

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

The Village of Silver Lake Council met in a regular session on Monday, June 15, 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: Mr. Christopher Scott, Mrs. Karen Fuller, Mr. Gerald Jones, Mr. Richard Hite, Mrs. Carol Steiner, and Mr. James Richardson.

Roll call of Council - 6 members present

Mrs. Fuller made a motion to excuse Mrs. Janie Geis from this evening's Council meeting, seconded by Mr. Scott, and all of Council agreed.

Mr. Jones asked if there were any additions or corrections to the minutes of the June 1, 2009, Council meeting.

There being none, the minutes were approved as sent.

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

**RESOLUTION NO.: 53-2009 A RESOLUTION TO ADOPT AND PARTICIPATE IN A MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN IN CONJUNCTION WITH THE COUNTY OF SUMMIT EMERGENCY MANAGEMENT AGENCY, AND DECLARING AN EMERGENCY.**

Mr. Jones assigned Resolution No.: 53-2009 to the Personnel and Public Affairs Committee.

**RESOLUTION NO.: 54-2009 A RESOLUTION AUTHORIZING THE PAYMENT OF CERTAIN CLAIMS. \$ 128,240.81**

Mr. Jones assigned Resolution No.: 54-2009 to the Finance and Appropriations Committee.

**RESOLUTION NO.: 55-2009 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.: 55-2009 to the Finance and Appropriations Committee.

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

**REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE**

Monday, June 15, 2009

7:00 p.m.

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.: 54-2009 is for the Payment of Claims in the amount of \$128,240.81.

Mr. Scott asked if the \$919.33 is the total cost for the Village newsletter.

Mrs. Spohn stated that is everything except for the \$150 editing fee to Mrs. Nancy Messmore.

Other items discussed:

- ◆ Robert Burch Training- Three training sessions for the Service Department: Blood Born Pathogens, Personal Protective Equipment, and Small Equipment/Working in Summer.

There being no further discussion or questions, Mr. Scott stated the Committee will recommend the adoption of Resolution No.: 54-2009 this evening.

Mr. Scott stated Resolution No.: 55-2009 is for Additional Appropriations.

Mrs. Spohn stated there was not enough of an appropriation for the Cold Milling and Resurfacing contract. Mr. Fenwick has indicated he does not believe all the money will be spent, but the appropriation needs to be there.

Mr. Scott asked if this was in addition to the amount that was already budgeted.

Mrs. Spohn replied yes.

Mrs. Steiner asked why it was not in the original budget.

Mr. Fenwick replied \$125,000 was in the budget. The bids came in \$4,000 higher for grinding than estimated. Last year the total cost of the project was approximately \$10,000 less than what was budgeted, so all of the money will probably not be needed.

There being no further discussion or questions, Mr. Scott stated the Committee will recommend the adoption of Resolution No.: 55-2009 this evening.

Mr. Jones called upon Mrs. Karen Fuller, Chairman of the Personnel and Public Affairs Committee, to lead discussion on items on the agenda pertinent to her committee.

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

**PERSONNEL AND PUBLIC AFFAIRS COMMITTEE**

Mrs. Fuller stated Resolution No.: 53-2009 adopts and acknowledges the Village’s participation in a multi-jurisdictional Hazard Mitigation Plan.

Mrs. Spohn stated she has a copy of the plan if anyone would like to look it over. Included in the plan are demographics, history of past disasters, and maps.

Mrs. Fuller asked if this is something the Village pays for.

Mrs. Spohn replied yes.

Mr. Scott asked if the legislation is not passed, will the Village still have to pay.

Mrs. Spohn replied yes, there is still a fee. Adopting the plan means the Village will be eligible to receive funding on future projects.

Mrs. Fuller stated if they are going to take the money anyhow, the plan should be adopted.

Mr. Heydorn stated adopting the plan appears to be something the Federal Government mandates in order to participate in the program.

There being no further discussion or questions, Mrs. Fuller stated the Committee will recommend the adoption of Resolution No.: 53-2009 this evening.

Mr. Jones continued with the agenda.

**Finance and Appropriations Committee – Mr. Christopher Scott, Chairman**

Mr. Scott stated Resolution No.:54-2009 was discussed in Committee earlier this evening and is ready for adoption.

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

Roll call on adoption:           Yes   6       No    0

Mr. Scott stated Resolution No.:55-2009 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.: 55-2009, seconded by Mrs. Steiner.

Roll call on suspension:       Yes   6       No    0

Motion to adopt by Mr. Scott, seconded by Mr. Hite.

Roll call on adoption:           Yes   6       No    0

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

**Personnel and Public Affairs Committee - Mrs. Karen Fuller, Chairman**

Mrs. Fuller stated Resolution No.: 53-2009 was discussed in Committee earlier this evening and is ready for adoption.

