

City of Bay Village

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

June 20, 2023
7:00 p.m.

Dwight A. Clark, President of Council, called the meeting to order at 7:00 p.m.

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

Excused: Michael Greco, Councilman, Ward 3.

Also Present: Law Director Barbour, Finance Director Mahoney, Police Chief Gillespie, Fire Chief Lyons, Recreation Director Enovitch, Director of Public Service and Properties Liskovec, Community Services Director Messeri, Building Director Tuck-Macalla, City Engineer Jeff Filarski, Clerk of Council Kemper.

AUDIENCE

Dan Rettig, Jeff Nichols, Richard Bak, Patty Zamora, Dan Sweeney, Leah Kopko, Jamie Kopko, Sarah Sweeney, Sarah Edelman, Pat Andler, Elaine Kosco.

ANNOUNCEMENTS

COMMITTEE OF THE WHOLE

Jeff Filarski, Chagrin Valley Engineering Equalization Tank; Rocky River Wastewater Treatment Plant

Mr. Clark introduced **Mr. Jeff Filarski, City Engineer**, who was present this evening to update City Council and the administration on the progress of work being done for the equalization tank project and improvements to the Rocky River Wastewater Treatment Plant.

Mr. Filarski distribute an "SSO Elimination Project Schedule Status" to the administration and Council, a copy of which is attached to the minutes of this meeting as if fully incorporated herein. Mr. Filarski's report this evening included the following comments.

Mr. Filarski explained that the City of Bay Village is under order from the U.S. EPA to eliminate the remaining two SSO's (Sanitary Sewer Overflows) located near the intersection of Glen Park Drive and Lake Road. In order to eliminate those SSO's and not cause basement flooding, when during a rainstorm water rises up in the sewer and the SSO acts as an emergency drain with the sewage going through the pipes up to the Wischmeyer Creek, an equalization tank will be built

upstream in Cahoon Memorial Park at Cahoon Road and Wolf Road. It will be an underground tank to store the wet weather flows which will be released after the storm.

Mr. Clark noted that the City of Bay Village is taking this action before other cities trying to eliminate SSO discharge.

Mr. Filarski continued, stating that there is other work that must be done as part of the process because of the City's involvement with the Rocky River Wastewater Treatment Plant (RRWTP), where all sewage goes for treatment. The RRWTP is under order from the Ohio EPA to reduce their overflows. They have started a project to help with the overflows, and to treat what does overflow out of the plant during wet weather. Chagrin Valley Design, on behalf of the City of Bay Village, will be dealing with these circumstances for the next ten years. Due to the City's membership in the Rocky River Wastewater Treatment Plant system, things must be done to improve the system to reduce the wet water flow going to Rocky River. The modeling of the tank project is completed now, and construction loans will be submitted in August for both the tank project and the Lake Road, Glen Park and Douglas Drive sewer project. The Ohio Public Works Commission (OPWC) funding submitted for the project has been approved for a \$2.9 million loan with zero interest. The last item is the design, which is underway.

The design loan applications include one left to be submitted for the sewers on Glen Park, Lake Road and Douglas Drive. That project was dependent on what was found in the modeling for the equalization tank. It has been determined that the scope of the project can be reduced, and once the scope is narrowed down more an application for the design loan will be submitted. The original calculation for the design loan is in the range of \$12 to \$13 million. Mr. Winzig noted that the SSO was first estimated in January at \$2.960 million, and the equalization tank was \$9.3 million.

Mr. Winzig asked if the thought is that the volume will be less on the sanitary sewer overflow.

Mr. Filarski stated that they are able to regulate the flow upstream between the tank and a gate (regulating structure) to allow for a lower hydraulic grade line of the water level on the interceptor to keep that from affecting basements. The initial study showed that it would be affecting basements, and fine-tuning with the latest modeling they have been able to see that it really will not come as high as it did during the preliminary study. There are several basements where the basement is lower than the sewer and there should have been flooding. They have inspected two of the three homes and two came out positive. The inspection of the basement of the third home will be done on Wednesday, June 21.

Mr. Filarski stated that for the Glen Park, Lake Road, Douglas Drive sewer area, the first aspect will be the replacement of some of the sewers to eliminate the basement flooding. Another thing to be done there, which is an outreach of the Rocky River system improvements, is that each community has to reduce their infiltration inflow, which is the wet weather flow, the rain water flowing into the sanitary sewers. Chagrin Valley Engineering is targeting areas that have a lot of inflow and infiltration (I&I) and will start working in those areas. The Bruce/Douglas area is one of those areas where they know there is a lot of I&I coming in, and the City is required to reduce that I&I. Each city must submit a schedule as part of the agreement and each city will

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have to update that schedule every year and move forward with the work to reduce the flow to the RRWTP.

Other matters concerning the sanitary sewer system include improvements to the Huntington Pump Station, including underground work, electrical upgrades, i.e., generator, transformer and other upgrades. The sewer force mains, which take the flow out of the pump stations to the gravity sewers to the interceptors, are aging, especially the Long Beach Pump Station which just had a second ruptured line. Replacement of the line will be included in the Capital Improvement Budget. There are also issues with the Huntington forced main with a valve in a manhole on Cahoon Road which is leaking. Plans are being prepared for repair.

Mr. Winzig noted that equipment delivery is many times delayed. He asked if there is any advantage to getting out in front of a new generator or a new transformer if we know that it is something that needs to be ordered and may not be delivered for 12 to 18 months.

