

Minutes of the Ordinance Committee Meeting
Sheffield Lake, Ohio
November 3, 2011

The regular meeting of the Ordinance Committee was held Thursday, November 3, 2011. Chairperson Huska called the meeting to order at 7:30 PM.

ROLL CALL OF MEMBERS:

Present: Huska, Elliott, Kovach

Attending: Councilwoman Stark, Law Director Graves, Service Director Smith

READING OF THE MINUTES:*Motion by Kovach/Second by Elliott to accept the minutes of the October 6, 2011 meeting with any corrections. Yeas All.

PRESENTATIONS: None.

CORRESPONDENCE: None.

OLD BUSINESS:

Internet Sweepstakes Cafes – Service Director Smith reported currently we have the Pizza Hut one operating which is the Coconuts. We have Spin Spot which is in Duff’s Corners and then we have Randy Gibson’s company out of Gus’s Restaurant.

NEW BUSINESS:

Chapter 7 – Chairperson Huska advised will be discussed at December 1st meeting.
Chapter 1383; accessory buildings – Chairperson Huska stated did everyone have a chance to review the information that David gave us on the other city’s on how they have it broke down as to districts, set-backs and how many you can have, they have area location requirements. They have lots running on Lake Road, Walker, Avon Beldon, Lear and Jaycox which are probably their larger streets. Side building set-back is 10, rear set-back is 35 and then height regulations – they have nothing in the building accessory structure shall exceed 17-1/2 feet. Then they have any detached accessory structure rear side is 3 feet and then they have area location requirement accessory building maximum permitted each dwelling in an R1, R1A, R1B, R1C district shall be permitted to have maximum of 2 detached accessory buildings. Law Director Graves advised a lot of that is not going to be applicable with our code, we limit the heights differently, we don’t have all those subsections of R1, we limit the accessory buildings to 1 per lot. Mainly that was just an example of how to go about it. Chairperson Huska asked what do you think would be pertinent in this, I thought the maximum coverage of your rear yard was. Law Director Graves advised I don’t know, I don’t have it in front of me and I apologize. Chairperson Huska handed hers off to Law Director Graves for

discussion. I think what needs to happen is we need to more clearly define 1383 as to what kind of accessory building it is going to apply to. Currently it blends metal sheds and accessory buildings. It starts out by defining a storage shed as an accessory building to a single family residence not used as a private garage. Well clearly if you flip it around there are accessory buildings to single family residence that are not storage sheds. Service Director Smith advised such as a “pool building” that covers a pump and a filter to a swimming pool. Law Director Graves continued what we need to do is we need to more clearly define storage sheds and the other accessory buildings/structures – I would say there is probably 3 categories which are structures, sheds and buildings. You got storage sheds designed for storage, you got other accessory buildings and by that I would think of like a boat house or an enclosed gazebo intended for recreational like card playing or something like that – pavilion style type thing. Then you have accessory structures that are more along the line of what the Service Director was describing. Councilman Elliott stated like we discussed before; recreational and storage. Service Director Smith advised I think what David is saying we need to include the structure part/recreational structure as part of it because you can buy a metal pavilion that has got the canvas top on it and zippered screens. So when the mosquitos come out you zipper the screens on and you cover your patio. You even have awnings that have zipper screens that are temporary where you roll them out with a crank. Law Director Graves advised I would prefer the language other accessory structures rather than recreational, that way you just have your storage and then you have the rest (actual living space). Councilman Kovach advised I don’t think you really want to get into temporary because you are now talking about these people that put up these vinyl canopies for a wedding or a graduation. You don’t want to go regulating stuff like that. Law Director Graves stated I think we are only looking at permanent style. I think we need to decide some standards; do you want to continue to only allow 1 – that does preclude an applicant from still trying to get a variance if they can show hardship for 2. The other thing is under accessory structures I would as a subsection like the pool thing. Let’s just say non-enclosing landscaping structures which many gazebos have been classified as that. You have got like enclosures to pools and air conditioning; pool filter type thing. Service Director Smith stated you also have now all these plastic buildings and storage things that are on the market now that weren’t there 10 years ago. Plastic boxes, yard boxes, hose reels with storage, you have yard tools, you have lein-to’s both on the side of your house lein-to’s that are made out of plastic. Law Director Graves advised those would not count as accessory building so that if you had a landscaping style gazebo that doesn’t enclose but is there as an ornamental that you could still also have a storage shed or some other accessory building – that wouldn’t be your one that you would be allowed. Chairperson Huska asked David did you see in there it has larger lots, they are allowed 2 accessory buildings and then was a section in there that they were considering I guess calling it a not

