

**REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE****Monday, March 21, 2022****7 p.m.**

The Silver Lake Village Council met in regular session on Monday, March 21, 2022, at Silver Lake Village Hall, 2961 Kent Road, Silver Lake, Ohio. The meeting was only in-person.

With Council President William M. Church presiding, the meeting was called to order at 7 p.m. Mr. Church led the Pledge of Allegiance.

These members were present and responded to roll call: Mr. Dann Nivens, Mr. Phil Kaplan, Mr. Matthew Plesich, Mr. William Church, Mrs. Therese Dunphy, Mrs. Betsy Meyer and Mr. Christopher Scott. Members of Council present were 7; members absent were 0.

Mr. Church gave the floor to Mayor Hovey for the Silver Lake Police Dept. Swearing-In Ceremony. Chief Norris described the new officers' qualifications. Mayor Hovey swore-in full-time Ofc. Madison Pachta, a graduate of Cuyahoga Falls High School and the Stark State Police Academy coming from the Munroe Falls PD and Portage County Sheriff's Office, and part-time Ofc. Justin Lehman, a graduate of Stow High School and the Cleveland Police Academy coming from the Cleveland PD and US Marines. Both were accompanied by their families.

Mr. Church asked for additions or corrections to the March 7<sup>th</sup> minutes. [There being no major corrections, the minutes were approved as submitted.] He called for the readings.

**First Reading:**

**ORDINANCE NO.: 29-2022 AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF SILVER LAKE DURING THE FISCAL YEAR ENDING DECEMBER 31, 2022, AND DECLARING AN EMERGENCY. (*Finance & Appropriations*)**

**Second Reading:**

**RESOLUTION NO.: 22-2022 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH ENVIROSCIENCE, INC. FOR STORMWATER SEWER MONITORING IN THE VILLAGE OF SILVER LAKE, AND DECLARING AN EMERGENCY. (*Finance & Appropriations*)**

**Third Reading: *None.*****Comments from the audience (3 minutes each):**

**Jim Kurtz, resident:** Thank you for allowing me to speak. I live on Chautauqua; I'm sure Council is aware of our flooding problem. This happens multiple times per year, and my neighbors tell me it has been an issue for quite some time and nothing has been done. I heard some engineers came out, but their results or findings were not presented to residents nor were any changes made. The Service Dept. [SD] has been great, coming out and pumping the street even on weekends when called. Having been the head of maintenance at a local university for years, I know they have better things to do, especially during the winter plowing season. Our street isn't just flooding for a day; it can be flooded for weeks. Some of our neighbors can't get through the flooding to get to work; delivery vehicles refuse to pass through; emergency vehicles might also have difficulty, especially when the road is iced over. The water overflows onto the sidewalks and prevents us from walking our pets. We have to walk through people's yards, which destroys the yards. It's

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embarrassing when family and friends can't access our homes. The residents' yards are being torn up from the equipment and foot traffic needed to pump the water out. It's not SD's fault; the flooding makes our lawns soft and easy to tear up. We are just 8 houses, but we pay our taxes and take pride in our properties just like everyone else. We pay generous stormwater bills, but it doesn't even get us a passable street. I ask Council to please provide a solution to this flooding so we can use our street just like everyone else in the Village. Thanks.

**Danielle Williams, resident:** Hello. My husband and I live on Chautauqua; he couldn't be here, but I do speak for the both of us. Jim did a great job, and I'm going to try to add to that. We can't get to work; the deepest point is right in front of our driveway, and my husband has been unable to get to work some days. We can't walk our pets; we have to walk through our neighbors' yards. We can't get to the park because we can't get through the flooding to leave our street. Last time, my husband mentioned the flooding in our backyard. Our lot isn't that big and half of it turns into a lake; there's a low point in our yard, so we understand there's going to be some accumulation of water, but it's just awful. We just got new gutters. During this last snowmelt when we had water in the street for a week, there was water going into the downspout of our new gutters and freezing. I would like to know how raising the street would solve the problem long-term. There are also 2 vacant lots near us. If someone builds on those lots, what will happen to the water those lots normally hold? Will we have more residents facing this issue? We really appreciate everyone listening here and talking to us about this, but we've been here for 4 yrs. and it's frustrating that nothing's been done. I look forward to a resolution for this issue.

