Minutes of the City Council

Sheffield Lake, Ohio October 28, 2008

The regular meeting of the City Council was held Tuesday, October 28, 2008. Council President Edward Podmanik called the meeting to order at 7 PM.

THE INVOCATION WAS GIVEN BY: Council Chaplin, Kay Fantauzzi, who, then led in the Pledge of Allegiance.

Present: Podmanik, Rosso, Bring, Elliott, Huska, Diebold, Mayor Piskura,

Treasurer E Hoenig, Finance Director Smith, Law Director Graves

Absent: Smith and Kovach (excused)

Attending: Concerned Citizens, Fire Chief Conrad, Zoning: Ebenschweller,

Members of the Media: Avon Lake Press

*Motion by Bring to approve the minutes of the City Council meeting of October 14, 2008 with any corrections. Yeas All.

*Motion by Bring to approve the minutes of the City Council Worksession meeting of October 21, 2008. Yeas All.

CORRESPONDENCE/COMMUNICATIONS: None.

PRESENTATIONS: None.

Roads, Drains, Water, Sewer, Refuse: None./Stormwater Utility: None./Safety: None./Buildings, Lands, Vehicles & Equipment: None./Ordinance: None./Finance & Claims: Chairman Rosso reviewed the minutes of October 21, 2008 meeting. *Motion by Huska to accept the report. Yeas All./Investment: None./Council Representative to the Community Center: None./Council Representative to the Zoning Board of Appeals: None./Council Representative to the Planning Commission: None./Council Representative to the Park Board: Councilman Bring reviewed the minutes of the October 20, 2008 meeting.

MAYORS REPORT: Mayor Piskura reported I only have a couple of things. As far as the legislation that is in your packets for consideration to be added to the agenda, I wanted to point 2 things specifically and I am sure that the Law Director will go over everything in more detail. There is a resolution in support of the application for the safe routes to school program that the Sheffield Village Mayor and Council have applied for and what that is is to get funding to do a bike path and/or sidewalk kind of thing down Harris Road. Obviously benefiting Sheffield Lake kids and I would ask that you consider adding that and passing it because that

grant application is due – I think it is due at the end of the week, I not sure exactly the day but it was critical if we wanted to support it that we do it tonight. Avon Lake Press John Edwards advised November 4th. Mayor Piskura continued the other one is the Fair Housing Counsel, Avery Friedman and Cherie Dimmerling came in the last Council meeting and talked about it. This is not the legislation necessary to create the Fair Housing Program, this will retain them to help us create the Fair Housing Program. But again I am sure the Law Director will go everything in more detail. As far as Shoreway is concerned I wanted to give you a little bit of an update on that. We are starting the environmental surveys at the end of this week, we are starting with the Phase I survey to identify whether or not we need to even move into a Phase II prior to demolition. We hope to have a idea of what is going to be necessary to do some of the demo so that we can have an RFP ready by second week in November. Hopefully be in a position to award it prior to December 15th or right after December 15th and the only other thing that I would like to request as brief executive session to discuss the appointment of a employee. We have several projects pending, you are aware of all of them and I would be happy to answer any questions if you have any. *Motion by Huska to accept the report. Yeas All./FINANCE DIRECTOR REPORT: None./TREASURER REPORT: None./Service/Safety Director: Mayor Piskura advised Fire Chief Conrad is going to be on an extended leave here shortly and we are trying to make sure that we have all of our loose ends tied up. Fire Chief Conrad advised January 8th is my last day of duty./LAW DIRECTOR REPORT: as follows; **Demolition Board:** This Board is kind of on hold because 2 of the essential members of that Board are the Service Director and the Fire Chief. We are waiting to appoint a new Service Director and our Fire Chief is about to retire. Civil Service: We need people to serve on the Civil Service Commission, we need 2 people and we only have 1 right now. As I have said in the last several meetings we need to start the process of conducting several different Civil Service examinations – most notably one for Fire Chief; promotional tests. When the Fire Chief leaves, we will have an Acting Chief until we are able to permanently fill that position. So if any citizens are interested in serving on any Board or Commission in the city, please contact the Mayor.

