

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

**Monday, September 16, 2019**

**7:00 p.m.**

The Village of Silver Lake Council met in a regular session on Monday, September 16, 2019, 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. Tim Nichols, Mrs. Betsy Meyer, Mr. Gerald Jones, Mr. William Church, Mrs. Therese Dunphy, and Mr. Matthew Plesich.

Roll call of Council - 6 members present

Absent – Mr. Dann Nivens. Mr. Nivens was excused.

Mr. Jones: Were there any additions or corrections to the minutes of the August 19, Council meeting. There being no additions or corrections, the minutes were approved as submitted.

Mr. Jones: Called for the reading of ordinances and resolutions by Mr. Housley and assigned the committees.

**First reading:**

**RESOLUTION NO.: 45-2019 A RESOLUTION AUTHORIZING A CHANGE ORDER TO THE LEE ROAD SANITARY SEWER REPLACEMENT PROJECT WITH THE H.M. MILLER COMPANY, AND DECLARING A REAL AND PRESENT EMERGENCY.**  
*(Finance & Appropriations)*

**RESOLUTION NO.: 46-2019 A RESOLUTION APPROVING THE EXPENDITURE OF FUNDS TO H.M. MILLER CONSTRUCTION COMPANY FOR THE LEE ROAD SANITARY SEWER REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY.** *(Finance & Appropriations)*

**ORDINANCE NO.: 47-2019 AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF SILVER LAKE DURING THE FISCAL YEAR ENDING DECEMBER 31, 2019, AND DECLARING AN EMERGENCY.** *(Finance & Appropriations)*

**RESOLUTION NO.: 48-2019 A RESOLUTION EXPRESSING SUPPORT FOR THE PASSAGE OF THE 2019 CUYAHOGA FALLS SCHOOL DISTRICT FACILITIES IMPROVEMENT LEVY AND BOND ISSUE ON THE NOVEMBER 5TH BALLOT.**  
*(Planning, Zoning and Insurance)*

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**Second reading:**

**RESOLUTION NO.: 41-2019: A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE AKRON METROPOLITAN AREA TRANSPORTATION STUDY (AMATS) FOR FINANCIAL ASSISTANCE WITH A PROJECT DESIGNATED AS THE STOW-SILVER LAKE-CUYAHOGA FALLS BIKE CONNECTOR AND DECLARING AN EMERGENCY.** (*Finance & Appropriations*)

**Third Reading:** None**Comments from the audience:**

Mr. Jones: Called on Gary Kinsey of 3148 Highland regarding the school levy resolution.

Mr. Kinsey of 3148 Highland: Mr. Kinsey questioned why Resolution 48-2019 was presented on the agenda to Council for their approval. He had never seen school levy legislation brought to Council before. He questioned why it was at this time.

Mr. Jones: Called on Fred Johnson of 2943 Overlook regarding the Lake Study invite.

Mr. Johnson of 2943 Overlook: I come tonight as a trustee for the Silver Lake Estates, I serve on that board. As each of you may or may not be aware, we have public meetings six times a year, on odd months, the third Tuesday at 7 o'clock at the Church in Silver Lake. Tomorrow night being the third Tuesday of an odd month called September. We will be having a very, very important meeting that I wanted to bring to your attention and invite anyone who is interested to attend. The reason for the meeting tomorrow night is, we started in May of this year with a comprehensive review of every test that we did on the lake, every treatment that we had on the lake, every action that we took on the lake. We have summarized all of that information in a very comprehensive document which we intend to discuss tomorrow night at our meeting. The purpose of this is to assess and critique ourselves as to how we did. If we see any peaks or valleys, any trends that we should talk about for the purpose of planning the 2020 season, in terms of continued improvements of water quality at the lake. At the conclusion of the meeting it is my intention to distribute the results of that to, Mr. Jones and Mr. Church who at times is the liaison between the council and the Silver Lake Estates Trustees, to then distribute within the village council as they see fit. Should you have a reason to get it sooner or anything like that it will be available tomorrow night but that is my intention. My offer to you tomorrow night at 7 o'clock right next door. I think you will find it of great interest. Thank you for your time.

Mr. Jones: Called on Rebecca Brockmeyer of 3675 Country Club Rd regarding the school levy.

