

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, June 4, 2018

7:00 p.m.

The Village of Silver Lake Council met in a regular session on Monday, June 4, 2018, 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. Dann Nivens, Mr. Tim Nichols, Mrs. Betsy Meyer, Mr. Gerald Jones, Mr. William Church, Mrs. Therese Dunphy, Mr. Matthew Plesich

Roll call of Council - 7 members present

Mr. Jones asked if there were any additions or corrections to the minutes of the May 21, 2018, Council meeting.

There being no additions or corrections, the minutes were approved as submitted.

Mr. Jones asked Mr. Sean Housley, Clerk-Treasurer, for the reading of any pending legislation that is up for first reading.

ORDINANCE NO: 42-2018 AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF SILVER LAKE DURING THE FISCAL YEAR ENDING DECEMBER 31, 2018, AND DECLARING AN EMERGENCY

Mr. Jones assigned Ordinance No: 42-2018 to the Finance and Appropriations Committee.

SECOND READING: None

THIRD READING: None

Comments from the audience:

Mr. Scott Croghan, 2924 Silver Lake Boulevard, said my wife and I have lived here eight years. I have noticed the last few years that speeding on the Boulevard, cars and landscaping vehicles, have become excessive.

I talked to Chief Conley about it a month ago, and he was really good about putting patrols on the Boulevard. I realize you can't continue to do that. That is a valuable asset and I know you can't have a vehicle on the Boulevard all the time. Speeding on the Boulevard is all day long, in the morning and in the evening.

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The President of Council was standing on the sidewalk with me when someone came barreling down the Boulevard, they were way outside the 25 mile an hour speed limit. I actually stepped out into the road and to get them to slow down. There are a lot of people who cross the street to go to the boathouse and with the excessive speed, it is a very dangerous area.

My suggestion was to install a passive speed sign. It attaches to any existing street sign. The City of Cuyahoga Falls has installed one near Don Sitts Automotive, and my friends, who work around there, say it has really slowed traffic down. It is a passive system, hang it and forget it. Two wing nuts and it hangs onto any existing street sign we have. You can move it over to Vincent and Harriett Road where there is also a problem with excessive speed. I understand you can't put speed bumps on these streets because it would disrupt emergency vehicles.

I believe the sign is something viable that Council should consider. A grant could take months or years, and there is no grant money at this time. Cuyahoga Falls purchased two signs that they move around the city. We really should look into this for the safety and security of citizens.

Mr. Croghan thanked Council for their attention. Also, this sign is not obtrusive and not bright. You can actually set what speed you want the lights to start flashing to alert the driver of excessive speed.

Mr. Jones asked where this sign is.

Chief Conley said a sign is installed in Cuyahoga Falls on Graham Road before Bath Road, westbound. The machine itself is not very large, about the size of the podium top. It has a pinpoint camera inside. It does not record, but it does flash the speed. Chief Conley presented several pictures of the sign. You don't see it until you get up on top of it. It is not a very big sign.

Mr. Croghan said the sign is not on a speed limit sign. It is attached to a no parking sign. The sign could be moved around the Village with very little effort. The cost of the sign is around \$6,000.

Chief Conley said it would be a great opportunity if this could be funded through the Silver Lake Car Show or another donation.

Chief Conley asked Mr. Croghan who received the Car Show money.

Mr. Croghan said it went to the Silver Lake Preservation Society.

Mr. Church said I live on the Boulevard and I totally agree. Do we have any idea how long the batteries last in this sign?

Chief Conley said we do not, but we have been looking into this unit to see if we can find a grant for it. Detective Snyder has been looking for a grant for this item.

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Mr. Croghan said there are solar options or the Police Department can change out the battery.

Mr. Jones said, my personal opinion is, if it is \$6,000, we have the money. I don't know why we just couldn't buy it. Once we decide that's the one we want, or another one, we've spent money on other things, and this is a safety issue.

Mrs. Dunphy said I like the idea of being able to do this during peak months in the summer. For back to school, Vincent Road has a problem with cars, on a regular basis, going to the bridge to drop off and we have a lot of walkers back there. I like that we can bring this to the attention of people in different trouble spots throughout the Village.

Mr. Jones said trying to wait for a grant, this season may be over.

Mr. Church said you really need two to do it properly.

