

# City of Bay Village

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

March 20, 2023  
8:15 p.m.

President of Council Clark called the meeting to order at 8:15 p.m. with roll call and the Pledge of Allegiance led by David L. Tadych, Vice President of Council and Councilman, Ward 1.

Present: Dwight A. Clark, President of Council  
David L. Tadych, Vice President of Council, Councilman, Ward 1.  
Lydia DeGeorge, Councilwoman, Ward 2  
Michael Greco, Councilman, Ward 3  
Peter J. Winzig, Councilman, Ward 4  
Thomas J. Kelly, Council-at-large  
Sara Byrnes Maier, Council-at-large.

Excused: Paul A. Koomar, Mayor.

Also Present: Law Director Barbour, Finance Director Mahoney, Police Chief Gillespie, Recreation Director Enovitch, Director of Public Service and Properties Liskovec, Fire Chief Lyons (Zoom), Clerk of Council Kemper.

## AUDIENCE

Dan Rettig, Ed Smith.

**Motion** by Tadych to dispense with the reading and approve the minutes of the Special Meeting of Council held March 13, 2023, as prepared and distributed.

**Motion carried 7-0.**

**Motion** by Tadych to dispense with the reading and approve the minutes of the meeting of the Cahoon Memorial Park Trustees held March 13, 2023, as prepared and distributed.

**Motion carried 7-0.**

## REPORTS

**Director of Law Barbour** advised that at the Council meeting held March 13, 2023 a resident called into question the notification and proceedings when they are advised of property violations. Building Director Tuck-Macalla and Mr. Barbour both thought it would be beneficial if Council were aware of the exact process that the Building Department uses to notify somebody of a violation and how that is handled.

The enforcement process begins a couple of different ways: complaints from residents, violation from an inspection, vacant property inspection or systematic property maintenance inspection. The primary way they come about is either an inspection as part of a building permit or complaint from a resident. The process used became codified in 2007 when the City of Bay Village adopted the International Property Maintenance Code. That sets out the process and orders that are used, and it is also consistent with the Ohio Building Code and the Ohio Administrative Code, which is the section of the rules and regulations that the Ohio Building Commission will use to handle complaints. The first step in the process is the attempt by the Building Department to make contact with the resident, homeowner, or contractor, whoever is doing the work, to let them know there is a violation. Many times, the violation gets corrected immediately. The Building Department will call, or knock on the door; many contractors use email so the Building Department will email or leave a door hanger. If that doesn't produce any result or there is difficulty in making contact, then a written notice is sent. The notice, by law, has to state the violation by code section, and the steps required to abate the violation, along with a notice of the right to appeal. The owners have due process rights that are recognized under law. City of Bay Village Ordinance 1127.03 gives an alleged violator an opportunity to appeal the decision to the Board of Zoning Appeals. The date the violation must be abated by is provided to the property owner. Our code is silent as to dates, so the Ohio Building Code, which is in the Ohio Administrative Code, time limit is used, which is 30 days to abate the problem. After 30 days the right to appeal to the Board of Zoning Appeals or the Ohio Building Commission is waived. That notice gets delivered two ways. It gets put in the United States Mail, and it also gets hand delivered to the offending property and placed in the mail box. If there is an email address for the contractor on file, the contractor is also notified by email.

As part of the process, if it is necessary to go to court, there is an affidavit that is signed by the Building Director, or sometimes the Property Maintenance Inspector, that the person was served with the notice. Every violation letter is both mailed by United States Mail, and hand-delivered to the premises, either put in the mailbox or taped to the door if there is no mailbox. The Building Department tries to make contact within that thirty-day period. If within that thirty-day period substantial progress is made on the violation, the person is granted more time. Some of the violations cannot be immediately corrected, i.e., peeling paint on the exterior of the home cannot be remedied in the winter months. If someone has a tree that has to come down with the services of a contractor, possibly that contractor can't get there in 21 days or 30 days. They show proof that someone has been engaged and the City will work with the property owner in regard to the notice. Also, they may want to appeal. The City must recognize their due process rights and they have an opportunity to appeal to the Board of Zoning Appeals. If the contact is ignored, or there is contact and no progress made, and the thirty days runs out, the Building Department sends a ten-day letter giving them a last warning. If they don't abate the nuisance within ten days, legal action will be taken. At the end of that ten days, the matter goes to the Law Department. The Law Director sends his own ten-day letter, with the idea behind that being that we don't necessarily want to take our residents to court. The ten-day letter is not a legal requirement; it is a courtesy to the homeowner to give them one more opportunity to see if the problem can be resolved.