Records Commission: We are still working on our blanket request for authority to dispose of records consistent with our records retention schedule and I will keep you apprized that.

Legislation: What you have on your agenda, a third reading on the pay ordinance for the Building Inspector – there shouldn't be any questions there and then the appropriations changes that the Finance Director has already briefed Council on at the Finance meeting. Moving on to legislation that Council could add to the agenda tonight. Council#081 is the 3.5 million dollar borrowing which will be necessary to purchase the Shoreway Shopping Center. Council#082 which is the ordinance authorizing us to contract with Fair Housing Counsel that the Mayor mentioned.

Briefly – this is to enter into an agreement to hire Fair Housing Counsel to assist us and the costs on that is \$10,000.00 but what they are going to do is work with us in establishing substantial compliance/substantial equivalency on our Fair Housing ordinance. If we are able to achieve that, the city is authorized to receive up to \$150,000.00 a year for 3 years in Fair Housing Assistance. What we have been made aware of is that we need consultants/lobbyist of this nature. Substantial equivalency is not something that we can just draft and achieve on our own, these people are going to fly to Washington DC and actually lobby the officials there to give us that certification that our Fair Housing ordinance meets substantial federal equivalency but the city can benefit quite a bit from that. Council#083 is just approving the donation of park benches and picnic tables at the boat launch and we have already talked about that. Council#084 is repealing Negotiating Committee ordinance from the codified ordinances. This came out of Ordinance Committee, this ordinance is outdated and does not comply with section 4117 of the Ohio Revised Code which is a provision that we may not deviate from under home rule authority as a Charter community. Council#085 – this is something that we should have included in our ordinance approving the purchase agreement to buy the shopping center. Basically the city needs to waive any conflict interest created by our dual roles as a beneficiary under the trust which we are because the Ratner family gave us their 20% and as a purchaser of the center. There may be some conflicts of interest there and just to make everything move smoothly, we are waiving any potential conflicts of interest to move forward as a purchaser of the entire center. Council#086 – this is something that Council has been made aware of and this authorizing the payment to Griffith Paving for the paving of the boat launch parking lot and you have the certification by the fiscal officer of the city attached to that. Council#087 – this is the annual ordinance authorizing the city to go out for bids for salt and other necessities of the community. Ordinarily this would authorize the Service Director but under the circumstances we are going to authorize the Mayor to do it in the absence of a Service Director at this time. Council#088 – is the ordinance that the Mayor referred to declaring our support for Sheffield Village's application for the grant for the safe routes to school program. Law Director Graves advised other then that I really don't have anything to report on except for we continue to work toward the purchase of the shopping center. *Motion by Huska to accept the report. Yeas All.

CITIZENS COMMENTARY:

Richard Krebs, 280 Lynne Drive advised I would like to just kind of update you on the fall-out problem that we had. The EPA got a hold of us and they came out, I have been doing some of the work and my wife has been doing 90% because I work, so I got to give her the credit. Frank came out and he took tests and he eliminated Ford and he eliminated Geon. The stuff that is coming out is coming from the stacks from CEI which is what we call sulfuric acid smut. Councilman Diebold advised the damage on his cars was bad and it ate right through the paint,

bad stuff as I went and looked at it and it is not good. Mr. Krebs advised another man from the EPA called - Bob Lange and he said that Eastlake CEI plant has been having a lot of problems out there in the neighborhood yacht clubs and sidings of houses and stuff like that and they have been putting claims in and every 4 or 5 years they replace this/they replace that. I guess they know they have a big problem but what it is boiling down to the EPA said that they cannot do anything about it. Anybody that is in this room or anybody that knows has any problems, they said they have to work it out between Reliant and I have some phone numbers here that my wife called today and they are getting back to us. Illuminating Company number is 1-800-589-3101 and they will set up a claim number for you and then they will get back to you. Also I have a direct number to the Central Claims Adjuster which is 1-330-384-3751. I guess they know they have the problem and they are going to try to work it out but as of right now I am going through my insurance company but I will let everybody know at the next meeting what becomes when Reliance gets a hold of me. Councilman Diebold stated I will verify that the stuff is on his vehicle because I was over there and looked at, right through the paint, even in the glass.

