrowth of trees, bushes, shrubbery, hedges, etc., the accumulation and growth of undesirable vegetation in gutters, or debris to accumulate such as but not limited to seasonal leaves and fallen tree branches thus creating a fire hazard or a refuge and breeding place for rodents and other vermin, or creating a blighting, deteriorating and/or hazardous effect to the neighborhood. (Ord. 08-93. Passed 11-10-08.) (b) Whoever violates this section is guilty of a minor misdemeanor.

Ms. DeGeorge stated that residents are concerned about the plant. There are residents who enjoy it and don't want the City to do anything about it. They say that they can contain it and are concerned with the cost of removal, but there are residents that would like the City to hold accountable the originators of the Bamboo, whoever originally plants the Bamboo. The problem we are seeing on a street in Ward 2 is that the Bamboo has spread to the property four houses behind it on the next street. If it is not taken care of and contained, it will continue to spread. The other problem and question is, are we allowed to legally educate the residents who have this and may not even know what they have. Some plant is popping up in their yard that they didn't even have to plant, but not realizing the invasive nature of it. It will do damage to asphalt and grass. Ms. DeGeorge is seeking to learn if the Property Maintenance Inspector can provide educational materials so that where it is growing people can get it under control. It is not fair to residents who don't plant it to have to spend thousands of dollars to have it removed. The questions are: what can we do, what do we need to do, and how will this all work?

Mr. Clark stated that he asked the Clerk of Council to see what other cities have ordinances. We have received one ordinance from the City of Worthington, but no others throughout the state. (Replies may have been non-existent due to other clerks on vacation.)

Mr. Clark stated that he certainly understands the concerns and the matter could be sent to committee for more discussion and deliberation.

Mr. Thomas Feser, 349 Kenilworth, stated that the City Property Maintenance Inspector has been talking to him and telling him he has to remove the Bamboo on his property. The inspector told him it is a noxious weed and it is bothering the neighbors. Mr. Feser stated that the lady to the south of his property who makes lots of complaints about his property doesn't have Bamboo in her yard, but she has complained that it might go into her yard. The neighbor to the north, who just bought his home, stated that the reason he bought the house is because he loves the Bamboo, loves the birds living in it, and it is a nice foliage. Mr. Feser asked that neighbor today if he wanted Mr. Feser to chop down some of it that is encroaching a couple inches in his yard and he said, no, he liked it, don't touch it. Mr. Feser thinks that if somebody wants something removed by the person who appears to be the person that created it, even though he never planted it, if they want to help remove it then they should work together and try to remove it. Mr. Feser stated that he doesn't see why the homeowner should be told to remove something or take it off his property unless it can't be worked out between the neighbor and him. The neighbor next door says it is not a problem for him. He just rides over it with the lawn mower a couple of times and it is gone. There is extensively powerful insecticide spray that will kill it as well. He noted that the neighbor who reported him has no Bamboo on her property. He asked that hopefully the Council will not try to tell people they can't have it because a lot of people do enjoy it.

Mr. Clark stated whether the problem is whether it is a policy decision or a legislative matter. He is hesitant to do legislation until more work is done and whether we actually need to legislatively say that we are going to outlaw or handle Bamboo in a certain way.

Mayor Koomar will ask that the Building Department and Law Department review the matter further before the next meeting of Council.

Mr. Clark stated that this suggestion by the Mayor would be appropriate. Ms. DeGeorge has done quite a bit of homework on this topic, but the Council would like some guidance from the administration before doing anything on the legislative side.

Mrs. Stainbrook stated that the fact the Clerk reached out to other cities for ordinances and received only one may be telling us something. Ms. Kemper reiterated that it is possible that many clerks are on vacation now, and will reach out again, especially to neighboring communities.

Mr. Barbour stated that many municipalities have ordinances that prohibit noxious weeds and they rely on the Ohio Department of Agriculture to determine what a noxious weed is and that is defined in the Ohio Administrative Code. That could be one of the answers as to why there

is not a specific Bamboo ordinance that was generated by other municipalities. Ms. DeGeorge stated that the ordinance from Worthington, Ohio was enacted in 2015, prior to the state placing the plant on the noxious weed list. Mr. Barbour stated that the state action was in 2018.