Mr. Filarksi will discuss Mr. Winzig's suggestion with the electrical engineer of Chagrin Valley Engineering to determine the lead times with those types of units.

Another large project is being done at the Rocky River Wastewater Treatment Plant to conform to the order from the Ohio EPA. Chemical treatment facilities are being built to treat the sewage before it goes out from an overflow, and replacing the final clarifier where solids settle out before the sewage goes out. The project has been bid, awarded, and is underway. Construction trailers are on site. The project will continue until 2025. Payment for the project is divided among the participating communities.

ENVIRONMENT, SAFETY, & COMMUNITY SERVICES COMMITTEE- T. Kelly, D. Tadych, S. Byrnes Maier.

Authorization to enter into an agreement with Mull & Weithman Architects, Inc., as amended, for fire station renovation and additions. (Second Reading of Ordinance and Consideration for Adoption at Regular Meeting of Council this evening) (First Reading on June 5, 2023.)

Mr. Kelly will present for approval an updated agreement with Mull & Weithman Architects for the renovations to the Bay Village Fire Station. A new timeline has been outlined in the amended contract.

Ms. DeGeorge confirmed with the administration that just the timeline has changed, and not the dollar amount of the contract. Chief Lyons responded affirmatively.

Mr. Clark stated that the cost of the contract with Mull & Weithman Architects will be funded by American Rescue Plan Act federal dollars, and suggested moving forward with approval of the contract this evening.

Bay Provisions C-2 Liquor Permit.

Police Chief Gillespie confirmed that the permit is for beer and wine sales for off premise consumption. The question before Council this evening is if they wish to request a hearing on the application, which would challenge their ability to have the permit. Based on Chief Gillespie's comment that the police department has no objection to the issuance of the permit, Mr. Kelly will recommend that Council not request a hearing.

Law Director Barbour stated that Bay Provisions currently has a D1 Permit which is on-premise and carry out beer. The premises before had carry out for both but it did not transfer. This is a C-2 permit which is carry-out wine. Previously in September of 2022, Council did not object to Bay Provisions getting a D-1 or D-2 application, but since it didn't transfer they must go through this process again and be on the ballot for wine consumption on premises, with approval required by voters in the precinct where Bay Provisions is located. The permit application will reinstate what Martin's Deli had at that location which did not transfer due to an error on the side of the Department of Commerce, seller, or buyer. At that point, Bay Provisions can apply to get an on-site premise for wine, with an affirmative vote of the precinct at the ballot.

FINANCE AND CLAIMS COMMITTEE -D. Tadych, P. Winzig, T. Kelly, D. Clark.

Tax Budget for year 2024. (Third Reading and Consideration for Adoption of Resolution No. 23-53 at Regular Meeting of Council this evening.) (First Reading May 15, 2023; Second Reading June 5, 2023.)

Mr. Tadych advised that there is no increase in property tax millage for the year 2024. The Resolution approving the budget will be presented for adoption this evening.

Compensation for President of Council and Members of City Council. (Second Reading of Ordinance No. 23-63 at Regular Meeting of Council this evening.)

Mr. Tadych related that the Finance Committee met this evening and reviewed the compensation ordinance for City Council. An amendment to the ordinance introduced on June 5 will be presented for second reading this evening. The ordinance must be passed 75 days before the next election and will be included on an agenda for a special meeting later this summer.

Amended Appropriation Ordinance. *Amending by Reading (Second Reading of Ordinance 23-64 at Regular Meeting of Council this evening) (First reading on June 5, 2023.)

*Funds for Sidewalk Program (Additional Amount of \$31,193.00)

AFG Grant for Radios (\$28,151.00)

Architect Contract for Fire Station Project (\$741,254.00)

Engineering Contract for Bay Point Project (\$918,332.00)

Engineering Contract for Interurban Bridge Project (Additional \$16,111.00)

Engineering Contract for Wischmeyer Creek Project (\$19,450.00)

Payment for Police Body Cameras (Increase of \$35,727.00 bringing the amended amount to \$61,476.00)

Speed Cameras for the Police Department (\$10,000)

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Mr. Tadych will present Ordinance No. 23-64 for second reading this evening, and, as requested by Finance Director Mahoney, for adoption to facilitate the ordering of the police body cameras. A large portion of the body camera expense is funded by grants. Mrs. Mahoney noted that there is no additional outlay from the Capital Budget for the cameras, and the increase is to be able to receive the grant money more quickly.

Ms. DeGeorge stated that two weeks ago Councilman Greco asked for numbers that would indicate the cost of a new fire station. Ms. DeGeorge asked if that information has been obtained.

Fire Chief Lyons stated in response that when speaking with the architect they discussed doing other stations further south of us, and estimated that the cost of a new station is about \$650 to \$700 a square foot. If Bay Village were to do a new station, it would be a little bit larger to have the opportunity to widen the bay doors. New construction cost would be north of \$13 million, and adding in the soft costs of demolition and housing firefighters during construction, an additional \$3 million to \$4 million, which would make the new construction cost north of \$17 million to do the same project we have now. Considering inflationary spiral, it could even be more.

Mayor Koomar stated that the City of Avon Lake had a quotation almost two years old and they were north of \$17 million. When Bay Village the study was done, it was always for the architect to provide the best option. The hope is that a renovation would last a number of years because it would be less expensive. They also had the conversation that if it ever got to that point in their opinion that it made more financial sense to build a new station that they should have that discussion. The problem would be is if there is enough room on that site to try to maintain or build a new station, or would it be necessary to look for new land. A lot of those things drive up the cost as well.