Mrs. Brockmeyer of 3675 Country Club Rd: I am currently the president of the Silver Lake Home and School League, over at the elementary school. I have been working on the committee for the levy and we just wanted to come to present to you tonight to encourage you to support the levy and the bond issue. I myself have four kids, three of them are in the district and one of them is still

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too small. They do amazing in the school system and we are very proud to be members of this school system. Everybody is working very, very hard to improve the facilities that our children go to school in every single day. We are past the point of do nothing, we have to do this now in order for these children to be able to keep up with everybody else whose districts are moving along and improving. They deserve it, they deserve an outstanding education, they deserve to be able to go out into the world and to become lawyers, doctors, store owners, managers whatever you want to call it. They deserve the ability to be able to keep up with everybody else. They are going to be the ones that are running this city, this community, in five to ten years. If you want them to do that you know, inefficiently, then ok, but I feel like they absolutely deserve it. I think that is pretty much it. I just want you to know that I believe in all of these kids, I hope you believe in all of them, they are our future. They deserve it, that is the bottom line. It is imperative at this point in time that we pass this levy. Just another side note, I think all of you have toured Silver Lake Elementary School property, and as you probably know our black top is in extreme disrepair. So, May 1<sup>st</sup> our home and school league is running a Pave the Way 5K, to help raise money, we are hoping to raise \$20,000 in order to repair the black top on the playground. As far as, I know a good while here, Silver Lake Elementary School, will be around because we are going to do the Middle School and the High School phase first, so we have a while. We are really looking forward to it and we really hope that we have your support with the 5K as well. Thank you.

**PLANNING, ZONING AND INSURANCE – Mr. Nichols****RESOLUTION NO.:48-2019**

Mr. Nichols questioned whether we had done something like this before.

Mr. Housley noted school levy legislation has been in front of Council five times since 2002. Once in 2007, twice in 2005, once in 2002 and today.

Mr. Nichols asked for any questions or comments.

Mrs. Dunphy: I'd like to kick off the comments if I can, since this was a resolution I sponsored. I actually worked with Karen Fuller in the past on two different resolutions of levies, I think the last one we looked at was in 2010 or 2011. That was the last time I worked with her as a school board member. In her position as a council member she sponsored legislation then. So, it has come periodically before council, this is not the first time. It has not happened for about nine years. I brought it forward, I worked on the facilities committee in the district. Obviously, you know I am a former school board member so the school system is still near and dear to my heart. I think there has been exhaustive research over the last five years in terms of looking at what facilities plan would work and how to approach the truly crumbling infrastructure that we have in the school district. My high school child gets pictures from friends of his from Silver Lake Elementary School showing pictures of the high school with trashcans in the middle of hallways because there are leaks in the roof. Bolich Middle school has had some significant problems over the last few years. If I look at the all of the surrounding communities that have newer buildings, then I look at the

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buildings in our school district, the youngest of which is 50 years old. I think it is very hard for the communities of Cuyahoga Falls and Silver Lake to be competitive and attracting young families when we have buildings and infrastructure that is so old. I think as leaders in the community we need to get this over the hump and ensure that people are attracted to our communities to live here and raise the next generations here.

Mr. Jones: Any other comments?

Mr. Nichols: Dr. Nichols do you want to speak?

Dr. Nichols: First of all, thank you for having me this evening and giving me the opportunity to address you. I just left the city council meeting and they have a similar resolution that came out of committee and will be voted on next week. I am appreciative of this council considering this resolution as well. As Mrs. Dunphy said, five years ago we had a similar thing on the ballot, and out of approximately 12,000 votes cast, it lost by 424 votes. The community identified some concerns with the previous plan, so as we reconvened our master facilities planning committee for this levy, we considered those pieces and removed some of those road blocks. Such as what happens with the sixth graders, performing arts center, and stadium issues all of those things have been considered and folded into this. We are quite proud of it; it has tremendous momentum. Lastly, I would like to invite you to a community meeting we are having next Tuesday the 24<sup>th</sup> at 6:30 pm in our auditorium at Cuyahoga Falls High School. At that meeting we will be walking through the plan from start to finish. Thank you.

