

City of Bay Village

Council Minutes, Committee Session
Dwight A. Clark, President of Council, presiding
Council Chambers

May 24, 2021
7:00 p.m.

Also Present: Law Director Barbour, Finance Director Mahoney, Police Chief Gillespie, Director of Public Service and Properties Liskovec, Building Director Tuck-Macalla.

Via Zoom – Fire Chief Lyons, Recreation Director Enovitch.

AUDIENCE

Gary Sharp.

Zoom – Jim Blocksidge, Claire Banasiak, Patrick Thornton, “bdik”.

President of Council Clark called the meeting to order at 7:00 p.m. Mr. Clark advised that this is the informal Committee session, and Council will review legislation at this meeting prior to opening the Special Meeting at 7:30 p.m., or when this meeting is completed. Mr. Clark called upon Mayor Koomar for announcements.

Mayor Koomar advised that in recognizing Safe Boating Week this past Saturday at the Bay Boat Club, Richard Gash, Tom Reichert and Bob Dorin worked really hard with the Ohio Extension Service and earned the Ohio Clean Marina Award – Gold level. Only about four or five percent of marinas in the State receive that status. The Bay Boat Club has put in aggregate in the parking lot, all done as a way to filter the ground water.

Mayor Koomar introduced Mr. Daniel Buser and Bradley Weber of Crain, Langner Consultants, present this evening to review their work for the June 15, 2021 renewal of the City’s General Liability and Property Damage insurance.

COMMITTEE OF THE WHOLE

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE-DeGeorge,
Tadych, Maier

Ms. DeGeorge had no report this evening.

FINANCE & CLAIMS COMMITTEE-Tadych, Winzig, Kelly, Clark.

Tax Budget for Fiscal Year 2022. – Second Reading of Resolution and consideration for adoption at Special Meeting of Council this evening.

Mr. Tadych will present Resolution No. 21-36 adopting a Tax Budget for the City of Bay Village for Fiscal Year 2022 at the Special Meeting of Council this evening for second reading

and consideration for adoption. He noted that the tax rates have not changed in the City of Bay Village for many years.

Amended Appropriation Ordinance – Bradley Road Paving Project; City Hall Electrical Equipment.

Mr. Tadych will introduce an amended appropriation ordinance this evening to appropriate \$68,000 from Fund 494 to increase the scope of project for the Bradley Road Paving Project. Of the \$68,000 requested, \$6,775 will be applied to the engineering costs for additional services to extend the scope of work. The City was approved to extend the project which was originally intended to be from the southerly line at the railroad tracks to Wolf Road, to maximize the \$250,000 county allocation, which would then include the intersection of Wolf and Bradley to Carlton Road.

The amended appropriation ordinance will also include the addition of \$16,100 from Fund 495 to conduct electrical equipment replacement located in the basement of City Hall.

The ordinance will be considered for adoption this evening.

Crain, Langner Consultants - General Liability and Property Insurance Coverage.

Mr. Daniel Buser and Bradley Weber of Crain, Langner Consultants began their presentation to Council regarding the General Liability and Property Insurance Coverage for the City. Mr. Buser stated that their firm was engaged to review the Property/Casualty Insurance program of the City, which involved the Request for Proposals process, for the Property/Casualty Insurance. The quality of the coverage proposals and limits of liability retention and pricing exceeded their original report. Crain, Langner Consultants developed the specifications with five agents stating they would like to participate and three submitting full proposals. In a letter dated June 13, 2021, the recommendation of Crain, Langner & Company is that the best interests of the City would be served by the selection of the proposal submitted by Kelly McKeon of Jackson Dieken & Associates and underwritten principally by U.S. Specialty Insurance Company (Tokio Marine). The proposed insurance program is to be effective for the period of June 15, 2021 to June 15, 2022, with a total projected annual cost of \$137,824 excluding terrorism coverage, (TRIA) or \$138,713 with TRIA included. This compares favorably to the \$155,491 expiring premium, or an estimated decrease in annual fixed costs of 11% for the City. Also recommended is an optional quote to increase crime limits for an additional cost of \$1,056, resulting in an overall program costs of \$139,769.

Mr. Greco asked if there is coverage provided for private property damage caused by a City employee using City equipment. Mr. Buser stated that coverage would be in place for that type of accident.

Mr. Greco asked if there is a quarterly review process that the agent would set up with the City to review any improvements or add-ons. Mr. Buser stated that quarterly review might be a little more than needed, but a semi-annual review would be fitting.

Mr. Winzig stated that a few of the items in the Crain, Langner & Co. document are recommended to be added. He asked if there is any idea what the additional cost would be.

