

REGULAR MEETING OF THE COUNCIL OF THE VILLAGE OF SILVER LAKE

Monday, December 2, 2019

7:00 p.m.

The Village of Silver Lake Council met in a regular session on Monday, December 2, 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. Dann Nivens, Mr. Tim Nichols, Mrs. Betsy Meyer, Mr. Gerald Jones, Mr. William Church, Mrs. Therese Dunphy, and Mr. Matthew Plesich.

Roll call of Council – 7 members present

Absent – None

Mr. Jones: Were there any additions or corrections to the minutes of the November 18, 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.: 56-2019 A RESOLUTION APPROVING THE EXPENDITURE OF FUNDS TO SELECTIVE INSURANCE COMPANY AND DECLARING AN EMERGENCY. *(Finance & Appropriations)*

ORDINANCE NO.: 57-2019 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.: 58-2019 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE LEGAL DEFENDER’S OFFICE OF SUMMIT COUNTY TO PROVIDE LEGAL COUNSEL TO INDIGENT PERSONS FOR THE PERIOD JANUARY 1, 2020 THROUGH DECEMBER 31, 2020, AND DECLARING AN EMERGENCY. *(Planning, Zoning, and Insurance)*

Second reading: None

Third Reading: None

Comments from the audience:

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Mr. Jones called on Milann Daugherty of 2829 Lakeland regarding the deer.

Mrs. Daugherty passed out a paper with 4 questions on it.

Mrs. Daugherty: On November 27, 2017, our mayor said on the website, Next Door, quote, there is no hunting of deer in any residential neighborhood, none. Deer hunting is taking place only on the 45 acres of unoccupied undeveloped land behind the service garage, not in any neighborhood, end quote. I believe that is still his position in 2019. I can see no-trespassing signs and hunters in the woods behind my house. Please correct me, but I assume that means that written permission for hunting to take place on Crystal Lake property was accepted. To me, saying that hunting would be limited to the nature reserve isn't exactly the whole story. I think we have a different idea of residential. When I can look out my window and see hunter's potentially dragging out a deer, then I think hunting is taking place in residential areas. When I can watch a hunter, go into the woods, lay his tree stand on the ground, and my husband could stand in the middle of our backyard, throw a football and hit him, that's residential.

We moved here because of the nature and wildlife and never thought we would be living next to a hunting zone. When I saw the no trespassing signs reappear, I knew it meant that there would be another deer culling. Was it just a coincidence that the signs went up not long after Election Day? If, and I stress if, the decision to hunt deer again this year was intentionally not made public until after the election, then that raises more questions. If we can't trust our governing body to be open and forthright about everything, then we have a bigger problem than the deer. Please reconsider allowing hunting on Crystal Lake property. I don't understand why they're taking the position that they are on the subject, and allowing hunting in their woods. Why are the deer a concern for them and isn't it conflicting to call an area a nature reserve but allow hunting to take place?

Finally, I think that the decision to have a culling should be done, and I hope I'm correct on this, with the approval of the Council since this is a provocative subject. I would think that the Director of Safety would want to know he had support from the Council for this decision. I have four questions that I hope at some point the residents will get answers to. Why is it necessary to do another culling this year after killing 11 last year? With regard to the deer, is this going to be a yearly event? What is your acceptable number for the deer population and how can you get an accurate count? Is there a committee that includes residents to ascertain the extent of the problem and what are the options and what reason is Crystal Lake board giving in their letter to allow hunting in the woods?

Mrs. Daugherty also wondered if there could be anything done about people dressed all in black while walking at night.

Mr. Jones called on Vicky Marimon of 3027 Harriet regarding the deer.

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Mrs. Marimon: I guess I'd like to say that I'm extremely disappointed that we have to go through this for the third year. At this time of the year, every year you have ruined my holidays, two Christmases in a row and you're ruining it again. I don't have deer in my neighborhood. I don't see deer in my neighborhood, I saw one. You feel you have to cull the deer because there's one deer that's walking through, maybe from Stow, maybe from Cuyahoga Falls. There's not deer in the neighborhood anymore, thanks to you. They were my greatest joy for living in this Village. Right now, if I was in a position that I didn't have a daughter in college, my house would be for sale and I would be out of this Village because I dearly love the deer and they were the best part of living here. You have taken that away from myself and my family and my neighbors who also love the deer. I'm sorry to see this happening year after year after year and, and it'll probably go on forever if we don't put a stop to it. Thank you.