Mr. Plesich: I have a few thoughts.

Mr. Jones: Go ahead.

Mr. Plesich: I guess we are elected to represent the entire Village and what is best for the Village and I guess my position would be, healthy schools are what make a healthy community. I think this issue is very important, I think healthy schools are very important. They only go to enhance the community, increase property values, attract young people in the community and that's what we want. I know this is a divided issue but I think we are elected to represent what is best for the entire community.

Mr. Jones: A few comments or questions to Dr. Nichols. Several weeks ago, Mr. Nichols, Mrs. Dunphy and I met with the superintendent and the head of business operations over at the Silver Lake School about our concerns about the school itself, and the lack of maintenance at the school. We had an hour and a half meeting. My question is, if this passes what's going to be done at that specific school as far as, some of the things we saw. Such as holes in the cornices, paint peeling off, and you mentioned the asphalt. Can you address that.

Dr. Nichols: Well we put on a brand-new roof at Silver Lake Elementary this summer. After meeting with you we have had some quotes in regards to the painting on the trim and such. You

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also identified some concern with the trees. We have quotes and individuals ready to come and remove those limbs so that you can have greater access to the flagpole. We also identified some issues with regards to black tops and the playground and those pieces have been addressed approximately a month ago. We are addressing all of the issues you have identified. We continue to do so as Rebecca mentioned, this is segment one of ultimately a two-segment plan to redo all of the facilities in our district. I want to make it very clear and obvious tonight that no decisions or discussions have been held about K-5. That will take place when the master facilities planning committee reconvenes near the conclusion of the segment one. During this period of time we have not addressed K-5 at all. I want to make that very clear as I did the other day.

Mrs. Meyer: I mean I think back having graduated from Falls, when the old building got remodeled. I was in there a couple of years ago and I was thinking wait a minute I thought this was the new building. Even the high school is in need of a lot of help.

Dr. Nichols: We put a new roof on part of the high school. It is a two-phase project over two fiscal years. It is approximately \$1.3 million to do the roof over there. We put some money into it over the summer to address some of those trashcans in the hallway that were immediate.

Mrs. Dunphy: Perhaps one other thing, if you look at the investment on the sheet that Dr. Nichols gave us. There is 3 parts to this. There is the construction, a permanent improvement levy to help maintain buildings, and operating funds. There are 3 components and what I have seen in a lot of school districts over the years is they pass the project but then do not have the operating funds. This initiative addresses all three elements. So, there will be money to turn the lights on when the building is built, sometimes that is not the case.

Dr. Nichols: One of the frequently asked questions is, in terms of maintaining the building going forward. In working with the Ohio Facilities Construction Commission, you are mandated to put a half million permanent improvement on the ballot with the project. That specifically goes into the maintenance fund for that project. A half a million dollars in our school district generates approximately \$385,000 a year right now. That will continue to accumulate and be put into a separate fund specifically for permanent improvement on that facility.

Mr. Nichols: I concur with Therese and Matt, mostly with what Matt says about this being the face of our future. I am in favor of bringing this out tonight. I make a motion; this is not an emergency so I don't have to deal with that.

Mr. Nichols brought the legislation out for adoption.

Roll call to suspend the rules:	Yes	6	No	0
Roll call to adopt the legislation:	Yes	6	No	0

**FINANCE AND APPROPRIATIONS COMMITTEE – Mr. Church**

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RESOLUTION NO.:45-2019

Mr. Church: Sean I am going to ask you to address this, but I am looking at a total, completed and stored to date \$1,098,424. You are looking for another \$31,000 here correct?

Mr. Housley: Yes. Hopefully this will be the last bill, they have told me this is the final bill, everything is finalized. The project came in around \$110,000 more than what we were initially anticipating. I think that I have available loan proceeds for \$100,000 of that. I had to adjust the appropriations and we are just going to pay for that difference out of the sewer funds' cash balance.

Mr. Church: There is the explanation, comments or questions from council?

Mr. Church brought the legislation out for adoption.

Roll call to suspend the rules:	Yes	6	No	0
Roll call to adopt the legislation:	Yes	6	No	0

**FINANCE AND APPROPRIATIONS COMMITTEE – Mr. Church**

RESOLUTION NO.:46-2019

Mr. Church: Any questions regarding the expenditures of the funds?