In 2022 the Building Department sent 414 letters of violation of all categories. In addition to those 414 legal notices, they sent 51 maintenance complaints, which did not receive letters but

some kind of notification, i.e., grass is too high, or some other maintenance problem that was taken care of and no further action was done. Forty-two door hangers were left for information on possible violations that didn't require further follow-up. The Building Department issued four stop work orders for, basically, someone was working without a permit or working outside the permit. There were almost 500 contact points between the Building Department and property owners in Bay Village.

Most of the ten-day letters sent by the Law Department get results. In 2019 the Law Department filed three cases. In 2020 one case was filed, and in 2022 two were filed, and so far in 2023 one has been filed. That means the process didn't work, the problem was not abated, not resolved, and the property owner had to be in court. The court process puts the burden of proof on the City to prove beyond a reasonable doubt that a violation occurred and that the at-fault property owner was properly notified of their right to appeal. All of those have been resolved; there have not been any property cases go to trial. Quite a few violation letters go out; the resolution rate is very high. It is not that people don't re-offend, i.e., the resident who came to Council last week is a re-offender. That does happen, but it gets resolved, perhaps not as fast as everyone wants it to because of procedural rights that need to be respected and the process it takes to correct these things.

Mr. Barbour noted that he thought it worthwhile to spend time giving Council the background. There was some misinformation and mischaracterization by an upset resident, and Mr. Barbour wanted to provide clarification.

Mr. Winzig asked if letters are sent via certified mail. He noted that often times the residents are either not there or will not accept the certified mail.

Mr. Barbour stated that they will send the letter certified if the person is out of town, which are very few. The reason they do not send the letter certified is that our experience in several applications in the City, including the sidewalk program, is despite what we all think, certified mail is not 100% reliable and at times is signed by the postal agent, during COVID for example, and in fact it was not getting delivered. The Building Notices are not always signed for by the building owner; it goes unclaimed, so when the notice is finally received back that they did not claim it or it was refused, or otherwise undeliverable, that adds at least two weeks to the process. There is not a legal requirement that notification be sent by certified mail. Adding that requirement would extend the process by at least two weeks. The vast majority of people are compliant, while they may not always be happy that they have a violation. Some people are horrified that they let it happen, and there is the other end of the spectrum as well.

Ms. DeGeorge stated that it has been her experience that the process works. Ms. DeGeorge hears, more often than not, from the other end, those that are offended by what is going on in one house and you have residents across the street, on both sides, and behind them. Ms. DeGeorge stated that it has been her experience that the process described by Mr. Barbour works, especially based on the numbers shared this evening.

Law Director Barbour stated that there are dozens of encounters that are not recorded.

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Mr. Barbour pointed out the receipt of the annual report of the Rocky River Municipal Court for the year 2022, a copy of which was received by each member of Council. Mr. Barbour noted that the reports are very informative about what our Police Department does and how many interactions end up in court, and how many filings and what the filings are for. Mr. Barbour encouraged Council to review the annual report, noting that we have a busy court.

Mr. Clark thanked Mr. Barbour for the detailed report this evening.

**Finance Director Mahoney** had no report this evening.

**Director of Public Service and Properties Liskovec** reported that the forestry crew has been out diligently doing a lot of tree trimming. Tree lawn signage was created to help notify residents that the crew is working and what work will be done in their neighborhood. The signs are placed one week in advance.

This week the Service Department is hosting in conjunction with the Ohio Independent Arborist Association an advanced young tree training course that is being offered to various arborists. It is a good opportunity to learn proper practices and interact with other arborists. The course will be held later this week.

Mr. Winzig inquired about the possibility of residents participating. He learned that this is business training for the staff, but there is a possibility that the Ohio Independent Arborist Association could be back later in the year for resident training on tree pruning and maintenance.

At the end of this week and the beginning of next week the Service Department administration will meet with representatives of the Rocky River Wastewater Treatment Plant to discuss the results of the hydraulic modeling study that was done and how it applies to Bay Village.

