

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, February 2, 2009

7:00 p.m.

The Village of Silver Lake Council met in a regular session on Monday, February 2, 2009, at Silver Lake Village Hall, 2961 Kent Road, Silver Lake, Ohio.

With President of Council, Mr. Gerald Jones, presiding, the meeting was called to order at 7:00 p.m.

Mr. Jones led the Pledge of Allegiance.

The following members were present and responded to roll call: Mrs. Janie Geis, Mr. Christopher Scott, Mrs. Karen Fuller, Mr. Gerald Jones, Mr. Richard Hite, Mrs. Carol Steiner, and Mr. James Richardson.

Roll call of Council - 7 members present

Mr. Jones asked if there were any additions or corrections to the minutes of the January 20, 2009, Council meeting.

Mrs. Steiner stated on Page 2, under the benefits for the Village, the second listing should read:

Use of natural gas for *a* Village structure

There being no further corrections, the minutes were approved as corrected.

Mr. Jones asked Mrs. Teresa Spohn, Clerk-Treasurer, for the reading of any pending legislation that is up for a first reading.

RESOLUTION NO.: 13-2009 A RESOLUTION TO MAKE ADDITIONAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF SILVER LAKE DURING THE FISCAL YEAR ENDING DECEMBER 31, 2009, AND DECLARING AN EMERGENCY.

Mr. Jones assigned Resolution No.: 13-2009 to the Finance and Appropriations Committee.

RESOLUTION NO.: 14-2009 A RESOLUTION APPROVING A CHANGE ORDER TO EFB CONSTRUCTION, INC. FOR THE GRAHAM ROAD WATER MAIN REPLACEMENT PROJECT IN THE AMOUNT OF SEVENTEEN THOUSAND SIXTY-FIVE DOLLARS AND SIXTEEN CENTS (\$17,065.16), AND DECLARING AN EMERGENCY.

Mr. Jones assigned Resolution No.: 14-2009 to the Public Improvements Committee.

RESOLUTION NO.: 15-2009 A RESOLUTION AUTHORIZING THE PAYMENT OF CERTAIN CLAIMS. \$ 135,606.21

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Mr. Jones assigned Resolution No.: 15-2009 to the Finance and Appropriations Committee.

Mr. Jones asked for the reading of any pending legislation that is up for a second reading.

ORDINANCE NO.: 9-2009 AN ORDINANCE AMENDING SECTION 937.01 (a), (d) and (e) -BILLING AND PAYMENTS; 937.02-DELINQUENT PAYMENTS; SECTION 937.03 (c) – DEPOSITS AND RESPONSIBILITY FOR PAYMENT OF BILLS; AND SECTION 937.04-WAIVER IN CASES OF UNDUE HARDSHIP OF THE STREETS, UTILITIES AND PUBLIC SERVICES CODE OF THE VILLAGE OF SILVER LAKE PROVIDING NEW POLICIES FOR UTILITY PAYMENTS, DEPOSITS REQUIRED FOR TENANT OCCUPIED PROPERTY AND UPDATED PROCESSING FEES FOR RETURNED ITEMS OR PAYMENT REVERSALS BY THE BANK, AND DECLARING AN EMERGENCY.

Ordinance No.: 9-2009 was previously assigned to the Finance and Appropriations Committee.

ORDINANCE NO.: 10-2009 AN ORDINANCE ESTABLISHING REGULATIONS IN THE ADMINISTRATIVE CODE OF THE VILLAGE OF SILVER LAKE FOR RETURNED ITEM FEES FOR NON-SUFFICIENT FUNDS CHECKS OR ITEMS RETURNED FOR OTHER REASONS, AND DECLARING AN EMERGENCY.

Ordinance No.: 10-2009 was previously assigned to the Finance and Appropriations Committee.

RESOLUTION NO.: 11-2009 A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE ORDER TO BUSY BEE SERVICES FOR AIR EXCAVATING TREES IN THE VILLAGE OF SILVER LAKE FOR AN AMOUNT NOT TO EXCEED SIX THOUSAND DOLLARS (\$6,000), AND DECLARING AN EMERGENCY.

Resolution No.: 11-2009 was previously assigned to the Finance and Appropriations Committee.

Mr. Jones asked if there were any comments or questions from the audience.

There being none, Mr. Jones called upon Mr. Christopher Scott, Chairman of the Finance and Appropriations Committee, to lead discussion on items on the agenda pertinent to his committee.