Mrs. Dunphy: The only question I wanted to touch on was something that Sean said which was that the additional funds are going to come out of the sewer fund which is already one of our struggling funds. Any thoughts on where that is going to take us and if that is going to accelerate any time tables with the sewer fund?

Mr. Housley: It should not accelerate any time tables. We are in the process of reviewing it, and trying to make a determination on what the sanitary sewer charges should be next year. I did increased the estimated revenues in the sewer fund, \$35,000 this month, so we will be fine.

Mr. Church: Any questions regarding Resolution No. 46-2019?

Mr. Church brought the legislation out for adoption.

Roll call to suspend the rules:	Yes	6	No	0
Roll call to adopt the legislation:	Yes	6	No	0

**FINANCE AND APPROPRIATIONS COMMITTEE – Mr. Church**

RESOLUTION NO.:47-2019

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Mr. Church: What was this damage to the light?

Mr. Lipan: It was a hit and run, but that is what it was for, I had to take it out of one of my accounts that I need the money for, for something else.

Mr. Church: And it also includes the \$31,163. Any other comments you want to make Sean?

Mr. Housley: Small unemployment increase appropriation we still have a past employee that's receiving unemployment. I am hoping that will phase out here in the next few months.

Mr. Lipan: Mr. Church we did get \$2,000 back from the insurance company for that.

Mr. Church: Any other questions regarding Resolution No. 47-2019?

Mr. Church brought the legislation out for adoption.

Roll call to suspend the rules:      Yes 6    No 0

Roll call to adopt the legislation:    Yes 6    No 0

**FINANCE AND APPROPRIATIONS COMMITTEE – Mr. Church**

**RESOLUTION NO.:41-2019**

Mr. Church: This is only for the study correct? There is not an obligation to us here in anyway.

Mrs. Dunphy: I thought the \$48,400 is an obligation.

Mr. Church: Well is it?

Mr. Lipan: If it gets approved through AMATS.

Mr. Housley: I think that we always have the opportunity to say no in the future.

Mayor Hovey: It's not an obligation, the only obligation is if we decide to participate in it, and we don't even know the amount that's just a guess. The percentage is what we would pay, so whatever the project turned out to be, 22% of that. In my understanding this is not a commitment to do the project, this is a commitment for them to do the study and find out how much it costs.

Mr. Church: As was my understanding, are there other questions?

Mr. Nichols: So, the study will be approximately \$900,000.

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Mr. Lipan: Well that will be the study and the actual doing.

Mr. Church: You said \$48,000, that includes both?

Mr. Nichols: Our part of the construction of it is \$48,000?

Mr. Lipan: Correct.

Mr. Jones: What if it doesn't happen for 4-5 years? Then it is going to escalate.

Mr. Lipan: Then it is going to be 22% of whatever the cost is. I was trying to explain to Mr. Nichols that it is not only the study it's also the construction of it.

Mr. Church: It was my understanding that we were moving forward with this to the point at which we would be able to determine whether we want to take part. In order to see how much is available in terms of funds, outside funds and exactly what our number would be.

Mr. Nichols: Are we obligated? What if we say half this, what do they say? Is that an option?

Mrs. Meyer: The group that talked to us before, theirs is the same trail.

Mr. Lipan: Yes, they'll just continue on.

Mayor Hovey: From what I remember from what the communications said when we asked them about this money, he said this is just an approval to allow AMATS to go ahead with the study. Only giving them approval to do the study.

Mr. Jones: They are not here, there is a lot of questions. I am not comfortable with it.

Mr. Nichols: Do we have to do this tonight?

Mayor Hovey: The original goal was to have it done by August 31<sup>st</sup>, but since they threw it at everyone at the last minute, they said as long as it was done in September it would be alright.

Mrs. Meyer: If AMATS is paying for the study, why do we have to commit?

Mr. Church: My opinion of this is if it's not costing us anything and it will give us more information for the future, we should get this thing started.

Mr. Jones: Then why do we have a number of \$48,000?

Mr. Lipan: It is just showing AMATS that the support that Stow has.



