

VILLAGE OF SEVILLE

May 11, 2009 COUNCIL MINUTES

The meeting was called to order at 7:00 PM by Mayor Larry Landis. The meeting began with the pledge of allegiance.

Present:

Sue Frey	Bonnie Gordon	James Lovejoy
Courtney Harlan	Richard Barbera	Ralph Smith
James Carrick-Fiscal Officer	Larry Landis- Mayor	Ted Lesiak-Solicitor

Absent: None

J. Lovejoy made a motion to pay the bills. The motion was seconded by R. Smith. The motion passed unanimously.

B. Gordon made a motion to approve the minutes of the April 13, 2009 council meeting. The motion was seconded by C. Harlan. The motion passed unanimously.

R. Smith made a motion to approve the minutes of the April 24, 2009 special council meeting. The motion was seconded by C. Harlan. All members voted to approve the motion with the exception of S. Frey who abstained because she was absent from the April 24th meeting.

Attorney Al Schrader spoke on behalf of Westfield Township concerning the pending annexation issue. Mr. Schrader asked that the council reject the current annexation ordinance for several reasons. The first reason he gave was that Westfield and Guilford had both rescinded their approval of the annexation. Westfield had two votes against the annexation with one abstention. He also pointed out that the abstention was by an individual that owned land adjacent to the annexation area. Mr. Schrader said that a JEDD or CEDA would allow Westfield and Seville to work together rather than be at odds with the proposed annexation. Mr. Schrader then pointed out that there was a substantial amount of commercial land not currently being developed in Seville and that there is no need to add more. Mr. Schrader also pointed out that there are several environmental concerns that Westfield has concerning the land being annexed and that Westfield and Seville can address these concerns jointly by going the JEDD or CEDA route. Among the environmental concerns Westfield has is the issue of the flood plain. He explained that the county standards for a flood plain are stricter than those currently employed by Seville. This could cause Seville legal issues if there were flooding in the annexed land after development. Mr. Schrader next made note of the fact that Medina has found that it cost more in services for annexed land than tax revenue received. It costs \$1.50 in services for every \$1.00 in tax revenue. Mr. Schrader made a final point by stating that this annexation was not in the Seville Comprehensive plan and that it presented a chance for Westfield and Seville to co-operate because townships cannot survive if land is continuously annexed.

State Senator Timothy Grendell introduced himself and spoke on the subject of annexation and gave his background concerning his experience with annexation. Mr.

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Grendell explained he was here as an interested party. He explained that he had worked in private industry representing land owners but now used that experience to help write legislation on annexation issues. He explained that the laws for a Type II annexation were adopted for specific reasons. First, the laws allow for quicker economic development when it would be beneficial. There were instances where townships could drag out any development process with lawsuits. With annexation, development could occur in a more timely manner because only one government entity would be in control. Annexation also allows land owner to be in control of the use of their land. By streamlining the process for development, job creation could be quicker. It also allows townships to keep the real estate taxes while the village will get any other taxes produced by development. Mr. Grendell also noted that townships do not vote on land issues and land owners give up their right to appeal. This reduces legal fees. He refuted Mr. Schrader's claim concerning cost versus revenue. He stated that the \$1.50 to \$1.00 ratio only held true when the annexed land was for residential development. The proposed annexation would have commercial development therefore Seville would actually spend less in cost of services than in revenue collected. He also refuted the argument Mr. Schrader made concerning the amount of liability Seville would have concerning the flooding issue. Mr. Grendell pointed out that as long as Seville had reasonable measures in place, and enforced those measures, the liability is zero. The problems other communities have had came about because there was no enforcement of their own measures. Mr. Grendell next pointed out that Seville would incur no costs with this transaction. All utility and road infrastructure would be paid for by the developer. There is also a buffer zone to any adjoining land. His final point was that with annexation the Seville Village Council decided what was best for Seville and that no authority would be ceded to another entity.