FINANCE AND APPROPRIATIONS COMMITTEE

Mr. Scott stated Resolution No.: 13-2009 is for additional appropriations to purchase the smoke detectors and to pay the water capital improvement change order for the Graham Road Water Main Replacement Project.

Mrs. Spohn stated the last figure needs to be changed to \$3,150 for the smoke detectors.

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Mr. Fenwick stated there are nine change orders for the water project. Dominion East Ohio did not have records indicating where their gas mains were located on Graham Road. The plans that were given to the engineer said the gas mains were located under the curb or behind the curb, but this was not the case. The gas main was directly in the way of where the water main was going to be placed. The contractors had to compromise and go underneath; over; around; and past the gas main. This resulted in a lot more fittings, pipes, time and material.

Mrs. Fuller asked if the Village could go back on Dominion East Ohio for these costs.

Mr. Fenwick stated no.

Mr. Heydorn stated no.

Mr. Hite and Mrs. Fuller asked why.

Mr. Heydorn stated we would be talking about a reimbursement. He will research this.

Mr. Heydorn asked the total of the change orders.

Mrs. Steiner stated \$17,000.

Mr. Jones asked if the Village received grant money for this project.

Mrs. Spohn stated the Village borrowed money.

Mr. Jones asked if there was money left from the loan.

Mrs. Spohn stated yes.

Mr. Hite stated this is not the contractor's fault.

Mr. Heydorn stated it was just misinformation.

Mr. Fenwick stated when the Service Department digs, they have to call Ohio Underground Utility Protection Service. If O.U.P.S. didn't mark a gas main and the Village hit it, then we wouldn't be responsible.

Mr. Scott stated the smoke detectors were ordered and asked how the residents would be notified.

Mrs. Spohn stated it will be posted on the cable access channel, the website and in the next Resident's Review. It might also be added to the next utility bill.

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There being no further discussion or questions, Mr. Scott stated the Committee will recommend the adoption of Resolution No.: 13-2009 this evening.

Mr. Scott stated Resolution No.: 15-2009 is for Payment of Claims in the amount of \$135,606.21.

Mrs. Steiner asked if the charges for Ohio Edison were for the street lights.

Mr. Fenwick stated the bills do not divide the charges out for street lights.

There being no further discussion or questions, Mr. Scott stated the Committee will recommend the adoption of Resolution No.: 15-2009 this evening.

Mr. Scott stated Ordinance No.: 9-2009 is a second reading this evening and was discussed at the last Council meeting.

Mrs. Spohn stated she wanted to research what the bank charges the Village for an NSF check. The amount is a lot less than what you think. The Village has charged \$20 since 1999. Due to the time involved to reprocess an NSF check, \$35 is not outrageous.

The NSF fee will remain \$35 for a long time unless the Village would change banks. Then it would be researched again to determine what that bank would charge the Village for an NSF check.

Mrs. Steiner asked if \$35 is a fair amount.

Mrs. Spohn replied yes it is after the time and work it takes to correct the issue.

Mr. Scott stated the fee is pretty standard.

Mrs. Fuller stated Mrs. Spohn also has the discretion to waive the fee in certain situations if need be.

Mr. Jones asked how many bounced checks the Village receives a year.

Mrs. Spohn stated approximately ten.

There being no further discussion or questions, Mr. Scott stated Ordinance No.: 9-2009 will be treated as a second reading.

Mr. Scott stated Ordinance No.: 10-2009 is a second reading this evening and was discussed at the last Council meeting.

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Mrs. Spohn stated Ordinance No.: 10-2009 will allow the Village to collect NSF fees for parking tickets, zoning payments, etc. instead of just utility payments.

Mrs. Spohn asked all Council members to bring their current Council packet to the next meeting so the Village doesn't have to waste paper on recopying this legislation.

There being no further discussion or questions, Mr. Scott stated Ordinance No.: 10-2009 will be treated as a second reading.

Mr. Scott stated Resolution No.: 11-2009 is for Busy Bee for air excavating trees and was also discussed at the last Council meeting.

Mr. Fenwick stated this is for 75 trees and hopes this is the last of the trees. If Busy Bee can get it done in a week, it will only cost \$6,000.

This will be the last of the air excavating for awhile. Busy Bee will come back in four to five years because they can only take a percentage of the roots out at a time.