Debra Belaska, 4014 E Lake stated Mayor, I know that store is coming November 1, 2008 so can we get it on the record and John Edwards, all the rumors going around there is another store Apples and all that. Can you just lay everything to rest and just tell everybody what is going on with that store, we know it is closing. All these people are coming up saying it is going to stay, we are going to get this and that and just clarify that for the record please. Mayor Piskura advised I will do the best I can, I can't talk about everything just yet. As everybody knows David and I went to Pittsburgh and talked to Giant Eagle about getting them to stay here being that we had acquired the property. They were not interested in staying in the current store in the current center as it sits. They did express some interest about being involved in a redevelopment if it involved getting a new building, a whole new center kind of thing. But the way that I understood it, maybe David can talk a little bit, maybe his perception was different but the way I understood what they were telling us was that Giant Eagle will never – their new corporate model will never be a viable business here in their opinion and that they were not interested in keeping a Giant Eagle. Being involved in a new redevelopment entailed their value chain, they have several subsidiaries to their store and one of them is called like a Value King or a Super Value or something like that, I can't remember exactly. If they were to be a part of redevelopment it would be with that subsidiary, not Giant Eagle. At the end of the day in Pittsburgh, they had no commitment on staying in the current store and our opinion was that we would love to talk about a redevelopment but our obligation rest with making sure that a grocery store stays in the community right now, for the short term and we would talk about a redevelopment in the long term and they did not want to commit to the short term. So the absolute fall-back for us was to talk about the fixtures in the store, you

know the coolers and the cases and the counters – all of the fixtures in the store that if they took them make it impossible for a new grocery store to come and occupy the space because of the capital investment they would have to make to replace all of that stuff. They did agree to leave the bulk of the fixtures and counters and everything that I just talked about and because they agreed to leave the bulk of that stuff we do have some grocery's interested. I can tell you that Apples is interested, we don't have anything signed – we are working toward an agreement. I can't really comment any further then to say that they are interested. I got a very peculiar email from Giant Eagle the end of last week that changes what they had to say initially which was that the only way that they would stay involved was with a redevelopment and in a new building with a value format. This email suggests to me that they are now on a little more of a defensive posture saying that well wait a minute, we would like to entertain the "value" idea in the current store. So I really don't know where we are going with Giant Eagle and/or the Value format. Apples is interested, we don't have 100% authority or latitude to negotiating the leases at the moment because we don't officially own the center but we are trying to position the city in the best possible place that we can to make sure that we can get a lease come December 15th and the property transfers and I will turn it over to David if you have anything to add. Law Director Graves advised just to remind everyone this may sound obvious but we don't own the center yet. We are not the landlord yet and we are limited to the kind of negotiations that we can really enter into with these tenants. The only thing that can stand in the way of the city not acquiring the center would be the inability to obtain the financing. Our bond counsel has assured us that that should not be a problem but in this financial climate with the volatility of the financial institutions and so forth, there is a possibility that that may not happen. It is a very small possibility and everybody is operating under this assumption that we are going to get the financing and we are going to own the center as of December 15th but until then we are really limited into the kind of negotiations we can enter into. We are having a lot of informal discussions as the Mayor pointed out with a number of entities, something will be in there. Mayor Piskura advised that is the best that we can do, other then to tell you that Apples is interested and they do have fuel perks kind of program/gas station that they are also interested in bringing here. If anybody would like to look what their capabilities or store looks like, the store that has the fuel perks is in Wellington on 58 and it is called Village Market. As soon as you come into Wellington, there is a Burger King and a McDonald's and I think a college thing is on the west side – it is right across the street from that. That is the place that has the fuel perks and the gas station and then the other grocery store that is the most recent opening is the one on 254 by the May Company. I will also add that we have been working, there is a concern about people that can't drive to and from the grocery store that have been walking to and from our grocery store. We have been working to get some kind of transportation in place to and from a grocery store and

