

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, August 16, 2004

7:30 p.m.

The Village of Silver Lake Council met in a regular session on Monday, August 16, 2004, at Silver Lake Village Hall, 2961 Kent Road, Silver Lake, Ohio.

With President of Council, Mr. Duane Scott, presiding, the meeting was called to order at 7:30 p.m.

Mr. Scott led the Pledge of Allegiance.

The following members were present and responded to roll call: Mr. Jack Ingram, Mr. Robert Gray, Mr. Duane Scott, Mrs. Carol Steiner, Mr. Bernie Hovey, Mr. Bill Church, and Mrs. Karen Fuller.

Roll call of Council – 7 members present

Mr. Scott asked if there were any additions or corrections to the minutes of the August 2, 2004, Council meeting.

Mr. Hovey stated the postponement of Ordinances Nos.: 50-2004 and 52-2004 were not included in the minutes.

Mr. Hovey made a motion to add the postponement of Ordinance Nos.: 50-2004 and 52-2004, seconded by Mrs. Steiner, and all of Council agreed.

Mr. Scott asked if there were any further additions or corrections.

There being none, the minutes were approved as corrected.

Mr. Scott asked if there were any additions or corrections to the minutes of the August 12, 2004, Council work session.

There being none, the minutes were approved as sent out.

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

ORDINANCE NO.: 71-2004 AN ORDINANCE AMENDING SECTION 3 OF ORDINANCE NO.: 65-2004 BY ESTABLISHING A NEW AUTHORIZED AMOUNT TO PAY KENMORE CONSTRUCTION COMPANY FOR PROVIDING THE REPAIR, IN THE DEPARTMENT OF PUBLIC SERVICE, OF STORM SEWER AND SANITARY SEWER LINES IN VARIOUS LOCATIONS IN THE VILLAGE OF SILVER LAKE BY KENMORE CONSTRUCTION COMPANY, INC. AND DECLARING AN EMERGENCY.

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Mr. Scott assigned Ordinance No.: 71-2004 to the Public Improvements Committee.

RESOLUTION NO.: 72-2004 A RESOLUTION PLACING AN ISSUE FOR ADVISORY ELECTION ON THE BALLOT AT THE NOVEMBER 2, 2004, ELECTION SEEKING THE ADVICE OF VOTERS OF THE VILLAGE OF SILVER LAKE, OHIO, ON ESTABLISHING A ZONING DISTRICT TO PERMIT SEPARATE SINGLE-FAMILY HOMES OR ATTACHED SINGLE FAMILY HOMES, DESIGNED FOR SENIOR LIVING, UPON AN 8.35 ACRE AREA IN THE VICINITY OF LODGE DRIVE AND CHURCH STREET AND EXTENDING 4.69 ACRES TO THE EAST ON LAND CURRENTLY OWNED BY THE VILLAGE OF SILVER LAKE, AND DECLARING AN EMERGENCY.

Mr. Scott assigned Resolution No.: 72-2004 to the Planning, Zoning and Insurance Committee.

RESOLUTION NO.: 73-2004 A RESOLUTION AUTHORIZING THE PAYMENT OF CERTAIN CLAIMS, AND DECLARING AN EMERGENCY. \$110,522.34

Mr. Scott assigned Resolution No.: 73-2004 to the Finance and Appropriations Committee.

Mr. Scott stated there were no second or third readings of legislation this evening.

Mr. Scott asked if there were any questions or comments from the audience regarding pending legislation.

Mr. John Wenrick, 2829 Hastings Road, suggested to change Resolution No.: 72-2004 on Page 3 from "...and with fifty percent (50%) of the developed area landscaped..." to read "and with a *minimum* of fifty percent (50%) of the developed area landscaped..."

Mrs. MaryLou VanSise, 2821 Church Street, read and submitted her report, which is attached to the original minutes.