Busy Bee excavated a couple years ago and this is part of the program that was proposed at that time. They will start as soon as they can when the ground is soft. Last year they started too late because the trees had to be soaked.

Mrs. Geis stated the Park Board is all for it.

Mr. Fenwick stated the Village can either try to save the current trees or just let them go. Then there will be the cost of cutting them down and replanting new ones, which will be more expensive.

Mr. Jones stated all communities are cutting back on expenses. He is not against trees, but the Village has to watch its' spending.

Mrs. Steiner stated it sounds like the Village needs to do this.

Mrs. Fuller stated the Village made a commitment to move along with the program because trees were rapidly dying. We should cut back on spending, but not on trees.

Mrs. Geis stated she would rather save the trees than do other landscaping projects.

There being no further discussion or questions, Mr. Scott stated the Committee will recommend the adoption of Resolution No.: 11-2009 this evening.

Mr. Jones called upon Mrs. Carol Steiner, Chairman of the Public Improvements Committee, to lead discussion on items on the agenda pertinent to her committee.

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PUBLIC IMPROVEMENTS COMMITTEE

Mrs. Steiner stated Resolution No.: 14-2009 is to approve the change order for the Graham Road Water Main Replacement Project.

The change orders were previously discussed under the Finance and Appropriations Committee.

There being no further discussion or questions, Mrs. Steiner stated the Committee will recommend the adoption of Resolution No.: 14-2009 this evening.

Mr. Jones continued with the agenda.

Finance and Appropriations Committee - Mr. Christopher Scott, Chairman

Mr. Scott stated Resolution No.: 13-2009 was discussed in Committee earlier this evening and is ready for adoption.

Mr. Scott moved to suspend the rule that legislation be read at three meetings for Resolution No.: 13-2009, seconded by Mrs. Steiner.

Roll call on suspension: Yes 7 No 0

Motion to adopt by Mr. Scott, seconded by Mrs. Fuller.

Roll call on adoption: Yes 7 No 0

Mr. Scott stated Resolution No.: 15-2009, Payment of Claims, was discussed in Committee earlier this evening and is ready for adoption.

Motion to adopt by Mr. Scott, seconded by Mrs. Geis.

Roll call on adoption: Yes 7 No 0

Mr. Scott stated Ordinance No.: 9-2009 and Ordinance No.: 10-2009 will be treated as second readings.

Mr. Scott stated Resolution No.: 11-2009 was discussed in Committee earlier this evening and is ready for adoption.

Mr. Scott moved to suspend the rule that legislation be read at three meetings for Resolution No.: 11-2009, seconded by Mrs. Steiner.

Roll call on suspension: Yes 7 No 0

Motion to adopt by Mr. Scott, seconded by Mrs. Steiner.

Roll call on adoption: Yes 7 No 0

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Public Improvements Committee - Mrs. Carol Steiner, Chairman

Mrs. Steiner stated Resolution No.: 14-2009 was discussed in Committee earlier this evening and is ready for adoption.

Mrs. Steiner moved to suspend the rule that legislation be read at three meetings for Resolution No.: 14-2009, seconded by Mr. Scott.

Roll call on suspension: Yes 7 No 0

Motion to adopt by Mrs. Steiner, seconded by Mr. Hite

Roll call on adoption: Yes 7 No 0

Mrs. Steiner stated she would like to take five minutes and discuss the capital budget.

Mrs. Steiner asked Mrs. Spohn how the funds are increased every year.

Mrs. Spohn stated there is a small amount of assessments and interest that are allocated to the General Capital Fund. There is \$30,000 going into the Water Capital Fund, but have earmarked most of that to pay the debt service for the Graham Road Waterline Project.

Water Capital and Sewer Capital also receive interest based on the fund balances and the interest rate.

Mrs. Steiner asked if the new money coming into the Sewer Capital is from the utility billing.

Mrs. Spohn stated we don't set aside any money in Sewer Capital from the sewer receipts for consumer charges.

Mrs. Steiner asked how the money got in there then.

Mrs. Spohn stated it built up over time.

Mrs. Steiner stated the Village is not presently replenishing any of these accounts except for interest and assessment to the General Capital.

Mrs. Spohn stated that is correct.

Mrs. Steiner asked about the Sewer Capital Fund.