Ms. DeGeorge stated that Mr. Liskovec and she discussed that striping will take place to mark the parallel parking spaces on Wolf Road in front of the library. Twice, at two different times of the day, someone has made a U-turn out of those parking spaces on Wolf Road. Ms. DeGeorge asked if there has been any discussion about putting No U-turn signs there, as the U-turn there is very dangerous.

Mr. Barbour noted that U-turns across double yellow lines are prohibited.

Ms. DeGeorge noted that it is something to consider because if she has seen it twice it must be happening more often. Mr. Liskovec stated that he will take this up with engineering as to what is appropriate and needed there.

**Recreation Director Enovitch** reported that summer programs are online and open for registration. Lifeguards are still needed and applications are available online.

**Director of Community Services Messeri** will begin her role here in Bay Village on Wednesday, March 29, and will be welcomed at the April 3 meeting with her first official report and comments.

**Fire Chief Lyons** reported that the Bay Village Fire Department offers CPR classes, training all of the employees in the City, typically on a semi-annual basis. This month and next month they are offering several classes for some of the staff at city hall and informed the members of Council that they are more than welcome to join in on those classes. In conjunction with University Hospitals, the Fire Department is offering an additional monthly CPR training beginning in March for members of the community who would like to be certified, or brush up on their knowledge and skills. The details for the three-hour course held in the evenings is on the Bay Village city website.

**Human Resource Director Demaline** is excused this evening.

**Building Director Tuck-Macalla** is excused this evening.

**Police Chief Gillespie** announced that the annual Drug Take Back Day is going to be held on Saturday, April 22, 2023, from 10 a.m. to 2 p.m. at the Bay Village Police Department. This is one of two days per year that people are allowed to bring in sharps and liquids, in addition to other medication, for safe disposal.

Police Chief Gillespie reported further that there are two full time police dispatchers at the Police Department. The day and afternoon shifts for weekends must be filled in by part time dispatchers. Attempts to find enough personnel to cover all the shifts have been unsuccessful. A change to the ordinance that regulates staffing is being proposed by Chief Gillespie to add a third full time dispatcher. A part time dispatcher currently employed is interested in becoming a full-time dispatcher which would provide more coverage during the week, and provide savings by not having to pull an officer off the road to cover dispatch.

Mr. Tadych asked what the cost would be.

Finance Director Mahoney stated that it is actually a savings of about \$12,000 over the current budget. The available part time positions can't be filled, and the addition of a third full time dispatcher would relieve a police officer of having to fill in as dispatcher.

Mr. Barbour stated that the move would reduce police overtime. Ordinance 129.02, Division of Police, states how many members the Police Department is permitted to have, and includes dispatchers. Presently it allows two full time and nine part time dispatchers. If Council were to go forward with the suggestion to add a third full time dispatcher, the ordinance would require an amendment. The discussion has been to also reduce the number of part time dispatchers from nine to seven, because with three full time dispatchers there would be fewer shifts to fill. Mr. Barbour noted the savings the change would provide by the reduction of police overtime required to fill the dispatch shifts. He noted the favorable opportunity to have an experienced dispatcher willing to move to full time work. The full-time position is a Civil Service position and the Civil Service process of testing with a non-competitive examination will be followed.

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Mr. Greco asked if the calculation of the total cost of a full-time employee also incorporates the medical coverage. Mrs. Mahoney stated that she uses the full benefits available, but she is not certain if this person would require full family benefits.

Mr. Clark stated that getting a third full time dispatcher would be higher than what we are paying now, but far less than the budget that was approved by Council. Mrs. Mahoney agreed.

An amendment to Codified Ordinance Section 129.02 will be prepared to create a third full time dispatcher position, and possibly reduce the part time dispatcher position from nine to seven dispatchers.

Mr. Kelly asked how many part time dispatchers are currently employed. Chief Gillespie stated that there are two part time dispatchers employed at this time.

Mr. Greco asked if the full-time dispatcher is a union position.

Mr. Barbour stated that full time dispatchers are union, and part time dispatchers are not union.

Chief Gillespie stated that no one knows what is going to happen with the Regional Dispatch situation, so this may be a temporary fix, but will really help get the police off the desk and back on the road, as well as reducing overtime.

Mr. Barbour noted that there are three shifts per day of dispatch. It is a 24 hour, seven days a week operation.