Mr. Jones called on Shelley Jurkiewicz of 2920 Lee regarding the deer.

Mrs. Jurkiewicz: I brought with me the Ohio Technical Management Guide for Urban White Tail Deer created by the Ohio Department of Natural Resources, the Division of Wildlife. I'd like to read a little bit of it to you. Deer and deer management in urban areas, may be some of the most controversial topics city leaders encounter due to the polarized opinions of members within the community. Although there are no management alternatives that will completely satisfy all parties involved, there are many potential solutions available for city leaders and community members to discuss. The goal of the ODNR Division of Wildlife, is to work hand in hand with municipalities to provide wildlife management information, education and guidance to empower residents and property owners to make informed decisions about deer management on their property and in their community. This publication and the documents contained within it are intended to be a resource for municipalities. This approach has proven successful in meeting the needs of residents and other municipalities. Because every situation is different and each community is unique, it is up to the community members to discuss acceptable solutions and take appropriate actions. It continues. Communities need to make their deer management decisions public and factually based. It is recommended to use a community-based group to develop deer management decisions. The group should involve stakeholders to develop goals and set objectives, determine the appropriate management techniques, communicate their findings, evaluate the program results and revisit the goals and objectives. We do none of that.

So why does this one issue keep coming up in Silver Lake? Because the Council authorized deer hunting using incomplete, and in some instances, incorrect information and chose not to follow the best practices established by the wildlife professionals. This makes a cull indefensible. In addition, hunting near Crystal Lake and one adjoining private property was approved seemingly without notice to the neighbors, denying those residents an opportunity to comment. This is a change of use for that property. It is essentially a wooded playground and a pond. No one moved there to live next to the Cuyahoga Valley National Park. In addition, it was approved without concern to the potential negative impacts to nearby residence. Hunters parking on the streets instead of in the parking lot for Crystal Lake or in the driveway of the private person is an issue. May I please have two more minutes?

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Mr. Jones allowed for 2 additional minutes.

Also, the distance away from a residential property is an issue. The way the legislation was written, it says that a deer hunter may not be closer than 50 yards. Ohio Public Hunting Law, says that they may not be any closer than 400 feet. I'm not sure who's measuring for these people. I don't live there, but I wouldn't want to see it. I'm unsure if there was an inconsistency there or not. I urge the Council to suspend all hunting within the Village borders immediately and until a proper review is completed. Changes to the existing hunting rules and regulations can be made by motion. Per Mr. Heydorn, in the minutes of October 1, 2008, legislation need not be completely rewritten. No financial resources need to be committed to implement a proper review of the deer and deer impacts. Only a commitment to prudent, responsible, transparent, accountable governance. Thank you.

Mr. Jones: The residents are allowed to speak; however, this is a business meeting and there will not be a debate. We will get through the business end of the meeting and if Council or the Administration has any comments after that would be fine.

FINANCE AND APPROPRIATIONS COMMITTEE – Mr. Church

ORDINANCE NO.:56-2019

Mr. Church: Someone explain the \$5,000 reimbursement payment.

Mr. Heydorn: Explained that this was the deductible on the Demoss vs Silver Lake case that the Village has to pay.

Mr. Church brought the legislation out for adoption.

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

FINANCE AND APPROPRIATIONS COMMITTEE – Mr. Church

ORDINANCE NO.:57-2019

Mr. Church: This was for the purchase of a golf cart, road saw and fire hydrant tools. Also, \$4,700 for a recently settled civil lawsuit initiated by retirees of the police department. We are looking at transfers here. He asked Mr. Housley to speak on it further.

Mr. Housley: I didn't have to increase the budget; I was able to transfer money around.

Mr. Plesich: Were those three items taken out of next year's budget?

Mr. Housley: Yes.