Mr. Croghan said yes, you really do need two, especially on the Boulevard, where people cross the street to the boathouse.

Mr. Fred Johnson, Silver Lakes Estates Chairman, said around the area of Don Stitts on Front Street, the sign has really made an impact.

Mr. Church said that is so true. He does a lot of work for Don Stitts and he knows that it is absolutely true, it has slowed down traffic completely in that area.

Mr. Johnson said you could put in a crosswalk designation on the Boulevard where a lot of people come into the park. It is a central crossing point. We would be happy to have the boathouse personnel put the sign out in the morning and take it in at night. It would be an inexpensive start.

Mr. Jones said I think it's something to work out and maybe get on the fast track. Mr. Housley should be able to find some money for us.

Chief Conley asked that Council let him finish researching this topic. We have been running radar in Mr. Croghan's area. Before we jump in and buy \$6,000 worth of stuff, I want to make sure it's \$6,000 I want to ask Council to spend on behalf of the Police Department. I don't want to run out and buy something until I'm done looking into this.

If there are other funding avenues available, I think we should look at that. There are a lot of things for \$6,000 I would like to have. I have discussed this with the Mayor. So before we jump on this, I don't want to snap on this right today.

Mr. Jones said he is not talking about today, but give us a time table.

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Chief Conley said, hopefully, by next Council meeting I'll have finished looking into this, and I can give you a report if that's a viable option or if there are other things I can do.

Mr. Johnson said he could start on the crosswalk area tomorrow.

Chief Conley said you can't make changes to roadways unless you follow certain procedures. For instance, I have to follow certain rules to change a traffic pattern. I can't say tomorrow go out and paint a crosswalk and by Friday have a sign put up.

Mr. Church said keep in mind when you do your research that it was remarkable how much it slowed traffic down when they put in the crosswalk on Front Street.

Mr. Jones asked Mr. Heydorn if he had any comments as to how the Chief, and/or Mark, could get this done.

Mr. Heydorn said my understanding, as far as traffic signs are concerned, that's in the Ohio Traffic Code. It is uniform throughout the state. You can look up what the rules are.

Mayor Hovey said we had a problem at Kent Road and Harriett Road. ODOT painted the crosswalk for us. They could give us advice on what to do.

Mr. Jones said by next meeting we can have this information.

Chief Conley said, hopefully, by next Council meeting, I'll have finished looking into this, and I can give you a report if that's a viable option or if there are other things I can do.

We are running radar, but are not getting speeds high enough to issue citations. The highest speed I got was 34 mph, and I did stop that person.

As an example, I personally, in my 32 years of running radar, have lost traffic citations because even though I thought it was unreasonable, the judge thought the totality of the speed, which was greater than the posted speed limit, was not unreasonable for the conditions of the road.

Mr. Croghan said we can't afford to have a valuable asset, police officer in a vehicle, sitting out there as a deterrent. I had my classic car out and cars did slow down to look at it, but I don't want to leave my classic car out as a deterrent.

Chief said at the times I was running radar, I was not detected until after they were clocked.

Mr. Jones said our signs say Speed Limit 25, strictly enforced. What does that mean if you don't issue a citation at 34 mph?

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Chief Conley said in Ohio when you issue a citation, you must be able to articulate in a court of law that the speed they were traveling was unreasonable for conditions. A speed of 34 mph on Silver Lake Boulevard is not unreasonable for conditions during the daylight hours when there are no children playing or people crossing, or motor vehicle traffic. It could be unreasonable in the winter, an ice or snow storm, or at night. These are things I can articulate to a judge that the 34 mph speed was unreasonable. Someone going down the Boulevard on a beautiful day going 34-35 mph is not unreasonable for the conditions. I know it is very hard to understand that, but that's the law that we have to testify to.

It's not based on what is posted as the speed limit, it is what you can articulate in a court of law and testify that their speed was unreasonable.

Mr. Croghan said he has seen a truck with a trailer traveling at an excessive rate of speed, and the trailer has no tail lights. Chief Conley was right behind him with lights on and pulled him over for that.

Mr. Conley said it wasn't him.

Mr. Croghan said it was you.

