

City of Bay Village

Council Minutes, Committee Session
Dwight A. Clark, President of Council, presiding
Council Chambers; augmented by Zoom.

September 19, 2022
7:00 p.m.

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

Present: Clark, DeGeorge, Kelly, Maier, Winzig, Mayor Koomar.

Excused: Mr. Greco, Mr. Tadych.

Also Present: Law Director Barbour, Finance Director Mahoney, Director of Public Service and Properties Liskovec, Police Chief Gillespie, Recreation Director Enovitch, Community Services Director Selig, Building Director Tuck-Macalla, Clerk of Council Kemper.

AUDIENCE

Dr. Dan Sweeney, Denny Wendell, Sam Sives, Carey Musil, Michael Streets, Cynthia White, Kathy Guzley, Misty Elek, James Goodman, Reverend Lisa Kropinak, Nancy Brown.

Zoom participants – Fire Chief Lyons, Martha Raymond.

ANNOUNCEMENTS

Mayor Koomar announced that the Touch-a-Truck event held Saturday, September 10 was an outstanding success. The Mayor thanked Director of Public Service and Properties Liskovec, Police Chief Gillespie, and Fire Chief Lyons for organizing and pulling together this popular gathering. The two State Troopers present said that Bay's Touch-a-Truck event is one of the best, if not the best, because of attendance and how much equipment the City has out in terms of different styles of trucks and the way it is spread out in the parking lot of the police station. They were very appreciative of the efforts, as were the residents and children, young and old alike.

Mayor Koomar stated that last week the Cuyahoga County Council approved a \$1.2 million grant to the City of Bay Village for lakefront development. The Mayor thanked District Council Representative Nan Baker for her support. Representative Baker has been following the application for the grant very closely and was an advocate for the project. There were six co-sponsors of the Bill, including Nan Baker, Dale Miller, Michael Gallagher, Sunny Simon, Purnell Jones, and Councilman Turner. The Mayor expressed appreciation to Project Manager Kathryn Kerber who prepared and did the lion's share of the presentation. For use of the county money there are a lot of strings so it helps with matching funds for the engineering committee and things that are more difficult to achieve.

The Mayor stated that a good meeting was held last week with Nancy Brown and Tom Kauker from the Friends of the Bay Village Animal Kennel. They realize operationally that the Service Garage area works best for the City, and they are fine with that location. Two different routes were discussed, including Ms. Brown and Mr. Kauker's idea for sprucing up the existing kennel and their exploring the route of potential donations where they would build a new kennel. They might have support and sufficient donations for that route. It was a very good conversation and they decided they would meet again in October. The Mayor would like to check with Director Liskovec regarding location issues and infrastructure if they were able to go the new build route. Chief Gillespie and Building Director Tuck-Macalla will be included in the discussion. Ms. Brown and Mr. Kauker were very appreciate that the administration would support either route if they are able to do the fund raising for it. Police Chief Gillespie pulled some good statistics on which he will elaborate. Ms. Brown and Mr. Kauker were informed that the kennel averages a little over one dog per month, and the average length of stay is a little under two hours. From a City perspective the existing kennel functions well and it would be difficult with a functioning kennel to put a lot of money into this project. Ms. Brown and Mr. Kauker are confident that they would like to explore the donation route and feel they have really good support from some benefactors. The Mayor asked Police Chief Gillespie for further comments.

Police Chief Gillespie stated that the average stay is a little over one dog a month and more than half of those were about six hours. The rare stay is overnight and picked up the next day. Over the last three years there were five dogs that were drop-offs, either not claimed or the case of the dog that was tied to a telephone pole. Even the ones dropped off are very quickly moved on.

Mayor Koomar advised that Laura Sherman of Sustainable Energy Solutions (SES) will present to Council at a meeting in October regarding energy aggregation. Bay Village is at 5.4 cents per kilowatt hour. *The Wall Street Journal* today had an article about electric rates going up nationally to 14.8 cents per kilowatt hour. The contract with SES has served the City of Bay Village well. The municipal contract set to expire was able to be extended for one year. Mrs. Sherman will provide an overview of the contract with the new expiration date of November 2023.