Mr. Tadych stated that a resident on Huntmere Dr. invited him over to see their noxious weed, or whatever you want to call the Bamboo, and he had two places in his yard where it is growing. It looks lovely, he doesn't want to remove it, and he doesn't have any problems with the neighbors. The resident asked Mr. Tadych to specifically mention that this evening.

Another resident on Columbia Road called Mr. Tadych over to his property a year or a year-and-a-half ago. The neighbor's Bamboo was intruding on her property and Mr. Tadych advised her to dig the roots out on her own property, and spray it, but leave the neighbor's property alone. That is exactly what she did.

Mr. Barbour noted that whatever kind of plant a property owner has that intrudes into the neighbor's yard is subject to removal either by the originator or the neighbor themselves in most cases. There are some exceptions for trees.

Ms. Maier stated that it already has been noted that Bamboo is a noxious weed, and the City of Bay Village ordinance prohibits noxious weeds, would not our ordinance indicate that you are not allowed to have the Bamboo?

Mr. Barbour stated that this is correct, and what it says about Bamboo specifically in the Ohio Administrative Code is that it is not allowed unless it is maintained. The administrative code does not define exactly what maintained means. This leaves determination, based on locale and the municipality has some leeway in determining that meaning. If it is growing in other people's yards, or is not contained in a landscape mound, that is how we are interpreting the code. If it is just growing in your yard like common lawn grass, we determine in our application that it is a violation of the ordinance. If it is maintained in the backyard in a landscape mound and it is kept from spreading anywhere else, then generally that meets the description of the Ohio Administrative Code that it is maintained.

Mr. Tadych noted that property owners certainly can't start digging in their neighbor's yard.

Mrs. Stainbrook stated that, to Sarah's point, that is what generated the letter from the City. Is that correct?

Mr. Barbour stated that there are different properties that are involved, but some of the properties that are involved with Bamboo, in our opinion, have grown out of control. That is what would generate a letter from the City or a visit from the Property Maintenance Inspector.

Mr. Tadych asked Ms. DeGeorge if she had a personal interest in the matter, or has a problem with Bamboo in her yard. Ms. DeGeorge stated that she does not have a personal interest, nor does she have Bamboo in yard.

Mr. Feser stated that it may be that the talk of it being out of control was about his property. It stays between his garage and fence, and that is why he even asked the neighbor if he can help take out the couple of inches that has grown over. The neighbor refused to have it done; he said he liked the plant and wanted it there. If somebody makes a decision that they do not want it removed, even when it is going on to their property, wouldn't that be the decision between two homeowners? Why would the City require him to chop it down? It has been growing for twenty years, before Mr. Feser moved in twelve years ago. Mr. Feser stated that if there is agreement between neighbors he would think there is no reason to have additional law if you are willing to work with your neighbors to maintain it.

Ms. DeGeorge addressed Mr. Feser, asking if he understands there is always another side to the story. Bamboo tends to fall into the category of a lot of people don't realize what they have and how invasive it is and the damage it can cause. If we can educate them in any way it would be good to do so when the creep of the plant does start to happen in the yard, before it takes over.

Mr. Feser noted the damage that can be caused by other plants. Ms. DeGeorge noted that they haven't been designated as noxious weeds by the State of Ohio.

Mr. Feser stated that you could possibly blame neighbors for their trees destroying their property. He noted that his Bamboo is flourishing with birds living in it and the neighbor next door said that is one of the reasons he bought the house. It stays green in the winter and is a beautiful plant.

Mr. Barbour reiterated that the issue is that the State of Ohio has determined that it is a noxious weed. We have an ordinance that says you are not allowed to have noxious weeds. The Administrative Code sets that out and the determination about whether it is maintained.

Mr. Barbour addressed Mr. Feser stating that other than agreeing that his Bamboo is flourishing he does not really want to talk about the particular case of Mr. Feser because the City is in discussion with Mr. Feser.

Mr. Clark stated that he appreciates all the comments, and Ms. DeGeorge doing all of the background work. The Council will rely on the administration to continue working on this topic.

Audience

Ms. Dee Williams, Canterbury Road, moved into the City of Bay Village on March 15, 2020. Ms. Williams asked if there is anything that can be done about the political signs that are going up too early.