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Mr. Plesich: It says they are filing an application for potential funds, there may never be a potential fund that we can match so it may just fall to pieces. It sounds like there is a lot that has to happen before.

Mr. Jones: Has Stow done what it is supposed to do?

Mr. Lipan: Yes

Mr. Church: Stow passed the same legislation as we are looking at tonight.

Mrs. Dunphy: If this went forward, we would have another resolution for the budget item for that 22% of the 20% local share. We would have another item brought before us before we would sign off on that.

Mr. Church: In order to make an intelligent decision on whether or not to do this, the study has to be done.

Mr. Plesich: How much specifically is that going to cost?

Mr. Church: We have no idea.

Mrs. Dunphy: Just so I understand this if they run the bike trail along the train tracks, will they be taking out train tracks to do that? Which is a big benefit to a whole lot of residents in Silver Lake.

Mr. Heydorn: The real impact of this is going to be for cyclists avoiding going a lot through Stow, through the bird streets.

Mr. Church: What are your thoughts on bringing this out this evening?

Mr. Nichols: We don't have to fund anything now. As a concept it is hard to disagree with.

Mr. Church: You are for bringing it out?

Mr. Nichols: Yes

Mrs. Dunphy: Yeah, I agree I think we should bring it out.

Mr. Church brought the legislation out for adoption.

Roll call to suspend the rules: Yes 6 No 0

Roll call to adopt the legislation: Yes 6 No 1 (Mr. Jones)

Mr. Church: You have before you a statement of cash position as of 08-31-2019. Are there questions regarding the statement of cash position? Baring none I would move to accept the statement of cash position.

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Mr. Jones: All in favor, motion carries.

Mr. Church: I have one more item. In front of you, you have payment of claims for the 5<sup>th</sup> of September and the 28<sup>th</sup> of August. Please take a look at those and tell me if you have any comments. No comments for the payment of claims, that concludes my report.

**REPORTS OF VILLAGE OFFICIALS**

**Mayor Hovey:** Just a couple things I wanted to comment on the piece of paper I set in front of you before the meeting. We are considering updating the patch for the police department. On the left is the old one and it was last updated around 1991 or 1992. From what I understand it has changed at least twice over the years. Craig Rowe one of our officers is working on a design for it. I'm not saying that is what it will be, but we are trying to modernize it. We want to put the date we were incorporated in it and there is a picture of the gazebo. I like the design; I think we need a better rendition of the American flag though. I am not going to make a change like this without talking to several people and have them say yeah, it's a good idea or no don't even consider it. I would like your feedback. Also, I don't have an example of this but I have had many people question over the years why we don't have a Village flag. That might be something to consider so I would also like your input on that. That's my report for tonight, I appreciate any feedback on that.

Chief Norris: I do like the idea. This is I think the beginning stages, I would like to probably see something with the lake in there. Maybe the gazebo with the lake offsetting it, I think this is a good direction though. Most departments change their patch over a time period as things change. This is only the third patch.

Mr. Church: So, you are in favor of a new patch, just what goes on it is what you are talking about.  
Chief Norris: I think there is room for people to discuss and look at it.

Mr. Jones: Well this is Silver Lake so I think we should have the lake somewhere on there and we should have the State of Ohio somewhere on there as well.

Mrs. Dunphy: I like the idea that an officer is designing it though, I think that it is really nice that were giving them the freedom to have input and creativity and that's a nice option for the people that are going to wear it.

**Mr. Robert Heydorn, Village Solicitor:** No report.

**Chief Jamie Norris** – We are continuing to get money reimbursed from the Drug Unit for overtime and the OVI taskforce. The OVI Taskforce will start to phase out a little bit as a new grant period starts but I am sure it will kick in over the holiday season. We did have a small dollar amount just over \$700 through the county court. We were awarded some money that we seized in a traffic stop in 2018. I am also working with Sean; we are going to start hopefully get an account with the

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Department of Justice on the drug end in case we would get a seizure or someone would get a seizure down at the drug unit. Then we would be able to share in the federal seizure of funds. Right now, we are not set up that way and that's only because we have only been in the drug unit 6 or 7 years. Lastly, I appreciate the moment of silence, it's still kind of hard to believe but we are back to work and going about business as normal.