Mrs. Fuller moved to suspend the rule that legislation be read at three meetings for Resolution No.: 53-2009, seconded by Mrs. Steiner.

Roll call on suspension:      Yes    6      No    0

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

Roll call on adoption:      Yes    6      No    0

**REPORTS OF VILLAGE OFFICIALS**

**Mayor Hovey** was not in attendance.

**Chief Gary DeMoss** was not in attendance.

**Mr. Robert Heydorn, Solicitor**, stated the open burning regulations have been reviewed. The City of Cuyahoga Falls Fire Department's guidelines for open burning are great. We are going to try and make the Village law consistent with the Cuyahoga Falls Fire Department.

Mr. Jones asked if the law is a lot different from the Village's current law.

Mr. Heydorn replied not too much different from what is done in practice with the exception that the big bonfire is out. You can have a small fire essentially for recreational purposes. It's not just a matter of cooking; it's a matter of having a well regulated small recreational fire.

You can have a bonfire but a permit has to be obtained. It also has certain restrictions. A person can have a small fire without a permit.

Mr. Jones stated it then becomes a matter of when does the small fire reach bonfire status.

Mr. Heydorn stated that is exactly right. With a recreational fire, Cuyahoga Falls regulations states that it has to be in something like a container: metal fire ring, commercially manufactured units for open flame-type burning, fire pits (atleast 18 inches deep with stones or fire brick lining the perimeter), and other configurations conforming to the intent of containing the fire safely.

As far as a bonfire is concerned; it shall be no larger than 5 feet by 5 feet in dimension and shall not burn longer than 3 hours. A bonfire must be atleast 15 feet from any structure. For that a permit is required, which has to be obtained 10 days before the fire occurs.

Mrs. Steiner stated she has had a lot of discussion regarding fires over the past few weeks. No one wants to see it heavily legislated. Is there a time limit on the small fire too or is the three hours just for the bonfire?

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

Mr. Heydorn replied the three hour time limit is only for the bonfire.

Mrs. Steiner asked if there is anything that states the fire needs to be attended.

Mr. Heydorn replied for bonfires it states: the fire shall be constantly attended until the fire is extinguished.

There is nothing specific about a small fire. The small fire does need to be in a container that limits the size of the fire by the nature of the container.

Mrs. Steiner asked if something can be placed in the newsletter about being thoughtful of neighbors when having a fire. It seems appropriate since some people do have health concerns.

Mr. Scott stated he agrees with Mrs. Steiner, you should be aware of your neighbors that might have health issues. Although, he thinks the neighbor should be notified that there is going to be a fire and they might want to keep their windows closed, not ask them if it is okay to have a fire.

Mrs. Steiner stated just a little communication back and forth instead of calling the Police.

Mr. Jones stated this issue arose because of residents burning items and the odor.

Mr. Heydorn stated this is not permitted. In the small recreational fire laws it states: the fire shall not generate objectionable smoke or odors.

Even if a permit is not required, the fire cannot produce objectionable odors.

Mr. Jones asked what would be considered objectionable odors.

Mr. Heydorn replied the next portion of Cuyahoga Falls' rules states: if a complaint is generated the complainant shall be present upon investigation by the fire department of such objectionable smoke or odors. Smoke entering adjacent structures shall be considered objectionable and the fire is to be extinguished. Other matters of complaint shall be evaluated based on the safety and health of those present and in proximity to the fire. Determination shall be made by the fire official present at the recreational fire.

Since we have a fire contract with the City of Cuyahoga Falls, when there is a complaint, it sounds as if it will go to the Cuyahoga Falls Fire Department.

**Mr. Richard Fenwick, Service Director**, stated he has been obtaining bids on the engineering for the Kingston Circle and Orchard Road sewer project. The range is from \$24,000 - \$40,000. The lower bid was from GBC. He would like to have it engineered this year and have the project done next year.

Mr. Jones asked if this was in the budget.

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

Mr. Fenwick replied the engineering is.

Mr. Jones asked the amount that was budgeted for the engineering.

Mr. Fenwick replied \$25,000.

Mr. Scott asked if Mr. Fenwick feels comfortable using GBC for the engineering.

Mr. Fenwick replied this is a dig up project. The sewers are like a combined sewer. There is a storm sewer and the sanitary runs about two feet above it and it is in a trough. If the sewer would ever back up it would overflow and go into the other. We would eliminate the sanitary.

Mr. Scott asked what they will be replaced with.

Mr. Fenwick replied brand new sewer pipes and new laterals to the curb line.

Mr. Heydorn stated something to keep in mind is that the storm sewer goes right into the ravine. The ravine travels quite a distance through open forest until it finally goes under Silver Lake Boulevard and directly out into Silver Lake.

Mr. Fenwick stated it is leaking because Summit County found E. coli in the storm sewer.