Mr. Weber stated that they know the additional costs for the items recommended. As far as the auto physical damage and for some of the other options they would have to get quotations. They did not recommend them because quotes weren't provided. The agent that is selected for the process can provide those costs.

Mayor Koomar noted that the higher limits, i.e., for employee theft, are included in the premium price.

Mr. Winzig stated that the City has upgraded their data security with the new provider, and one of the questions was the insurance on the back side, so the recommendation of the Cyber security additional policy fits in line with what was discussed.

Mrs. Mahoney noted that the City is in the process of implementing Multi-factor Authentication.

Mr. Buser and Mr. Weber were thanked for their presentation this evening.

The ordinance to approve the contract with Jackson Dieken & Associates for the renewal of the General Liability and Property Damage Insurance will be placed on first reading this evening, with adoption scheduled for June 7, 2021.

Mr. Winzig asked if there would be any value in investigating the additional coverages, or would that be done after the policy is in place.

Mrs. Mahoney stated that the increased employee coverage of \$1,056 is included in the policy as well as the Terrorism coverage. Mr. Clark noted that there was discussion about replacement costs for all vehicles. Mr. Winzig added that No. 6 in the document is Pollution Coverage, and No. 5 is Professional Liability. He asked that this be clarified before it comes before Council for a vote. Mr. Barbour stated that U.S. Specialty policies do have some pollution coverage, especially as it relates to automobile liability, which is the probable exposure the City would have, i.e., if one of the Service Department diesel vehicles goes off a bridge and the tank goes into the creek. That is the kind of pollution that is included.

Mr. Winzig asked about the Rescue Boat Coverage. The Mayor stated that the City's rescue boat is 21 feet in length. Mr. Barbour stated that there is substantial liability protection in the Ohio Revised Code for first responders who render medical care.

Mr. Clark noted that it may be that this is a two-step process because there is so much changing now with the Cyber elements in the economy. A ten or eleven percent reduction in the premium with advanced coverage is due to a good bidding environment. Mr. Winzig complimented the work of Crain, Langner & Co., noting they did a terrific job.

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

Resolution for submission of the matter of the rezoning of a parcel south of Heinen's Store, 434 Dover Center Road to the Cuyahoga County Board of Elections for inclusion on the November 2, 2021 ballot. Consideration for adoption of Resolution at Special Meeting of Council this evening.

Ms. Maier stated that Resolution 21-35 will be submitted to the Board of Elections upon its approval by Council this evening.

Mixed Use Overlay Ordinance No. 21-24 – Consideration for adoption at Special Meeting of Council this evening.

Mr. Winzig has submitted modifications for the Mixed Use Overlay Ordinance as follows:

Page 5, Number 34 – Definitions. Change to “children with intellectual disabilities.”

Page 10, wording follows Number 96 which should be Number 97 as a separate definition with a change in numbering following.

Page 34 – 1189.17 should have semi-colons following the numbers.

Page 35 1189.20 – Expiration – Building Commission changed to Planning Commission.

Page 34 – Letter L – Semi-Colon changed to a period.

Mr. Clark suggested that third reading for the ordinance be held until June 7, 2021.

Chapter 1179 – Sign Control.

Ms. Maier stated that changes have been drafted for Chapter 1179, Sign Control, in anticipation of the Mixed Use Overlay Zoning Ordinance and asked Law Director Barbour to provide background information concerning the proposed changes to the sign regulations.

Mr. Barbour commented that Building Director Tuck-Macalla has done the work to produce the draft of the proposed sign control ordinance. It expands regulations, i.e., a definition of a flag or banner; primarily the time, place and size can be regulated, but there is difficulty legally in regulating content. The current sign ordinance regulates content, specifically political speech, which is prohibited. Director Tuck-Macalla reworked the ordinance to reflect that reality. The new draft regulates the size, number of signs and duration of time allowed. It would be a complaint driven process. Upon receipt of a complaint, the Property Maintenance Inspector or someone from the Building Department would go to the site, confirm the sign, and require the property owner to remove the sign. The sign would then have to stay down for 45 days, and then allowed to be put back up for 30 days. The sign must be personally seen by the City representative for a complaint to be legitimate.

Mr. Barbour noted that a survey of the number of signs in the City was recently completed. There were many signs, estimated to be approximately 400. These include the personal congratulatory or informative signs put up by residents on their property, with a couple of exceptions that are

enumerated in the draft. The ordinance addresses complaints received by residents in the past, but still respects the rights of free speech and gives the City the ability to control or influence the aesthetics, which is the original purpose of the sign control ordinance. Commercial features are also included in the newly-drafted sign ordinance.