Mrs. Spohn stated a long time ago, a set amount of money was transferred from the Water Fund and the Sewer Fund to the Water Capital Fund and the Sewer Capital Fund. The auditors said we could not do that anymore. Basically, there is a large sum of money in the Sewer Fund. We could put money in the Sewer Capital Fund, just like we do the Water Capital Fund by earmarking 10 percent of revenues to go into Sewer Capital.

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Mr. Hite asked how much money is accumulated for the water bills over and above the cost of water to Cuyahoga Falls.

Mrs. Spohn stated we expect \$446,000 in the water fund and \$490,000 for sewer. The cost for water bills is \$158,000 and sewer charges to the County are \$220,000.

Mrs. Spohn stated this does not include expenses for salaries, benefits, etc.

Mrs. Steiner stated she is just trying to get a handle on what happens if we spend this money. We don't want to completely demolish the funds. Council will have to make decisions on which projects to complete.

Mr. Scott asked Mr. Fenwick if he could keep the flagpoles where they are now and put electric to them instead of moving them.

Mr. Fenwick stated they are being moved so you can see the flag altogether because in the summer you can't see it at all. The trees were planted after the flagpole was installed.

Mr. Fenwick stated for everyone to make the following corrections on their sheet:

- Under the Replace Storm Sewer Kent Road, take the \$3,000 out completely.
- The Stabilization of the River Bank can be cut to \$5,000.
- Take out the Computer Equipment altogether.

Mrs. Geis asked about what the Impala in the Village Hall parking lot is used for.

Mrs. Spohn stated the Village is selling it. It was used for employees who were attending classes or conferences or to go to the bank.

Mr. Jones asked why we were selling it.

Mayor stated he will be reporting on that later this evening.

Mr. Scott scheduled a Finance and Appropriations Committee meeting for Monday, February 9, 2009, at 4:30 p.m. to discuss the Capital Budget.

Mrs. Fuller scheduled a Personnel and Public Affairs Committee meeting for Monday, February 9, 2009, at 4:00 p.m. for Mrs. Spohn's annual review.

Mr. Scott made a motion to approve the statement of cash position, seconded by Mrs. Fuller and all of Council agreed.

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REPORTS OF VILLAGE OFFICIALS

Mrs. Teresa Spohn, Clerk-Treasurer, reported she spoke with Mrs. Robin Patton from First Energy. The ten year ESIP contract (Energy Saving Investment Program) for the Village expired in December and they are not offering another contract. The PUCO will approve the rates for the street light tariff. The rates will increase from 10.1 cents per kilowatt hour to 11.56 cents per kilowatt hour, which is an increase of 14.5 percent. The Village is at the mercy of the PUCO and nothing can be done to change that.

The street light line item will need to be increased 14.5 percent in the General Fund.

Mr. Jones asked how much was spent last year.

Mrs. Spohn does not know the amount from last year, but \$18,700 has been appropriated for this year.

Mayor asked if these rates were going up for all communities.

Mrs. Spohn stated any communities that have street lights through First Energy will have an increase.

Mr. Scott asked if this is a one year contract.

Mrs. Spohn stated there is no contract. Whatever the PUCO decides is what the Village will be charged.

Mr. Hite asked if the Village could go to any other source for electric.

Mr. Heydorn stated the ownership of the lights was involved with the ten year contract. The Village paid for the installation of the lights. First Energy agreed to a lower rate of what the tariff would be for a period of time. In effect, the Village had to turn ownership over to First Energy for \$1.00.

Mr. Hite asked if the Village paid for the lights.

Mr. Heydorn said as he recalls, yes.

Mrs. Spohn stated First Energy maintains the lights.

Mr. Heydorn stated the Village is not even allowed to maintain them.

Mr. Fenwick stated the Village owns about seven lights on Vincent Road.

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Mr. Heydorn stated at one point in time, Council seriously discussed trying to establish its own electric system. The costs involved were too astronomical for a small Village. So we are completely at the mercy of First Energy.

Mr. Jones asked if Cuyahoga Falls would be willing to do anything.

Mayor replied the problem would be the ownership of the lines.

Mr. Heydorn stated since the Village gave ownership of the lights to First Energy, they will not permit the lights to be taken over by someone else.

Mr. Richard Fenwick, Service Director, reported the Service Department employees handled the snow storm very well. They do not wait for direction from Mr. Fenwick; they just go out and do it. All of the employees always do an outstanding job.

Mr. Jones asked about salting the roads.

Mr. Fenwick replied only the intersections and main roads are being salted because of the salt shortage.

