

**Minutes of the City Council**  
Sheffield Lake, Ohio  
July 24, 2012

The regular meeting of the City Council was held Tuesday, July 24, 2012. Council Pro Tem Rick Rosso called the meeting to order at 7:02 PM.

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

\*\*\*\*\***ROLL CALL OF MEMBERS**\*\*\*\*\*

Present: Rosso, Kovach, Elliott, McCullough, Stark, Mayor Bring, Treasurer Woods, Law Director Graves  
Absent: Podmanik, Belaska, Smith, Finance Director Smith, Service Director Smith (excused)  
Attending: Planning Commission: Erdei, Concerned Citizens, Members of the Media; Avon Lake Press

\*Motion by McCullough/Second by Stark to accept the minutes of the July 10, 2012 Public Hearing for the 2013 Tax Budget with any corrections. Yeas All.

\*Motion by McCullough/Second by Kovach to accept the minutes of the July 10, 2012 Council meeting with any corrections. Yeas All.

\*Motion by McCullough/Second by Kovach to accept the minutes of the July 17, 2012 Council Worksession with any corrections. Yeas All.

**CORRESPONDENCE/COMMUNICATIONS: None.**

**PRESENTATIONS: None.**

\*\*\*\*\***CITY COUNCIL REPORTS**\*\*\*\*\*

**Roads, Drains, Water, Sewer, and Refuse: None./Safety: None./Buildings, Lands, Vehicles & Equipment: None./Ordinance: None./Finance & Audit: None.**

Chairman Elliott advised at the last Worksession, the recommendation from the Park Board has been forwarded to my Committee for my next meeting./**Council**

**Representative to the Community Center: None./Council Representative to the**

**Zoning Board of Appeals: Representative Kovach reviewed the minutes of the July 18, 2012 meeting./Council Representative to the Planning Commission:**

**None./Representative to the Park Board: Member Kovach reviewed the minutes of the July 16, 2012 meeting.**

\*\*\*\*\***ADMINISTRATIVE REPORTS**\*\*\*\*\*

**MAYORS REPORT: None.** Councilwoman Stark asked I will assume that at our next meeting we will be talking about the dollar increase? Mayor Bring answered yes I didn't want to speak of it tonight as after talking to David, we are probably going to try to get the stormwater board back together and bring it to them so they know what my intentions are and make they are on board. Then it will probably go

to the Roads & Drains Committee and then back to you. I am not in any big hurry for this thing. So it this happens by the end of the year or beginning of next year, it will be okay./**FINANCE DIRECTOR REPORT: None./TREASURER REPORT: None./SAFETY DIRECTOR:** Mayor Bring reported we have had a lot of calls here recently because of the heat and both are ambulances went down on the same day. We made a call out for mutual aid and Avon Lake actually – they have 3 ambulances and they actually gave us one on Friday and we have that until Monday. I would like to thank them for allowing us to use it, they didn't even question it. We just asked for help with the calls and did not ask for the ambulance but they immediately came down and gave that to us. A very special thanks out to them. The 2 ambulances have been fixed and both were alternators and what is happening with these older trucks and the lights and everything else that we have, the wire harnesses are drawing an absorbent amount of energy and then we get the heat on top of that. It is drawing too much power and putting strains on the alternators. We did find some corrosive parts, we sent it back in and that was taken care of and then today the one truck – there is an idle that kicks in automatically when you put it in park so the lights run which is not working so we had to send it back for that. Then the other ambulance there was a problem with the rear so that was addressed. They are both running but they are both still drawing so much power and those alternators are about \$400.00 to \$500.00 a piece. So the last bill was #2000.00 for the last repair so this is getting quite costly and we are running out of money in that line item but it is what it is and we can't put those guys on cots and run them down the road so we have to have something. Law Director Graves stated we do have a grant pending. Councilman McCullough stated I got a question and it sounds crazy but back in the old days when we needed a new rescue squad, they used to put up a little thermometer at the end of Harris Road and take donations and everything else. Rather than make it a tax item maybe we ought to look into trying to. Mayor Bring advised it would be \$185,000.00. Councilman McCullough stated then we need to put it up there for \$185,000.00 and see if we can't at least generate some interest and maybe some people start making some donations because I am sure any grant out there is going to require us to kick in some. Mayor Bring advised actually we applied to 2 grants that is a 10% match. Councilman McCullough asked do we have the 10%? Mayor Bring answered like I told Mr. Card, if we do get these things we would have to borrow the money or something like that. \*Motion by McCullough/Second by Kovach to accept the report. Yeas All./**SERVICE DIRECTOR: None./LAW DIRECTORS REPORT:** Law Director Graves advised the Civil Service Commission will be meeting on Thursday, July 26<sup>th</sup> at 4:45 pm hopefully to certify an eligibility list for the Police Department. We have had some difficulty getting the information that we require from Tri-C but we should have everything that we need now to certify that list and be ready when the time comes to consider hiring for a new Patrolman. The Clerk