Mr. Clark noted that every resident received an update on the aggregation program, as to whether they stay or opt out. The rate we have now is locked in to November of 2023 which is very favorable compared to market rates.

The Mayor commented that the flyer was only for new customers because every two years residents are given the opportunity to opt out. However, others have received it and a communication will be sent to let residents know that they do not need to take any action to continue to receive the fixed rate.

COMMITTEE OF THE WHOLE

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

Deer culling agreement with United States Department of Agriculture.

Mr. Kelly stated that information concerning the deer culling agreement to be entered into by the City of Bay Village has been sent to all members of Council. Mr. Kelly asked Police Chief Gillespie if the \$28,000 contract is in keeping with what has been done in the past.

Police Chief Gillespie stated that the new contract is almost exactly the same as in the past, with just a very slight increase in cost.

Mr. Kelly asked if the expectation is that they would cull the same number of deer this year that they have in the past.

Chief Gillespie stated that the next step is to obtain permits from the Ohio Department of Natural Resources. In 2021 there were 15 permits, with 10 more added for a total of 25. Over the last four years, the City has asked for 25 permits. In 2020 the 25 permits were used very quickly with 10 additional permits added. In 2021, 25 permits were requested, and 14 deer culled. The Chief noted that deer migrate from Avon Lake and the Metroparks. This year Bay Village will ask for 15 to 20 permits to begin culling and if things go well will request more. In the last two years the Metroparks did not cull any deer. In Walker Road Park the City of Avon Lake took 17 each year, with 52 deer culled in the entire City of Avon Lake.

Chief Gillespie noted that they are always looking for a specific location where there might be a large deer population. The Chief noted that 1100 pounds of deer meat was donated last year to the Second Harvest Food Bank. Refrigerated vehicles are provided for the culled deer.

The ordinance to renew the contract with the United States Department of Agriculture will be presented for adoption this evening.

Application for new liquor permit, Bay Provisions, 328 Bassett Road.

Mr. Kelly advised that the City of Bay Village has the obligation to either ask for or not ask for a hearing with respect to a request for a liquor permit. In this instance the new owners of Martin's Deli, under the name of Bay Provisions are seeking a liquor permit. The basis on which a city might object or expect to succeed in objecting is generally very limited, separate and apart from the question. Mr. Kelly asked Mayor Koomar what Bay Provisions is going to be.

Building Director Tuck-Macalla stated that it will be a coffee and ice cream shop, but they do want to continue what the previous owner did with carry out provisions for convenience foods. They will do coffee similar to Mojo's with an Espresso machine, and will also have ice cream and ice cream cones. The permit is for take out beer and wine.

Mr. Kelly asked Police Chief Gillespie if there are any concerns based on the prior experience with Martin's Deli or anything in the neighborhood.

Chief Gillespie stated that Martin's Deli has been a wonderful establishment. There have never been any problems there and no major arrests or problems with minors. Understanding that this will be almost a duplicate kind of business there is no great concern.

Mr. Kelly suggested that Council consideration would be to move forward and not request a hearing with the Ohio Division of Liquor Control.

Ms. DeGeorge stated, to be clear, it will not be a permit to purchase a glass of wine. The only purchase would be bottled wine to take out.

Mr. Tuck-Macalla stated that drinking wine on the premises would be a different permit. He has had long conversations with the new owners on what they can and can't do. They have ideas for the future but for the next five years they will maintain the same type of establishment that was operated by Martin's Deli.

Ms. Maier stated that she lives just one street over from the Martin's Deli location and there have been some concerns from neighbors about trucks stopping on Bassett Road instead of pulling in to the parking lot. She asked that there be cognizance of the traffic flows as they are getting deliveries and it is hoped they have a better plan than Martin's Deli.