**Ken Proctor:** I live on Cranbrook, not Chautauqua, but the flooding is less than a lot down from us. I second everyone's concerns tonight. My kids can't ride their bikes on the sidewalk down the cul-de-sac to play with their friends. We want to thank SD for their efforts with helping us, but we'd really like a permanent fix. We're concerned about the cleanliness of the floodwater and the damage it does to property. Again, access for deliveries and emergency vehicles is a concern. We've been here 7 yrs., and we're somewhat dismayed that this continues to happen. If raising the street is the appropriate answer, we'd like assurance that it would be a permanent fix.

**Michelle Baldini:** I live on Chautauqua. We've been here for 18 yrs., and we love our neighbors and neighborhood. We pay our taxes, keep our properties looking nice, and try to make the Village a nice place to live. The flooding has been happening since we got here, and I echo my neighbors' frustration. We feel like the lost people, forgotten on the other side of the tracks in the Village. In addition to the flooding, we don't have enough lights to safely go out even when we're not flooded. I want to plead with Council for a permanent solution to this. We want to bring in more new families, make our neighborhood a nice place to live. When we moved in, we had to redo our basement twice because of the flooding. We're in the cul-de-sac, so we can't get out until SD comes and clears the water. We thank them for everything they do. Thank you.

**Mark Copeland:** I live on Chautauqua, on the lowest point of the cul-de-sac. We've been here over 20 yrs., and we've spoken to Council before and had this exact conversation. There has been an improvement: SD comes and pumps out the water. I remember having to walk through people's yards in big boots for days, so I appreciate the SD's efforts. Any additional building and its effect on the flooding needs to be carefully considered. What effect will raising the street have; where

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will that water go? Everything needs careful consideration. I appreciate your attention to this matter. We've dealt with it for a long time; a permanent fix would be a blessing. Thank you.

**Gale Harr:** I also live on Chautauqua with my husband, and we've been here almost 40 yrs. For the first 20 yrs., we didn't have this problem. I don't know what happened. The pumping is great now, but at first the flooding was a real inconvenience. I remember having to park a block away and walk across people's muddy yards with the sheet cake for my son's wedding shower. We're retired now, so we don't have to worry about having to go to work before the road is cleared like some of our neighbors. It should be financially advantageous to the Village to get a permanent fix, rather than having SD keep coming and pumping out the water.

**FINANCE AND APPROPRIATIONS COMMITTEE - Mrs. Dunphy**

ORDINANCE NO.: 29-2022

Mrs. Dunphy read the legislation and asked for discussion. There was no discussion.

Roll call to suspend the rules	Yes	7	No	0
Roll call to adopt	Yes	7	No	0

**FINANCE AND APPROPRIATIONS COMMITTEE - Mrs. Dunphy**

RESOLUTION NO.: 22-2022

Mrs. Dunphy read the legislation and invited Ms. Sheila Rayman, P.E., and Mr. Marty Hilovsky of EnviroScience [ES] to the microphone to answer Council's questions. Mrs. Dunphy asked if things had changed enough since 2015 to necessitate doing the full study again. ES replied the biggest concern was missing something. During the 2015 study, ES planned on collecting 11 samples, but because of the weather, only collected 3, all during March or April. That wasn't enough data to accurately represent the lake's yearly cycle. ES didn't have the data to know what happened to the lake during the rest of the year, which could create blind spots. Stormwater was always changing and evolving. ES's suggestions could change once more data was gathered. Ms. Rayman, P.E., gave the example of bioretention, which worked well to temporarily hold and filter running water but wasn't the best for frozen water. Council asked whether the various construction projects occurring in a significant portion of the Village would skew the results and whether delaying sampling would be better. ES answered that any effects of construction were usually temporary and minor. Any impact would probably be less than Council expected and not a reason to delay sampling; construction was standard. Englewood would not throw too big of a wrench into things. ES could also sample "upstream" from construction zones and still get a full picture. These samples would still be valid because 90% of the Village had the same characteristics and were representative of other areas. Construction was not a limiting factor to starting immediately.