Mr. Marvin Strach, 3070 Silver Lake Boulevard, congratulated the leadership for considering demographic changes in our community. Mr. Strach thinks the question we should be posing is should we leave the property as it is or should we develop on it. If it is decided to develop the land, then there are different choices for development i.e., recreation, housing, or some other potential benefit to the community.

Mr. George Zurava, 2928 Silver Lake Boulevard, asked if the majority vote is necessary for passage, then why is that sentence in the legislation when it is an advisory election.

Mr. Heydorn responded that is the required format to make it on the ballot.

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Mrs. Kim Goldsboro, 3 Lodge Drive, asked why she does not have privileges to Silver Lake stated she feels she is treated differently. Mrs. Goldsboro requested a bigger meeting room for the October 18, 2004, Council meeting. Mrs. Goldsboro stated that she would like it in writing that their homes cannot be taken from them.

Mrs. Cynthia Larlham, 4 Lodge Drive, stated that she knows so far that if the land remains single residential family, the land cannot be taken by eminent domain.

Mr. Scott stated eminent domain will not be used.

Mrs. Larlham asked if Council can rezone the land regardless of public opinion.

Mr. Scott replied yes.

Mrs. Larlham asked if the land is rezoned to multi-family living, can the land then be taken by eminent domain.

Mr. Scott replied no.

Mrs. Larlham asked if there is an advisory election regarding this issue on November 2, 2004, then why is the third reading scheduled for October 18, 2004.

Mr. Scott stated that it is scheduled for October 18, 2004, but the reading can be postponed until after the election on November 2, 2004.

Mrs. Joy Wilson, 3099 Athens Road, stated she thinks the land could legally be taken by eminent domain after it is rezoned.

Mr. Heydorn replied that, according to the constitution, any piece of land can be taken by eminent domain as long you are given fair market value. Mr. Heydorn stated that the rezoning has nothing to do with eminent domain.

Mrs. Wilson requested to modify Resolution No.: 72-2004 to specify exactly what will be built.

Mrs. Wilson stated she is concerned with the current sewer problems in the Village. She wants to know how the Village could have a developer prove to the residents that building on these lots would not add to the current problem.

Mrs. Wilson stated that residents are not concerned about the density of the Village, they are concerned about sewers, traffic, and the loss of limited open space.

Mr. Gary Kinsey, 3148 Highland Drive, stated his understanding was the Village owned the smaller portion of 4.69 acres of land. With that amount of land by itself, this project could not be

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done. It doesn't seem like there will be any possibility of acquiring the additional 8.39 acres of land. Mr. Kinsey wanted to know why this issue is still being debated.

Mr. Heydorn responded that one of the problems is that zoning is done because it is essentially the way government encourages something to happen. The constitution says that if there is a piece of property that the Village rezones, what the Village has really done is create a non-conforming use; therefore, the Village will always be able to come along and use that piece of property.

Over time things change and people change. Owners who succeed their ownership of the property change their minds. Rezoning is not the public taking the property. Property owners' right to have the property is preserved by the constitution. If the zoning ordinances are passed, all that the Village would be doing is saying it is the policy of the Village to encourage a change in this land use pattern.

Mr. Bob Zimmermann, 2944 Ivanhoe Road, stated he thinks Council should postpone the third reading of Ordinance Nos.: 50-2004 and 52-2004 until after the November 2, 2004, election.

Mr. Scott stated the postponement of Ordinance Nos.: 50-2004 and 52-2004 was not on the agenda tonight.

Mr. Fred Fryberger, 2 Lodge Drive, asked if the land is rezoned, would he be able to rebuild a nice house on his land.

Mr. Heydorn replied that he would be able to expand his house, but he couldn't expand it closer to the lot lines than the current setbacks.

Mr. Fryberger asked why two story houses would be built when many seniors do not want to live in two story houses.

Mr. Heydorn stated that a two story house could benefit seniors by having the main living area on the first floor and have the upstairs for guests.