of Council and myself will be attending public records training on behalf of all the newly elected officials tomorrow morning at the Cuyahoga County Justice Center. We will be there on your behalf and you will all get credit for attending. He continued onto the legislation; Council#020 which has been tabled and I would recommend at this point that we un-table this. We have reached consensus on a settlement agreement. The primary points are that the auction, when it does happen after payment of all costs – the net proceeds would be divided 3 ways. Out of those costs would be – well, there is going to be another piece of legislation to hopefully be added tonight but authorizing the city to enter into agreement with Auction Ohio to conduct the public auction and they are assuming all responsibility for the removal of any unsold, unclaimed or unpaid for items remaining after the auction pick-up date. His fees for that would be capped at \$1500.00 which would come off the top of the proceeds. The auctioneer is willing to assume responsibility for removal of all those items. I will get to more details of that when we get to that piece of legislation and we have already passed legislation authorizing the assignment of the collateral to the city. So I think we are getting close to getting this done and I would recommend un-tabling this and proceeding with this particular piece of legislation tonight. Pro Tem Rosso asked just so I am clear, all costs will be covered out of the sale so the city is not on the hook for anything unless it costs more than we make? Law Director Graves answered any unsold, unclaimed or unpaid for items will be removed by the auctioneer after the sale. His fees to do that are capped at \$1500.00 off the top, if there is not \$1500.00 – it doesn't matter, he is still responsible for removing those. Councilman McCullough stated even if it is \$15,000.00 it is his responsibility? Law Director Graves answered absolutely. Pro Tem Rosso asked if we sell everything for \$500.00, do we have to split \$1000.00 three ways? Law Director Graves answered if the net proceeds are so abysmal, that is what it is – it goes for what it goes and he is assuming responsibility for that. He continued Council#024 which everyone should be familiar with is up for a third reading tonight adopting a fraud prevention policy for the City of Sheffield Lake. Council#025 everyone should be familiar of third reading tonight amending special ordinance 28-91 allowing the Roth option for the city's deferred compensation plans for city employees. Council#028 is up for a second reading tonight, this is the first among all of the zoning revisions related to manufactured homes and accessory buildings. This will also have a public hearing on August 14<sup>th</sup>. Council#029 sponsored by the Mayor is up for a second reading tonight, this would be establishing a new section from the zoning/planning code 1133.09. This would also have a public hearing on August 14<sup>th</sup> and this is the ordinance that would authorize construction of a 1200 square foot home rather than a 1500 square foot home on lots where they have already received a variance from Sheffield Lake Board of Zoning Appeals to build on lots smaller than 90 feet. I have reviewed the question that was posed by Council at the