Mr. Nivens asked about the impact of the rising popularity of organic fertilizers. Mr. Hilovsky said organic fertilizers actually had more phosphorous than nonorganic options, which typically had nitrogen only, and ES didn't usually recommend organic fertilizers. The lake's recent uptick in E. coli most likely wasn't connected to fertilizer choice. Mrs. Dunphy added the Mayor's watershed committee had discussed, and might do an education campaign on, fertilizers. She noted the ES letter to both the Village and Silver Lake Estates that recommended monitoring because of changes in lake quality. She asked what changes ES saw and what would be the risk of delaying monitoring. ES replied the nutrient levels were higher, making the lake more prone to

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algae-growth than 3-4 yrs. ago when the aeration system was first installed. ES was monitoring the lake for the Estates and didn't know where the nutrients were coming from or why, which is why ES recommended stormwater monitoring. Delaying monitoring would risk these nutrient and algae-growth trends accelerating. Ms. Rayman, P.E., emphasized that many small actions added up, but ES wanted to make sure the suggested actions would be the best fit for the Village's needs. Mrs. Dunphy recalled when the lake's odor caused gas companies to get called out over the smell.

Roll call to suspend the rules	Yes	7	No	0
Roll call to adopt	Yes	4	No	3 (Kaplan, Plesich & Church)

The statement of cash position dated Feb. 28, 2022, was accepted as distributed.

The payment of claims dated Mar. 4, 2022, was accepted as distributed.

The payment of claims dated Mar. 15, 2022, was accepted as distributed.

**REPORTS OF VILLAGE OFFICIALS**

**Mayor Hovey:** We got reports of motorized vehicles on the paths behind Village Hall. There's a state law that prohibits this; we just need to post a sign saying motorized vehicles aren't allowed, and I've asked Mr. Lipan to do that. Hopefully, that will take care of it.

I was disappointed Stow decided against the sidewalks, and I think those residents will be asking for sidewalks within the next year. That doesn't impact what we're doing because we had the project drawn up without Stow sidewalks. We were told Stow would contribute \$200,000 for sewer construction. I've called and emailed Mayor Pribonic [Stow] asking if we will still get that. I know he was very sincere and wants to do that. He hasn't responded to me, so I don't know.

**Mr. Robert Heydorn, Village Solicitor:** I'd like to comment on our sidewalk discussion with Stow. We told them it would be difficult for the Village to maintain the sidewalks on Stow's side because we cannot assess Stow residents for the money to do the maintenance. I couldn't say otherwise; that's all there is to it. They told me they would pass this along to the administration; it turns out they did what they said they wouldn't. They wanted the memorandum of understanding [MOU] about sidewalk maintenance first before they formally petitioned their residents about it. But they decided that since we wouldn't be able to yield on the MOU, they would petition their residents without the MOU. So, the formal petition was against the sidewalks, even though the informal petition earlier was in favor of the sidewalks 60-40. Something clearly happened in between. That's how it went.

The mayor wants me to work on legislation concerning [Ohio] House Bill 172 [HB 172], which allows the use of consumer fireworks on specific holidays. It doesn't affect professionals. Village policy has banned fireworks. HB 172 allows municipalities to opt-out, so we could pass legislation restating our policy or creating new policy if we want. There are examples of legislation restating current bans, but not many that opt-out of HB 172 and create new policy. Before I draw anything up, Council should decide what to do. [It was determined there was no big difference between continuing current policy or creating new policy; the Village just needed to do something to opt-out of HB 172. It was determined non-professional fireworks weren't a widespread issue, despite the ban being hard to enforce. Various Councilmembers voiced support to opt-out of HB 172 and keep the Village's current ban for now.]