Mrs. Lori Kassinger, 2999 Overlook Road, stated the one thing that is making residents angry is that they feel they are being misled. Mrs. Kassinger stated she has never heard of senior living zoning and it confuses residents.

There being no further questions or comments regarding pending legislation, Mr. Scott asked for the reports of Council standing committees.

REPORTS OF COUNCIL STANDING COMMITTEES:

Finance and Appropriations Committee – Mr. Jack Ingram, Chairman

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Mr. Ingram stated Resolution No.: 73-2004 was discussed in committee earlier this evening and is ready for adoption.

Mr. Ingram made a motion to suspend the rule that legislation be read at three meetings for Resolution No.: 73-2004, seconded by Mr. Gray.

Roll call on suspension: Yes 7 No 0

Motion to adopt by Mr. Ingram, seconded by Mr. Gray.

Roll call on adoption: Yes 7 No 0

Public Improvements Committee – Mr. Bill Church, Chairman

Mr. Church stated Ordinance No.: 71-2004 was discussed in committee earlier this evening and is ready for adoption.

Mr. Church made a motion to suspend the rule that legislation be read at three meetings for Ordinance No.: 71-2004, seconded by Mr. Hovey.

Roll call on suspension: Yes 7 No 0

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

Roll call on adoption: Yes 7 No 0

Planning, Zoning, and Insurance Committee – Mr. Bernie Hovey, Chairman

Mr. Hovey stated Resolution No.: 72-2004 will be amended this evening.

Mr. Hovey made a motion to amend Resolution No.: 72-2004 on Page 1, in the second whereas clause, which formerly read:

WHEREAS, such alternative solutions for purposes of this question would be detached or attached (up to four units) single-family homes on small separate lots or on a common large parcel where fifty percent (50%) of the land must be landscaped and a permitted density of five (5) units per acre, with the maintenance responsibilities in the hands of an association of homeowners; and

To read as follows:

WHEREAS, such alternative solutions for purposes of this question would be detached or attached (up to four units) single-family homes *with a permitted density of four (4) units per acre* and where at least fifty percent (50%) of the land must be landscaped, and with the maintenance responsibilities in the hands of an association of homeowners; and

And on Page 3 in Section 1, which formerly read:

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Section 1. That the question of establishing a zoning district to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, upon an 8.35 acre area in the vicinity of Lodge Drive and Church Street and extending 4.69 acres to the east on land currently owned by the Village, subject to approval by the Planning Commission and Council before construction be submitted to the voters of the Village of Silver Lake, Ohio, for an advisory election at the general election to be held therein on the 2nd day of November, 2004, and said election will be held at the regular places of voting in said Village as established by the Board of Elections of Summit County, Ohio, within the times provided by law and shall be conducted, canvassed and certified in a manner provided by law.

To read as follows:

Section 1. That the question of establishing a zoning district to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, *with a maximum density of four (4) units per acre*, and with at least fifty percent (50%) of the developed area landscaped upon an 8.35 acre area in the vicinity of Lodge Drive and Church Street and extending 4.69 acres to the east on land currently owned by the Village, subject to approval by the Planning Commission and Council before construction be submitted to the voters of the Village of Silver Lake, Ohio, for an advisory election at the general election to be held therein on the 2nd day of November, 2004, and said election will be held at the regular places of voting in said Village as established by the Board of Elections of Summit County, Ohio, within the times provided by law and shall be conducted, canvassed and certified in a manner provided by law.

And on Page 3 in Section 2, the form of the ballot, which formerly read:

Should a zoning district be established in the Village of Silver Lake to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, with a maximum density of five (5) units per acre, and with fifty percent (50%) of the developed area landscaped, in an 8.35 acre area of Lodge Drive and Church Street south of the parcels adjacent to Kent Road, and including an adjacent 4.69 acres of Village-owned land on the elevated area, or plateau, east of the 8.35 acres, and provided that any proposed development plan shall be approved by the Planning Commission and Council before construction is authorized?

