

**MINUTES OF CITY COUNCIL WORKSESSION**  
**SHEFFIELD LAKE, OHIO**  
**June 19, 2012**

The regular meeting of the City Council Worksession was held Tuesday, June 19, 2012. Council President Edward Podmanik called the meeting to order at 7:18 PM.

**ROLL CALL OF MEMBERS:**

Present: Podmanik, Rosso, Belaska, Stark, Kovach, Elliott, Smith, Mayor Bring, Treasurer Woods, Finance Director Smith, Service Director Smith, Law Director Graves

Absent: McCullough (excused)

Attending: Concerned Citizens, Members of the Media

**PRESENTATIONS:** *Municipal Income Tax Uniformity Achieved Through a Balanced Approach* - Law Director Graves advised we were visited not so long ago from a Representative from the Ohio Municipal League which is an advocacy group that takes on state wide municipal law issues and they are very concerned with an effort at the state level to unify the local income tax collections and centralize it at the state. Many, many communities have now passed a resolution opposing this and this person was asking if we had drafted anything yet and I told him that we had not and so he forwarded all this onto us. It is the opinion of the Ohio Municipal League that this is not a good idea and that it will have immediate negative consequences to the ability of municipalities to fund basic services and to not pass to keep the tax payer obligation to a minimum. So I thought I would put this in front of you and if there was some consensus we could pass a resolution opposing this as well. I don't know if the Finance Director had anything more on that. Councilman Rosso clarified this is where the state wants to collect all the income tax money right and then distribute it back? Finance Director Smith answered yes and you know how well that has worked for other things including local government which is we have just been cut in half. Somehow our money doesn't remain our money and they are squeezing cities more and more, I am very concerned. Councilman Rosso asked what is our annual bill with RITA? Finance Director Smith answered their costs is 3% of our collection, so \$45,000 to \$48,000. Councilman Rosso asked in theory would this replace RITA, making the assumption that they collect all the money and really give it back? Finance Director Smith answered well that is the thing, she corrected; everything that RITA collects, Roads and our regular General Fund is about \$95,000.00. But the state will charge a fee as well I guarantee it. The nice thing with RITA is we are in a consortium and that consortium regulates the fee and the more people that are in the consortium the lower fee actually. Right now the state charges us every time they look at one of our pieces of paper. Councilman Rosso asked have we seen any of the proposed state legislation on this, I thought this said that they adopted something -

HB477. Does that define this? Law Director Graves advised I think I have copies of it but it is not attached. Councilman Rosso stated but in there you think there is some sort of fee that they would charge to collect this? Finance Director Smith answered I don't know if they state that in the bill, I haven't read the bill honestly because I was hoping that this wouldn't go through. Law Director Graves explained the Ohio Municipal League is an advocacy group for the local governments and they are strongly opposed to this. They are pretty well versed in legal counsel and they decided this would not be good for local governments. Councilman Rosso stated we need to ask the questions; in theory, they would collect our money, give it back and we would save \$95,000.00 because we wouldn't have RITA anymore? Finance Director Smith advised I honestly don't think that is what would happen. They charge a fee for everything now, why wouldn't charge a fee to collect our income tax? Law Director Graves stated we can get more information on it, most of the objections if you look through here seem to be that the local communities would receive less funds than they currently do. This is in an age where local communities are being asked consistently to do more and more with less and less. Councilman Rosso asked but did they say why they would receive less funds and what is the states reasoning for trying to do it? Finance Director Smith answered control our money. Councilman Smith stated they certainly aren't going to do anything for free for us. President Podmanik asked Mayor Bring do you have an opinion on this? Mayor Bring answered Tammy and I looked at this and discussed it but again if they control the money they are still going to charge fees. Personally I don't believe it is a good idea. Finance Director Smith stated and they want to make it a uniform tax so what is going to be the uniform tax, is it going to be what we charge now? Councilman Rosso stated these are great questions and without answers how do you make a decision? Dennis have you heard any other Mayors saying anything? Mayor Bring answered no I have not. Finance Director Smith stated I think it is pretty across the board most of the communities that have municipal income tax are opposing it or that have RITA or have their own. President Podmanik asked has RITA offered up a statement in their defense as to why they should be kept? Finance Director Smith answered RITA is against it as well. I think I got something and I will have to forward it to you. Law Director Graves advised the Municipal League is looking for as many local communities as possible to pass a resolution opposing the state centralized income tax and they have sent me resolutions from a number of different communities; City of Athens, City of Twinsburg, City of Ashland, Village of Richmond. Councilman Rosso noted the Municipal League sent you this and we have yet to name one in Lorain County. Law Director Graves advised if you want to continue to think about this or if you want some more information we can certainly do that. President Podmanik stated I think it certainly warrants some more information, as much as possible. Law Director Graves advised a lot of them were done in the spring, it is really not anything urgent and if the decision is just not to do anything that is fine – they are just looking for a resolution of support in opposition of the proposal.