**Mr. Mark Lipan, Service Director:** Our patching is complete for the year. We will be crack sealing starting next week. They are going to restripe the lot tomorrow night after 5. Air conditioner went out in Sean and the Mayor's office. Air conditioning unit outside is shot and the evaporator coils upstairs are shot. We are replacing them too. I am getting a deal on it too since it is end of season. That's all I got.

**Mr. Sean Housley, Clerk-Treasurer:** Mark has said that we will not be able to use this room on Monday, November 4<sup>th</sup> due to election day on the 5<sup>th</sup>. I would like you to let me know what you want to do about that. I also want to let you know I requested increase estimated revenues with the Summit County by \$135,000 approximately. \$68,000 in income taxes, \$8,660 in equipment sales because we sold some equipment, I wasn't planning to sell last year. \$35,000 in sewer consumer charges and \$23,000 approximately in OWDA loan proceeds. I also wanted to mention that at the last meeting there was an appropriation measure in front of you 42-2019, I spotted a typo in one of the whereas clauses, it's not the legal clause of the appropriation measure but I said that I was making an adjustment to appropriations, I made reference to the 2019 street resurfacing program when really it should have referred to Englewood Engineering on that. That will conclude my report. Mr. Housley also introduced his new assistant Lora Stewart to Council.

Mr. Jones: Called on Tiffany Asente of 3088 Markel regarding a moral claim.

Mr. Nichols: The Asente's house is in my district. I have reviewed what they submitted. Just speaking generally, I support the majority of the claim. There is a summary page that calculates a total claim of \$15,781. I don't support reimbursing for sewer charges paid for 8 years because regardless of whether it was hooked up right or not, for a majority of those years it worked and they got the benefit of it. If this were a court of law and we were a jury I would struggle with who's right here. There's no real engineers report that says this is definitely the way this went, so I view it as a he said she said kind of a thing. The only thing I think is logical is that whether or not the damages occurred as a result of the improper hookup or as a result of issues they had on their property it seems to me that sooner or later it would have been a problem. The majority of the claims that were submitted which are backed up by invoices or copies seem to be a legitimate real, so I support a majority of the claim.

Mr. Jones: I have questions. Who actually owns that property?

Mrs. Asente: The property is owned in a family trust to myself and my 9-year-old daughter, we are the direct beneficiaries of that trust.

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Mr. Jones: But the trust is in the name of your husband's father?

Mrs. Asente: Charles M. Asente, correct.

Mr. Jones: So, who actually paid all of the bills?

Mrs. Asente: We did.

Mr. Jones: The trust didn't? He didn't? Because we didn't get copies of any of that.

Mrs. Asente: I can provide copies of everything if that is what you need. We pay for everything associated with the property; taxes, insurance, expenses. It is in the name of a trust for legal protection and estate planning purposes. That's personal.

Mr. Church: You are commended for being so thorough on this. You provided us with everything we needed and I appreciate that a lot. I try to put myself in the position of the homeowner and try and honestly figure out if a wrong has been done here. I will defer to Tim and his comment regarding there are certain things I would not consider paying for and things I would consider paying for.

Mr. Jones: I looked this over for a couple hours last night and tried to figure out, no matter what we do you understand that legally we have immunity. We wouldn't have to pay you anything.

Mrs. Asente: I understand that that is your position.

Mr. Jones: No that's the law. Do you have a lawyer representing you?

Mrs. Asente: Is that relevant to the conversation? I mean define representing me?

Mr. Jones: Did we ever get a representation letter?

Mr. Heydorn: We got a representation letter on the matter of discovery of setting forth the public records in order to set up an inspection of public records, yeah, the Asente's were represented in that facet.

Mrs. Asente: The reason for that if I may, was because we didn't want to bring forth anything to council without understanding what happened, and how and why. I have never submitted a claim like this to anybody for anything. I am not accustomed to asking for a handout. I wanted to make sure for myself that everything I was submitting was 100% appropriate that I understood the entire 360 of what happened. From the West Edgerton project back in 2005, 2006, 2007 to the Kingston project that was more recent, I needed to understand how this happened and where it went wrong and I feel like I do understand that now and then I was comfortable coming forth.