Mr. Tuck-Macalla stated that the new owners are very aware of the situation and of neighborhood concerns. They really want to be good neighbors. They are a couple who live in the city of Avon, with plans to open in about a month.

The motion to not request a hearing will be moved forward at the Regular Meeting of Council to be held this evening.

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

Financial Reports of the City of Bay Village for the month of August 2022.

In Mr. Tadych's absence, **Mr. Winzig** advised that the Council has received the financial reports of the City of Bay Village for the month of August, provided electronically from Finance Director Mahoney.

Finance Director Mahoney stated that everything seems to be on target, acknowledging that the cost of fuel is much higher than budgeted with another adjustment possibly needed before the end of the year.

Mr. Clark thanked Finance Director Mahoney for providing to Council the quarterly investment report by Jefferson Health Care. The City has about \$800,000 in reserves with Jefferson for large claims, and the intent is to make sure it is invested with safety and a market rate of return.

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

Mr. Winzig will call a Planning, Zoning, Public Buildings and Grounds Committee meeting for 6 p.m. on October 3, 2022. A draft copy of the recommended change to the Tree Ordinance has been received. The Mayor, Law Director and both the Building Director and Service Director had an opportunity to go through the document. It has been formalized and shared with the committee members to review. The meeting on October 3 will present an opportunity to go through the ordinance and make sure it is appropriate. It will then be brought to City Council for consideration.

Mr. Winzig advised that the Matters Pending before Council Committee contains the Home Based Business ordinance provisions, noting that it is to be reviewed after the COVID Pandemic. Today, in *The Wall Street Journal*, the President of the United States said that the COVID Pandemic is officially over, which triggers the committee's responsibility to move forward with review of the Home Based Business legislation.

PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE -L.

DeGeorge, T. Kelly, P. Winzig.

Additional amount to the original agreement authorized by Ordinance No. 22-24 with C.P. Electric Motor Repair, Inc. for additional machine work for the repair of the Worthington Pump for the Huntington Lift Station.

Ms. DeGeorge advised that the City had recently purchased a pump and motor assembly for the Huntington Lift Station. The old pump was sent out to be refurbished so that it can be kept in rotation should something happen to the new pump. It was found during the refurbishing that additional work needed to be done as an add on to the original estimate, along with delivery charges. The original ordinance was in the amount of \$27,828. The request is for an additional \$3,120, bringing the total up to \$30,948.

Mr. Clark suggested that possibly within the fourth quarter of this year Council tour the Huntington Lift Station prior to a City Council meeting.

The Mayor noted the importance of properly maintaining and providing upgrades to the lift station since it is such a critical part of the City's infrastructure.

Approval to participate in the Ohio Department of Transportation (ODOT) Municipal Bridge Inspection Program.

Ms. DeGeorge stated that she will present an ordinance at the Regular Meeting of Council this evening authorizing the City to participate in the Ohio Department of Transportation Municipal Bridge Inspection Program. This is a program that is renewed every three years and the inspections are totally funded by the state, unless they find something needing repair. Ms. DeGeorge called upon Director of Public Service and Properties Liskovec for further information.

Mr. Liskovec stated that as part of the City's responsibility this program covers Ashton Lane Bridge and the Queenswood Bridge. The City's other bridges located on Lake Road are covered under the Ohio Department of Transportation's internal program. The county inspects all county bridges yearly throughout our network at no cost to the City.

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

Donation of Sculptured Sign reading “Bay Village” from David L. Tadych, and approval to place in Cahoon Memorial Park.

Ms. Maier stated that Council received the final design document of the sculptured sign reading “Bay Village” being donated by David L. Tadych.

Mr. Clark commented that the sign was approved by the City Planning Commission. Knowing that Mr. Tadych is excused this evening, Mr. Clark suggested that the Resolution accepting the donation be placed on first reading. The Cahoon Memorial Park will not move on acceptance and placement of the sign at their meeting to be held this evening, and will hold the matter until their next meeting.