Mr. Jones asked the cost of the project.

Mr. Fenwick replied probably under \$350,000.

Mrs. Fuller asked if the sewer is a fifty year sewer or more.

Mr. Fenwick replied the engineering is only for fifty years, but the pipes will be in the ground a long time.

Mr. Jones stated it is fine with him, it is in the budget and that was approved.

Mr. Fenwick stated two more Service Department employees took their state exam and are now certified in Water Distribution II. As of today, six employees are certified in both water distribution and waste waster collection.

Mr. Fenwick stated the Service Department is out patching holes. They are about a week behind. Once the major holes are done, there is some sewer work that needs done and then they will try to patch up a little bit on Silver Lake Boulevard.

Mr. Fenwick stated the truck that is outside of Village Hall is a demo. The way it sits the cost is \$127,000. The chassis itself is \$92,000 because it is under the state schedule over \$26,000 is taken off the price which makes the cost \$66,000. The Henderson Plow Package is \$61,000.

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

Akron's trucks are \$131,000 and they are V-boxes, which the Village does not use. That is something that you take out of the truck and put back in.

The chassis can be bought on the state schedule. The state wanted the bed manufacturers and the installers to reduce their price by another 15% but they would not. If you buy a truck with equipment you have to bid out the bed. If the Village did this it would cost a little more.

Mr. Jones asked Mr. Fenwick if he wanted to buy the demo truck.

Mr. Fenwick replied yes.

Mr. Scott asked if it would be the demo truck outside that would be bought.

Mr. Fenwick replied yes, it would be that exact truck.

Mr. Jones asked if the truck comes with a full plow set.

Mr. Fenwick replied the truck is done.

The truck has a two-year bumper to bumper warranty and three years on the engine. A seven year bumper to bumper is available for \$3200.

Mrs. Fuller asked how much was put in the budget for the purchase of the truck.

Mr. Jones replied it is not in the budget. Council had talked about using some of the money from the inheritance funds.

Mrs. Spohn stated it is very difficult to get a loan from any kind of financial institution for the kind of money we are talking about and get a decent interest rate. They don't want to finance that amount of money.

Mr. Scott asked what the Village is making as far as investments.

Mrs. Spohn stated less than one percent.

Mr. Scott stated it doesn't really make sense to finance if we have the cash. Why wouldn't we just pay for it outright?

Mrs. Steiner stated it was discussed making a down payment with the inheritance money and then financing the rest of it. Are you saying that they won't finance it?

Mrs. Spohn replied Mr. Fenwick stated at 5.06% they will finance it.

Mr. Richardson asked if it is International's financing.

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

Mr. Fenwick replied yes.

Mr. Gary Kinsey, 3148 Highland Drive, asked if it would be advantageous to lease.

Mr. Scott asked Mr. Fenwick if they offer a lease.

Mr. Fenwick stated that is what the program is; you own it at the end of the lease.

Mrs. Spohn stated we have the \$50,000 in the general fund from the inheritance tax, once we receive it in October. There is currently \$255,000 in the general capital fund. If we go ahead and send what else we have appropriated in this fund we would have a carry over balance of \$180,000 next year. Some of which we could use towards a truck. The Village has the following amounts available: water capital improvements; \$10,000, sewer capital improvements; \$40,000, storm water utility; \$35,000.

Mrs. Steiner stated if we use the \$50,000 then the cost will be brought down to \$80,000 and then we could use a little from each fund.

Mrs. Spohn stated she will put something together for the next Council meeting.

Mrs. Fuller asked if there are any good used plows out there.

Mr. Fenwick replied no.

Mr. Jones asked how much is in the inheritance tax fund.

Mrs. Spohn replied about \$60,000 after we make up what is lacking in the income tax fund.

Mr. Jones asked how we are going to make that up.

Mrs. Spohn stated with the inheritance tax. The Village was expecting \$20,000 and we have received \$98,000. If we take \$60,000 from that plus the \$25,000 that we are going to receive then we have about \$50,000 excess after taking care of our shortfall in the income tax fund.

Mr. Jones asked how short the income tax fund is.

Mrs. Spohn replied about \$63,000.

Mr. Jones asked if we are fully collected or do we have some people that don't pay that we have to go after.

Mrs. Spohn replied there are some that don't pay.

Mr. Jones asked if it is a big number.

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

Mrs. Spohn replied no. We have held subpoena programs in the past but our delinquencies aren't that high. They have gone after some people because they did owe a large sum.

Mr. Jones stated he hopes we go after whoever owes the Village money.

Mrs. Spohn stated we can run a subpoena program but there are legal costs and the money to run the program.

Mr. Scott stated how many people really owe the Village money.

Mrs. Spohn stated she believes last time the program was run the Village received approximately \$10,000.