Mr. Clark stated that the City of Bay Village has legislation that speaks to not placing political signs more than 40 days prior to an election. We determine that to be a General Election, which is November 3, this year. If that were the case, that would be September 25, and today is August 31. There are three City permitted signs in yards, one is the home address, a For Sale sign, and

political signs. This is the year of the sign in Bay Village because we see signs in everybody's yard, e.g., contractors, health care heroes, and we do allow those in the good spirit of things along with graduation signs and items of that nature. Mr. Clark stated he would defer to the Law Director and Mayor, because we are seeing a lot of signs. Generally, they are complaint driven by residents. Residents will call the Building Department who then will talk to the property owner.

Law Director Barbour stated that the City has had a number of complaints from residents about yard signs, both related to the timing and some content. As far as the timing, the City does have an ordinance that says 40 days prior to the election. In many cases when that is pointed out to a resident they take their sign down, but in some instances this year, across the spectrum, a few residents have pointed to some ambiguities that exist in our sign ordinance. They have advanced some legal theories in support of their position that their sign can be up. The City is reviewing their argument, and our ordinance and its application. There is a substantial body of law that discusses the free speech doctrine as it relates to political signs. It is very difficult to regulate political speech. Any regulation has to be content neutral and any restrictions have to be justified without reference to the content. If you tell a resident that their political sign can only be up for a certain number of days, there are some people that are taking the position that this is placing a restriction based upon the content. We disagree with that, but those are some points that need to be reviewed.

There have been some complaints about the content of signs. Mr. Barbour stated that the City cannot compel removal of signs, and can't regulate signs at all, based upon their content. Whether you agree, or disagree, or support, or find abhorrent content of a sign, if it is political speech, that content cannot be regulated in any way. For some reason, this election season we are seeing a lot of people who feel very strongly about the time they can have their sign up and the content of their sign. In conversations with them, they are willing to go to the max, and go to federal court to contest their right. We have not made a decision whether that is the best use of our taxpayer funded resources to take on that claim. Ninety-five percent of the people that we deal with voluntarily remove their sign out of courtesy to their neighbors. Complaints are followed up with the homeowners, and they are advised that the City does have an ordinance in place that restricts the time to 40 days before the election. Is that 40 days before November 3, or 40 days before October 6? Our position has always been 40 days before the election, but there is some question about that. The sign ordinance has some gray in it that everyone could live with and respect, until recent times.

Mr. Barbour noted that an absentee ballot cannot be received until October 6. Mr. Tadych stated that a person can vote on that day at the Board of Elections. He noted that approximately ten years ago the number of days were extended by Council legislation to 40 days, from the previous 30 days before election for placing signs. At that time, there was not early voting in person. Mayor Koomar advised that the Building Director is reviewing the matter further.

Ms. Maier asked, for clarification, if the signs that are up in the City for the health care workers technically are not allowed.

Mr. Barbour stated that is true. Under a strict interpretation of our code, the only signs allowed to be placed in yards are 1) for sale sign; 2) address sign; 3) an election sign during the election time frame of 40 days. As we all know, there has been kind of a laisez faire approach to that, e.g., Congratulations graduates 2020, Congratulations on baby boy; thank you, etc., all those types of signs that have initially been permitted defacto if not du jour. Those are not really enforced. Signs are not permitted in the right-of-way unless permission is received on a temporary basis for placement near intersections for community events.

Mr. Tadych asked if the right-of-way signs are complaint driven.

Mr. Barbour stated that the right-of-way signs are not complaint driven. If one of the Bay Village employees sees a sign in the right-of-way they will move it off of the right-of-way onto the property.

Mrs. Stainbrook brought up the matter of flags: issue flags, candidate flags, etc. She asked if those are signs.

Mr. Barbour stated that this is another ambiguity in the law. By definition, a flag is a symbol, like the United States Flag is a symbol of something. They generally do not have writing on them. A banner is a message that looks like a flag. The Bay Village code does not have anything about residential banners or flags. There are some commercial sign regulations about banners. They are generally not permitted unless temporary permission is received, as they have come before Council from time to time. Mr. Barbour stated that this has not been an issue until this year.