Director Tuck-Macalla stated that the existing sign code is outdated regarding commercial features. In revising it, he address content to conform to how much information could be read when driving by, as well as aesthetics. The best example are window signs. The sign above the doors are regulated, but the whole front window of some establishments are covered with signs. There were no regulation by the City, the store occupant could do whatever they wanted with window signs, i.e., Marco's Pizza and Walgreens. When working on the Mixed Use Overlay, thought must be given about signs above the first floor level, signs on roof tops, pole signs, development signs, etc. These may not be addressed today, but may need to be addressed in the future. Signs are one of the main ways people advertise, more so than on-line, television or radio. When the City begins developing and bringing in more retail establishments they will want their signs clearly identifiable. There must be a way of regulating that provision that is fair and keeps the aesthetics of the City favorable.

Mr. Tuck-Macalla stated that residential signs put up by residents for congratulatory or informational purposes are actually not permitted currently, but they are permitted in the draft of the new ordinance. Sign, size, type and duration of those signs are included in the ordinance, providing a basis for the Building Department to address complaints. The draft also addresses informational signs, no trespassing signs, and signs of that nature.

Mr. Winzig asked if a sign such as "Please Slow Down; Children at Play" between the sidewalk and the street would not be allowed. Director Tuck-Macalla stated that they would not be allowed; in essence they are not allowed presently. He noted that they do not go around pulling signs out of the right-of-way. The signs are complaint driven, and if someone complains about a sign it will be removed and taken to the police station where it can be retrieved by paying a \$5.00 fee.

Mr. Winzig used the example of the "Black Lives Matter" sign, asking if that would be removed if there is a complaint. Mr. Tuck-Macalla stated that they will not go on private property to remove a sign. If someone complains about political or politically oriented signs the Building Department will send a letter just stating what the ordinance says. After thirty days of having the sign up they must take the sign down for 45 days and then can put it back up. He noted that people have a right to self-expression.

Mr. Tuck-Macalla stated that there were so many sign incidents this past year that enforcement became impossible. He noted that banners are also addressed in the ordinance, up to 18 square feet.

Mr. Barbour stated that on Page 17 of the draft of the sign ordinance, the current sign ordinance section of 1179.10 (B), single family or two family homes is included. Only a house number is permitted, or, if the occupant is a physician, surgeon, or dentist using part of the home as a professional office, a sign is permitted. A for sale or for lease sign is permitted. Temporary signs in support of or in opposition of political candidates or issues may be erected no sooner than 40 days

before an election. It is not permissible to have any of those other signs that people have; they are not permitted under the City code. That has not been enforced by the City. Section B (3) is probably unconstitutional.

Ms. Maier suggested adding Section 1179, the Sign Ordinance, to the agenda of the next meeting of the committee. She asked if the 30 days permitted, 45 days off, is standard among other cities. Mr. Tuck-Macalla stated that the numbers are up for discussion. He noted that from his experience with other cities, there must be some sort of regulation.

Mr. Kelly stated that if someone is really intent on frustrating the purpose of this, they might switch from one sign that is red and blue and advertises something, to a green and white one that says the same thing. Mr. Kelly understands the idea of sign pollution, but if someone is intent on communicating in this fashion they will find many ways to frustrate it. Leaving a provision like this in the ordinance affords the belief to some people that if they just complain loudly enough they will be able to have other communications removed.

Mr. Tuck-Macalla stated that other parts of the code state that boats can be in the front yard for only a set period of time. Someone in another city moves his boat every three days. When it was there for the fourth day a man from another neighborhood called the Building Department and let them know it was there for the fourth day. Those are the kinds of things the Building Department endure in order to try to keep things fair. He noted that he understands what Mr. Kelly is saying, but cannot think of any other way to keep it fair and to be able to honor someone's right to free speech and honor the neighbor's right to object.

Mr. Clark agreed to place the matter on the agenda for the next meeting of Council. He stated that he knew that this issue would be addressed after the election. He commended Director Tuck-Macalla, Law Director Barbour and the administration for trying to take a step in the right direction. There is work to be done; it is not time sensitive but it must be thoroughly vetted.

Mr. Clark asked Director Tuck-Macalla if he was drawing off of his experience in previous cities and looking at other legislative districts for templates and best practices. Mr. Tuck-Macalla stated that he went to the City of Lakewood, where he was previously employed, because their sign ordinance is legendary, extensive and has a long history. He also went to South Euclid where he did a lot of work with signs due to inundation with new commercial establishments. Their sign ordinance addresses commercial very strongly. He looked at Shaker Heights, and North Olmsted as well, and, while not taking anything from North Olmsted, he did take from the other cities that he knew worked really well.