last meeting and reviewed it in light of the Ohio Ethics Commission Advisory Opinions, most specifically number 92-019. It would be my opinion that this would not present any conflict of interest and it would not result in any specific beneficial or detrimental impact upon particular Councilmen's personal interest. Pro Tem Rosso asked so if I have a lot that is less than 90 feet, I go to the Zoning Board and ask for a variance and they grant the variance then I can build a 1200 foot but I still have to get a variance to build on a small lot. Mayor Bring answered exactly. Law Director Graves explained you still would to establish the Duncan factors of practical difficulties in front of the Zoning Board of Appeals. If you are able to prove those factors then the variance would be granted and you could proceed. Pro Tem Rosso asked I guess my real question was I still have to go apply for a variance, it doesn't automatically just say if it is less then? Law Director Graves answered it doesn't just create a buildable lot. Law Director Graves continued Council#030 also up for a second reading tonight, this would be establishing the new section of code recommended by the Planning Commission and the Ordinance Committee for regulation accessory buildings in the city. That is also going to have a public hearing on August 14<sup>th</sup>. Council#031 repeals section 1383 of the building code and this is to make co-consistent with the establishment of the other accessory building ordinance. Council#032 is a second reading tonight, amending section 1353 regarding manufactured homes – this reflects the preemption by the State of Ohio in regard to the building code for manufactured homes. Council#036 this is the ordinance that would rezone the parcel that has been acquired to the east of Speedway, rezone that from B1 to B5 and is up for a second reading tonight. This has been reviewed by the Planning Commission and it will be reviewed again on Thursday at their Special meeting and will also be set for public hearing on August 14<sup>th</sup>. Council#037 is up for a second reading tonight, this is a resolution authorizing the donation of \$2050.00 from the VFW for the purchase of new firearms from the Police Department. That failed to receive the necessary 2/3 vote at the last meeting to suspend the rules. Council#038 is up for a second reading tonight, corresponds with the previous ordinance accepting the donation of \$2050.00 from Amvets for the purchase of firearms for the Police Department. This also failed to receive the 2/3 majority vote for suspension of rules at the Council meeting. We would also ask Council to consider adding Council#042 and Council#043 to the agenda tonight. Council#042 is the ordinance that I had referenced earlier which would authorize the city to enter into agreement with Auction Ohio to conduct the public auction of the personal property located at the Bowling Alley building at 4209 E Lake Road. This would be in conjunction with the settlement agreement for the litigation that has been on-going. To summarize the terms of this I would ask that this be considered to be passed with suspension of rules/emergency tonight. This is an absolute auction with no minimum bid/the auctioneer commission is 20% and the auctioneer is responsible

for removal of all unsold, unclaimed, unpaid for items within 30 days after the pick-up date/compensation would be capped at \$1500.00 and no disbursement of commission or compensation shall be paid until all the items set forth in subsection c are removed. Councilwoman Stark asked it has been a while but David if you wouldn't mind explaining  $\frac{3}{4}$  rule in regards to suspension of rules. If we don't have full Council, does it have to be unanimous if we don't have full Council? Law Director Graves answered it is  $\frac{2}{3}$  vote of the membership of Council which is 5. The city has always interpreted that to be 5. Councilwoman Stark stated I wasn't sure if you had a smaller amount of Council, if it changed to a percentage of attending. Law Director Graves answered it is not  $\frac{2}{3}$  of the members present, it is  $\frac{2}{3}$  of the membership. It is the requirement, it is a  $\frac{2}{3}$  vote to suspend the rules and that is the 3 reading requirement and it is a  $\frac{2}{3}$  vote to pass by emergency and that is the 30-day waiting period. They both require a  $\frac{2}{3}$  majority vote.

Councilwoman Stark asked we have the policy that we are going to do a third reading tonight/more for an economic side – the fraud policy. Do we have a policy in place for professional behavior of city administration, city employees – like a code of conduct? Councilman McCullough stated I just had a quick question about the pay the commission of 20% of gross proceeds, is that a 10% buyers premium and a 10% sellers premium out of that 20% or are we paying 20% and then they are also collect a buyers premium. Law Director Graves answered I believe there is also a 10%. Councilman McCullough stated so we are 20% because it says auctioneer will be paid a commission of 20% gross proceeds. So is that going to be split 10% us and 10% them because if it was the way if they are going to collect 10% buyers premium too then it would be 30%? I am just asking are we splitting this with the buyers, it is 10% seller/10% buyer? Law Director Graves answered I believe there is an additional, I can pull that for you – I think it is 20%, I think there might be an additional 10% buyers. Councilman McCullough stated it is just the way it is worded, they are kind of locked into 20% of gross which 20% of gross would be us and any sellers premium so we would get a deduction of that right? I hate to bring this up right here but that is what I am reading into it. Law Director Graves stated I can get back to you with an answer to that question. Councilman McCullough stated I don't see a problem with it going through I would just like to know beforehand. Law Director Graves advised I can get you an answer to that question very quickly. He continued Council#043 which I think I have talked about in the past would be authorizing the Mayor to enter into an agreement with the City of Avon Lake and the Village of Sheffield for shared jurisdiction over the Ford Motor Company Ohio Assembly Plant. There is new regulations come out of the State of Ohio Building Code that where you have businesses and there is not a lot of them, we happen to be somewhat unique – that span jurisdictional boundaries that the communities are supposed work out an agreement among themselves for enforcement of the Building code and Fire code. So you don't have 3 sets of plan