attached garage and there was a section in there to make sure that that was not counted. Councilman Kovach advised you do realize that this was all designed so that there would be a control the original old steel shed buildings; before wood or plastic. Those little 10 X 10 sheds, that is basically what this was originally amended for. Councilman Elliott stated we are not simplifying anything, we are only making it harder. Councilman Kovach concurred I agree, it is probably time to send it to Worksession. We have beaten it as much as we can and we are really just coming up with more questions than we are answers. Service Director Smith advised what about the situation that we have over on Cove Beach with patio and the guy made a fireplace/grill and he built a big grill and he has a patio. He built a brick grill and it goes up 12-feet in the air/the stack goes 12-feet in the air and all the neighbors are ticked off that he was allowed to build this patio and grill in the back of his house. Steve says there is no code, there is nothing wrong with it but all the residents are all in an uproar because this guy decided he wanted to spend \$5000.00 and build a beautiful fireplace/outdoor grill. Now that is a structure, so what you are saying is a recreational structure – we can't really limit that. Law Director Graves advised no I would say you can't limit the accessory structure like that – it is not a building, it is a structure. But you have to comply with our ordinances. Councilman Kovach asked is that accessory or recreational that you are talking about? Law Director Graves advised I would stay away from the word recreational, I would use storage and other accessory buildings and then accessory structures. You have got storage buildings, other accessory buildings and other accessory structures; structures are ancillary to the primary but not a building and I don't think you can regulate those. But he still has to comply with our other requirements regarding outdoor burning and I think we should consider at some point something clarifying that overall percentage of lot coverage. Currently it says 35 percent of total lot coverage but it says all structures and I don't know if that includes ground cover; concrete, patio and things like that. The reason for those kind of limitations and I deal with this all the time in the other city – is drainage. People put in these giant pools, they get permits that say they are only 40 and then they put all kinds of stuff in and exceed what they are supposed to. Councilman Kovach stated so what you are saying is what they put around the pools, so they would put a patio around the pool. Law Director Graves stated patio and things like he is talking about with the grills and all this – decks and all that. All that takes away permeable ground so that when it rains water runs off to your neighbors. Service Director Smith advised water is not supposed to run to your neighbors, your water is supposedly to ideally run to your front yard to your ditch through your own drainage. Law Director Graves advised not always, not if you pave your whole yard – it is going to run off, drainage is a lot better when it soaks to the ground. Chairperson Huska asked David can you take a look at what I highlighted there and what we discussed and could you write something up for Worksession which will give you a couple of weeks. Law Director Graves advised let's just

forget about the ground cover issue. I think I have a direction here; you got storage, other accessory, accessory structures and then you got garages and I don't know if we want to classify garage in that. Chairperson Huska advised they had a nice section in the one you gave me to read and I highlighted it about garage; attached or unattached. There were a lot of different nice sections that I highlighted in yellow that I thought were good, write something simple and use your best judgment which I know you will and then Council at Worksession can either look at this and say okay or they will have to fine tune it or they will say just leave it as is which is going to make this issue come down another time or so. Law Director Graves stated see that is a threshold question, the code that you are looking at includes detached garage as an accessory building but they allow 2 and we only allow 1. So are we going to count an attached garage as an accessory building and say that is your 1 or if they have a detached garage, you say you can also have 1 more accessory building or shed or what have you over and above the detached garage. Chairperson Huska answered I wouldn't count the garage. Councilman Elliott stated for the average person I think you should have like 2 storage and maybe 1 recreational and then after that you can go and try to get through zoning – for the average person. Chairperson Huska asked or should it be a percentage of their yard, would that simplify everything? Councilman Elliott stated as far as far as the percentages goes, it goes for the size of the actual structure that you are putting in. That is the way I would go with it. Chairperson Huska stated no it goes with the percentage of the lot size is what it is. Law Director Graves asked do you want to retain the 12 X 16 limitation and the 12 foot height, I think the 12 foot height I think should stay. The 12 X 16 limitation for a storage but then beyond the storage you could go to a percentage? As it sits right now I think the code clearly reads that if it is a storage building it is limited to 12 X 16. Councilman Elliott stated Steve like you were saying you could adjust the size of the building versus the size of the lot. Councilman Kovach asked then you are saying you don't want to leave the 12 X 16 there? Chairperson Huska stated no I want it in there but I want a percentage of the yard too. Councilman Elliott stated I would say not to count the garage. Why don't we just do this then just say a number of 3 other structures; whether it be recreational or shed instead of putting a limit on what type of structure you can put on. Just open it up to 3 others. Law Director Graves advised this being a zoning change Council could discuss this and refer it to Planning Commission and let Planning Commission deal with it. Councilman Kovach stated well it probably should go because our biggest problem in the city is the small lots but there are several that are good size lots. Councilwoman Stark advised you have to use common sense, if I look into my backyard and I see my 2-car garage and I put a swing-set up and there is only 4 feet between me and my fence then somebody should know not to put other buildings up there. Councilman Elliott concurred a lot of it is common sense but not everybody has the same common sense. Councilman Kovach objected to the wording of structure – to pose