Mr. Heydorn added that the law on speed limits is what's posted. It's called a presumption. Speed limits are a presumptive rule. Presenting no evidence that the speed you were traveling was reasonable under the conditions, you will be found guilty if you are over the speed limit. If you present evidence that your speed was reasonable for the conditions, you have a viable argument.

So the law is, it is presumptive speed limit. There was only one time I know of when there was an absolute speed limit and that was for gasoline conservation purposes. If you were over 55 mph, you were conclusively going faster than you should and you got fined and that was only for conservation purposes, otherwise, the law in this state and every other state, is a presumptive speed.

Mr. Church asked are school zones presumptive as well.

Mr. Heydorn said even that.

Chief Conley said there is a box you check on the ticket that says unreasonable conditions.

Mr. Jones said we'll wrap this up and we'll hear from the Chief in two weeks for sure on this issue.

Mr. Johnson, asked if Council is prepared to do something two weeks from now for this issue. To be decisive on this issue and do something, or will there be three readings?

Mr. Jones said we don't have to have three readings on legislation.

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Mr. Plesich said I agree with you. I think the crosswalk solution could be instantaneous. I don't think Council needs to be a part of that decision.

Chief Conley said I will bring my list of other things I need to purchase.

Mr. Jones said, you mean the cruiser you're going to buy?

Chief Conley said yes.

Mr. Jones said this is going to take precedence.

Mrs. Meyer said yes.

Chief Conley said I'm hoping that as the Chief of Police here, you will look at what I bring to the table as to what the community needs for law enforcement.

Mr. Jones said this is a safety issue. Whether it's \$6,000 or \$4,000. You just bought a car for \$42,000. So for \$6,000, or whatever it costs, I think that's what we need to do right now.

Mr. Nivens suggested we put out the old speed sign we have for the next two weeks.

Chief Conley said it's inoperable at this time.

Mr. Nivens said we looked at renting or leasing a seasonal sign, but the problem was it turned into a speed contest with kids. We also looked at purchasing a stealth monitor, which was the suitcase configuration that you can put around telephone poles and move it around. It's giving you a traffic count and speed, so you know where you can deploy your resources for traffic enforcement. As a suggestion, we could rent one of those and see how it works.

Chief Conley said he would look into it.

Mr. Jones thanked Mr. Croghan for coming and called on Mr. Johnson.

Mr. Johnson said all of the sewers around the lake have been inspected. The one person who had a violation was retested.

You might receive calls about fish killed last week at the lake. That is something that was happening all over northeast Ohio due to the rapid rise in temperature in the last week and a half.

Also the rain gardens have been put in and are working.

Mr. Johnson also encouraged residents to attend the 5K Run and Pancake Breakfast on Saturday, June 9, 2018.

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Mr. Church asked if a second island was forming in the northeast corner of the lake. It looks like a giant weed bed. A perfect circle.

Mr. Johnson said it is vegetation called milk oil. The more sun that can penetrate, the more vigorous that plant grows. That's the by-product of a clean lake. Ten homeowners around the lake had the first treatment last week and it is dissipating. The Estates will be treating the area by the beach and fishing dock.

Mr. Heydorn said we had it at Crystal Lake years ago, and it was totally eradicated. We treated the entire lake. I would suggest that if you don't do the whole lake at the same time, you will have it forever.

Mr. Jones continued with the agenda.

FINANCE AND APPROPRIATIONS COMMITTEE – MR. CHURCH

ORDINANCE NO: 42-2018

Mr. Church asked about the insurance premium for Wichert Insurance.

Mr. Housley said Wichert Insurance falls under contractual services, this is the legal level. I'm not asking for any more increases. I'm just transferring appropriations. I'm not asking for any more. We updated our inventory and some of the costs of insurance ended up being charged to places other than they were originally.

Mr. Church stated **Resolution No.: 41-2018** was discussed in Committee and is ready for adoption.

Motion to suspend the rules by Mr. Church, seconded by Mrs. Dunphy

Roll call on suspension: Yes 7 No 0

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

Roll call on adoption: Yes 7 No 0

Mr. Church asked if there were any questions regarding the payment of claims.

Mr. Nivens asked if we purchased a ballfield drag. Mr. Lipan said yes, we drag it behind the tractor.

Mr. Jones said we have a moral claim from Mr. John Dicecco, 3301 North Dover Road, for \$119.28, for an invisible fence damaged by a snow plow.