Mr. Clark agreed that more discussion is needed before bringing the sign ordinance to first reading.

Ms. Maier advised that the Planning, Zoning, Public Buildings and Grounds Committee meeting met today with the Red Oak Subdivision on the agenda. The recommendation for approval of the Red Oak Subdivision to the full Council will be on the June 7 meeting agenda.

The Planning, Zoning, Public Buildings and Grounds Committee will meet again on Wednesday, May 26, 2021 at 6 p.m. regarding the Tree Ordinance.

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE-Kelly, Maier, Greco

Bradley Road Paving Project

Mr. Kelly will present an ordinance at the Special Meeting of Council this evening to contract with Chagrin Valley Engineering for their services for the Bradley Road Paving Project. Due to an adjustment to the project, there is a need for increased funding to extend the work past Wolf Road north to Carlton Drive. Mr. Kelly will also move to advertise for bids for the Bradley Road Project.

Amendment to Agreement with Chagrin Valley Engineering, Ltd. for Engineering Services related to the Bradley Road Paving Project.

Director Liskovec has submitted an agenda request dated May 19, 2021 stating that during the design and engineering phase of the project conducted by Chagrin Valley Engineering, it was determined that the quantities from the original scope of project were under the original engineer's estimate. The original scope of project started at the southern corporation limit and proceeded to 50' south of Wolf Rd. After discussions with County representatives, the City was approved (pending council approval) to extend the project to maximize the \$250,000 allocation, which would then include the intersection of Wolf and Bradley and an additional 1,200 feet continuing north. However, that would leave the project about 700 feet short of Carlton, which would be a more logical end point than a midpoint between Wolf and Carlton. In total, this project would cover approximately 4,500 feet of a total of approximately 7,500 feet of Bradley Rd. Of the \$68,000 requested, \$6,775 will be applied to the engineering costs for additional services to extend the scope of work, \$59,509.24 will be added to the overall project cost of construction and the balance will be utilized for any ancillary costs such as advertisement.

Mr. Clark asked if this presents an opportunity to partner with the county to do the segment of Bradley Road that would be north of Carlton Drive up to Lake Road.

The Mayor stated that the portion approved was for the fifty percent allocation, and the remainder half mile would be appropriate for a future ask.

RECREATION & PARKS IMPROVEMENT COMMITTEE-Winzig, Tadych, Greco

Cahoon Memorial Park Restroom Improvement Project.

Mr. Winzig referred to a recommendation from Sixmo for the Cahoon Memorial Park Restroom Improvement Project, dated May 19, 2021. There is favorable bidding from a number of contractors ranging from \$387,169 to \$753,000. The lowest base bid allows the inclusion of all alternates for the project. The total base bid plus the inclusion of all alternates for the lowest bidder

was \$469,335, which is \$124,148.40 lower than the engineer's estimate. Mr. Liskovec provided a detailed spread sheet for Council's review. Mr. Winzig suggested holding the approval of the project for the next Council meeting to allow time for further review for an understanding of the base bid and the inclusion of the alternates.

Mr. Liskovec stated that the spreadsheet includes the recommendation of Sixmo of the bid of Metis Construction Services, the low bidder. In the event that costs came in higher than anticipated, it was planned to have the Service Department complete some of the alternate tasks. All of the alternates included are necessary for completion of the facility. Alternate 1 provides for concrete around the facility. Alternate 2 is for cosmetic upgrades, recommended by the City's Boards and Commissions when they reviewed the project. The remaining alternates include epoxy flooring, which has been the standard for buildings throughout the City, directional signage, concession sinks, drinking fountain, and exterior demolition, Mr. Liskovec asked Mr. Pat Thornton, the architect for Sixmo to address the Council through Zoom.

Mr. Pat Thornton, A1A, of Sixmo, addressed Council through Zoom, stating that nine bids were received from all good firms. Metis Construction Services LLC of Kent, Ohio, the recommended contractor, has a very good recommendation from firms that Mr. Thornton has worked for in the past. The value of accepting all the alternates is greatly offset by the amount of extra effort that the Service Department was going to need to put into the project just to save the initial dollar value. The bid is quite a bit lower than the engineer's estimate. The engineer's estimate was extremely conservative and cautious based on the current construction material market. The average figures came in close to the estimate. Sixmo really believes that the correct route is to accept the bid of Metis Construction Services and accept all the alternates in order to make the project a lot simpler, not only for the Service Department, but for Bay Village in general. The entire project will be under one warranty. Mr. Thornton would recommend giving access to the site to the contractor in July after Bay Days is finished. The time of completion is 120 days, with the facility available for the 2022 spring season.