Village Solicitor Mr. Lesiak asked what environmental concerns Westfield had concerning the land to be annexed. Mr. Schrader said that there were none at this time but that Westfield was concerned that the flood regulations of Seville were not as stringent as those of the county which could cause problems in the future and that Westfield would prefer the more stringent county regulations. Mr. Lesiak noted that the regulations used by Seville meet all federal standards and the only county regulation that the village did not meet was compensatory storage. He also asked Mr. Schrader for specific cases that would prove that Seville would incur any liability if enforced regulations were at the federal level or better because Mr. Lesiak could find no such case. Mr. Schrader could not site a case from memory but said he would look up the information and get the data to Mr. Lesiak in writing. Mr. Schrader also said that he doubted that Mr. Grendell was at this meeting out of the goodness of his heart and that this was probably a paid appearance. Mr. Grendell retorted that he was not in fact receiving any compensation for being at the meeting and that he was here as an interested party since he had written the legislation concerning Type II annexation.

Councilman Richard Barbera asked Mr. Schrader concerning specifics on the advantages to Seville of a JEDD versus the annexation under debate. Mr. Barbera said that Westfield could tie this process up for some time if they wanted a JEDD. Mr. Schrader said that he had not been given the opportunity to speak as he had requested at previous council

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meetings and that there was no concrete proposal at this time. Mr. Barbera pointed out that Seville could provide 100% of the services but not receive 100% of the tax revenue if a JEDD were used. Mr. Schrader responded by saying the revenues would be part of the negotiations of a JEDD contract. Mr. Schrader also said that this annexation opens up the possibility of future annexation by Seville. Board of Public Affairs president Dave Johnson said that a feasibility study concerning water and sewer had been performed by GPD Inc. an engineering firm, and their conclusion was that there could be no more annexation in this area because it would require the installation of a pumping station. Mr. Grendell concluded his points by noting that there were no specifics from Mr. Schrader for a JEDD and that Seville could not exclude Westfield from the real estate taxes due them. Mr. Johnson reiterated the points that all service and road infrastructure would be paid for by the developer and that Seville would get a fee from the developer when the developer was ready to tap in to Seville services. Charles Marshall, a potential developer of the land proposed for annexation said that the creek has an access easement and that he would be willing to add a conservation easement to that to prevent flooding problems. Village Resident P. Rickert asked why Seville would want to add land for limited tax revenue that might not begin for several years and that putting concrete surfaces in a flooding area could cause even more flooding. It was noted that it is the job of Seville Village to look to the future of Seville not just what is going on right now. B. Gordon asked how much of the land was actually available to develop. Mr. Stan Scheetz, the attorney for the land owners in this issue said that about 50 acres would be developed and the remainder could not be used for development and that the amount of tax money Seville would receive would depend on what businesses would move into the area. Village resident J. Sulzner stated that because this annexation was not part of Seville's comprehensive plan, and that increased development may cause an increase in the amount of flooding at his residence, Village Council should reject the annexation. Other village residents expressed concern for the loss of the rural setting that Seville espouses and questioned why this land was so important. Mr. Sheetz pointed out that the other land available in the village was much more expensive making them less desirable for development. Other residents living near the proposed property said the view from their homes would be ruined if the land were developed. One resident said that if a developer felt the area was viable and that it would provide jobs to the village, the annexation should be approved.

Privilege of the floor

Nancy Girton of the Medina County Auditors office reminded everyone that the deadline for the homestead exemption is June 1. She also stated that the pet adoption program was a success. She further stated that foreclosures remain high in the county but a group called ESOP could help residents. Mr. Billy Carter brought up the ordinance concerning the parking of trailers and RVs in private driveways. Mayor Landis said that Mr. Carter had turned in a list of 49 violations by various village residents that Mr. Carter had assembled to the zoning officer. The zoning officer was in the process of investigating each complaint but was not yet done because of the volume of complaints Mr. Carter had submitted. Mr. Carter continues to feel that the ordinance is not being enforced equally.

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The exchange between Mr. Carter and Mayor Landis became heated prompting Mr. Lovejoy to call for a point of order. Mr. Lesiak interjected that the ordinance was going to be discussed again at the next zoning meeting and that Mr. Carter should attend that meeting to air his grievances. Mr. Carter said that this is what he has wanted from the beginning.