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**Chief Jamie Norris, Chief of Police:** The Silver Lake Police Association's Easter Egg Hunt will be on April 9<sup>th</sup> from 1-3 p.m. It is severe weather week, so the sirens will be tested. That's all.

**Mr. Mark Lipan, Service Director:** The gas company is starting to restore things, starting with the concrete on Graham Rd. They're surveying to do another project in the next 2 yrs., starting at the bird sanctuary coming south down Lakeland Pkwy., Millboro Rd. up to Vincent Rd., and Overlook Rd. and Parkwood Dr. The Englewood Project is going well; they finished the waterline from Lake Rd. to Oakhill Rd. and they're pressure-testing it. The waterline from Oakhill to Graham should be done tomorrow, and once they pressure-test it, the waterline will be done. We're starting Outlook soon; the cones for the lane restrictions on Kent Rd. are already out.

The chipper I ordered in January will arrive Monday, just in time for leaf and limb season.

Mr. Plesich asked about the gas lines on Englewood. Mr. Lipan replied they were put in during the 1960s and were good to go. He checked and they weren't on the replacement schedule.

**Mr. Sean Housley, Clerk-Treasurer:** Council received 2 financial statements, which I plan to discuss at the next meeting. If there are any questions, please tell me and I'll answer them at the next meeting.

The Regional Income Tax Agency [RITA] has given us the most recent list of delinquent filers. There were 195 non-filers through fiscal yearend 2018; this year, there were 123 through 2019, so it's the lowest it's been in a few years. We've collected \$50,730 from delinquent accounts since we began our delinquent filer letter campaign. We estimate there's about \$45,000 still owed by those accounts.

Our Jan. 2022 sewage treatment costs were \$29,750; in Jan. 2021, our costs were \$29,000. We currently budget \$30,800/mon., so Jan. is about \$1,000 under budget. That's all.

**Miscellaneous Business:** Mr. Church began the discussion regarding Chautauqua Drive flooding and invited Mr. Scott to open. Mr. Scott has lived on Chautauqua for over 25 yrs. and the flooding problem has been ongoing; he wasn't personally affected, but he noted the flooding forced his neighbors to park their vehicles farther away and posed a potential hazard for emergency vehicles. The Village's pumping efforts, started about 10 yrs. ago, has helped the water recede faster. SD has to pump at least twice a day because the water keeps flowing in from the river. The Village had an engineer look at the situation and the option of raising the street; Mr. Scott said there were concerns about this option and further discussion was necessary. This wouldn't be solved immediately, but Council should make it a priority. Last meeting, a potential solution was proposed, involving the Village buying certain lots and using them for drainage. Mr. Scott had heard there was some outside interest in those lots, so that might not be possible. It was clarified raising the street 18 in. was estimated to cost \$250,000, and the lots would possibly be \$42-45,000 each plus the cost of putting in a retention pond or other drainage infrastructure. It was clarified the river caused the flooding in residents' backyards and thus little could be done about it.

Mr. Lipan explained raising the road would also raise the catch basins; the river water was backing up into the catch basins and then onto the road. Raising the catch basins would keep the road passable. Retention ponds might help with water from other sources, e.g., rainfall, sump pumps, drainage from other areas, but because the lots in question were peat, they could only hold so much water. Ms. Rayman, P.E., confirmed that retention might work. The key was elevation:

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enough elevation to hold the water and push it out. Retention ponds normally needed a minimum of 5 ft. for just water depth, but the distance between the water level and the top of the pond was the big issue. She agreed with Mr. Lipan about the river and clarified that raising the road wouldn't put the road above residents' driveways. From the concrete curbs/edges to the middle of the road was technically meant to store water and can hold water and keep it off residents' properties. Raising the road would increase that storage area.