May 2023 Financial Statements of the City of Bay Village.

Mr. Tadych commented that the Finance Committee this evening also reviewed the May 2023 financial statements of the City. They are very good; we are up 5.75% over the last year (municipal income tax receipts) and last year at this time we were up about 40%. We are doing fine with the financials.

Authorization of payment to the City of Fairview Park for the city-share portion of Radio Grant Funding received through the Assistance to Firefighters Grant (Regional Grant hosted by the City of Fairview Park.) Resolution on agenda for Regular Meeting of Council this evening.

The total payment to the City of Fairview Park of \$28,161 for the city-share portion of radio grant funding received through a grant application hosted by the City of Fairview Park will be authorized by a resolution to be introduced by Mr. Tadych at the Regular Meeting of Council this evening.

Authorization of payment to Cuyahoga County for work completed and invoiced for the Wolf Road Resurfacing Project.

Mr. Tadych asked what work is included in the payment to Cuyahoga County for work completed on Wolf Road.

Mrs. Mahoney stated that the invoice for \$900,000 is for the initial estimate of the City's portion of the Wolf Road Paving Project. It is hoped to have the final cost by the end of the year.

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

Approval to enter into agreement with Chagrin Valley Engineering for Bay Point engineering. (Second Reading of Ordinance No. 23-65 at Regular Meeting of Council this evening, amending by reading) (First reading June 5, 2023.)

Mr. Winzig advised that the ordinance authorizing the agreement with Chagrin Valley Engineering for engineering services for the Bay Point project is on the agenda for second reading at this evening's Regular Meeting of Council. A very detailed document has been received from Chagrin Valley Engineering outlining all the steps that will be taken with Chagrin Valley Engineering, Smith Group, Lawhon and Associates and LJB, all partners involved in the project. Funding has been set aside in Fund 285, which is the fund that holds the receipts of the American Rescue Plan Act that the City of Bay Village received. Mr. Winzig recommended that Ordinance No. 23-65 be moved for consideration for adoption this evening. Mayor Koomar noted that the American Rescue Plan Act (ARPA) funding was received through reallocation from Cuyahoga County, versus the money for the architectural fees which came directly from ARPA to the City of Bay Village.

Mr. Clark endorsed moving the ordinance forward this evening.

Ordinances on agenda for first reading and consideration for adoption at Regular Meeting of Council this evening for the following codified ordinance section amendments:

Amendment to C.O. 1123.01, Regarding Building Commissioner.

Amendment to C.O. 1301.02, Regarding Department of Building Engineering and Inspection Personnel.

Amendment to C.O. 1141.04, Regarding Accessory Buildings, Structures and Uses.

Amendment to C.O. 1149, Accessory Use or Structure, Residence Districts.

Amendment to C.O. 1350.03, Utility Buildings, Installation and Location.

Mr. Winzig discussed the review of the Accessory Use language that impacts the construction side of new construction. There was also a recommendation from Building Director Tuck-Macalla that the title "Building Commissioner" be corrected. What is being referred to as "clean-up" ordinances have been distributed to Council. The amendment to C.O. 1123.01 is delineating that there is language in the code for Building Commissioner and Building Director. The amendment to C.O. 1301.02, which also mentions the Engineering Department as Building Director, recommended bringing the language up to consistency. The amendment to C.O. 1350.03 addresses the gap in the code regarding the size of a shed. The amendment is prepared

upon the recommendation of Building Director Tuck-Macalla that the size be increased to 199 square feet. The ordinance being amended stopped at 120 square feet and started again at 200 square feet. The 199 square feet allowance will ease the permitting and construction process when residents come forward to request a shed. It is recommended that these three documents move forward this evening.

The remaining two documents will be recommended to be placed on first reading. C.O. 1141.04 talks about Accessory Use and Accessory Use Structures. It takes the former 1141.04 and removes some of the dated material that was in the code from 1942, 1962, and 1976 and brings it up to date. The conversation for change started during the COVID Pandemic when a number of people were working from their homes. The Council questioned the ramifications of working from home. The recommendation of C.O. 1141.04 is written as to what would be updated, and it is primarily Accessory Use for building structures. The other ordinance is C.O. 1141.09 and that is an update primarily to recreation courts. This work was started in a prior Council that carried forward to the Planning and Zoning Committee. The new ordinance sets forth the management of recreation courts in back yards. C.O. 1149.08 addresses Accessory Use home occupations. With the ordinances placed on first reading this evening it will allow for questions from Council at future meetings with discussion as necessary.

Mayor Koomar thanked Mr. Winzig and the members of the Planning, Zoning, Public Buildings and Grounds Committee, Building Director Tuck-Macalla, and Law Director Barbour for the review of the ordinances and preparation of the amendments to the code.

PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE -L. DeGeorge, T. Kelly, P. Winzig.

Agreement with Infinity Paving Company for the repair of public sidewalks. (Second Reading of Ordinance No. 23-66 at Regular Meeting of Council this evening.) (First Reading June 5, 2023)

Ms. DeGeorge will present Ordinance No. 23-66 authorizing an agreement with Infinity Paving Company for the repair of public sidewalks for second reading and adoption this evening. A different company did the repairs last year at a cost of \$543,000. Infinity Paving Co. is new to the City, but not to the area. This year the price is \$681,191.00. It was reported in the Finance Committee meeting that letters to property owners notifying them of the requirement for repair or replacement of their sidewalks were sent today by the Director of Public Service and Properties.