a perfect example; if you have a child's tree house structure in your old house where you used to have the swing set structure and those are both structures along with the shed you had. Law Director Graves stated yes what we are saying is the structures would not be considered. Councilman Kovach advised what I am saying is that they should be completely eliminated but you are saying accessory building. Chairperson Huska stated not structures. Service Director Smith stated when he was talking percentage, he was saying they were included. Councilman Kovach stated that is what I am saying they should probably not be included in this. Law Director Graves stated as it currently reads under 1133 it says all structures shall be considered in the percentage. Councilman Kovach stated that is what I am saying, you have got tree houses and a lot of them are just toys per say. Law Director Graves stated you still have to have some limits. Service Director Smith stated the city has to restrict everything, why don't we just outlaw everything – that will work. Councilman Kovach stated if that is the case then what you are really suggesting is that the swing-sets and the tree houses should all be permitted too, is that your feeling because to be considered they should be permitted structures? I think that would be ridiculous. Law Director Graves stated all I am saying is since 1968 this city has said that all structures including all accessory buildings should not cover more than 35 percent of the yard. Now you can change that, modify it, eliminate it. Councilman Kovach stated what you are suggesting is what the structures really are, I believe the intent of that with structures were garages, sheds, houses and **not** tree houses or a little thing that went around a pool filter. But yet what you are declaring and claiming that it would be part of what their intent was since 1968 which at that point I would find confusing and would totally disagree with you. Law Director Graves advised people get very creative in what they construct, you can allow anything goes or you can restrict it in some as semblance of a constant neighborhood. My recommendation would be you discuss it at Worksession and get some general direction and then we write something up and have Council then refer it to Planning Commission for a 60-day review as a proposed change to the zoning code. Chairperson Huska asked did you want to write up a little something that we can propose at Worksession? Law Director Graves answered yes I will write something up. **REFER TO WORKSESSION**

Tree Lawns – Law Director Graves advised I just started roughing something out. My recommendation would be that it goes in section 910 code. This would be merely clarifying what other sections of the code already I think inure and other sections of the code which clearly give the city the right to enter upon private lands for the purposes of maintenance of city drainage and also elimination of any obstructions which could be a traffic hazard, any obstructions in a road right of way. We should probably just have 1 section on street lawns and tree lawns and it should be clear that a) it is responsibility of any abutting property owner, grantee, occupant lease of any real estate in the city to maintain the unpaved portions of the road right of way which are commonly referred to as street lawns and tree lawns

which abut any paved portions of city streets. We should also restrict in here any permanent obstructions/construction of any permanent obstructions in the road right of way and start trying to limit that. I figure the only way to do that is to apply it forward, if we try to retroactively apply this you are going to have literally hundreds and hundreds and hundreds of people in this city that have things that are permanently constructed in the road right of way. You have everything from fences to railroad ties to flower boxes to shrubs to you name it. You can go up and down these streets and see everything; boulders – none of that should be there.