Mr. Heydorn, who has lived in the Village since 1952, said they tried to solve this issue when he was on Council in 1992. They couldn't. The primary problem was that the subdivision was below the level of the river, and no one has figured out how to get around that. If the river flooded, the subdivision flooded. Ms. Rayman, P.E., seconded, and added that using the aforementioned properties for retention might not work because of the elevation issue. Mr. Heydorn informed everyone that this has been a problem since the subdivision was built. In the late 1960s, Warren Gibson, a lawyer, and John David Jones, a developer and engineer, used the courts to push through a solution that let them put in the subdivision as is. They bought property that wasn't suitable for building but were allowed to build by threatening the then-Councilmembers with lawsuits. It wasn't the Village's fault. The courts sided with Gibson and Jones, and they were allowed to develop the land. They brought in trucks of fill to provide some coverage, but the underlying land was still unsuitable for building. The end result was that residents had these issues and the Village had to search for solutions. All consulted experts had been unable to get around the basic fact that the subdivision was lower than the river.

Mrs. Meyer mentioned the activity at the dam and said her property wasn't flooding; she questioned why Chautauqua was. Mr. Lipan replied Chautauqua got more drainage from the east, from over in Stow where there's been more development. The amount of flooding on Chautauqua varied, based on multiple factors. Any additional dam activity shouldn't affect the Village. Mr. Heydorn recalled when the Village spent more than \$300,000 to buy the land that made up the now-Fenwick Park. The money was from a FEMA [Federal Emergency Management Agency] grant. The creek in Fenwick originally went through the Chautauqua area, so the developers moved the creek over. After more than 40 yrs., it should be expected that the creek would revert to its original path. The Village dealt with erosion and other problems with the Fenwick land until it became necessary to buy those lots and destroy those houses.

Mr. Church stated his goal was finding an engineering solution for these residents dealing with this problem. It would be money well spent, and there must be a solution that won't break the bank. Ms. Rayman, P.E., said cost was the main sticking point. Pumping stormwater was very costly because it was constant and was a much larger volume than sanitary sewer or domestic water. It was possible, but expensive. Mr. Heydorn suggested commissioning a study to look at all possible options, e.g., raising the road, putting in retention ponds or other drainage infrastructure. Mr. Church agreed. It was agreed to send Council the Chautauqua study. Mrs. Dunphy reiterated the residents' concerns about further development in the area and asked if the Village had any legal standing to prevent that. Mr. Heydorn repeated the Village approved the subdivision under duress. Theoretically, the Village shouldn't be creating unbuildable lots, but there were unforeseen factors. It was not known if the properties under consideration for Village purchase were in the flood zone because they had been illegally raised up probably 3-4 ft. with fill. If those lots did flood, then the Village could claim they weren't buildable lots and try to limit development on them. If they didn't flood and a buyer was interested in building on them, the Village couldn't do much. If the Village could block building, it would. If the Village wanted to buy the lots, it must

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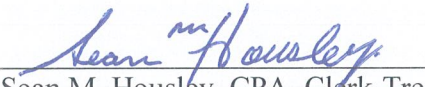
put forth some evidence of efficacy. Mr. Church asked the mayor to contact the owner of the lots and express the Village's potential interest; he voiced support for a study on possible solutions. Mr. Church expressed his desire to go all out to help these residents and to explore all solutions.

There being no further questions or comments, Council adjourned at 8:35 p.m. The next regular Council Meeting will be on Monday, April 4, 2022, at 7 p.m.

APPROVED:

  
William M. Church, President of Council

ATTEST:

  
Sean M. Housley, CPA, Clerk-Treasurer  
prepared by: Kathryn Kleinhans, Assistant to the Clerk-Treasurer