Mr. Tadych noted that this program was far more advanced than last year's program as far as the number of homes. Mr. Liskovec stated that the number of homes is higher, although the distance is a little shorter than last year.

Mr. Clark noted that the ordinance will be moved forward this evening for adoption in the interest of safety for the residents of the City.

Rejection of bids for pavement improvements to Tuttle Drive and Lane Drive, per memorandum dated June 1, 2023 from Curtis J. Krakowski, CSI, CDT, Infrastructure Manager.

Ms. DeGeorge will introduce two motions this evening to reject bids for pavement improvements to Tuttle Drive and Lane Drive, upon the recommendation of Curtis J. Krakowski, CSI, CDT, Infrastructure Manager, due to the high cost of the bid. The action will enable the return of the bid deposit to the contractor. The first motion will be to suspend Council rules to enable moving forward with the second motion to reject the bids.

RECREATION AND PARK IMPROVEMENTS COMMITTEE –S. Byrnes Maier, M. Greco, D. Tadych.

Repeal of Ordinance Section 539.11 regarding Cahoon Memorial Park. (First Reading and Consideration for Adoption of Ordinance on agenda of Regular Meeting of Council this evening.

Ms. Maier advised that an ordinance will be presented for adoption this evening for repeal of C.O. Section 539.11 regarding Cahoon Memorial Park. The passage of the ordinance will take out the requirement that only residents and invited guests can use Memorial Park. That requirement was inserted into the code in 1970 and is not at all associated with the Cahoon Will. The removal of C.O. Section 539.11 will ensure that the park is open to everyone.

Amendment to Ordinance 20-66 regarding an agreement with Chagrin Valley Engineering, LTD., for engineering services related to the Interurban Pedestrian Bridge and Multi-Use Trail.

Ms. Maier will present an amendment to Ordinance No. 20-66 regarding an agreement with Chagrin Valley Engineering, LTD., for engineering services related to the Interurban Pedestrian Bridge and Multi-Use Trail. As the project proceeded it became more involved due to soil testing that had to be done in accordance with federal requirements for remediation of soil, with an additional cost incurred. The increase is approximately \$16,000.

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

Vehicle for Fire Chief. Resolution for purchase on agenda for Regular Meeting of Council this evening.

Ms. Maier will present a resolution for purchase of a new vehicle for use by the Fire Chief at the Regular Meeting of Council this evening. The vehicle has been approved by Council as part of the 2023 Capital Budget. Mayor Koomar stated that when the Building Department was brought back in-house a vehicle was needed for the Building Director. The vehicle that Mayor Koomar inherited from his predecessor had a keyless entry, better suited for the Building Director. Mayor Koomar took over the Fire Chief's vehicle at that point. The 2011 Chevrolet Impala being replaced has over 100,000 miles and it is time for a new vehicle.

Contract with Black Talon Security LLC for cyber security services. Ordinance on agenda for Regular Meeting of Council this evening.

Ms. Maier advised that Council has received information concerning a proposed contract with Black Talon Security LLC for this \$35,444 contract. The services of Black Talon Security LLC will help safeguard the City against any breach of internet security. The \$35,444 annual cost includes the contract fee of \$23,500 plus a monthly fee of approximately \$1000.

Contract with EMC IT for cyber security services. Ordinance on agenda for Regular Meeting of Council this evening.

An ordinance to enter into a contract with EMC IT for cyber security services will engage additional screening at a cost of \$10,000 for the contract.

AUDIENCE

Sara Sweeney, Oakmoor Avenue, stated that conversations have been held with a few other community members regarding the Flock Camera System. Ms. Sweeney became aware that Bay Village had implemented the Flock cameras. Working in the health care field, Ms. Sweeney thinks a lot about privacy and when she began looking into the Flock system she finds that a paper written by the American Civil Liberties Union (ACLU) was documenting that even though the Flock system is rapidly spreading across the country there is a lot of privacy concern about having that data transmitted to a third party. A few citizens put together some questions and would like those questions answered by Council and the Mayor. Mostly they have concerns with the transparency of the process, Flock collecting private data, how that gets decided with citizen input as far as how that process happens with that being approved without citizens being involved in the process. There are questions about how much is known about the company and if we are comfortable with sending that data. There is a lot of momentum, a lot of cities are adopting it all over the country, and even though we moved forward with this, we can take a step back and decide if that is something that really makes sense for us. There are other communities in northeastern Ohio that have chosen to not implement the system because of privacy concerns.

Patty Zamora, Midland Road, stated that she is also concerned about what will be done with this information that can be used for other things in the surveillance network. Who is going to be surveilling this third party to make sure that there isn't any abuse of data? Is that something that could be addressed tonight that would ease our minds?

Elaine Kosco, Lake Road, stated that when she first heard about Flock she was excited about the cameras as an investigative tool. But, then she started engaging with the community and there are some valid concerns. Even just doing things like the most superficial research about AI mass surveillance systems, especially Flock, is taking law enforcement by storm. At the same time, it is kind of new for our community and why cannot we be at the forefront of putting in some other system to make sure that this private company is protecting our data? Sure, they say they are going to get rid of it in thirty days. How do we know? Where are the checks and balances? Why wasn't the community involved in this process? I know that the police job is not easy, but this AI data in a centralized database owned by one company is scary because we don't know what they are going to do with it. They are already pushing for more and more. There is a 10% chance that this data from Flock isn't accurate. What if you were the one pulled over thinking that you were part of this database, and you weren't. What if you are a person of color?