\*\*\*\*\***COMMITTEES**\*\*\*\*\*

**ROADS & DRAINS: None./SAFETY: None./BUILDINGS, LANDS, VEHICLES & EQUIPMENT: None./ORDINANCE: None./FINANCE: Chairperson Stark advised we have a public hearing for the 2013 Tax Budget scheduled for Tuesday, July 10, 2012 at 6:45 pm. President Podmanik asked Law Director Graves with that public hearing coming up, could you find who is supposed to officially chair that public hearing. Is it the President of Council, Pro Tem or Committee Chairman? Councilman Rosso stated hasn't it always been the Finance Chair?/**PARK BOARD: None.****

\*\*\*\*\***ADMINISTRATIVE**\*\*\*\*\*

**MAYOR:** Mayor Bring advised all the local municipalities are participating in this and David you may help me on this. They are talking about getting a grant for fiber-optics in this area and they have approached all the local municipalities. They want us to pass a resolution to participate in a grant and I will get that to you. The grant costs us 0 money but I actually had Rich look into that and he said it is really a good idea./**FINANCE DIRECTOR: None./SAFETY DIRECTOR:** Mayor Bring reported we had a little bit of an episode on Lakewood Beach the other day, we had a gentleman that swam out too far but was also a little bit intox. He was crying out for help but they got him in time. Obviously with the hot weather and everything with alcohol people are drinking beer but swimming out too far after you have a beer is not a real good idea. They were fortunate to get him back in and he was pretty grateful./**SERVICE DIRECTOR:** Service Director Smith reported Shoreway is coming along; a lot of compliments coming in from residents, patrons and businesses/Residents are inquiring about the theme and I have had 2 businesses ask if they could borrow our theme and bring it into their place of business and parking area. So they are taking ownership and I think that is good. Now that the walkway roof is repaired – 150 feet in front of Rite-Aid we can get the trivet which is the exterior stucco repaired and the sub-strait which is the rotted wood that is under the stucco. We have like 3 areas of major collapse that is about ready to just fall out and I am currently taking estimates on the costs of that repairs. I have had several questions this week concerning the Bowling Alley, it is something that is repeatedly brought up about the space and what is going on. Just so you are aware there are a lot of questions about that. Belle/Brockley area – we have the ditch which Eric is familiar with – it runs Holl, Knickerbocker, Brockley and Belle. We have some real safety issues over on Brockley and Belle – we got trees overhanging houses which are just literally going to come down on top of the houses. The Building Department is being proactive and the property owners are being located who David had done the big research on about 2 years ago with all the property owners. One in question right now from what I understand is a church in Elyria which owns some of the property these trees are coming out of and falling down onto the houses. I think the city is going to end up taking action and moving the trees and then forwarding the costs and putting it on their tax duplicate and moving ahead. We have to act, it can't go on much longer before we