COMMITTEE REPORTS:

Mayors Court

Mayor Landis read the current Mayor's Court. The report is available at the fiscal officer's office.

Solicitors Report

Ted Lesiak said that ordinances 2009-34 through 2009-38 are first readings only and would be discussed thoroughly in the appropriate committee meetings. He also pointed out that the village has only 120 days to act on the annexation ordinance number 2009-29 from the February date when the Medina Commissioners delivered their ruling to the Fiscal Officer. This would require either a suspension of the three reading rule of a special council meeting to have three readings.

Finance

R. Smith gave the minutes of the finance committee meeting. Copies of the minutes are available at the office of the Fiscal Officer.

Government

S. Frey gave a recap of the last Government Committee meeting minutes. The minutes are available in the Fiscal Officer's office.

Zoning & Planning

R. Smith gave the minutes of the Zoning Committee meeting. Copies of the minutes are available at the office of the Fiscal Officer.

Utilities

J. Lovejoy went over the minutes of the latest utility committee meeting. The minutes are available in the Fiscal Officer's office.

Streets

C. Harlan covered the minutes of the last streets committee meeting minutes. The minutes are available in the Fiscal Officer's office.

C. Harlan made a motion to transfer several Street Department employees to do some work for The Board of Public Affairs. The motion was seconded by J. Lovejoy. The motion passed unanimously.

Safety

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S. Frey said the minutes were not yet prepared and she will have them ready for the next council meeting.

Parks

B. Gordon discussed the last park committee meeting minutes. The minutes are available at the Fiscal Officer's office.

Cemetery

R. Barbera read the minutes from the last cemetery committee meeting. The minutes are available at the Fiscal Officer's office.

LEGISLATION UNDER CONSIDERATION:

Ordinance 2008-111 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AMENDING SECTIONS 302; 606.02(A)(1); 607.02(A); 608.02(A); 609.02(A) AND SECTION 610.02 OF THE SEVILLE ZONING CODE ADOPTED IN ORDINANCE NO. 2007-12 WITH REGARD TO KENNELS (2ND READING)

The ordinance remained tabled.

Ordinance 2008-115 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, ESTABLISHING AN INVESTMENT POLICY FOR THE VILLAGE. (3RD READING)

The ordinance remained tabled.

Ordinance 2009-04 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AUTHORIZING THE MAYOR AND THE CLERK TO RENEW LIFE INSURANCE COVERAGE FOR THE VILLAGE EMPLOYEES (3rd Reading)

The ordinance remained tabled.

Ordinance 2009-12 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AUTHORIZING THE VILLAGE OF SEVILLE TO PARTICIPATE IN THE OHIO MUNICIPAL LEAGUE WORKERS' COMPENSATION GROUP RATING PROGRAM FOR THE YEAR 2010. (3rd READING)

R. Barbera made a motion to adopt the ordinance. The motion was seconded by C. Harlan. The motion passed unanimously and the ordinance was adopted.

Ordinance 2009-17 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA

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COUNTY, OHIO, REGULATING THE PARKING OF MAJOR RECREATIONAL VEHICLES WITHIN THE ROAD RIGHT OF WAY AND ESTABLISHING PENALTIES FOR VIOLATING THE ORDINANCE. (2nd READING)

The ordinance remained tabled.

Ordinance 2009-19 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO ESTABLISHING THE SALARY AND BENEFITS OF THE VILLAGE FORESTER (2nd Reading)

B. Gordon moved to add emergency language to the ordinance. The motion was seconded by C. Harlan. The motion passed unanimously.

B. Gordon moved to suspend the three reading rule. The motion was seconded by C. Harlan. The motion passed unanimously.

B. Gordon moved to adopt the ordinance. The motion was seconded by S. Frey. The motion passed unanimously.

Ordinance 2009-23 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AMENDING SECTION 1403.03 OF THE SEVILLE ZONING CODE ADOPTED IN ORDINANCE NO. 2007-12 WITH REGARD MEETINGS OF THE BOARD OF ZONING APPEALS (2nd Reading).