interviews, 3 sets of inspections, 3 sets of fees, 3 sets of permits. So this is an agreement that has been worked through by the 3 communities; 3 Mayor's and 3 Law Director's and basically it calls for a 3-way split – 99% of the jurisdiction is going to fall with the City of Avon Lake because an Avon Lake joint improvement is defined as any improvement that will affect a portion of the structure that is located in Avon Lake and a structure is considered to be the entire building. So anything within that building – Avon Lake is probably going to probably handle the inspections and there would be a 3-way division of any fees that are recouped for that. Then there is a process if one community expects to exercise the jurisdiction they provide notice to the other as there is a fair time to object. For example this the Village thinks it is something that they should handle and we object, there is a period of time where we could say no let's sit down if we think it is a Sheffield Lake matter. It is a good agreement and it is one that like I said the State is requiring. Avon Lake offered to handle it and the Village and Sheffield Lake didn't and they have a much larger staff and they have been handling; in talking with our Building Department and our Fire Department they have been handling the bulk already. Mayor Bring advised to add if there is a separate building that is built in one city then that will change the way that is actually permitted. Right now all the buildings are all connected. Law Director Graves concurred if there was a sole improvement that existed solely, independently within one of the 3 jurisdictions they would independently handle it. At that point it wouldn't be a multi-jurisdictional issue. Pro Tem Rosso asked I have a question, this is a maintenance clean-up thing. On our agenda here, you always have these items under here – do you really need to have the demolition board on here every meeting? Law Director Graves answered no although, there currently is quite a bit of grant money available that the city is eligible to participate in with the county to start demolishing nuisance properties and I am hoping that I can get a list of properties in the city that we can start to address. It doesn't have to be a regular part of my report. Pro Tem Rosso asked what about Records Commission, the same thing? Law Director Graves answered yes. Councilwoman Stark stated I know you and Kay are going to the Sunshine Law meeting tomorrow, do you know if they are talking about having any policies towards social media or if they are addressing Sunshine Laws in social media. Law Director Graves answered yes that has been talked about and I am sure they will touch on it again tomorrow about how communications through social media – if you are discussing city business, could be considered public records. As always you have to look on it as case by case basis. Councilwoman Stark stated I just wasn't sure in regards to executive session if it went out on social media, if that is included in that as a violation of Sunshine Law. Pro Tem Rosso stated I would think we would never want to have anybody publicly put anything out on social media out of an executive session but I guess if you were sending something to another Council member maybe.

Councilman McCullough stated I would hope you would not do it on social media if you have a private email. Councilwoman Stark advised it is happening a lot with companies and companies are now coming out with stricter policies of what can and cannot come out about business and stuff so that is why I am asking where? Pro Tem Rosso answered true but if you publicize anything out of an executive session then you fall under the violation of executive session rules and a stiff fine of \$25.00 by the Council President. Law Director Graves advised I am not sure this is the time to discuss it but to the furthest extent possible communications in executive session should be verbal and as Council Members you are considered to be representatives of the people and so that a document that might have an exemption on your public records law once it is provided to Councilmen may actually lose that exemption and become a public record because at that time you have basically provided it to the people. So there is some decisions on that so in terms of communications going out over social media and things like that I would really caution any written communications regarding confidential issues. \*Motion by McCullough/Second by Kovach to accept the report. Yeas All.