if we are able to cement up a deal with Apples they have indicated that they are willing to help us pay for that program, if not I think it is a costs to the city we will entertain absorbing ourselves. We are working on a busing kind of program with a 2 or 3 day a week transportation for elderly or whoever needs to utilize it to and from a grocery store originating here in Sheffield Lake. Mrs. Belaska advised you answered part of my question, I just wanted to let you know there is a bus that goes to Sheffield Village and back already. Of course, I don't know how often it is, I can get the bus number and give you that information or we can call the office and have it available for Kay. My second question is to you Mr. Graves, with 20% and if say the market is bad, we do hold 20% does that give us a voice of renting out that Giant Eagle. Does that carry over enough to get anything in there in a reasonable amount of time? Law Director Graves answered as a 20% beneficiary of the trust we would not control over the day to day operations of the trust, that authority rest solely in the hands of the trustee. What we would have is ability to challenge the actions of the trustee in the form of a lawsuit. First of all, if this doesn't go through the City of Sheffield Lake will be the largest single percentage share holder of the trust at 20%. No one else owns more then I think 16.6%. So we would be able to challenge the authority of the trustee in the business decisions that he makes. We could potentially file a partition action which is a lawsuit to force a sale and the right to attend share holders meetings and so forth, we would have legal rights as beneficiaries under the trust. However, we would not have the day to day control of the operations. Mrs. Belaska advised well something still doesn't set right with me, I just got a feeling I guess I could say with the Giant Eagle store again is that Giant Eagle is in the way of making money and they are not that generous of a company. Obviously it shows us that their loyalty to us that they are leaving these fixtures behind, that there has to be some motive behind that. I mean I just can't see that they would leave all that, unless they are in a good will spirit these days for feeling that they have crossed us to leave – still something is not sitting right with me. Law Director Graves advised when we met with them they kind of minimized the value of all of that. Giant Eagle is a 7 billion dollar a year corporation, they are in the top 30 privately held companies in the United States. When we talk about them expending \$500,000.00 for new compressors – they kind of said that is a drop in the bucket. I really don't believe they see leaving these fixtures behind as a very big loss to them.

Lisa Viggs, 701 West Shore stated I would like to speak to that question, I work for Giant Eagle and part of thing is everything in that store was due to be updated, so the maintenance costs alone are over \$400,000.00 a year on that building for Giant Eagle in repairs. So to them they are seeing as it is nothing because we really can't take that equipment any where else, it is outdated but at the same time somebody else can move in, can set up shop, can work with that equipment – I have worked with it myself. It is in pretty good condition for its age, it is really is. But you will down the road, have to entertain fixing that roof, the plumbing –

major, major problems with the plumbing. But all in all, I really see it as a viable business opportunity and I think that the city is going to do well with it, if everything goes okay. I told the Mayor earlier myself, I think we really need to get like a small committee maybe together to talk to some of the people who are interested in buying it, people who do know the business, do know the building – I think we can really push it along. We do have a lot of really, really good citizens here and they are faithful shoppers, they really do have a big interest in that building.