Amends the zoning ordinance to require BOZA to meet the month after their meeting to approve minutes

No action was taken. There will be a public hearing at the June 8, 2009 council meeting concerning this ordinance.

Ordinance 2009-26 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AUTHORIZING THE MAYOR TO ENTER INTO A DONATION AGREEMENT WITH SUGAR SHACK REAL ESTATE HOLDING COMPANY FOR SUGAR SHACK REAL ESTATE HOLDING COMPANY TO DONATE PARK LAND TO THE VILLAGE OF SEVILLE (2nd Reading)

No action was taken.

Ordinance 2009-27 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AMENDING THE 2009

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APPROPRIATION ORDINANCE NUMBER 2008-98 (1st Reading)

Transfers \$16,917 from the General Fund to the Bond Debt Service Fund.

R. Smith moved to suspend the three reading rule. The motion was seconded by S. Frey. The motion passed unanimously.

R. Smith moved to adopt the ordinance. The motion was seconded by B. Gordon. The motion passed unanimously.

Ordinance 2009-28 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AMENDING THE 2009 APPROPRIATION ORDINANCE NUMBER 2008-98 (1st Reading)

Transfers kilowatt hour tax from Bleach Tech for May 2009 from General Fund to Electric Fund

S. Frey moved to suspend the three reading rule. The motion was seconded by J. Lovejoy. The motion passed unanimously.

B. Gordon moved to adopt the ordinance. The motion was seconded by J. Lovejoy. The motion passed unanimously.

Ordinance 2009-29 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO ACCEPTING THE PETITION FOR AN EXPEDITED TYPE 2 ANNEXATION OF APPROXIMATELY 77.2527 ACRES FROM WESTFIELD TOWNSHIP AND 26.1014 ACRES FROM GUILFORD TOWNSHIP TO THE VILLAGE OF SEVILLE, WITHOUT DETACHING THE LAND FROM THE TOWNSHIPS, AND DECLARING AN EMERGENCY (1st Reading)

R. Smith moved to suspend the three reading rule. The motion was seconded by C. Harlan. Voting yes to the motion were R. Smith, C. Harlan and R. Barbera. Voting no to the motion were S. Frey, B. Gordon and J. Lovejoy. Because this type of motion requires a 75 percent approval the motion failed.

No further action was taken.

Ordinance 2009-30 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO AUTHORIZING THE BOARD OF TRUSTEES OF PUBLIC AFFAIRS TO ESTABLISH

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**PERMANENT ADDRESSES FOR PROPERTIES WITHIN
THE VILLAGE (1st Reading)**

J. Lovejoy moved to add emergency language to the ordinance for the purpose of public safety. The motion was seconded by R. Smith. The motion passed unanimously.

S. Frey moved to suspend the three reading rule. The motion was seconded by C. Harlan. The motion passed unanimously.

S. Frey moved to adopt the ordinance. The motion was seconded by R. Smith. The motion passed unanimously.

Ordinance 2009-31 AN ORDINANCE OF THE VILLAGE OF SEVILLE,
MEDINA COUNTY, OHIO ESTABLISHING
REGULATIONS FOR THE USE OF THE 9-1-1
EMERGENCY REPORTING SYSTEM WITHIN THE
VILLAGE (1st Reading)

No action was taken.

Ordinance 2009-32 AN ORDINANCE OF THE VILLAGE OF SEVILLE,
MEDINA COUNTY, OHIO AUTHORIZING THE MAYOR
TO ENTER INTO A REAL ESTATE PURCHASE
AGREEMENT WITH JAMES M. RICHARD, TRUSTEE OF
THE JOHNSON TRUST AND DECLARING AN
EMERGENCY (1st Reading)

Purchase of property for storm equalization basin

R. Smith moved to add emergency language to the ordinance. The motion was seconded by J. Lovejoy. The motion passed unanimously.