Chief Gary DeMoss reported it is so intense during snow storms that there is no time to salt. Even with the sparing use of the salt, there were no crashes in Silver Lake.

Officer Jamie Norris took the picture of the plow trucks for the Falls News Press.

Mr. Heydorn commented that when the temperature is so cold outside, cars get great traction in the snow.

Mr. Heydorn stated he was asked to write a legal opinion on the use of liability insurance services from Wichert Insurance Agency since Mrs. Geis is now on Council. The opinion is being typed and will be presented to Council.

Mrs. Spohn asked what the opinion was.

Mr. Heydorn stated the statute does layout some criteria where if it's followed, the situation does not result in unlawful interest. In this situation, it works because of the long relationship the Village has had with Wichert Insurance Agency.

The first criteria is that any contract payments to Wichert Insurance have to be on par with the rest of their clients. The Village shouldn't be in the position of paying or receiving less.

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The final criteria is Mrs. Geis would have to abstain from any deliberations or the decision making process for liability insurance.

Following these two criteria, there should be no question of unlawful interest.

Mayor Hovey commended the Service Department for their excellent job during the snow storm. A lot of the snow came during the day, so overtime was also cut down.

All elected officials are required to attend an Open Records Training during their term in office. Last year Mrs. Spohn attended the training to represent all of Council and the Mayor.

The next training session is Tuesday, March 17, 2009, from 9:00 a.m. to 12:00 p.m. at the Cuyahoga Falls Natatorium. If anyone is available they need to attend otherwise one person will be designated again to represent everyone.

Mrs. Spohn highly recommends that everyone attend one of the training sessions.

Mayor received a letter from County Executive Russ Pryor today. The Department of Environmental Services (D.O.E.S) is intending to initiate an evaluation of the Mudbrooke trunk. Part of the evaluation is to assess the condition of approximately six miles of pipe construction along the sewer line. They anticipate the evaluation will be completed in 2009. Remedial action is to occur in 2010 and 2011. Per the agreement the Village has with the County, we are responsible for our part of the cost. They estimate the cost to be somewhere between \$200,000 and \$300,000. The Village share would be 6 percent, which is between \$12,000 and \$18,000.

The administration car is going to be sold. We just paid a repair bill of \$800 and last year a new transmission was replaced for \$2,000. It breaks down a lot and is not very reliable or safe.

Mayor's intent is to not replace the car at this time. Any travel the employees have to do on behalf of the Village they will do in their own vehicle with mileage reimbursement.

Mayor has asked for some guidelines and suggestions on what is a fair mileage reimbursement rate and will have a recommendation within the next two Council meetings.

Mr. Jones asked how the car will be sold.

Chief replied the Village has an arrangement for public sale that satisfies the Ohio Revised Code through Akron Auto Auction.

Mayor received a letter from the City of Stow requesting a copy of all records of anything that dealt with the Cuyahoga Falls EMS Contract.

Mayor is not sure of their interest. A report was put together and they were charged \$12.50 for the copies.

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Mrs. Steiner asked what kind of records they requested.

Mayor replied any legislation, contracts, bills, receipts, and just anything that deals with the contract.

Mr. Jones asked if there was a response to the request.

Mayor stated there is one in the making. He is curious about some of the things they do in Stow.

Mayor appreciates comments regarding the presentation from Mr. Beck at the January 20, 2009, Council meeting.

Mayor's concerns are that Mr. Beck was very reluctant to say what kind of revenue the Village would be receiving per month. When Mr. Beck was first here, he was very upfront that the Village would receive \$30,000 to \$35,000. Plus the initial contract fee the Village was going to receive for just signing it was reduced from \$10,000 to \$1,000. This makes the Mayor wonder what kind of revenues the Village would actually receive.

Mayor then gave his State of the Village address. (A copy is attached to the original minutes).

Mr. Hite scheduled a Planning, Zoning and Health Insurance Committee meeting for Monday, February 9, 2008, at 5:30 p.m. to discuss Health Insurance for Village employees.

Mr. Jones asked if there was any miscellaneous business.

There being no further questions, Council adjourned at 8:38 p.m. until the next regularly scheduled Council meeting on Tuesday, February 17, 2009, at 7:00 p.m.

APPROVED:

Mr. Gerald Jones, President of Council

ATTEST:

Teresa M. Spohn, Clerk-Treasurer