To read as follows:

Should a zoning district be established in the Village of Silver Lake to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, with a maximum density of *four (4) units per acre*, and with at least fifty percent (50%) of the developed area landscaped, in an 8.35 acre area of Lodge Drive and Church Street south of the parcels adjacent to Kent Road, and including an adjacent 4.69 acres of Village-owned land on the elevated area, or plateau, east of the

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8.35 acres, and provided that any proposed development plan shall be approved by the Planning Commission and Council before construction is authorized?

The motion was seconded by Mrs. Steiner.

Roll call on the amendment: Yes 7 No 0

Mr. Hovey made a motion to further amend Resolution No.: 72-2004 on Page 1, in the second whereas clause, which formerly read:

WHEREAS, such alternative solutions for purposes of this question would be detached or attached (up to four units) single-family homes on small separate lots or on a common large parcel where percent (50%) of the land must be landscaped and a permitted density of five (5) units per acre, with the maintenance responsibilities in the hands of an association of homeowners; and

To read as follows:

WHEREAS, such alternative solutions for purposes of this question would be detached or attached (up to four units) single-family homes with a permitted density of four (4) units per acre and where *at least fifty* percent (50%) of the land must be landscaped, and with the maintenance responsibilities in the hands of an association of homeowners; and

And on Page 3, in Section 1, which formerly read:

Section 1. That the question of establishing a zoning district to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, upon an 8.35 acre area in the vicinity of Lodge Drive and Church Street and extending 4.69 acres to the east on land currently owned by the Village, subject to approval by the Planning Commission and Council before construction be submitted to the voters of the Village of Silver Lake, Ohio, for an advisory election at the general election to be held therein on the 2nd day of November, 2004, and said election will be held at the regular places of voting in said Village as established by the Board of Elections of Summit County, Ohio, within the times provided by law and shall be conducted, canvassed and certified in a manner provided by law.

To read as follows:

Section 1. That the question of establishing a zoning district to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, with a maximum density of four (4) units per acre, and with *at least fifty* percent (50%) of the developed area landscaped upon an 8.35 acre area in the vicinity of Lodge Drive and Church Street and extending 4.69 acres to the east on land currently owned by the Village,

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subject to approval by the Planning Commission and Council before construction be submitted to the voters of the Village of Silver Lake, Ohio, for an advisory election at the general election to be held therein on the 2nd day of November, 2004, and said election will be held at the regular places of voting in said Village as established by the Board of Elections of Summit County, Ohio, within the times provided by law and shall be conducted, canvassed and certified in a manner provided by law.

And on Page 3, in the form of the ballot, which formerly read:

Should a zoning district be established in the Village of Silver Lake to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, with a maximum density of five (5) units per acre, and with fifty percent (50%) of the developed area landscaped, in an 8.35 acre area of Lodge Drive and Church Street south of the parcels adjacent to Kent Road, and including an adjacent 4.69 acres of Village-owned land on the elevated area, or plateau, east of the 8.35 acres, and provided that any proposed development plan shall be approved by the Planning Commission and Council before construction is authorized?

To read as follows:

Should a zoning district be established in the Village of Silver Lake to permit separate single-family homes or attached single-family homes, to a maximum of four homes attached, designed for senior living, with a maximum density of four (4) units per acre, and with *at least* fifty percent (50%) of the developed area landscaped, in an 8.35 acre area of Lodge Drive and Church Street south of the parcels adjacent to Kent Road, and including an adjacent 4.69 acres of Village-owned land on the elevated area, or plateau, east of the 8.35 acres, and provided that any proposed development plan shall be approved by the Planning Commission and Council before construction is authorized?

The motion was seconded by Mr. Church.