## **AUDIENCE**

There were no comments from the on-line or in-person audience this evening.

## **COMMUNICATIONS**

The following communications have been received:

Petition for Special Assessments for a shoreline erosion control project to be included within the Bay Village Shoreline Special Improvement District forward by Kevin Butler, the attorney for the district, and will be kept on file in the office of the Clerk of Council.

An email from Brett Ormsby has been received regarding the Bay Baseball Polar Plunge that was held last weekend with over 40 brave souls who took the plunge into Lake Erie to support Bay High Athletics. Over 100 spectators were on hand to cheer and observe the community event, which will be planned to continue next year. Appreciation was expressed to the members of Council, the Cahoon Memorial Park Trustees and Mayor Koomar for their support.

**ENVIRONMENT, SAFETY, & COMMUNITY SERVICES COMMITTEE-** Kelly, Tadych, Maier.

**Mr. Kelly** introduced and read, by title only, **Resolution No. 23-29** declaring it necessary and determining to proceed with acquiring, constructing, installing, equipping, improving, maintaining and repairing improvements necessary for making improvements to abate erosion along properties within the City included within the Bay Village Shoreline Special Improvement District, Inc., together with all necessary appurtenances thereto, and declaring an emergency, and moved for adoption.

Mr. Clark, on behalf of City Council, thanked resident Ed Smith for his initiative, his integrity, his work, his commitment and his patience throughout this process.

Mr. Smith thanked everyone on Council for their support in putting this together, noting that it is almost two years ago that he sat down with Mr. Tadych and talked about reorganizing the park which started the path that led to where we are today. Details will be sorted out as the project moves forward.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Resolution No. 23-29.

Roll call on Suspension of Charter Rules:

Yeas-Clark, DeGeorge, Greco, Kelly, Maier, Tadych, Winzig.

Nays – None.

Roll call on Suspension of Council Rules:

Yeas- Clark, DeGeorge, Greco, Kelly, Maier, Tadych, Winzig.

Nays – None.

Roll call on Inclusion of the Emergency Clause:

Yeas-Clark, DeGeorge, Greco, Kelly, Maier, Tadych, Winzig.

Nays – None.

Roll call on Adoption:

Yeas-Clark, DeGeorge, Greco, Kelly, Maier, Tadych, Winzig.

Nays- None.

Mr. Barbour announced adoption of Resolution No. 23-29, an emergency measure, by a vote of 7-0.

**Mr. Kelly** introduced and read **Ordinance No. 23-30** levying special assessments for acquiring, constructing, installing, equipping, improving, maintaining and repairing improvements necessary for making improvements to abate erosion along properties within the City included within the Bay Village Shoreline Special Improvement District, together with all necessary appurtenances thereto, 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 Ordinance No. 23-30.

Roll call on Suspension of Charter Rules:

Yeas-DeGeorge, Greco, Kelly, Maier, Tadych, Winzig, Clark.

Nays – None.

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Roll call on Suspension of Council Rules:

Yeas- DeGeorge, Greco, Kelly, Maier, Tadych, Winzig, Clark.  
Nays – None.

Roll call on Inclusion of the Emergency Clause:

Yeas-DeGeorge, Greco, Kelly, Maier, Tadych, Winzig, Clark.  
Nays – None.

Roll call on Adoption:

Yeas-DeGeorge, Greco, Kelly, Maier, Tadych, Winzig, Clark.  
Nays- None.

Mr. Barbour announced adoption of Ordinance No. 23-30, an emergency measure, by a vote of 7-0.

**FINANCE AND CLAIMS COMMITTEE -Tadych, Winzig, Kelly, Clark.**

Mr. Tadych had no report this evening.

**PLANNING, ZONING, PUBLIC BUILDINGS AND GROUNDS COMMITTEE -Winzig, DeGeorge, Greco.**

Mr. Winzig had no report this evening.

**PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE - DeGeorge, Kelly, Winzig.**

Ms. DeGeorge introduced and read, by title only, **Ordinance No. 23-31** authorizing a contract with Karvo Companies, Inc. for the 2023 Pavement Resurfacing Program, 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 Ordinance No. 23-31.

Roll call on Suspension of Charter Rules:

Yeas-Greco, Kelly, Maier, Tadych, Winzig, Clark, DeGeorge.  
Nays – None.