Mr. Lipan said the truck was backing up on Woodland Lane to push the snow toward the intersection. The truck slid off the road and had to be towed out.

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Mr. Plesich said all we have is an invoice, but in my mind I don't see a moral claim. The claim would be a letter outlining how and when it happened.

Mr. Housley said he made a verbal request on the telephone.

Mr. Jones asked if we should be plowing a private road.

Mr. Heydorn said there's nothing that says we can't if there's a public reason for doing it. The reason has been to facilitate police cars and fire equipment to get down there. I don't think that would be declared an illegal public purpose in court. It's more of a policy decision than a legal question. They pay to maintain the road. Their property lines go up to the center of that road of that road, and that whole road is nothing more than an easement on their property. If this were a public road, the invisible fence would be much further back from the road.

Mr. Church asked if there were any circumstances where we would be considered trespassing.

Mr. Heydorn said they have established a license for us to use their easement.

Mr. Church said I agree with Mr. Plesich, but is there a protocol, such as a letter, that must be followed to file a moral claim?

Mr. Heydorn said no. The law of a morals claim developed over the years and is not set in an ordinance. There is governmental immunity. There are many things you cannot be sued for. They have a right to present a claim for situations where they cannot be compensated legally because of immunity.

Mr. Plesich asked if the Village would consider some policy or procedure in place for filing a moral claim. Other cities have it.

Mr. Heydorn said absolutely.

Mrs. Dunphy asked if we have greater liability for providing this service on a private street than we do in other areas.

Mr. Heydorn said the only difficulty might be if governmental immunity applies to a situation where we're not performing a governmental function. This is a governmental function when it's done for a public purpose, but there is no guidance in this area.

Mr. Jones said we are not going to consider this tonight. Mr. Jones asked that we get back to Mr. Dicecco for more information.

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Mayor Hovey reported we put up State of Ohio and Silver Lake seals in Village Hall. I did that to give this room a little more authority and let people know that government business is taking place.

Mr. Robert Heydorn, Village Solicitor, had no report.

Chief John Conley left the meeting earlier for a police matter.

Mr. Mark Lipan, Service Director, reported we finished hydrant flushing. We finished patching past water breaks from the winter. We are starting to work on catch basins and potholes. The recycle bin is by the tennis courts, but it is being loaded with trash and we won't separate it, so everything is going in the dumpster.

Mr. Sean Housley, Clerk-Treasurer, reported the EPA initially told us the loan should be approved regarding the Lee Road sanitary sewer replacement by May 24, 2018. Now they are saying they are a couple of weeks behind. Hopefully by this Friday we will be able to give H.M. Miller a purchase order and get started on the project.

May is closed. Kim is on vacation, so the reports will be available to you at the next meeting.

Total collections, all funds including transfers, is plus \$370,000 compared to the end of May last year. \$200,000 of that is a transfer from the General Fund to the Sewer Fund for the Lee Road project. The major increase in our revenues are from income taxes, which are up about \$55,000, and property tax collection, which is up \$115,000. Collectively, we are looking at additional revenue of \$170,000.

The sewer treatment bills for January and February are about \$3,000 higher than last year for January and February. It is \$13,000 higher than it was in 2016. They have been raising rates, and they are up about 14.5 percent since 2016.

Miscellaneous Business

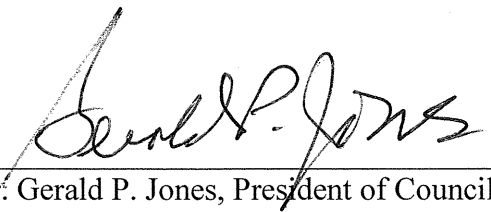
There being no further questions or comments, Council adjourned at 7:58 p.m., until the next regular meeting of Council on Monday, June 18, 2018, at 7:00 p.m.

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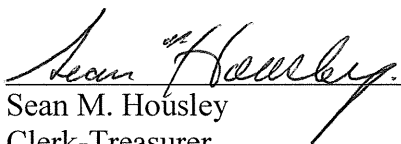
7:00 p.m.

APPROVED:



Mr. Gerald P. Jones, President of Council

ATTEST:



Sean M. Housley
Clerk-Treasurer

prepared by: Darlene Pedicino
reviewed by: Suzanne Lipan