Ms. Maier stated that there is one other sign that is required which is the Invisible Fence sign for pet containment. Mr. Barbour stated there is also a requirement for signage if one owns a dangerous or vicious dog, and a couple of other minor exceptions.

Ms. Maier stated that since the City hasn't really been enforcing the sign laws this year to start collectively enforcing it seems problematic. She suggested starting fresh in 2021, since 2020 has been an unusual year.

Mr. Barbour stated that people are told that there is a sign ordinance. When someone complains about their neighbor's political sign, the person is advised that there is a sign ordinance and they can take action accordingly.

Resident Denny Wendell, Queenswood Drive, asked if the City can remove the sign.

Mr. Barbour stated that it is unlikely the City of Bay Village would remove a political yard sign this year if they thought the resident was in violation of the ordinance.

Mr. Wendell asked if the City removes any signs.

Mr. Barbour stated that the City will remove signs that are in the right-of-way and put them on the adjoining property.

Mr. Wendell stated that contractors put signs up that say 'We buy houses." Those vanish, and he almost thought the City took those signs.

Mr. Barbour stated that the City will take a sign off the property if it is a continual violator of the right-of-way rule.

Mr. Wendell asked if it is a policy that the City collects signs when they see them.

Mr. Barbour stated that the ordinance specifically says that the City can collect the signs that are in the right-of-way.

Mr. Wendell stated that there are signs on Clague Road that have been up for three months for the restaurant/barbecue place. He asked if he can take them down.

Mr. Barbour stated that he would never recommend that a citizen engage in self-help or vigilante action, but if a sign is seen that a person believes is in violation of the ordinance the Building Department should be called.

Mr. Wendell stated that he belongs to civic organizations and they ask the City for permission to put up signs. Permission is granted with stipulations.

Mr. Barbour stated that there is an ordinance that allows the Mayor to approve temporary signs that can be placed in the right-of-way.

Mr. Wendell asked if permission is required.

Mr. Barbour stated that permission is required. If a sign is placed in the right-of-way without permission and it is difficult to determine who put the sign there, the sign will be confiscated and put in the police station or Building Department.

Mr. Tadych asked if there is a storage fee of $5.00 per sign.

Mr. Barbour stated that a storage fee of $5.00 can be charged.

Mr. Wendell asked how he requests traffic signs. For example, on Queenswood Drive there is no parking on the west side of the street. The sign to indicate that is posted half a block up the street. People park on that side of the street all the time. Sergeant Gillespie came to Mr. Wendell's house today, as part of knocking on all the neighbors' doors asking whose truck is parked on the street, noting that he did not want to give the truck a ticket if he is doing work in the neighborhood. Compliments to Sergeant Gillespie. He also went around to Lake Road where there is construction, knocked on the doors of six houses on Queenswood, before writing the ticket. The point is that you do not know you cannot park on that side of the street unless you are halfway up the street.

Mr. Wendell stated that he lives in the Dover Bay area and there are a lot of young couples moving in with small children. He asked if a "Children-at-play" sign could be placed on the street.

Mayor Koomar stated that research has shown that those signs are very ineffective and give people a false sense of security.

Mr. Wendell suggested speed limit signs mounted on poles that indicate the speed at which the passing motorist is travelling.

Mayor Koomar stated that two have been purchased this year and the City is experimenting with them as we speak.

Mr. Wendell stated that he is putting in an official request for one for Queenswood Drive, and expressed appreciation to the administration and Council.

Ms. Maier stated that she is knee-deep in signage matters for her work, and there is a lot of research that there can be too much sign clutter, and to the Mayor's point that they become part of the background and are not effective. They clutter the space and there is a cost to maintain them because they have to be reflective and replaced every ten years.

Mr. Wendell asked if they can request signage and install the signs themselves.

Mayor Koomar stated that some of the signs being experimented with are portable and can be moved around.

Mr. Wendell stated that as soon as people come over the bridge they come down the hill accelerating. There are a lot of three to five-year olds in the neighborhood on a scooters and bikes with limited control.

Pat Haley, Huntmere Drive, asked if there has been a permit approved for Black Lives Matter on September 11, 2020. And, if there is, is it for a protest at the Bay Village Police Station and what is the time frame?