Debra Belaska, 4014 E Lake stated you know Mayor that is probably not a bad idea, you guys are doing a fantastic job, you are not getting paid for this and this is your time from your families and this takes a lot because I know what it took for me and I am just a citizen. But one person can make a difference and when a group of people and it is proven, we can make big changes in our community. You have got a lot of wonderful people here willing to work with the Mayor, he is doing a fantastic job and the crew behind him and the citizens too. It takes everybody and they are coming from all different angles with all different opinions and sometimes you don't see the whole flip side of something. Passion is important, passion makes people move – that is what you need in our communities. We have got a wonderful community, we have got a lot of assets to this community. We really should start setting up some type of counsel or something, I know the economy is bad but there is people with money. When you think there is no money, there is somebody that has got money out there and they are willing to buy in the right place and we really need to make this city really shine and it does – we have got a lot of potential here. We are on the way to turning this around, even in the worst storm that we could possibly be in right now with the economy. We have opportunities to make a difference but it is going to take all of us together in this community to pull together and do that. We got to quit saying well the Mayor this or this and that – we need to get the people down here, we had a group of 100 one day and then we have what 8 the next. People are very moody here, they don't stay to the flow. We need to get people to stay with the flow in this community and if we can get everybody together, we can do this, we can. We have already proved it, we got a shopping center that took how many years that we couldn't get it. Now we need to get something to start getting businesses back in this community. There is people that want to be in business, there is the money out there and people have it and this is a beautiful community -24/7, 365 days a year. If you don't like it, well pack up and go somewhere else because we want people that really think about this city to stay here because it is a good growing community.

Mark Erdei, 4015 *Tennyson* asked what about that Journal article about that restaurant that is thinking of moving out of Lorain there? Mayor Piskura answered they contacted me, they are interested in moving and we are very interested in having them but as David pointed out earlier we don't even own the place yet so

we can't really talk to them. I advised the owner that we would love to talk but he is going to have to wait until after we actually own it and the transaction goes through. Mr. Erdei asked how about that Rax? Mayor Piskura answered that is primarily the building that he was interested in.

UNFINISHED BUSINESS: None./NEW BUSINESS: *Motion by Huska to amend the agenda to include Council numbers 081 through 088. ROLL CALL TO AMEND THE AGENDA: Yeas All – Bring, Rosso, Huska, Elliott, Diebold. President Podmanik advised in December, our second meeting of the month is December 23rd on a Tuesday which is the day before Christmas Eve. Do we want to keep it that way or do we want to change it? Finance Director Smith advised if I am not mistaken the 30th is the last Tuesday of the month? If we had a Council meeting that night with a Finance meeting prior, that is always good for me because those are always the last minute changes that everybody is so delighted about. Council concurred to move the regular meeting to December 30th with a Special Finance meeting prior. Finance at 7 pm with Council at 7:15 pm or immediately following. President Podmanik reminded audience Pride Day is November 8th from 8 am to 2 pm.

ORDINANCES AND RESOLUTIONS:

1.) Council#073 – THIRD READING – an ordinance establishing the rate of pay for the position of Building Inspector effective June 1, 2008 and the declaring of an emergency.

*Motion by Rosso for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas – Rosso, Elliott, Diebold, Bring/Nays Huska.

Ordinance Passes#76-08

2.) Council#080 – EMERGENCY – an ordinance providing for the establishment and increase and decrease of certain funds within the annul appropriations ordinance of the City of Sheffield Lake, Ohio and the declaring of an emergency.

*Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Bring, Rosso, Huska, Diebold, Elliott.

*Motion by Huska for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Diebold, Bring, Elliott, Huska, Rosso.

Ordinance Passes#77-08

2.) Council#081 – EMERGENCY – an ordinance authorizing the issuance of taxable notes, in a maximum original principal amount of \$3,500,000, in anticipation of the issuance of bonds, for the purpose of paying costs of furthering the city's revitalization purposes by acquiring the Shoreway Shopping Center in the city; and the declaring of an emergency.

*Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Elliott, Bring, Diebold, Huska, Rosso.

*Motion by Huska for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Huska, Diebold, Bring, Elliott, Rosso.

Ordinance Passes#78-08

3.) Council#082 – EMERGENCY – an ordinance authorizing the Mayor to enter into a contract with the Fair Housing Council of Northeast Ohio for the purpose of securing assistance in the Fair Housing Assistance Program, and the declaring of an emergency.

*Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Huska, Bring, Rosso, Elliott, Diebold.

*Motion by Huska for ADOPTION:

Mr. Rosso asked when Mr. Friedman was here explaining how this program worked, that money that we get the first three years was \$120,000.00 that we can use for, some of it can pay the salary of the grant administrator, I believe we buy computers and things. Can we recoup this \$10,000.00 out of that? Mayor Piskura answered yes.