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Mr. Jones: So, Bob, if we agree on something tonight as a council, you would have to draw up legislation correct?

Mr. Heydorn: Correct.

Mr. Jones: Would we also want a release?

Mr. Heydorn: I don't know how you could possibly require one.

Mr. Plesich: It doesn't require one but it could be requested and signed.

Mr. Heydorn: Well you don't have to pay anyone or you can pay them whatever you want and therefore whatever requirement you put on that is what you put on that. Legally, you can't require it. If what your saying is, they have to release any cause of action that they might have in a court of law, no you can't require that. You don't have to pay any money out either. Everything is up to you.

Mrs. Dunphy: I wanted to ask a question before we get into that particular part. As I was looking at the breakdown. I wanted to hear a little more on, and I was hoping Mark you could address this, the part I was really looking at and tossing around in my mind was when we look at the lateral and when we look at the line so I know that after it was discovered that it was a closed line it was flushed. I wondered what was flushed and what the capacity of the line was? Why did it happen at one house and not the other?

Mr. Lipan: When they dumped it, it was about a quarter full. It holds 2,000 gallons so that would be maybe close to 500 gallons. The main sewer line I figured out, everything is just an approximate, the main sewer line would hold 788 gallons from top to bottom. The lateral which was 244 feet 4 inches, that would hold about 158 gallons. This accumulated over 8 years.

Mr. Church: You had mentioned, Mr. Nichols, that sooner or later this may have backed up. What is to prevent it from happening again?

Mr. Lipan: Well now they are connected to the new sewer line. From when I was out there, where that neighbor is connected was in front of the part that they replaced. We did that by dye testing.

Mr. Church: Another thing that is impacting my decision on this is that at some point the Village did something wrong with those sewers. Is that correct?

Mr. Lipan: For whatever reason they tied those two homes because West Edgerton wasn't there. The line came out of their house and made an abrupt turn.

Mr. Heydorn: It is difficult to use the words you are using, when you ask Mark if they did anything wrong. You can say when H.M. Miller went ahead and constructed the sewers that particular lateral

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should have been stopped from going into the old sewer and connected to the new sewer. It is another thing to say that what they did was negligent. The negligence of it would be whether or not they acted in a reasonable manner in doing so. The way that was set up at the time was they tested every lateral and nothing came out of that lateral because later in time they put the sewer on W. Edgerton. This house was built long before that area was built. So, the question is was H.M. Miller negligent or not? You can debate that all you want to but the fact is when they went through if they had known or had reasonable cause to believe that this was an active lateral then it should have been connected in the sewer.

Mr. Church: Let me clarify, I don't mean to suggest that the Village or H.M. was negligent. What I meant to say was at the time it seemed to be the best decision to be made, based on the testing that they had and the drawings that were there and the knowledge they had at the time. Having said all of that in the end it came up to bite you. Not suggesting anyone was negligent believe me.

Mr. Heydorn: If the situation had been fully known then yes, they would be attaching the lateral to the new sewer, or run something completely different to the sewer on W. Edgerton but not what they did.

Mr. Church: My goal is what is fair at this point.

Mrs. Plesich: We could look at what's fair and I'd like to see some discussions on the release prior to a final determination.

Mrs. Dunphy: I think this whole process is on good faith, on both parts. They are asking us to do something that we may not need to do but we feel is the right thing to do. We are asking for the same.

Mr. Heydorn: Let me just say this, at this point in time your decision is that regardless of action what caused that specific event at that specific point in time that because it was likely that, that would have occurred some point in the future that you feel it is fair to give some compensation. Is that a clear summary of what your thinking is now?

A multitude of yes's.

Mr. Jones: Your father in law turned in an insurance claim and was reimbursed for some.

Mrs. Asente: Yeah, we paid \$1,000 out of pocket. I don't know the exact number it was \$3,000 something I believe.

Mr. Jones: Do you and your husband also carry a separate policy as tenants?

Mrs. Asente: We are not tenants.

Mr. Heydorn: You might call them beneficial owners. In terms of the trust language. The question

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is were part of the damages paid for by insurance?

Mrs. Asente: Inside, the clean-up.