Roll call on the amendment: Yes 7 No 0

Mr. Hovey made a motion to amend Section 2, in the heading of the form of the ballot, which formerly read:

VILLAGE OF SILVER LAKE, OHIO

**SENIOR LIVING ZONING; LODGE DRIVE-CHURCH STREET;
ADVICE TO COUNCIL**

To read as follows:

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VILLAGE OF SILVER LAKE, OHIO

**REZONING; LODGE DRIVE-CHURCH STREET;
ADVICE TO COUNCIL**

The motion was seconded by Mrs. Fuller.

Roll call on the amendment: Yes 7 No 0

Mr. Hovey stated that the ballot language for Resolution No.: 72-2004 is very clear and there will be no confusion for residents. All of the whereas clauses will be available for the public in the upcoming Residents Review and on the Village website.

Mr. Hovey made a motion to suspend the rule that legislation be read at three meetings for Resolution No.: 72-2004, seconded by Mr. Gray.

Roll call on suspension: Yes 7 No 0

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

Roll call on adoption as amended: Yes 7 No 0

Mayor Mendenhall reported on the ongoing storm water study. The Village has had good cooperation with Summit County Department of Environmental Services since James McCarthy changed the leadership. There has been sufficient rain that yields a tentative indication that the overload is still coming in on the west side of the Village. The County suggested moving the instruments up to the next manhole and waiting for the next rain.

Congressman Steve LaTourette has visited the City of Stow and was responsive to their flooding issues. The Mayor asked Congressman LaTourette if the Village could be included in the survey that is to take place in August. Congressman LaTourette will ask for a survey resolution authorizing him to spend an additional \$100,000 to study the watershed and district.

The Mayor had an extended conversation with the officials from the City of Stow regarding the sidewalks and curbs on Englewood Drive. The Mayor is not sure how to assess the project because the sidewalks and curbs on the east side of Englewood are actually in Silver Lake.

The Mayor has begun contract negotiations with City of Stow regarding the EMS contract. In the past, the contract has been based on the population and percent of the runs. Stow is continuing to grow, while Silver Lake is not. The Village is approximately 5 percent of their runs.

The Mayor stated that oil prices have risen and it is coming down to the last five weeks to strike a price for natural gas. If any Council member has any concern or input, please notify the Mayor.

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Solicitor Heydorn had no report.

Chief Gary DeMoss had no report.

Service Director Fenwick reported the Service Department has been painting the streets.

Mr. Fenwick met with FEMA regarding the Village's claim for reimbursement from the storm damage in May 2004. There was not enough money spent on debris clearance to be reimbursed and FEMA does not reimburse for pumping out basements.

FEMA chastised Mr. Fenwick for pumping out residents' basements and wanted to know why Village employees were on private property. Mr. Fenwick replied that is what the Village did last year, so the same procedure was followed this year. FEMA asked for the forms that Mr. Fenwick had the residents sign stating that the Village would not be liable for any damage done while Service Department employees were there. Mr. Fenwick did not have the residents sign a form. Basically, the Village will not be reimbursed for pumping out these basements.

Clerk-Treasurer Spohn had no report.

Mrs. Fuller, Park Board Liaison, reported that Mr. Alan Siewart, the Urban Forester from the Ohio Department of Natural Resources, is assisting the Park Board in developing a long term strategy for the care and planting of trees.

Mr. Siewart toured the Village with the Park Board members while stopping at various trees that have been brought to their attention.

The Park Board developed a service priority in order to spend their money wisely. The first priority is the removal of dangerous trees and the second priority is to maintain the young trees that are currently planted. If money is available, the third priority will be spent on pruning mature trees that are five to ten years old.

Mr. Paul Theiss, Park Board member, volunteered his time this summer and completed a tree inventory of all public trees in the Village. Mr. Theiss has located all Village trees and has listed the condition of all Village trees. There are approximately 800 public trees in the Village.

Mr. Scott asked if there were any further questions from the audience.

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There being no further questions from the audience, Council adjourned at 8:35 p.m.

APPROVED:

Duane Scott, President of Council

ATTEST:

Teresa M. Spohn, Clerk-Treasurer

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Prepared by: Heather Reiheld