Roll call on Suspension of Council Rules:

Yeas-Greco, Kelly, Maier, Tadych, Winzig, Clark, DeGeorge.  
Nays – None.

Roll call on Inclusion of the Emergency Clause:

Yeas- Greco, Kelly, Maier, Tadych, Winzig, Clark, DeGeorge.  
Nays – None.

Roll call on Adoption:

Yeas-Greco, Kelly, Maier, Tadych, Winzig, Clark, DeGeorge.  
Nays- None.



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Mr. Barbour announced adoption of Ordinance No. 23-31, an emergency measure, by a vote of 7-0.

**Ms. DeGeorge** introduced and read, by title only, **Ordinance No. 23-32** authorizing a contract with Chagrin Valley Paving, Inc. for the 2023 Pavement Partial Depth Repairs 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 Ordinance No. 23-32.

Roll call on Suspension of Charter Rules:

Yeas-Kelly, Maier, Tadych, Winzig, Clark, DeGeorge, Greco.

Nays – None.

Roll call on Suspension of Council Rules:

Yeas- Kelly, Maier, Tadych, Winzig, Clark, DeGeorge, Greco.

Nays – None.

Roll call on Inclusion of the Emergency Clause:

Yeas-Kelly, Maier, Tadych, Winzig, Clark, DeGeorge, Greco.

Nays – None.

Roll call on Adoption:

Yeas-Kelly, Maier, Tadych, Winzig, Clark, DeGeorge, Greco.

Nays- None.

Mr. Barbour announced adoption of Ordinance No. 23-32, an emergency measure, by a vote of 7-0.

**RECREATION AND PARK IMPROVEMENTS COMMITTEE –Maier, Greco, Tadych.**

**Ms. Maier** had no report this evening.

**SERVICES, UTILITIES & EQUIPMENT COMMITTEE –M. Greco, Maier, DeGeorge.**

**Mr. Greco** introduced and read **Ordinance 23-33** authorizing the Mayor to enter into an agreement with Direct Energy Services, LLC. for the supply of Natural Gas Services to the inhabitants of the City of Bay Village as Governmental Aggregators, 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 Ordinance No. 23-33.

Roll call on Suspension of Charter Rules:

Yeas-Maier, Tadych, Winzig, Clark, DeGeorge, Greco, Kelly.

Nays – None.

Roll call on Suspension of Council Rules:

Yeas-Maier, Tadych, Winzig, Clark, DeGeorge, Greco, Kelly.

Nays – None.

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Roll call on Inclusion of the Emergency Clause:

Yeas- Maier, Tadych, Winzig, Clark, DeGeorge, Greco, Kelly.

Nays – None.

Roll call on Adoption:

Yeas-Maier, Tadych, Winzig, Clark, DeGeorge, Greco, Kelly.

Nays- None.

Mr. Barbour announced adoption of Ordinance No. 23-33, an emergency measure, by a vote of 7-0.

**Mr. Greco** introduced and read, by title only, **Resolution No. 23-34** authorizing an agreement for the purchase of One (1) Snow and Ice Body Package from Concord Road Equipment, 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. 23-34.

Roll call on Suspension of Charter Rules:

Yeas- Tadych, Winzig. Clark, DeGeorge, Greco, Kelly, Maier.

Nays – None.

Roll call on Suspension of Council Rules:

Yeas- Tadych, Winzig. Clark, DeGeorge, Greco, Kelly, Maier.

Nays – None.

Roll call on Inclusion of the Emergency Clause:

Yeas- Tadych, Winzig. Clark, DeGeorge, Greco, Kelly, Maier.

Nays – None.

Roll call on Adoption:

Yeas-Tadych, Winzig. Clark, DeGeorge, Greco, Kelly, Maier.

Nays- None.

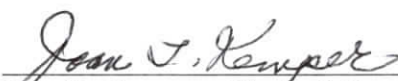
Mr. Barbour announced adoption of Resolution No. 23-34, an emergency measure, by a vote of 7-0.

#### MISCELLANEOUS

Mr. Clark wished everyone a happy first day of spring.

There being no further business to discuss this evening, the meeting adjourned at 8:55 p.m.

  
Dwight A. Clark, President of Council

  
Joan T. Kemper, Clerk of Council