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Mr. Nivens: What is the \$4,700 being used to settle?

Mr. Housley: It was needed to pay the deductible for the recently settled lawsuit initiated by retirees of the police department.

Mr. Nivens: Is this the same as ordinance 56.

Mr. Housley: Yes, I only needed \$4,700, I didn't need the full \$5,000. The true cost is \$5,000 but I did not have to budget for that amount.

Mr. Nivens: Where is the other \$300 coming from?

Mr. Housley: It will be coming from within the accounts. I am charging it to Bob's department and he had \$200-300 in supplies.

Mr. Church brought the legislation out for adoption.

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

The statement of cash position for 11-27-2019 was discussed amongst Council.

Mrs. Dunphy: I wanted to point out that the disbursements in the water fund exceed our receipts year to date by \$66,000. Looking at the sewer fund, disbursements exceed receipts by \$64,000.

The statement of cash position for 11-27-2019 was accepted.

The payment of claims for November 27th was discussed.

Mr. Nivens: In regards to Software Solutions there are 3 expenditures at \$4,300 a piece. Is that from the update to Windows 10?

Mr. Housley: This was for software only. It includes networking and use of financial software. Network support is included. That is not for Windows 10, Windows 10 has already been paid for, except for the cruisers.

Chief Norris: The cruisers won't be done until July. The workstations were already taken care of, except for one laptop.

The payment of claims for November 27th was accepted as distributed.

PLANNING, ZONING, AND INSURANCE – Mr. Nichols

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ORDINANCE NO.:58-2019

Mayor Hovey: This is a contract we enter yearly; we spend very little money on it. Mr. Heydorn has looked it over and is comfortable with it.

Mr. Nichols: How much money do we spend on it every year?

Mr. Housley: Around \$1,200. It is a part of the budget.

Mr. Nichols brought the legislation out for adoption.

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

REPORTS OF VILLAGE OFFICIALS

Mayor Hovey: He stated that he met with Mark Burns this morning regarding the next aggravation price because the present price for MCF expires at the end of March and they will have to start a new contract on April 1st. The price is as low as it has ever been and it will probably be in the \$2.80's. This is the lowest price it has been in about 12 years. Mr. Burns suggested we go for a longer term, 48 months, which is something I would like to consider. I am going to wait and see how Stow, Mogadore and Munroe Falls react. It is likely that they will have a new contract within a week or so. Constellation provides the best service and the best price probably around \$2.85-\$2.88 range for 4 years. I will get more information about that throughout the week. Also, I received a letter from Kimble a couple weeks ago, they have asked for an increase in prices. Even though we have a 5-year contract with them, there is a clause that allows them to ask for an increase based on certain circumstances. They believe it fits one of the circumstances that involves the cost of recycling. It would be 60 cents extra per year, 5 cents per month, 15 cents per quarter. I had Suzanne check and see if they were doing this to other communities as well and they are. It is a minimal thing and seems to be a justifiable raise. I will probably ask Council to go along with that at some point and it would be something that Council would need to approve. They have always provided great service to the Village.

Mr. Robert Heydorn, Village Solicitor: I provided an opinion on the school rezoning proposals made by the Planning Commission and the bottom line on that was I came to the conclusion that the changes that they wished to make in terms of permitted uses and the accessory uses on the property I agree with on a legal standpoint. It would probably be a good idea to bifurcate this process. In their reading of the zoning, they came up with the conclusion that the intent was to make all accessory uses, conditional uses. That process was provided for, in sections of the zoning code. Not to make all accessory uses conditional uses but to make an analysis of accessory uses compatible with the neighborhood. The position when we originally did the zoning code in 1994, is still my position, which is that accessory uses are essentially a customary incidental use of property that has a permitted use, is pretty much a constitutional right. A conditional use is something that the Planning Commission can deny in total.