R. Smith moved to suspend the three reading rule. The motion was seconded by B. Gordon. The motion passed unanimously.

R. Smith moved to adopt the ordinance. The motion was seconded by S. Frey. The motion passed unanimously.

Ordinance 2009-33 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA
COUNTY, OHIO, AMENDING THE 2009 APPROPRIATION
ORDINANCE NO. 2008-98 (1st Reading)

Transfers from the General Fund to the Police Operating Fund

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S. Frey moved to suspend the three reading rule. The motion was seconded by J. Lovejoy. The motion passed unanimously.

B. Gordon moved to adopt the ordinance. The motion was seconded by S. Frey. The motion passed unanimously.

Ordinance 2009-34 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AMENDING ORDINANCE 2005-59 ESTABLISHING AN EMPLOYEE HANDBOOK SETTING FORTH THE PERSONNEL POLICIES AND PROCEDURES FOR VILLAGE EMPLOYEES TO INCLUDE AN INFORMATION RELEASE PROCEDURE FOR APPLICANTS FOR EMPLOYMENT WITH THE VILLAGE OF SEVILLE (1st Reading)

No action was taken.

Ordinance 2009-35 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, REPEALING ORDINANCE 2005-03 AND AMENDING THE VILLAGE OF SEVILLE'S POLICE RULES AND REGULATIONS TO SET FORTH HIRING PROCEDURES FOR POLICE OFFICERS 1st Reading)

Amends the hiring procedure for Police Officers

No action was taken.

Ordinance 2009-36 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, AMENDING THE VILLAGE OF SEVILLE'S POLICE RULES AND REGULATIONS TO ESTABLISH A POLICE REVIEW BOARD (1st Reading)

No action was taken.

Ordinance 2009-37 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, ESTABLISHING A JUVENILE DIVERSION PROGRAM (1st Reading)

No action was taken.

Ordinance 2009-38 AN ORDINANCE OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO, ESTABLISHING A

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RECREATION ADVISORY COMMISSION (1st Reading)

Establishes a commission to make recommendations to Council regarding maintenance and care of parks and recreation facilities, etc

No action was taken.

Resolution 2009-11 A RESOLUTION OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO PLACING A RENEWAL LEVY ON THE NOVEMBER 3, 2009 BALLOT WHICH IS A GENERAL OPERATING LEVY INCREASING IN THE AMOUNT OF TWO (2) MILLS FOR A PERIOD OF FIVE (5) YEARS (1st Reading)

No action was taken.

Resolution 2009-12 A RESOLUTION OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO PLACING A REPLACEMENT LEVY ON THE NOVEMBER 3, 2009 BALLOT WHICH IS A POLICE OPERATING LEVY INCREASING IN THE AMOUNT OF TWO (2) MILLS FOR A PERIOD OF FIVE (5) YEARS (1st Reading)

No action was taken.

Resolution 2009-13 A RESOLUTION OF THE VILLAGE OF SEVILLE, MEDINA COUNTY, OHIO SUPPORTING THE FREIGHT RAIL INFRASTRUCTURE CAPACITY ACT AND DECLARING AN EMERGENCY (1st Reading)

Authorizes Mayor to send letter of support

R. Smith moved to add emergency language to the ordinance. The motion was seconded by C. Harlan. Mr. Barbera, Mrs. Gordon, Mrs. Frey, Mr. Harlan and Mr. Smith voted to approve the motion. Mr. Lovejoy voted against the motion.

R. Smith moved to suspend the three reading rule. The motion was seconded by C. Harlan. Mr. Barbera, Mrs. Gordon, Mrs. Frey, Mr. Harlan and Mr. Smith voted to approve the motion. Mr. Lovejoy voted against the motion.

R. Smith moved to adopt the ordinance. The motion was seconded by C. Harlan. Mr. Barbera, Mrs. Gordon, Mrs. Frey, Mr. Harlan and Mr. Smith voted to approve the motion. Mr. Lovejoy voted against the motion.

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Mayor Landis announced that there would be a special council meeting on May 18, 2009 at 7:30 PM for the purpose of having the second reading of ordinance 2009-29.

R. Smith moved to adjourn at 9:03 PM. The motion was seconded by C. Harlan. The motion passed unanimously.

Adjourn

LARRY LANDIS-MAYOR

JAMES CARRICK-FISCAL OFFICER