I worry about the marginalized community. Let us have some input before this trial becomes a real thing. A copy of the questions was distributed to Council by Ms. Kosco, and she asked the Council to think about it and hopefully engage with the community.

Richard Bak, Osborn Rd., stated that when they moved here six years ago it was a quiet residential street without much traffic. About a year or two after they moved in Wolf Rd. was closed and Lake Road was closed and everyone was starting to come down their street. They have become so used to it because there is nothing there to stop them from Bassett Rd. all the way to Cahoon Road. It is a straight shot. They don't have the police station, the lights, or the schools like the other streets have to slow them down, so they just barrel down there like crazy. Our street says 35 mph, but some are going over 45 mph. There are cars parked down the street going east bound, and if I happen to be coming home west bound these people are flying and they expect me to stop and let them go around a car where I have the right-a-way. There is going to be a serious accident on the street and I am bringing it to your attention, putting it on your heads and the city's heads. You are afraid to ride your bike down the street because you have to veer around cars and these people are driving like crazy. My suggestion is to lower the speed limit to 25 mph on the street and add two stop signs, one at Bracken Way and one at Sutcliffe. Those are both thoroughfares for kids to cross to go to the schools. It is going to be much safer for them and it will take a lot of burden off my mind watching these kids cross the street and these cars flying. A lot of my elderly neighbors are afraid to even cross the street to see their neighbors because certain times of the day it is so hectic there. I just hope something can be done. Everyone tells me it is a secondary street and that is why the speed is 35 mph. Isn't Walker Road a secondary street? That is the next main street to go through Bay Village and that is 25 mph over there. I looked online and it seems even if there is a problem it seems that the City has a right to petition or ask for a variance on speed and what they do. It might take a study or it might take petitions from people on the street, but I am looking for some type of answers from you people.

Mr. Clark thanked Mr. Bak for his comments and reassured him it doesn't fall on deaf ears. We are looking at increasing the number of speed controls and measurements throughout the City because people are driving faster, during and after COVID.

Mayor Koomar stated that the Police Chief and he were out meeting with residents on a different street with the same issue. It seems everyone is in a rush and on the agenda tonight are these temporary signs to be purchased to remind motorists they are going too fast. That is one option. We are looking with our city engineer at some other options for traffic calming. It is a problem, unfortunately, in many places in Bay Village.

Mr. Bak stated that when people see the speed signs they slow down but resume their speed as soon as they get by the sign. They are a waste of money as far as he is concerned.

Mayor Koomar stated stop signs are controlled by rules at the state level where certain traffic volumes have to be met. To put those up to slow down traffic is a violation of state law. One of the things we look at with the Safe Routes to Schools Program is to add a rapid beacon crosswalk at Sutcliffe and Osborn. We have seen good compliance in traffic stopping for residents with the

crosswalks. We will be putting one on Wolf Road also to make drivers aware where there are pedestrians.

Mr. Bak stated that ODOT information says that municipalities have the option to talk with them and iron things out if there is a problem. And there is a problem on that street; somebody is going to be killed and it is going to be at the City's expense because it is now on record. If you don't do anything it is your problem.

Mayor Koomar asked Police Chief Gillespie to follow up with Mr. Bak and obtain some specifics for more research.

Sarah Edelman, Knickerbocker Rd., stated that she was bit by a Pit Bull, and she has been calling the last two years about this Pit Bull. She stated that since they first moved to Bay every time they go to their garage, every time they take out their trash, this dog is lunging at them and barking at them and there is nothing they can do about it. Mrs. Edelman and her husband have made peace about it, they are not going to call anymore, there is nothing that can be done. In recent months the dog has become more and more aggressive. She had had to call several times for this aggressive Pit Bull chasing her family into her house. They have to close their door on each other's arms and legs and injure themselves because they are trying not to have the dog enter their house. The police have told them time and time again that unless they have a video of it there is nothing they can do. If they get a video of it they will take the dog away. Ms. Edelman stated further, that she has communicated with Ms. DeGeorge and said to the police that this is going to end poorly, someone is going to get hurt. "And, it was luckily me, and not my children." Ms. Edelman stated that she was bit coming out of her car. They got out of the car and noticed the dog was running wild, as usual. They slammed the daughter back into the car, pushed their son into the house, her husband was able to jump on the car, and she was the last man standing and got bit. She got a video, because the police told her she needed video evidence to get rid of the dog, time and time again. Everyone knew this dog was going to bite someone and it did. Since the bite, she has tried to figure out what is going to happen with the dog. Part of it is that is really difficult is that they live next to this dog. They are terrified by this dog 24 hours a day. Her son has not been outside since May 20. He used to play in the yard all day long. He is never coming outside again. The other day on Knickerbocker a police officer pulled over and was playing soccer with the kids on the street. Her kid never gets to do that and have that experience because this Pit Bull owner has more rights. If her son has to go to a friend's house on their street he has to go in their fenced in back yard, climb their fence, climb the neighbor's fence, and climb yet another fence to get to his friend's house because he is so afraid to go out the front door. When they pull in the driveway they pull to the side door, get out of the car, look around, open his door for him to run into the house. He runs into his room until he is told it is safe. Their daughter is suffering just as badly with this. They never ride their bikes, they never go to the garage to get their toys, they can't do anything because there is nothing that can be done about this Pit Bull. Mrs. Edelman has had the opportunity to speak to Chief Gillespie, the Law Director, police officers, and the Animal Control Officer. They say they are doing everything they can, but there is no evidence of anything being done. The Law Director said the owner would be cited on the second or third of June, with ten days for the appeal process of being labeled a dangerous dog; he wouldn't be a vicious dog because he hasn't killed anyone yet. Ten days from there was the weekend, and then they got the extra day for the federal