Mayor Koomar stated that he is not aware of a permit.

Mr. Barbour stated that to his knowledge there has been no application.

Ms. Haley stated that there is a huge rumor going around, and September 11 is also the first night of football with families going to Elyria, leaving empty houses.

Mr. Tadych stated that he believes the connotation is for September 11, 2020 in Cahoon Park. He asked if that is the rumor that Mrs. Haley heard.

Ms. Haley stated that the rumor she heard is that Black Lives Matter took out a permit to protest in front of the Bay Police Station on Friday, September 11.

Mr. Tadych stated that he heard the same rumor and addressed it to Mr. Barbour and it could not be substantiated.

Ms. Haley asked if they need a permit to come into the City and protest in front of the police station.

Mr. Barbour stated that a permit would be required for a public gathering. To date, no one has applied for a permit for any kind of meet-up or gathering, either now or in the past. We haven't heard from anyone yet, but he would recommend they do apply for a permit if they plan to come to the City of Bay Village to voice whatever they are going to voice.

Ms. Haley asked what would happen if they came into the City with no permit. What is the plan? What happens?

Mr. Barbour stated that it depends on what they do.

Ms. Haley asked if they can come in and just peacefully protest in front of the police station.

Mr. Barbour stated that there have been people that come to our City or people who live in our City who are allowed to publicly assemble under their first amendment rights to voice whatever message they feel they need to voice. People are allowed to assemble on the sidewalk, not interfere with traffic, those kinds of things, and voice their opinions. There is a permit process in place for things like parades. In the distant past those have been extended to protests or organized meet-ups or such things. That would be the protected first amendment speech as well. We could not compel people to not do that so long as they were not otherwise violating the law. If there were, you would address those individuals who were breaking the law or impeding traffic, whatever the circumstances are.

Resident Molly Smith stated that she would like to encourage everyone to reinstate the sign ordinance. Over the past four years, we have seen more and more of these signs going up on lawns in-between the political season. Some of that is what is driving the situation right now, and signs just seem to get more and more divisive. Ms. Smith stated that she has been in Bay Village for thirty-one years and it has always been one of those villages where the neighbors were the neighbors and you did not have those divides as is happening right now in the neighborhoods and between citizens within Bay Village. Ms. Smith stated that she really puts it down to these signs that have popped up in the last four years. If you look behind the signage that is going up there are specific political agendas that go with them. Why has this suddenly started happening? She noted that she is one of the people that contacted Council and made her opinion known to everyone. It would be so much simpler to reinstate that signage law. I don't need to know how my neighbor feels three doors down. We need to be neighbors, and that is completely gone from Bay Village in many neighborhoods because of the incredible diversity that is going on right now. Ms. Smith would encourage the Council to look at the ordinance and go back to where it was. It worked very well; there is no reason why it shouldn't work again. It would temper down a lot of the angst that is happening right now.

Mr. Clark stated that the comments tonight would certainly compel Council to review the existing sign ordinance, and we will do so after the election.

Mr. Clark asked if there are comments to be heard from Zoom audience members.

Sarah Sweeney, 368 Oakmoor Road, stated that she has a quick comment regarding the invasive species. Ms. Sweeney is a new homeowner this year, and when she moved in there was actually quite a bit of poison hemlock in her back yard. It was necessary to find out that this was a species that was invasive and how to safely remove it. Something that would be helpful would be information for new homeowners about which invasive species may be in the City and how to safely remove them.

Ms. Sweeney remarked further that she also had a suggestion about the signs. When there is a discussion about political signs, there should be thought about the difference between elected official signs and signs that are voicing political concerns. Perhaps if there are a lot of signs around political concerns we could just think larger, as a community, if there are discussions that need to be started and encouraged at the community level. Obviously, this year we saw a lot about Black Lives Matter, but rather than just to thinking about whether we regulate them or not, are there conversations that we can help our community have?

Mr. Clark thanked Ms. Sweeney for her comments, noting that they would be taken under consideration.

Mr. Barbour stated, to Ms. Sweeney's point, that even though the City would like to try to limit our ordinance to just candidates and things like that, unfortunately the case law from the Ohio Supreme Court and the United States Supreme Court probably would not allow drawing that kind of distinction. They paint political speech with a very, very broad brush. As Ms. Smith said, if everybody agrees and feels that they want to do something a certain way that would be great, but if there are people who want to express their views, and they want to do it through a yard sign and it is a political view, we do face substantial limitations as to what we can do.