Councilman Elliott stated obviously we need it and there is nothing on any ordinances right now that restrict any of that right? Law Director Graves stated it does and you have got the common law which I brought here which has kind of arisen over time that the abutting property owners have the exclusive right and that is the other thing whether it is deeded to the city or part of the right of way that the abutting property owners do have the exclusive right to utilize that land and to occupy it and to exclude others from it. You don't have to sit back and let strangers congregate on your tree lawn, even though it may not be your property.

Councilman Elliott stated so basically you can exercise authority over it. Service Director Smith explained all I ask is if I am allowed an opinion there is a reason for it and that is because I have got a Building Department that spends 8 hours a day enforcing the codes that you guys are looking at adjusting. I spend a great portion of my day dealing with the people and the residents who are unhappy with the city because of the codes. So whenever Council tries to put on more restrictions, I want them to be aware that there are ramifications that will occur because of that. That is my only point, like David says it is your decision, what Council does is up to Council – you are legislators and you pass the laws and you make them and that is why you are up there. But input wise – I don't always think that restriction/regulation is the best way because there are other things that it affects.

That is all. Councilman Elliott asked Service Director Smith for his opinion on this issue? Service Director Smith stated I am 100% with David because David has specifically addressed this issue perfectly because it is a big concern, tree lawn identification of what the responsibilities are needs to be defined and we have just like in the Zoning issues before – different areas within the city that are different. I have regular issues that we waste David's time to actually come and have him try to sift through where do we stand on this when it comes to this tree or not this tree? I have one right now over on the corner of Brockley and the Ditch where I have got 3 trees that are overhanging out of a property on top of a house and where does the city come in in the right of way of the public creek. The trees are coming out of the creek. Chairperson Huska stated Len what is funny though is a lot of these regulations went in the 68's so we are just trying to get some clarification so these problems are coming up and you are dealing with the problems and we are trying to clarify – that accessory buildings has been a real sore point for all of us, we have dealt with it for how many months now. It is just going to keep coming back unless

it is done the right way. Plus we are trying to go through the book to look at some of this other stuff from long time ago. A lot of it is not enforceable and a lot of it doesn't even make so much sense, so we are just trying to fix that. She asked so David can you have something ready for Council for a first reading on the tree lawn draft please? Law Director Graves answered yes.

Political sign ordinance – REMOVE.

935.17 Payment of water bills – repeal. Law Director Graves advised basically it is from 1971 and section 935.17 passed March 30, 1971 provides that the citizens of Sheffield Lake should have the opportunity to pay their water bills at the Central Trust Bank and that they will collect that money and bill the city .5 (5 cents) per bill and set up this exchange. Obviously we haven't done that in years. *Motion by Kovach/Second by Elliott for the Law Director to draw up legislation repealing 935.17. Yeas All.

Law Director Graves advised there is one thing that is a problem with any actions by our Building Department in terms of interior inspection is absent any local housing code or adopting the international property maintenance code. The residential code of Ohio only applies to new construction with the one exception of serious safety hazards which is a very high threshold; basically you have to show an imminent threat to human life. So when our Building Inspector does interior inspections he is using his general experience and expertise to identify problems that he feels are safety concerns but there is no real code that we can apply. With a hoarder; you can try to get the county health department involved but we have in the past and they have even said there is nothing they can do. Short of something with some teeth in it for these interior inspections; ingress and egress to bathroom facilities, access to the furnace and hot water tank and things like that. Service Director Smith advised there are some communities that have some issues, they have actually created a law where when there is a serious hoarding issue and it poses a threat to life as determined by either the Fire Department or the authority that the water is shut off and the sanitary is cut off and at that point and time that makes the situation unlivable. The problem we have here and I am not saying that a person doesn't have a right to hoard – they do but there have been several incidents where there has been a big concern of whether or not that – I am wrong in saying, a loss could be very possible if there was a fire. Law Director Graves stated I don't know. Councilman Elliott asked couldn't you just do a fire inspection and at that point say this is unsafe? Law Director Graves advised you run into a subjective judgment call, you almost have to have a specific fire hazard. It can't just be excessive clutter because there is a lot of people with excessive clutter. I don't know how you start doing that. The other thing too is you got to have a reason to get in the house in the first place, a lot of times you don't even know because the outside of the house appears fine. Service Director Smith advised the Health Department comes out and there is nothing that they can do except please get these people help, we can't really do anything with the Building Department or