holiday and today supposedly it is being labeled a dangerous dog and supposedly things go into place today. They were supposed to put a sign up saying there is a dangerous dog. I see no signage. Looking at the municipal code there has to be a dog run that has to be inspected by the City. Has this dog been microchipped? Has this dog been debarked? I don't know any of these things. There is so much confusion with this whole Pit Bull issue. The municipal codes for Bay Village are very unclear and no one really knows what the word prompt means. There has to be an inspection of the home for safety issues promptly after a dog bites. I believe, no one knows for sure that this house was inspected six days after the dog bite. This house is a disaster. It would probably be condemned with an inspection. The back yard is disgusting. Thank God there is a fence; at times we thought it was a real danger. There is a portion of our fence that we have had to reinforce with concrete block because we are afraid the dog will get out. Do I call every single day there is not a sign? What do I do, and the trauma that my children and my family are under is...? I live in Bay Village. It is no way to live. I am a hostage in my house because of this Pit Bull and because it is their right to have a Pit Bull. But, my right to safety isn't here. I have questions about all of the municipal code dealing with dangerous dogs. The dog should have been labeled a nuisance dog so that by the time the dog bit me there could have been more severe consequences. Now I am stuck with a scar, I am in pain every single day. My family is terrified to be in Bay Village. This is shameful. Everyone knew this was going to happen and no one took any steps to protect me. I would like to know how I feel safe in Bay Village.

Law Director Barbour stated that a dog is designated a dangerous dog under the Ohio Revised Code. Looking at the municipal code, when he and Mrs. Edelman spoke on the phone in addition to their meeting in person, he mentioned that the Ohio Revised Code is 955.22, and the provisions in there will apply to this dog. Today was the deadline that the owner had to file an appeal of the designation. Mr. Barbour will check with the Rocky River Clerk of Courts on Wednesday, June 21 to see if he did or not. All of the items in ORC 955.4 and 955.22 need to be complied with. That would be on the Animal Control Officer and the police department to follow up.

Ms. DeGeorge asked what happens to the dog if these laws are not complied with.

Mr. Barbour stated that nothing will happen to the dog; it will happen to the owner.

Ms. DeGeorge asked if the owner will be asked to remove the dog.

Mr. Barbour responded, "Not initially, but eventually."

Ms. DeGeorge asked if anything else has to happen for it to eventually happen?

Law Director Barbour stated yes, but he is not sure what at this moment.

Mrs. Edelman stated that there are now two Pit Bulls in that house. She has a video, but is confused on the video requirement. The police officers say they need the video to get rid of the dog; the Police Chief stated not to get the video, to call. On Saturday she called dispatch when she saw two Pit Bulls running around again and dispatch didn't want to send anyone out. She

had to say several times that Police Chief Gillespie said that if they see anything with the house they should call and the police would be right there. Someone did eventually come, they pulled in the driveway, went to the neighbor's house and left. In other cities you need permission to have a dangerous dog.

Mr. Barbour stated that it is incredulous to him that this person would obtain another dog, but there is nothing the City can do to prevent that at this point, regrettably.

Mrs. Edelman asked if the dog has been debarked, because they don't hear it anymore. According to the ORC and the Bay code it should not be debarked.

Mr. Barbour stated that his life experiences tell him that they have not debarked the dog because that would require more attention and effort than they seem to be willing to give to the situation. That is a personal opinion.

Mr. Kelly stated that it is not legal in the State of Ohio to debark a dog. If that was done it would have been done by someone who is not documenting it. When you cite someone for a debarked dog you discover, upon examination, that the dog has been debarked.

Mrs. Edelman stated that she would like the Council to look at all of the code language to make sure that life is as difficult as possible for these people. They all know they are harborers. All in the house are liable.

Mr. Barbour stated the owner is the son of the neighbor on the other side who owns both of the homes. The home owners are the parents that live on the other side of the home. The son lives in the house and owns the Pit Bull that is involved. There appear to be other people living in the house.

Ms. DeGeorge addressed Mrs. Edelman, stating that they have talked a few times and she does feel for Mrs. Edelman in her situation, but just because they don't talk every week she can assure her that she has had many conversations with people here, the Police Chief, and the Animal Control Officer. From a legislative perspective and looking through the codes to see what reports have to go through the legal department because of the Ohio Revised Code and what can legally be done. Ms. DeGeorge stated that she can assure Mrs. Edelman that from her perspective she is looking into it as other members of Council are. Ms. DeGeorge knows that is no comfort to Mrs. Edelman and she is sorry for what she has been through.

Mr. Barbour stated that the City of Bay Village is in Rocky River Municipal Court with the dog owners now over the designation of the dangerous dog. The owner of the dog has a right to appeal the designation of the dog as being dangerous. If they did appeal the Court will conduct a hearing where the City has to present by clear and convincing evidence that it is, in fact, a dangerous dog which the City can do based on what happened to Mrs. Edelman and her family.

Mr. Barbour will check on Wednesday, June 21 as to whether or not an appeal has been filed and check back with Mrs. Edelman. A notice had to be served on the owner and that took longer than it should have. The time period expired today and they had until the close of court today to

file an appeal. The Clerk of Courts will be called tomorrow and Mr. Barbour will let Mrs. Edelman know what happened, as he said he would when they first met.