ROLL CALL FOR ADOPTION: Yeas All – Elliott, Rosso, Huska, Diebold, Bring.

Ordinance Passes#79-08

4.) Council#083 – EMERGENCY – a resolution authorizing the City of Sheffield Lake to accept and approve goods and services donated by the Lorain County Commissioners for the city boat launch at Community Park and the declaring of an emergency.

*Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Huska, Elliott, Bring, Rosso, Diebold.

*Motion by Huska for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Bring, Diebold, Rosso, Elliott, Huska.

Resolution Passes#80-08

- 5.) Council#084 FIRST READING an ordinance repealing section 169.26 of the codified ordinances of the City of Sheffield Lake regarding negotiating committee.
- 6.) Council#085 EMERGENCY an ordinance waiving any conflict of interest between the City of Sheffield Lake and Marc A Levin, Trustee of the Shoreway Shopping Center Trust in regard to the purchase of the Shoreway Shopping Center, and the declaring of an emergency.

 *Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Rosso, Diebold, Elliott, Huska, Bring.

*Motion by Huska for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Bring, Diebold, Rosso, Huska, Elliott.

Ordinance Passes#81-08

7.) Council#086 – EMERGENCY – an ordinance authorizing payment to Griffith Paving for the paving of the Municipal Boat Launch parking lot at Community Park, and the declaring of an emergency.

*Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Rosso, Elliott, Bring, Huska, Diebold.

*Motion by Huska for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Huska, Diebold, Bring, Elliott, Rosso.

Ordinance Passes#82-08

8.) Council#087 – EMERGENCY – an ordinance authorizing the Mayor to advertise for bids for and to enter into a contract with the lowest and best bidder for the purchase of ice control salt, premium no-lead gasoline; regular no-lead gasoline; premium lo-sulfur diesel for use in city owned and operated vehicles, stone; various types and grades, bituminous cold patch material, and polypropylene pipe and the declaring of an emergency.

*Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Huska, Diebold, Bring, Elliott, Rosso.

*Motion by Huska for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Huska, Bring, Elliott, Diebold, Rosso.

Ordinance Passes#83-08

9.) Council#088 – EMERGENCY – a resolution in support of the application by the Village of Sheffield to the Ohio Department of Transportation for the purpose of acquiring funds through the safe routes to school grant program, and the declaring of an emergency.

*Motion by Huska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Elliott, Rosso, Diebold, Huska, Bring.

*Motion by Huska for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Rosso, Huska, Bring, Elliott, Diebold.

Resolution#84-08

*Motion by Rosso to go into executive session for the consideration of appointment of a public official. ROLL CALL TO GO INTO EXECUTIVE SESSION: Yeas All – Rosso, Bring, Elliott, Diebold, Huska.

*Motion by Bring to return to regular session: ROLL CALL TO RETURN TO REGULAR SESSION: Yeas All – Diebold, Elliott, Huska, Rosso, Bring.

Law Director Graves advised let the record reflect that the City Council of the City of Sheffield Lake did adjourn into executive session to consider the appointment of a public official pursuant to the Sunshine Laws.

COUNCIL PRESIDENT: None.

MEETING ADJOURNED: With no further business before this council, Motion by Bring to adjourn at 9:04 PM. Yeas All.

CLERK OF COUNCIL AFFIRMATION: This Meeting Of The City Council Of The City Of Sheffield Lake, Ohio Was Held And Conducted Under All Rules And Regulations Governing The Sunshine Laws Of The State Of Ohio As They May Apply. All meetings are recorded and available in council offices.

CLERK OF COUNCIL Kay Fantauzzi	PRESIDENT OF COUNCIL Edward R Podmanik
	and/or
I, Kay Fantauzzi, duly appointed Clerk of Council of Sheffield Lake DO HEREBY CERTIFY that this is a true and exact copy of the Minutes of Council of October 28, 2008.	COUNCIL PRO TEM Richard Rosso
	MAYOR John J Piskura