Communications

Mr. Clark called upon the Clerk of Council Joan Kemper for the reading of communications received prior to this evening's Council meeting.

The following communications were noted:

A communication from Robert Petkash, Red Oak Lane, on July 31, 2020, regarding a matter before the Planning Commission concerning approval to split the lot at 560 Forestview into four separate sections, with an attached petition signed by 40 concerned neighbors requesting that the project be abandoned. An additional communication was forwarded by Councilman Tadych on August 30, 2020, adding two additional signatures and questioning why there has been no return communication from city officials. (President of Council Clark did respond on August 1, 2020, noting that the initial correspondence from Mr. Petkash would be logged as a communication.)

A communication from Jodee Hunger to Sara Byrnes Maier on August 25, 2020 urging Council Member Maier to promote mask-wearing as voluntary and not mandatory.

A communication from Molly Smith to the members of Council on August 26, 2020, regarding disturbing response to First Amendment Rights in Bay Village as related to political signs on private properties.

A communication from Mr. Tim Hughes asking for explanations of two pieces of legislation on the Council agenda this evening: the submerged land lease for Jeffrey Kissinger, and the agreement to provide Wildlife Services.

A communication from Kathleen Leasure, Chief of Police, informing residents that the 2020 Deer Survey is now available on the City's Website and encouraged participation.

A communication from Chad Forster, 495 Juneway, that came in at 4:13 p.m. today, August 31, 2020, regarding a patch of Bamboo running the entire length of his property that varied in depth of a few feet south on to his neighbor's property. Mr. Forrester's communication contains extensive information about the destructive spread of Bamboo on his and his neighbor's property, as well as the great expense incurred to remove the plant.

Members of Council have been provided with copies of all of the communications.

Mr. Barbour commented that he spoke with Mr. Tim Hughes by telephone today and gave him details about the two pieces of legislation.

Miscellaneous

Mayor Koomar advised Council that the 2020 Street Striping Program would be forthcoming.

Mr. Clark advised that the next meeting of Council will be on Monday, September 14, 2020, due to the fact that Monday, September 7 is Labor Day. A Finance Committee meeting will be held prior to the Committee Meeting of Council on September 14. The Finance Committee meeting will begin at 6:15 p.m.

Mr. Clark stated that as Council returns to Regular Sessions in September, Committee Meetings will be held at 7:00 p.m., and Council meetings will be held at 7:30 p.m.

Councilwoman Stainbrook thanked Director of Public Service and Properties Liskovec for the repair to the Council Chambers wall, noting that it looks spectacular.

Mrs. Stainbrook also complimented Director Liskovec on the work on the stairs of the interior of City Hall. Mr. Liskovec thanked Mrs. Stainbrook for her compliments on all of the hard work that has been done in the Council Chambers. Mr. Liskovec will relay that to all of the staff members who participated in that project. In regard to the stairs leading up from the entry way to the various areas of City Hall, it was tasked of the Service Department to find a way to update the existing covering of the stairs. At some point in time, prior to Director Liskovec's

employment with the City, which dates back about 17 years, a rubberized coating was placed over the existing stair material. Mr. Liskovec noticed that the Building Department has Terrazzo flooring, which is probably original to that particular addition to City Hall. Terrazzo flooring is very durable and has innate beauty. The Service Department crews have removed all of the rubberized coating over the stairs and are working with a handful of contractors to receive proposals on restoring the Terrazzo flooring. It is one of the most durable types of flooring and will be restored and turned back to its original beauty.

Mrs. Stainbrook thanked Mr. Liskovec for his efforts, noting that he might have uncovered a gem in the beauty of the flooring.

Mrs. Stainbrook asked Finance Director Mahoney to update City Council on the new system she created for hybrid meetings.