**CITIZENS COMMENTARY: None./UNFINISHED BUSINESS: None./NEW BUSINESS:** \*Motion by McCullough/Second by Kovach to add Council#042 and Council#043 to tonight's agenda. ROLL CALL TO AMEND TONIGHTS COUNCIL AGENDA: Yeas All – McCullough, Rosso, Kovach, Elliott, Stark. Law Director Graves advised in response to the question posed by Councilman McCullough, I just pulled a copy of the agreement – it does specifically say that a commission of 20% will be paid of the gross proceeds. Further down it does indicate that they will charge a 10% buyer's premium but if I am not mistaken is something that would be charged to the buyers and not paid out of gross proceeds. So it is not considered part of his commission, it is a premium he would charge to the buyer to offset the online bidding. This is going to be an online nationally advertised online auction. So I guess to answer your question there is a 10% buyers premium but it is not part of gross proceeds.

#### **ORDINANCES/RESOLUTIONS:**

- 1) Council#020 – THIRD READING – an ordinance authorizing the Mayor to enter into a settlement agreement between the City of Sheffield Lake, N.C.S.L., Inc. DBA North Coast Shoreway Lanes and Marc Levin, Trustee of the Shoreway Shopping Center Trust, and the declaring of an emergency.

#### **TABLED.**

\*Motion by McCullough/Second by Kovach to un-table. ROLL CALL TO UN-TABLE: Yeas All – Rosso, Kovach, McCullough, Stark, Elliott.

\*Motion by McCullough/Second by Kovach for ADOPTION: ROLL CALL FOR ADOPTION: Yeas All – Stark, Elliott, McCullough, Kovach, Rosso.

**Ordinance Passes#28-12**

- 2) Council#024 – THIRD READING – an ordinance adopting a Fraud Prevention Policy for the City of Sheffield Lake.  
\*Motion by McCullough/Second by Kovach for ADOPTION:  
ROLL CALL FOR ADOPTION: Yeas All – Kovach, Rosso, Elliott, McCullough, Stark.  
**Ordinance Passes#29-12**
- 3) Council#025 – THIRD READING – an ordinance amending ordinance no. 28-91 regarding Deferred Compensation Plans for city employees.  
\*Motion by McCullough/Second by Kovach for ADOPTION:  
ROLL CALL FOR ADOPTION: Yeas All – Elliott, Kovach, Stark, Rosso, McCullough.  
**Ordinance Passes#30-12**
- 4) Council#028 – SECOND READING – an ordinance amending section 1133.02 of the codified ordinances of Sheffield Lake regarding the regulation of accessory buildings and manufactured homes.
- 5) Council#029 – SECOND READING – an ordinance establishing section 1133.09 of the codified ordinances of Sheffield Lake regarding minimum floor area and combined side lots for smaller lots in R-1 residential districts.
- 6) Council#030 – SECOND READING – an ordinance establishing section 1151.06 of the codified ordinances of the City of Sheffield Lake regarding accessory buildings.
- 7) Council#031 – SECOND READING – an ordinance repealing Chapter 1383 of the codified ordinances of Sheffield Lake regarding the regulation of accessory buildings.
- 8) Council#032 – SECOND READING – an ordinance amending section 1353.27(f) of the codified ordinances of Sheffield Lake regarding the regulation of manufactured homes.
- 9) Council#036 – SECOND READING – an ordinance by the Council of the City of Sheffield Lake amending the zoning classification of parcel 03-00-041-103-005 on the south side of Lake Road from B1 to B5.
- 10) Council#037 – SECOND READING – a resolution authorizing the City of Sheffield Lake to accept and approve the donation of \$2050.00 from the VFW (Veterans of Foreign Wars of Ohio Charities) to the city which has been designated for the purchase of new firearms for the Police Department; and the declaring of an emergency.  
\*Motion by Elliott/Second by Stark for SUSPENSION OF RULES:  
ROLL CALL FOR SUSPENSION OF RULES: Yeas All – McCullough, Rosso, Kovach, Elliott, Stark.  
\*Motion by Elliott/Second by Stark for ADOPTION:  
ROLL CALL FOR ADOPTION: Yeas All – Stark, Elliott, Rosso, Kovach, McCullough.



**Resolution Passes#31-12**

- 11) Council#038 – SECOND READING – a resolution authorizing the City of Sheffield Lake to accept and approve the donation of \$2050.00 from ERIE AMVETS POST 55 to the city which has been designated for the purchase of new firearms for the Police Department; and the declaring of an emergency.

\*Motion by Elliott/Second by Stark for SUSPENSION OF RULES:  
ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Stark, Elliott, Rosso, Kovach, McCullough.