If no appeal was filed, the designated dog issue stays.

Mrs. Edelman stated that there is no evidence there is a dog run in the back and they would have to have a permit according to the code with certain specifications. Mr. Barbour stated that the state code is a little different and the revisions of the Ohio Revised Code have to be followed. The Ohio Revised Code is followed so that an order can be obtained from the Rocky River Court instead of just a letter from the Law Director or Police Chief. An order from the Rocky River Court probably carries a little more gravitas.

Police Chief Gillespie stated that they have responded every time someone requested an officer. The department takes this matter very seriously. Starting tomorrow, the dog, if the owner did not file an appeal with the Rocky River Court to the designation of dangerous dog, has a whole new set of rules including a sign, microchip and other various measures. If he does not do this, he will be cited with the first citation. The Police will come back the next day, and if the required measures are not taken an additional citation will be issued for an arrestable offense. The citations are going to get very expensive very quickly and the arrests will not be worth keeping this dog. Chief Gillespie stated that it is a difficult situation and he feels sorry for the Edelman family, especially the little ones. The process sometimes takes time, but there is a good track moving forward. Starting at 5 p.m. today if the owner has not filed an appeal, it is a dangerous dog and the Police have the ability to move forward.

Discussion followed between the Police Chief and Mrs. Edelman concerning the circumstances in which she was bitten by the dog, with Mrs. Edelman stating that she was told by the police officer that she had to have a video of the dog prior to filing a complaint.

Mr. Clark suggested waiting to see what happens on Wednesday, June 21 as far as the Rocky River Municipal Court and whether an appeal of the designation of dangerous dog has been filed. At that point the tangible steps can be determined. Mr. Clark addressed Mrs. Edelman, stating that the Council feels for her, wanted to hear her story tonight, and hopes that the situation can be fixed.

Mr. Barbour addressed Councilwoman DeGeorge, stating that the last process that the City went through with this type of case resulted in the dog having to be put down for being a repeat offender. Unfortunately, for the victim, like a lot of criminal situations, this is not instantaneous.

Dan Sweeney, Salem Drive, stated that many of the audience members this evening came for a discussion regarding the Flock Camera System. He would like to have a discussion with the Mayor, Police Chief, Law Director and President of Council of how the City was able to get this passed without City Council knowing, and the citizens knowing, and how the transparency can be improved as to how this system is being used.

Pat Andler, Knickerbocker Road, stated that the only reason she came to the Council meeting this evening was to hear about the camera system. Mrs. Andler stated that she has been in the

City of Bay Village since 1985 and the last five years have been different. We haven't been getting information, things are passing, the overlay of the zoning which should have been individual, if they want to do something in the commercial areas we should be able to vote at that particular time, not an overlay which now we don't have any say in. The charter thing doesn't make any sense to me because some of the wording in there is UN Agenda 21 wording. It seems like that is what is happening here. The Cleveland mayor signed on to a thing called Global where the mayor is going to be putting in 15-minute cities. It seems like things that are happening in Bay Village are part of this. Mrs. Andler distributed a report written by Chad Madow, and Jay Stanley of the American Civil Liberties Union entitled "How to Pump the Brakes on Your Police Department's Use of Flock's Mass Surveillance License Plate Readers." The report states that "Fast-Growing Company Flock is Building a New AI-Driven Mass-Surveillance System." She suggested going to the website reference in the report for further information.

Ms. Andler stated that she loves the police in Bay Village, they have been friendly and were always there for her. She feels like this is a step overboard to have cameras in Bay Village. It is not Bay Village anymore, and she is seriously thinking that she will give it another year and if it doesn't straighten out she will have to move.

Ms. DeGeorge addressed Ms. Andler stating that Ms. Andler and she spoke and does not appreciate her saying that we do not hear her, noting that she knows that Ms. DeGeorge hears her.

Ms. Andler related that she addressed a Charter Review Commission meeting to request more transparency and was told by a member of the Charter Review Commission that nobody in Bay Village cares.

Further discussion followed between Ms. DeGeorge and Ms. Andler with Ms. DeGeorge assuring Ms. Andler that Bay Village is not signing up for the global program to which Ms. Andler is referring. Ms. DeGeorge noted that the mixed-use zoning overlay changing was approved by a vote of the residents at an election. Ms. DeGeorge stated that she does not know what to tell people who do not want to come to meetings, read the minutes or get involved. Ms. DeGeorge told Ms. Andler that Council will have a newsletter beginning this summer that will be sent to every home. It is up to every resident to have a responsibility to read what is in there.

Ms. Andler stated that she found out a month before the overlay zoning thing from a business person in one of the shopping centers. She stated that she was basically kicked out of the Charter Review Commission because she was told it was only for the meeting people. Mr. Barbour stated that Mrs. Andler's statement is not true.

Ms. Andler stated that she was told she was not welcome at the table and had to sit on the bench. She stated she is a resident and has been here since 1985. She wants to stay in Bay Village, loves Bay Village, but things are going in a different direction. There is a mess going on here.

Mr. Clark addressed Mr. Sweeney stating that he believes Council owes it to the group present tonight to provide some response in regard to the Flock cameras. Mr. Clark appreciates

everyone taking time out of their schedules this evening. He is happy to defer this matter to the police chief.