Mrs. Mahoney stated that meetings began in May with Zoom technology with Council and Administration working from home. There is a desire to return Council to Chambers, but the residents really seem to enjoy the Zoom ability. Mrs. Mahoney worked with a representative from Rocky River and also talked to the current JAVS system to see if there was a solution with that system. It seemed more reasonable in cost to go with the solution provided by the firm in Rocky River. A 360 degree Zoom camera was installed on a shelf built by the Service Department with Mrs. Mahoney operating the remote feature which enables her to move the camera during the meeting. Two microphones will be installed, to improve hearing as only one microphone was used this evening. Twelve residents logged into the meeting this evening.

Mrs. Stainbrook asked if Zoom participation by the residents was through the Chat feature. Mrs. Mahoney stated that they raised their hands to be recognized, and upon this signal Mrs. Mahoney unmuted them for participation.

Mr. Clark asked if the people attending through Zoom would be logged into the minutes as audience members. Clerk of Council Kemper stated that if the Zoom participants give their names they will be added to the list of people in the audience.

Ms. Maier shared the procedure used at Metroparks meetings. At the beginning of the meeting the lead will ask for the name, title and organization in the Chat box.

Mrs. Mahoney stated that Zoom meetings can be automatically transcribed. Kateri Vincent, Secretary to the Architectural Board of Review, will try out the system. This is another free add in app with Zoom.

Mayor Koomar stated that the process will also work with the new monitor installed in City Hall Chambers and eventually the camera view by Zoom will be seen on the screen on the east side of the Council Chambers, behind the Council dais.

Mrs. Stainbrook asked if Council members who are not able to attend meetings in person can attend by Zoom technology and vote.

Mr. Barbour stated that under the Ohio Revised Code modification/amendment that the legislature made because of COVID-19, as long as that person can be seen and heard when they cast their vote they can participate. This is in effect until December 31, 2020, unless extended.

Mrs. Mahoney asked if the Council Member participating by Zoom would have to be seen by everyone, or just Mrs. Mahoney operating the camera.

Mr. Barbour stated that he would feel more comfortable if the Council member was seen by everyone.

Mr. Kelly asked in this current context, where Council is trying to practice social distancing in this facility while using Zoom technology, how will Executive Session be carried out?

Mrs. Mahoney stated that she can turn off the camera. Mr. Barbour stated that is the same thing as asking people to leave the room.

Ms. Maier asked Mayor Koomar about street striping as it relates to the Lake Road Bridge. The contractor did not do the bicycle lane striping on the bridge when the bridge was installed. Ms. Maier asked if that striping will be part of the 2020 Street Striping Program.

Mayor Koomar stated that the bicycle lane on the Lake Road Bridge will be included in the Street Striping Program this year. They are also experimenting with a contrasting material to aid in visibility during sunset.

Mr. Clark noted that the bicycle lanes created on Lake Road in the City of Lakewood are phenomenal.

Mayor Koomar noted that there are meetings forthcoming where the Mayors of the Westshore, Lakewood, Rocky River and Bay Village will be participating in Ohio Department of Transportation discussions and looking at ways to continue that Lakewood effort westward. Mr. Kelly stated that what he noticed about the Lakewood bicycle lanes that not only do you have the lines demarking the extent of the lane, they are of the color green. Ms. Maier stated that Lakewood shows the light green boxes because it eliminates some of the potential side swipe injuries. Further discussions will be held regarding the bicycle lane striping.

Mr. Clark paused the Special Meeting of Council at 8:15 p.m. to conduct a meeting of the Cahoon Memorial Park Trustees.

Upon completion of the meeting of the Cahoon Memorial Park Trustees, the Special Meeting of Council resumed at 8:22 p.m.

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Tadych **MOVED** to convene to Executive Session at 8:22 p.m. regarding contracts.

Roll Call Vote:

Yeas – Clark, DeGeorge, Kelly, Maier, Stainbrook, Tadych, Mayor Koomar.
Nays – None.

Motion carried 7-0.

Also in attendance in Executive Session were Mayor Koomar, Law Director Barbour, and Finance Director Mahoney.

Council reconvened in an open meeting at 9:05 p.m. Present were: Clark, DeGeorge, Kelly, Maier, Stainbrook, Tadych.

ADJOURNMENT

There being no further discussion or matters to come before the Council this evening, the meeting adjourned at 9:06 p.m.

Dwight A. Clark, President of Council

Joan T. Kemper, Clerk of Council