\*Motion by Elliott/Second by Stark for ADOPTION:  
ROLL CALL FOR ADOPTION: Yeas All – Elliott, Stark, Kovach, Rosso, McCullough.

**Resolution Passes#32-12**

- 12) Council#042 – EMERGENCY – an ordinance authorizing the Mayor to enter into an agreement between the City of Sheffield Lake and Chris Davis, Inc. DBA Auction Ohio for the sale of personal property at the city-owned Bowling Alley building located at 4209 East Lake Road and declaring an emergency.

\*Motion by Stark/Second by Elliott for SUSPENSION OF RULES:  
ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Stark, Elliott, Kovach, Rosso, McCullough.

\*Motion by Elliott/Second by Stark for ADOPTION:  
ROLL CALL FOR ADOPTION: Yeas All – Stark, Elliott, Kovach, McCullough, Rosso.

**Ordinance Passes#33-12**

- 13) Council#043 – EMERGENCY – an ordinance adopting the memorandum of understanding and accompanying fee schedule among the City of Avon Lake, Ohio, the City of Sheffield Lake, Ohio and the Village of Sheffield, Ohio for shared jurisdictional authority for enforcement of the Ohio Building Code for permitting and inspection of improvements affecting structures constructed or to be constructed by the Ford Motor Company which are located in multiple jurisdictions and the declaring of an emergency.

\*Motion by Elliott/Second by Stark for SUSPENSION OF RULES:  
ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Rosso, Kovach, McCullough, Elliott, Stark.

\*Motion by Elliott/Second by Stark for ADOPTION:  
ROLL CALL FOR ADOPTION: Yeas All – Stark, Elliott, Kovach, McCullough, Rosso.

**Ordinance Passes#34-12**

**Council Pro Tem Rosso** advised I have a few things; first off, I received a call today and was informed that Karen Shepherd – Chief Larry Shepherds wife passed away last evening. If everyone could keep Larry and son in their prayers and thoughts I am sure Larry would greatly appreciate it. On a much happier thought, I did talk to Mr. Podmanik today. He is home and feeling better, they have identified the cause of his issues and have him on treatment. He is still undergoing treatment and I will admit to my surprise he was actually going to work this evening. I informed him that we better not see him until at least September. So he is to take care of himself and get back his health. He appreciates everyone's thoughts and I would ask that we don't bombard him with a lot of stuff but he is more than willing to take any calls and talk to anyone if they have any questions. But he is definitely improving which was good to hear today. Finally, as most of us know up here August is Council's vacation month and our schedule is going to be that we are going to have our public hearing and then a Council meeting on August 14<sup>th</sup> – the public hearing at 6:30 and Council at 7 and I believe in the past we have always passed this as a motion. \*Motion by Elliott/Second by Stark that Council take August for its vacation month with exception of August 14, 2012 for a public hearing for zoning changes at 6:30 and Council at 7 pm. Yeas All.

Councilman McCullough added we have 2 teams that are playing for state championships this weekend from Sheffield Lake Hot Stove; one is the girls under 18 softball and the 13 and 14 year old boys.


**MEETING ADJOURNED:** With no further business before this council, Motion by Kovach/Second by McCullough to adjourn at 7:38 pm. Yeas All.

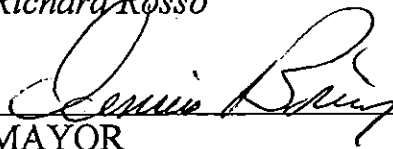
**CLERK OF COUNCIL AFFIRMATION:** This Meeting Of The City Council Of The City Of Sheffield Lake, Ohio Was Held And Conducted Under All Rules And Regulations Governing The Sunshine Laws Of The State Of Ohio As They May Apply. All meetings are recorded and available in council offices.

  
 \_\_\_\_\_  
 CLERK OF COUNCIL  
 Kay Fantauzzi

\_\_\_\_\_  
 PRESIDENT OF COUNCIL  
 Edward R Podmanik

and/or

  
 \_\_\_\_\_  
 COUNCIL PRO TEM  
 Richard Rosso

  
 \_\_\_\_\_  
 MAYOR  
 Dennis Bring

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 July 24, 2012.