Ms. Maier asked if the City has estimated the cost of the elements that will complete the sign installation such as the landscaping and walkway with ADA access.

Mayor Koomar stated that they have not addressed the cost of those accessorizing features.

Ms. Maier recommended that that the City do their due diligence to see the all in costs, the expectation of the useful life, and if there is a time being applied to the donation, whether that be useful life, fifteen use, or perpetuity.

Mayor Koomar stated that he would defer to the Law Director but he is not aware of any stipulations by the potential donor.

Mr. Barbour stated that there have not been any stipulations other than what is included in the donation, the construction and installation of the sign only.

Ms. Maier stated that the Planning Commission has done a good job of placement and sizing, but answers should be sought regarding the other particulars.

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

Mr. Greco is excused this evening.

AUDIENCE

Nancy Brown, Wolf Road, stated that she is sorry she missed the Police Chief's comments due to being a few minutes late. Ms. Brown stated that a meeting with the Mayor was held with Tom Kauker, and Ms. Brown, and another meeting is scheduled for October 20. At that time there should be more of a defined way of action as to what they are going to do, where they are going to go, and that should be related to Council shortly after that meeting.

Mayor Koomar noted that Ms. Brown and he talked about her energy and excitement over pursuing donations for a new facility, and also discussed was the option of running both the new and rehab.

Ms. Brown stated that after that meeting when there is more of a clear, defined action plan they will start their official campaign for fund raising, but they want to make sure that donators know exactly where the money is coming from and what for.

Mr. Clark stated that a Council meeting was held two weeks ago with a number of people that were very interested in the topic. Mr. Clark thanked the administration and the residents in favor of this initiative for making a decision which was unanimous. It is important that the project not be stalled. Mr. Clark stated further that secondly he likes the fact that there is a partisan outcome to this as well. All stakeholders will be winners, and he appreciates the effort.

Ms. Brown added that they will give Bay Village something to be proud of.

Dr. Dan Sweeney, asked for a clarification on procedures. It seems that since he has been coming to these meetings over the last six months, he has observed that 90% of legislation is passed with an emergency clause. He asked what the Charter says about that. He recognizes such things as a pump for the lift station are an emergency, but other things being done in an emergency clouds transparency. A lot of these things could be done on first or second readings. Dr. Sweeney stated he is watching how it is done, and does not know if that is the way it has been done for years. He would love to see the City go back to where things are first reading so people in the community can at least know about it and talk about it if they have some interest. What does the charter say?

Mr. Clark stated that the emergency clause allows the enactment of legislation without waiting 40 days after approval to put the action into place. It has been Mr. Clark's practice for things customary and reasonable and not material to try to get them done on one or two readings. Things that are important, such as budget, labor negotiations, contracts of significant value will be taken to three readings which allows for plenty of transparency.

Law Director Barbour stated that the charter and the Ohio Constitution say the same thing. People get thrown off by the word "emergency." All the emergency clause does is provide that legislation enacted can take effect upon signature of the Mayor, rather than waiting 40 days. Bay Village has had the option to do that since the charter was enacted, and even prior to that because villages can utilize that clause as well. The emergency clause is one that is used throughout Ohio law. It was actually talked about by the Charter Review Commission members, to Dr. Sweeney's point, as to why are we calling it an emergency and why can't we call it something

else? The answer to that is that is what has already been decided in the law previously. We do not have the ability to change it; that is the term that is used throughout. If you don't enact the emergency clause, or you don't make it an emergency, then you have to wait 40 days for it to become effective. The legislation or the ordinances are still posted on the agenda, in many cases they go to committee, they are still part of a public meeting and all those other things, it just has to do solely with the effective date. It becomes effective upon signature rather than 40 days.

Dr. Sweeney asked if Council makes the decision about whether there will be a first and second reading.

Mr. Barbour stated that the number of readings is separate from the emergency clause. The number of readings is a different section.