Mrs. Dunphy: One other thing that I am going to say is I agree that this would have been an issue at some point in time. The part that I have a harder time with are the public records and attorney fees and then obviously the sewer charges because clearly, they were able to flush toilets. I think asking back to 2011 is, while I understand absolute frustration in living through what you lived through, those are things I have a harder time with because I have never seen an attorney involved in a moral claim before and I understand your education process.

Mrs. Asente: Well I'd like to speak on the attorney specifically. I was told by Mr. Heydorn actually that I couldn't possibly understand this process because I am not a lawyer. At that point, I was forced in my opinion to seek legal counsel because I was told that I couldn't possibly understand the process by being a layperson.

Mr. Heydorn: Initially what I said was that the concept of immunity was something that she wouldn't grasp in that situation at that point in that afternoon. Nothing about this discovery had anything to do with immunity because this was a pursuant of morals claim which has nothing to do with immunity. But it would have everything to do with if a lawsuit is intended.

Mr. Jones: I spent a lot of time on this last night and I am trying to be fair to them. If we all seem to feel that somewhere along the line something went wrong. I took out some things in there where they came up with the total. I took out the sewer charges (\$4,800), the attorney fees, public records (\$48), hotel and the lawn repair. The lawn repair took down a big tree.

Mrs. Asente: The excavating destroyed the root structure of the tree, if it didn't come down it was going to fall at the first big storm. It was an insurance liability issue. There was no way to save that tree.

Mr. Heydorn: Digging occurred around what may have been a plug in the system. What happened to what was in the pipe in the lateral?

Mr. Lipan: In the front it didn't go anywhere. In the back it all came out of the house. When they dug on the house side it drained that pipe.

Mr. Heydorn: Would that indicate that there was a plug or no plug?

Mr. Lipan: To me that would indicate that there was something.

Mr. Jones: I will tell you what my number came to was \$7,187.96. Mr. Church and Mrs. Dunphy had taken a look at that and they have agreed to an additional \$1,650 for the trees. For a total of \$8,837.96, that what we will pay.

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Mrs. Asente: If that's the offer that's the offer. What's the next step, where do we go from here? You had mentioned wanting some sort of release.


Mr. Jones: The law director has to draw up legislation and we have to pass it and that would be at the next council meeting. At that point Sean would issue you a check.

Mr. Jones called on Tonya Nemer regarding her running for Judge.

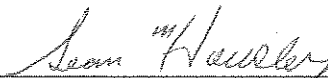
Tonya Nemer: My name is Tonya Nemer, I live at 6902 Walters Rd in Hudson Ohio. It is quite an honor to be here because about 20 years ago I used to teach tennis over there. I will say the kids of this area of Silver Lake were by far the greatest kids I ever got to teach tennis to. Not only because they appreciated the outdoors with the lake and everything but they were also very well behaved and easy to teach. So, it's very much an honor for me to be before you because I think they were your kids that I was teaching. Thank you for raising such a great community and contributing to it. The reason I am running for judge of the Stow Municipal Court is because I care about our community. I care about the safety of our community and I have lived my life in accordance with that. I went to Walsh Jesuit; I did a lot of pro bono service there like volunteering hours. I continued through college at John Carroll and then Thomas Cooley in Western Michigan and then in private practice I was able to be honored with giving back my time and having pro bono by the legal aid society. I care about this community and right now our Stow Municipal Court is the only court in Summit county that does not have a drug court. If I am elected as judge, I will start a drug court. I have been a lawyer for 12 years; I have worked at Catholic Charities for 5 and private practice for 7 and I am a magistrate at the Akron Municipal Court. That is just a little bit about me, I have more information online. I would really appreciate your consideration and that you would remember Nemer in November and remember that right now we need a drug court, we have a drug and opioid epidemic and it is crucial to our children, to our community, and our safety. Thank you all for your time.

There being no further questions or comments, Council adjourned at 8:30 p.m., until the next regular meeting of Council on Monday, October 7, 2019, at 7:00 p.m.

APPROVED:

  
Mr. Gerald P. Jones, President of Council

ATTEST:

  
Sean M. Housley, CPA  
Clerk-Treasurer

prepared by: Lora Stewart, Assistant to the Clerk-Treasurer