Mayor Koomar stated that the Flock Camera System is not new technology to Bay Village. The police chief will review the questions and get back to the residents. License plate readers have been in the City for a number of years and those were sometimes cost prohibitive. The Flock System was more affordable and provided an opportunity to be a little bit more proactive for our investigations. We have a police system which contains all sorts of sensitive data and when the detectives are opening a case they have to access the system. The Flock System is much the same way. None of the administration has access to the information. It is maintained for thirty days and if the detectives or chief open a case, i.e., a stolen car, assault, then they can request the information. We have had a lot of cars being stolen in the city. Many times, those vehicles coming in from out of Bay Village are stolen vehicles. These systems help to proactively identify those stolen vehicles. The system basically takes a photo of a car, with a license plate. It does not take a photo of the person. If a case is not opened in thirty days the information is removed from the data base. It is an extension of the license plate readers used. There was a case on Russell Road not too long ago where a suspect was apprehended who was attempting to steal a car. The resident chased the person. Other cameras picked up the assailants and two of the three members in the vehicle were involved in a shooting an hour or so later in another city. We are trying to be proactive. The Mayor assured all that he cares about privacy; it is one of the things discussed with the chief. He wants it to be like the police system where there is not access by the administration to the information and it does not stay around for a long time. He noted that he values his privacy as well, but there is a responsibility to protect the residents of Bay Village and increasingly individuals come into town with open warrants and stolen vehicles to do harm to our property and people and we have to look at using the tools that help law enforcement identify some of these people.

Law Director Barbour stated that probably a majority of Mr. Sweeney's and the audience's concerns regarding the Flock System are more policy directed. The Supreme Court's Carpenter decision is mentioned in the "Flock Questions" distributed to Council and the administration this evening.

Looking at this as a lawyer only, the United States Supreme Court and Federal Courts have long recognized that citizens do not have a right of privacy to their license plate. That has been the law since at least 1974, if not before. Specifically, Bay Village is in the Sixth Federal Judicial District, and this law was affirmed in 2006 in a case called U.S. versus Ellison. The Carpenter Case is actually a very narrowly decided case about cell phone data. One of the reasons the Carpenter Case does not address license plate readers is that a license plate reader is a static gathering on the back of the car, of the license plate, which the Supreme Court has long held that there is not a right of privacy. There are many cases that say that. The cell phone data is different because the phone is a tracking device, tracking the owner of the phone everywhere they go. It gathers much more minutia about the owner and the fact that he crossed the railroad tracks on Columbia Road if his license plate is entered into the data base. The license plate matches the license plate with a hot list of vehicles of which to be on the lookout. From a lawyer's perspective, the license plate is not private data.

Ms. Sweeney asked if the Law Director looked over the data of the Flock System before the City began using the system.

Mr. Barbour stated that he did make himself familiar with it.

Mr. Sweeney stated that the Carpenter Decision stated that a warrant had to be issued. They have data for thirty days. Anytime somebody wants to go in they can go in without a warrant and follow your car around. The Carpenter Decision is somewhat relevant.

Mr. Barbour stated that Mr. Sweeney is exactly right. The ACLU paper is an advocacy paper urging the federal courts to expand the current state of the law to include license plate readers. He referred to the Brennan Law Center for Social Justice, noting they have a very good paper about the legal analysis. In order for these to be illegal, which is what Mr. Barbour looks at as a lawyer, the law has to change. The United States Supreme Court has to pick up one of these cases that says these license plate readers constitute a warrant-less search of the individual. The current law is a police officer can run your license plate because there is no reasonable expectation of privacy of the license plate on your vehicle because it is hanging on the back of your vehicle and it is required. That is the status of the law. We are not breaking the law; we are following the law, these are permitted. That is the legal question. And, certainly, every time you pull into one of those parking garages at Crocker Park they are taking a picture of your license plate. Anytime you park in an unattended parking lot they are taking a picture of your license plates. Amazon and Google know all about me. Certainly, it is not new technology. The privacy concerns are understandable, but until the courts change the definition of a license plate it is a legal way to collect that information. From a lawyer's standpoint, there is no issue whatsoever with license plate readers, whether they are from Flock or any other manufacturer. It is just like a police officer standing on a corner with a list of license plates to be on the lookout for, except it is way faster and there are other concerns which are more policy than law.

Police Chief Gillespie thanked Dr. Sweeney and the group of residents for being at Council meeting this evening. He noted the difficulty in balancing freedom with privacy. The Police want to respect people's rights more than anything, but also want to keep people safe so they are constantly balancing the two. Chief Gillespie sees the Flock System as a tool and any tool can be used improperly. We are looking at two different things. What does Flock do with the information; what does Verizon do with the information; what does the State do with the information? That is a much deeper, longer conversation about surveillance across the world now, with AI and facial recognition. We balance that with wanting to make sure that people coming into the City don't have active warrants, it is not a stolen car. When the camera goes off with a "Bing" recognizing a stolen vehicle license plate, we still have to go to the scene, find the car and rerun the license plate. These are internal policies we put into place to make sure the system is not being abused. We don't want to violate civil rights. We confirm it is the right plate before pulling the car over. There are policies and procedures in place. If the system is to be used for an investigative purpose, there must be a reason to do it. There are checks and balances in place. Other cities have the system. If driving from downtown to Bay Village there are probably fifty of these systems you pass through. Chief Gillespie noted that he counts on the watch dog groups like the ACLU to make sure that information is secure and protected. If this system was in place when Amy Mihajlovic went missing and we were able to input information