Mrs. Fuller asked how much it costs to run the program.

Mrs. Spohn replied \$2.50 per subpoena and then they come to the Village for the day and hook up their computers.

Mr. Fenwick would like to give the company an idea of which way Council is leaning regarding the purchase of the truck.

Mr. Jones stated he will support Mr. Fenwick on the purchase of the truck if we can find a way to pay for it. We don't want to keep putting off large purchases.

**Mrs. Teresa Spohn, Clerk-Treasurer**, had no report.

**MISCELLANEOUS BUSINESS**

Mrs. Fuller stated AMATS received 14 million dollars in Federal Stimulus Funds. The Village will not receive any of that. This money takes care of three shovel ready projects and twelve other projects that have been submitted.

AMATS is looking to move ahead with the regionalization study that has been taking place over the last couple of years, following a plan in the Minneapolis/St. Paul area. The idea is to bring all four major Northeast Ohio regions together in terms of our land use and transportation use.

Mrs. Fuller stated she has received phone calls from residents about boats being parked in driveways.

Mr. Fenwick stated the residence by the school will be receiving a letter. Even though a person might use the boat every night, the boat is still not allowed to be parked in the driveway.

Mrs. Steiner asked the definition of storage.

Mr. Heydorn replied it does not matter. A boat cannot be put in front of the building set back line.

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

Mrs. Steiner stated in the ordinance it states you cannot store them. Pulling in a drive way and taking it out the next morning she is not sure counts as storage.

Mr. Heydorn stated the cases go back and forth on what the definition of storage is, they finally come back to a common sense definition.

Mrs. Steiner stated common sense is not taking it in and out every day.

Mr. Heydorn replied yes it is. If you park it there every night that's where you store it.

Mrs. Fuller stated yes if you park it there every night, that's like parking your car, you are storing it.

Mr. Heydorn stated if it is there one night out of the season then that's not storage. If you do it every single day then this is where the boat is being put.

Mr. Jones asked how many complaints there were.

Mr. Fenwick replied a few. It's the same if you had one of those big utility trailers and you worked out of your house and that's where all of your tools are and you parked that in the driveway at night.

Mrs. Steiner stated she does not think it should be selective.

Mr. Fenwick stated you can store them in the side or rear yard.

Mr. Jones stated not if they are over a certain length, 17 feet or so.

Mr. Fenwick stated then they have to be in a building.

Mr. Scott asked if it has to be behind the set back line.

Mrs. Steiner replied she believes in the rear yard.

Mr. Scott asked where the resident is taking the boat.

Mr. Jones replied Lake Erie. He has a place where he does store it.

Mrs. Fuller stated a boat in the driveway doesn't seem like such a bad thing, but the law is the law.

Mrs. Steiner stated the law refers to storage and the problem she is having is; what is storage.

Mr. Heydorn stated at some point don't you have to ask yourself, what's the purpose of the law. The purpose of the law is not to have some large boat in the driveway.

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 15, 2009

7:00 p.m.

Mrs. Steiner stated to her the purpose of the law is that somebody doesn't park it there permanently. They are interpreting it differently. The purpose is there shouldn't be a boat there all year but if someone is going back and forth she does not believe that is considered storage.

Mr. Fenwick stated the boat sits more than one day, it does not move every day.

Mrs. Spohn stated if someone calls Village Hall and they just came home from a trip or something we tell them they have three days.

Mr. Jones asked what happens after the letter is sent out on this particular case.

Mr. Heydorn replied if it is found to be a zoning violation then we refer the zoning violation to the Cuyahoga Falls Prosecutor. We could sue them, but that would be pretty costly. Normally there is just a fine. A resident usually has 30 days to comply.

Mr. Jones stated so he takes the boat away for three or four days and then brings it back again for a few days.

Mrs. Fuller stated that's not storing if it's only there for a couple of days.

Mr. Jones stated well this is kind of what's happening.

Mr. Heydorn stated this is why we have that three day definition in the law.

Mrs. Steiner stated there is no time period in the law.

Mrs. Fuller stated maybe we need to define the law a little more.

Mr. Heydorn stated then someone would have to stand out there constantly watching. There aren't a lot of communities around here that have Lake Erie type boats sitting in their driveway for an extended period of time.

Mr. Heydorn read Ordinance No.: 1163.07; Parking and Storage Regulations. (Refer to Codified Ordinance Book)

There being no further business, Council adjourned at 8:08 p.m. until the next regularly scheduled Council meeting on Monday, July 6, 2009.

**REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE**

Monday, June 15, 2009

7:00 p.m.

APPROVED:

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Mr. Gerald Jones, President of Council

ATTEST:

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Teresa M. Spohn, Clerk-Treasurer

s:council/2009 minutes/06-15-09 Council minutes.doc  
prepared by: Margaret Tussey