Dr. Sweeney asked what Council has to do to decide whether they need a first or second reading on a proposal.

Mr. Barbour stated that it is up to Council, it can be up to one, two or three readings, or held longer. He thanked Dr. Sweeney for coming to Council meetings regularly, and noted that as he continues to attend he will see that different ordinances and pieces of legislation have different numbers of readings, based entirely on the circumstances. Some require more time; others do not.

Mr. Kelly added that regarding seeking passage on an emergency basis, there are those additional votes before the vote: suspension of charter rules, suspension of Council rules. An emergency clause requires an affirmative vote of two-thirds of the members of Council. For example, if it was evenly split before Council, if it was 4-3 in either direction it could not go as an emergency.

Mr. Barbour stated that it is the terminology, or use of the word "emergency" that causes confusion. It would be great if it were called "shall be enacted upon signature of the Mayor" clause.

Ms. Maier stated that Council had discussed the topic about one year before it was addressed by the Charter Review Commission. It is just a misnomer.

Mr. Winzig added that the Charter Review Commission thought about possibly changing the name, or adding a clause or doing something to help the residents not think of it as an emergency. It didn't reach the requirement of going before the citizens to vote to change it.

Mr. Barbour stated that he provided a long explanation to the Charter Review Commission, as he did to Mr. Sweeney, about the emergency clause. Every city does it this way, it is not unique to Bay Village. We are not trying to hide anything; it is strictly when the legislation becomes effective. No one's rights relative to the enactment of that in any way, or charter rights, are affected.

Mr. Winzig added, from the perspective of a Council person, they get very detailed information in their packets, and the relationship between Council, the City and the directors has continuously improved for many of the members of Council who are fairly new to Council. When legislation comes before Council there is a cover memo that explains the situation, what it is, what the dollar amount is for the decision to be made, the timeline, etc. When Council receives it, much of the information they have, and if there is a question they will turn to the director or Chief of the department involved for more detail if needed. Based on the information and good input from the administration, as well as detailed paperwork in packets, a decision is made as to the value of putting it on first or second reading in some of the smaller matters. President of Clark will often ask if the matter can be voted on the evening it is presented, and if there are no more questions, it has been budgeted or approved, follows the plan, it is worth voting on. Council receives terrific information and after receiving their packets oftentimes will do a follow up phone call for more information if required before the Council meeting. The directors and the Mayor have been very responsive.

Mayor Koomar added that something like the zoning overlay done in the past will intentionally be put on three readings in addition to the extensive work of the Planning Commission and the Planning and Zoning Committee.

Ms. Maier stated that in general it is something unique like the zoning overlay, or a major appropriation like the budget, that will have three readings. But, the ones that are annual measures are passed on one reading. There have been times when Council has asked for three full readings, or at least two readings, to allow ample time for residents to receive information, attend a meeting or contact a Council member.

Ms. DeGeorge stated that whether something is passed on an emergency clause or forty days after, the public always has the right to referendum. Mr. Barbour agreed, stating that the emergency clause does not affect the right to referendum.

Mr. Clark thanked Dr. Sweeney for the opportunity for this educational piece this evening and noted that this is why the third page of the agenda explains the voting process used by Council so that the members of the public and audience can be fully informed.

MISCELLANEOUS

Ms. Maier announced that a Recreation and Parks Improvement Committee will be held sometime within the next couple of weeks to discuss planning work that is going on as part of larger projects. A date will be set after concurring with colleagues.

Mr. Clark stated that the next meeting of City Council will be held on Monday, October 3, 2022 and will include a presentation by the manager of the Rocky River Wastewater Treatment Plant regarding operational and capital elements of the plant.

ADJOURNMENT

Committee Meeting of Council
September 19, 2022

There being no further business to discuss this evening, the meeting adjourned at 7:38 p.m.

Dwight A. Clark, President of Council

Joan T. Kemper, Clerk of Council