are going to have loss of property and possibly injuries. So that is something that we are working on. We have a new machine in the arsenal against overgrowth, brush and ditch maintenance. It is an articulating boom mower, it is mounted on the john deer tractor that we purchased several months ago. It does the sides, the outsides and can reach over the guardrails and mow side to side inside the guardrail and the trees and knock them down. Today we started tackling Abbe Road, south of Walker – when you are coming out of Walker how you can't see all the brush and started on Walker Road – that is going to be an on-going process on ditch maintenance. We are going to get our right of ways and our easements back to where we can actually get onto the property and get in there. With us doing ditch maintenance – that is something that is going to be up and coming; mowing and getting the overgrowth and everything out of the way is going to be very important. I urge you to look at the new machine and see how well it does and you will be seeing it around and out in the lot. Councilman Kovach advised sometime back Len I brought to your attention behind the business at Walker and Abbe Roads; the service garage there – the gentleman is storing tires out in the trees and you told me that they were on racks. Well I went by there about a hour and a half ago and he has them in the racks but he has nailed the trees. That is highly illegal and it has got to be cleaned up because this is mosquito season. Service Director Smith advised I have had the Building Department over there and Jon has been over there and he was told to move everything and I believe he came real close to getting cited. So I will make sure in the morning that he is back over there. Councilman Kovach advised to properly store those tires, they have to be stored in a container for that building. Service Director Smith concurred. Councilman Kovach advised it has got to be done because we are getting in the thick of mosquito season. Councilman Smith stated Parkview behind the apartments on Irving Park, that pile of trees there – that has gotten like 5 times bigger than what it was – it is huge. Service Director Smith advised Jon has been over there too and I don't know what the end result was. Mayor Bring advised I actually went by that today and looked at it. He hasn't touched it. Service Director Smith advised I will find out what is going on with that. **LAW DIRECTOR:** Law Director Graves advised update on the demolition of nuisance properties in the city. First of all in regard to 626 Kenilworth that we are working with the county on for the use of NSP3 funds – the preliminary judicial report did reveal an additional lien. I am trying to make contact with the attorney that filed that and as soon as we resolve that issue we should be very close to proceeding with the demolition of that house. I did raise the question with the county in regard to the use of NSP1 funds for reimbursement of costs of condemnation in addition to demolition, so that if we have vacant properties in the city that are for example held in the name of a deceased individual, if we have to publish notice in the air if we file a condemnation action. I did receive word back today that they deferred with the state and that those costs would in fact be reimbursable to the city. So that is further incentive for us to move forward and as soon as the Building Inspector finishes his lists I think we can start moving forward on that and seek reimbursement through the use of

those NSP1 funds. He continued there is a lot of legislation here tonight and I will try to make it clear as possible; a lot of it is interrelated and a lot of it requires some future action –

**Accessory buildings** – Law Director Graves advised the first piece of legislation that you have before you today is a resolution setting a public hearing on 3 different pieces of legislation regarding accessory buildings. As you are aware any changes to the zoning code requires a Planning Commission review and a public hearing. The Planning Commission has completed their 60-day review, so we just the resolution setting public hearings and the public hearing would be on the next piece of legislation which would establish a new section of code 1151.06 which governs accessory buildings for the city. This has gone through a lot of debate and review by the Planning Commission as well as the Ordinance Committee, I think it is pretty good and it covers a lot of different potential areas. So that would have to be part of that first resolution to set the public hearing. Councilman Rosso asked if these get adopted, people that already have whatever up; accessory buildings up than they are grandfathered in. You can't go back and make them move things right. Law Director Graves concurred right those would be considered non-conforming structures and would be grandfathered in. He continued in addition the next piece of legislation is amending section 1133.02 and that is the R1 residential district permitted uses and it would be eliminating subsection c because that provision on accessory buildings would be replaced by the new section 1151.06.

The next piece of legislation would be repealing in its entirety Chapter 1383 of the codified ordinances, this is our current chapter on metal sheds and accessory buildings. This is in direct conflict with the provisions of 1133.02 and was one of the reasons why we needed to establish the new section. So all three of those ordinances would need to be set for a public hearing in that first resolution with 30 days public notice and then once that happens they can be given a first reading. As they are zoning changes they all need to go three readings. I would recommend that you set it as soon as you can giving 30-day notice of the public hearing. The drafts have to be in the newspaper and must be posted.