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I feel that it is something that is sensitive and something I don't think they would want to get in to. I tried to work the zoning code so that they do have an in-depth analysis of whatever accessory use would go in with a permitted use and use certain standards to evaluate that to make it as compatible with the neighborhood as possible. We were very sensitive in the beginning and should still be very sensitive to the fact that banning an accessory use really is incidental and customary is problematic at best. The end product is, I think that the aspect of what they proposed, as a change, should be subject to more discussion with the Planning Commission, so that what results is something that can be utilized by constitution. That should probably be bifurcated and sent back to the Planning Commission for more discussion. The part dealing with the permitted use changes and the accessory use changes I think should probably be enacted if they wish, separately. I do not think that there is a problem with the second, but it is up to Council now, whether or not they want to send this back to the Planning Commission to see if they agree with my opinion to bifurcate the process or whether or not to develop an ordinance based on this opinion that simply deals with half of the process, staying with permitted use and accessory uses are what they suggested they should be. Leaving the rest of the issues relating to discussion and produce that ordinance. At that point in time they should send it back to the Planning Commission for any other comments they have to make because they have 30 days in that situation, to come back and to comment.

Mr. Jones: Have you talked with the Planning Commission at all?

Mr. Heydorn: I have talked to them about the preliminary things, but Jeff Heinz was not at the meeting and they had said that he had been wondering whether or not the issues that were brought up on the second part of the process were a good idea, he had some reservations on it. I told Mr. Heinz that he had reservations on it but they have not responded to this particular thing.

Mr. Jones: Do we need to take action or does the Planning Commission just need to respond to you?

Mr. Heydorn: I can work with them in terms of moving it along and then bringing it back for a final opinion and action by Council.

Mr. Jones: That is fine with me, since I was a sponsor of the original legislation.

Mr. Nivens: We got an opinion back from Mr. Heinz on September 13th, but I do not see a date on this opinion today.

Mr. Heydorn: This is my stated opinion as of today's date.

Chief Jamie Norris: I brought shop-with-a-cop tickets upon your request from last meeting. Silver Lake and other area departments take families with needs, that don't have enough for Christmas gifts, to Walmart to go shopping. The 14th of December is the shopping date. We get a list of families from the elementary schools. Don Sitts is a big contributor; he donates a van to take the kids to Walmart in Stow.

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Mr. Church: How much do the tickets cost?

Chief Norris: \$5 per ticket. All the proceeds go to help the purchasing of the gifts for the families. It is a nice program because a lot of kids come in and do not even buy gifts for themselves, they tend to buy it for someone else. I want to thank Portage Lakes Kiwanis and the Police Association for the tree lighting. They donate the sleigh that transports Santa.

Mr. Mark Lipan, Service Director: The hydrant valve that is leaking on Landon is scheduled to be replaced this coming Wednesday. It is going to depend on AT&T because they have to come out and hold the pole while they dig, because it is 5 feet away from it. Leaf pick-up is running through this Friday. We will make one more pass the following week, and when we do that, we will write down what streets we have went down.

Mr. Sean Housley, Clerk-Treasurer: No report.

Mr. Jones: Why are we talking about the salary ordinance during this meeting?

Mr. Housley: Mrs. Dunphy requested to include it during the last budget meeting. This was agreed to by Council.

Mrs. Dunphy: A big chunk of the budget is salaries and we are going to need to review this. The way that the ordinance is written now, says that it will be the first ordinance that we do every year. That is right after we have done the budget process. I'm suggesting that we consider backing the date and the annual review to prior to the budget process so that any changes are reflected in the budget for next year as opposed to playing catch up. After going through the ordinance that was the biggest issue, being that we were looking at it after we approve the budget instead of before.

Mr. Church: Are all of the numbers reflected properly in the budget?

Mrs. Dunphy: Everything is in there.

Mr. Housley: You would want this passed out with the first packet of the budgetary presentation from now on?

Mrs. Dunphy: Yes.

Mr. Nivens: We just keep pushing this forward and I have hard numbers to discuss when everyone is ready.

Mr. Church: Is this was referring to the automatic increases?

Mr. Nivens: No. I am talking about reviewing the salary ordinance in its entirety.

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Mr. Nichols: We should discuss this next Monday at the budget meeting.

It was decided that next Monday at the budget meeting they would spend time on the salary ordinance.