Metis Construction is currently engaged in a project at Bay High, constructing the new fieldhouse building. Mr. Thornton stated that the mobilization is a positive factor, since they are in the area. The fieldhouse project is progressing smoothly, and the schools are one of the references for the company.

Mr. Winzig advised that Finance Director Mahoney has provided Council with a budget breakdown of the funding for the Multi-Purpose Restroom Facility. Mr. Winzig recommended putting the ordinance awarding the contract on first reading this evening, while asking the administration to confirm the appropriated numbers because it is the understanding that State Capital funding will not be received for the project. The State Capital number of \$130,000 is included in Director Mahoney's analysis. Mr. Winzig would also like a confirmation from the Soccer Club that they are, in fact, contributing the \$25,000 share shown on the analysis.

Mayor Koomar stated that the State Capital funding is in progress with Senator Dolan's office. There was wording in the original agreements that was not agreed to, but that is moving through and they have a firm commitment that the funds will be received. The Mayor stated that he does not

have a specific timeline because it is legislative, but it is a firm commitment that the Mayor will confirm again.

Mr. Winzig stated that he would like to make sure the funding is there before voting on the project.

Mr. Tadych asked if there is a contingency included in the proposal.

Mr. Thornton that he does not have an allowance inside the contract. He recommended that the owner hold the allowance in this case. They have been doing this recently with public projects for the simple fact that when they provide an allowance number inside a contract it becomes a target for the contractor to try to hit. Mr. Thornton recommended that an allowance amount be established and held outside the contract, inside the budget and allocated at the City's discretion not giving the contractor a target to try to earn the rest of his allowance with extra work.

Mr. Tadych agreed with keeping the contingency outside the contract.

Mr. Thornton stated that there can be an initial change order after the contract is signed for an allowance if that is the route that Council wanted to take, or the allowance can be held in the budget separately. They will work with the choice of Council.

Mrs. Mahoney stated that a contingency is more than built into the budget number of \$595,216.08.

Mr. Clark stated that the prices came in much lower than anticipated. He noted that it is important for Council to understand that having other sources of funds are important and takes the cost of the project down for the City to about \$300,000, which is more in line to what was agreed to previously. Council has agreed to fund the projects and the concern was runaway costs. In a good bidding environment and a contractor with a good reputation the project seems to be timely. He recommended putting the ordinance to accept the contract on first reading this evening, since the project will not start until after Bay Days is completed.

Mr. Winzig suggested following up on the details. He stated that in regard to the architects, he did hear one of the architects say it is a prominent building in a high visibility spot in the City and something like this is built only once every twenty-five years. Those incremental additions to the exterior and interior, while they are additional costs, pay off later because you end up with a great looking building and a hard-working, functional building.

Mr. Clark noted that it is the only remaining park improvement to be accomplished.

Mr. Tadych stated that it is an expensive restroom facility. Mr. Clark acknowledged Mr. Tadych's statement, saying it is a good point.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE-Greco, DeGeorge, Kelly

Advertisement for bids for Bradley Road Resurfacing Project.

Mr. Greco advised that he will move to authorize the Director of Public Service and Properties to advertise for bids for the Bradley Road Resurfacing Project at the Special Meeting of Council to be held this evening.

MISCELLANEOUS

Mr. Clark asked Mayor Koomar if the time of 9:00 a.m. for the memorial service at Lakeside Cemetery on Memorial Day, Monday, May 31, 2021 is confirmed. Mayor Koomar stated that this was the time he heard when he last talked with the VFW.

The Village Foundation will hold their ceremony at Cahoon Memorial Park at 10:30 a.m.

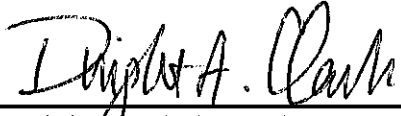
The next meeting of Council will be held on Monday, June 7, 2021 at 7 p.m. A Planning, Zoning, Public Buildings and Grounds Committee meeting will be held on Wednesday, May 26 at 6 p.m.

AUDIENCE

There were no comments from the audience.

ADJOURNMENT

There being no further discussion, the meeting adjourned at 8:17 p.m.



Dwight A. Clark, President of Council



Joan T. Kemper, Clerk of Council