the Fire Department. Chairperson Huska stated I was always told the Health Department could go in there, I have seen numerous cases where they went in and did something. Law Director Graves stated they are going to look at things like disease, filth, unsanitary. A lot of times that is not the case, it is just an over-abundance of clutter. One of the hoarders that we have in town is obsessively buying from home shopping and that house is absolutely bursting at the seams with unopened boxes of merchandise; floor to ceiling with little 12-inch paths that you can get through but you can't get to the bathroom, bedrooms, etc. Chairperson Huska asked wouldn't be a fire hazard? Law Director Graves answered no more so than anything else. Service Director Smith advised it is not new construction so the Building Department has no way of enforcing it. Councilman Kovach stated unless it is all declared flammable or toxic. Law Director Graves advised the hazard though is that if there was a fire or something that you would have a danger to the fire fighters and when the Fire Department gave knowledge of one of these structures then they mark it and if there was a fire – you could easily lose a fire fighter in that structure because you go in there and it is black with smoke and you got little paths and who can search in there in a situation like that. Chairperson Huska asked we have 3 houses like this? Service Director Smith answered we have 3 incidents to the extreme. Councilman Elliott asked in your opinion there is nothing that we can do about it? Law Director Graves answered well short of adopting and this is something that we have talked with Phil Lahetta about and in fact it is something that we really ought to do, not only for this but in terms of enforcing our inspections and other things that we are doing. We really should consider some form of a local housing code or adopting at least portions of the international property maintenance code. We have a housing board that we call the Demolition Board. Councilman Elliott asked should this be discussed here or should it be discussed under Safety? Law Director Graves answered it is a building code issue. Service Director Smith advised it is something that should be at least discussed I think because wherever it goes; which committee or whatever – it is very frustrating for health professionals. Law Director Graves stated we do a lot of inspections, our code requires more inspections than most communities. Steve is running around doing these occupancy inspections, we are inspecting rental units. We also do point of sale – that is the occupancy inspections but even under our dangerous building ordinance where if it is a building that is unsafe or unsanitary, poses a threat he is supposed to go in and inspect. But there is no code, there is nothing that you can point to that says “here is violations under this”, it is just windows falling out. For those to have teeth, we really should have that. Councilman Elliott stated we can discuss here and in Safety I guess. Service Director Smith stated when it comes to the preservation of life, I think that there is something here. I have a hoarder in my family or had and I am aware of the hardships, it is not my immediate family – it is a distant Uncle but the situation that I watched my Father go through in trying to remedy the situation and out of

concern for him. Once again Lorain’s codes did not have the teeth in any of it either, there is only so much that could be done. There is a point where it crosses the line of clutter, I don’t ever want to get to “I don’t like it because they keep a messy house or they got junk all over the house”. That has nothing to do with it, we are talking 8 inches between stacks that are over 6-feet tall of magazines and books and boxes – it is just like on the television show. Law Director Graves asked do we have Council next week? Councilman Elliott answered no, nothing is next week – everything is the following week. Chairperson Huska directed Clerk Fantauzzi to **add to next Ordinance Committee’s agenda the discussion of hoarding/housing code violations.**

Ordinances before Council at this time:

Council#048 – THIRD READING – an ordinance amending section 1371.27 of the codified ordinances of Sheffield Lake political signs.

Council#049 – THIRD READING – an ordinance amending the clothing allowance for part-time dispatchers in the Sheffield Lake Police Dispatchers.

Council#050 – THIRD READING – an ordinance amending codified ordinance 133.04 and increasing the uniform allowance for part-time Police Officers.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this committee,
*Motion by Kovach/Second by Elliott to adjourn at 8:34 pm. Yeas all.

CLERK OF COMMITTEE AFFIRMATION: This Meeting Of The City Committee 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's office.

CLERK OF COUNCIL

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committees of Sheffield Lake DO HEREBY CERTIFY that this is a true and exact copy of the Minutes of Committee of Ordinance for November 3, 2011.

CHAIRPERSON OF COMMITTEE

Diana Huska

COUNCIL PRESIDENT

Edward R Podmanik

and/or

COUNCIL PRO TEM
Richard Rosso