Mayor Hovey: Seasonal employees have a salary range of \$10-15. The two ladies in the service department when they hit their radius on their anniversary this year, they are within that \$15 mark. Assuming a 50 cent per hour raise they would be outside of that range. I need to talk with Sean and have Council look at and consider raising that range, not necessarily next year, but in the future. The same thing with seasonal part-time, there is a range of \$10-12. They are paying the leaf raker \$10 an hour. Mark lost 3 of them in the first week, it's basically a skeleton crew. Most other cities are paying \$12 an hour, so that may be something that needs to be looked at too. Sometime in the past, permanent part-time employees got some sort of credit or sick days or paid for holiday. That might be something I will be bringing forward to Council.

Mayor Hovey: In all likelihood sometime early next year, we are going to ask to have Marsha changed to full-time. That was a possibility mentioned when she was hired, she's doing a great job and we need the hours. I am not ready for that now and it's not part of the salary ordinance. It might be an additional appropriation made earlier sometime next year if Council agrees.

Marsha was then introduced to the members of Council officially.

Mr. Jerry Jones, Mrs. Betsy Meyer's and Mr. Church were sworn in for their next term as at-large Council members.

Mr. Housley took a group picture of Council for the website.

Mr. Jones: Are there any comments to be made on the deer culling?

Mr. Nivens: Are we culling at Crystal Lake?

Mayor Hovey: Yes.

Mr. Nivens: Why didn't we receive an email or comment on the Village website? Last meeting the mayor had stated that he did not receive the request yet.

Mayor Hovey: It was posted on the Village Webpage under deer culling on November 23rd.

Mr. Church: You are way off base on the fact that it was an election year, it had nothing to do with that. I used to live on Lakeland and I'm wondering, do you actually see the hunters?

Mrs. Daugherty: We don't see them hunting, but we see them coming and going. I saw a hunter but I did not know if he was going to hunt there but he was right off the property line.

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Mr. Church: Generally, the hunting is taking place on the hill that goes down toward the lake, correct?

Mrs. Daugherty: It happens there or on the apron.

Mr. Church: This is not necessarily in your backyard though?

Mrs. Daugherty: No.

Mr. Daugherty: My grandchildren used to watch those deer and last year they had to watched them be dragged out of the woods.

Mr. Church: This is a tough issue; my brother lives on the lake and his property backs up onto the lake property and he sees herds back there all the time and he said good for them they are culling.

Mr. Jones: Are they are allowed to park there?

Mr. Lipan: Yes. They cannot park there during Labor Day and Memorial Day. That is due to the people who go to Crystal Lake.

Mr. Church: Why is the parking not being done at Crystal Lake?

Chief Norris: Because it is roped off.

Mr. Jones: If they are hunting there why don't they take the chains off?

Mr. Heydorn: They would need to ask them. The point is, if they want to make that request that is fine, but there is no reason right now for them not to park where they are parking.

Mr. Heydorn also responded to other unidentified residents' questions regarding the hunting around the Crystal Lake area.

Mr. Jones: We are not going to finish this discussion regarding the hunting around Crystal Lake tonight. The mayor has the authority under the legislation that was approved.

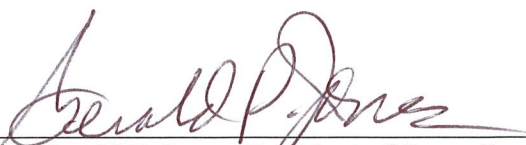
There being no further questions or comments, Council adjourned at 8:05 p.m., until the next regular meeting of Council on Monday, December 16, 2019, at 7:00 p.m.

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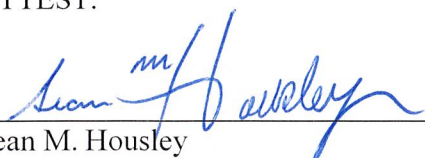
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APPROVED:


Mr. Gerald P. Jones, President of Council

ATTEST:


Sean M. Housley
Clerk-Treasurer

prepared by: Lora Stewart, Assistant to the Clerk-Treasurer
reviewed by: Sean M. Housley, Clerk-Treasurer