There is actually 2 pieces of legislation in regard to Manufactured Homes; the first one amends section 1353.27 and that is part of the building code and as you may or may not be aware we cannot impose any regulations regarding the building of manufactured or mobile homes. That has been preempted by the State of Ohio through the Manufactured Homes Commission. Our local authority over manufactured homes is limited to zoning but we cannot put any additional requirements on the construction or building of them - it makes sense to repeal that. Councilman Rosso asked but they have to meet our zoning code because they have to have to the right square footage on the right size square foot lot? Law Director Graves answered correct and that is the next piece of the legislation is amending section 1133.02 which I will get to in a second. The first thing to understand is that we have to repeal 1353.27f because we cannot enforce that so that section needs to be repealed. Now 1133.02 might sound

familiar to you because we just had a piece of legislation amending that on accessory buildings. We are also amending it in regard to Manufactured Homes. So this is an interesting situation where this particular section of our codified ordinances is probably going to be amended twice in a very short period of time. The Manufactured Homes provision will probably go in first. Technically we are going to probably need to set this for public hearing. So we are going to need a resolution on that as well. I should probably combine it into one new 1133.02 and I will make that correction for next Council meeting. On this one we are adding sections f and g; the previous f becomes h so we 2 new paragraphs in there which say that permanently sided manufactured homes that comply with all zoning requirements that are uniformly imposed on all single family residences would be permitted. So basically a permitted sided manufactured home would be permitted in R1 so long it complies with all other requirements of single family residents. Park trailers, mobile homes and manufactured homes not qualifying as permanently sided manufactured homes are prohibited. That is going to need a resolution setting that for public hearing and what I will do is just make one new 1133.02 that has both and then if you look at it subsection c is what is going to be eliminated as well. There will 4 for public hearing instead of 3. Only one new 1133.02 but with both changes; accessory and manufactured.

The next thing you have is Ohio Legislative service commission analysis of the amendment to Ohio's vicious dog ordinance. This is a review and summary of the changes that the State of Ohio made. This is mainly for your information, the Ordinance Committee did review this and Eric do you want to review the consensus of the Committee. Chairman Elliott advised Committee reached the conclusion that we are recommending no change be made to our current vicious dog ordinances. Basically our local code is more restrictive and actually gives us a little more authority to go in and maybe remove a vicious dog. So at this time we do recommend no changes be made to our local code. Law Director Graves advised the most specific application I guess you would say is that we continued the breed specific language under our vicious dog ordinance. Currently to be classified as a vicious dog it has to be a dog that has either bit a human being or killed another animal and then we have also left in belongs to a breed commonly known as pit bull. If you have a dog meeting any of those 3 criteria in Sheffield Lake; you have to register with the Police Department and you have to maintain liability insurance and if that dog gets loose then you have failed to confine a vicious dog which is a much more serious penalty then just a dog at large. The state has taken the breed specific language out so our community has selected to keep it in. Chairman Elliott advised Dave has briefed our committee basically that we do have the authority to be more restrictive on the Ohio Revised Codes. We cannot counter an Ohio Revised Code but we can be a little more restrictive correct Dave? Law Director Graves answered in most cases.

The next piece of legislation is establishing a new section of code which would be section 1133.09, this amends the R1 zoning and again this will need a public hearing as well. This is just a proposal formalized, I think when the Ordinance Committee re-

viewed it they wanted to bring it to Worksession and if everybody likes the idea then we can take it to Planning Commission and start that process. Basically what this boils down to is this a proposal by Mayor Bring and what this would do is for smaller lots that have less the 90-foot frontage and/or 9000 square feet, if they went to Zoning Board of Appeals and received a variance to build on that smaller lot that they would then be permitted to build a 1200 foot house as opposed to the 1500 square foot and only be required to meet a minimum 20-feet of side yard as opposed to the current combined minimum side yard of 30 feet. It would still require a variance, it is still going to be required to go to Zoning Board of Appeals, it is just instead of getting 2 or 3 variances they would only need one variance with the understanding that if that variance was granted they would be allowed to build 300 square foot smaller footprint home. So that one we would just be looking for a resolution referring to Planning Commission. Committee concurred.

Amending ordinance 28-91 – Law Director Graves explained in 1991 the city passed its initial ordinance authorizing the city to offer a deferred compensation plan. Since then we have a total of 4 different deferred compensation plans that are offered to our employees. 3 of the 4 are now offering a Roth option on that 457 deferred compensation plan. All we need to do because that original ordinance just authorized the city to offer a plan, all we need to do is amend that original ordinance to read that we are authorized to offer a 457 Roth option. We would like to have that considered at the next Council meeting and then there will be various agreements that we will have to sign just to make that available to our employees.

Law Director Graves concluded with I would like to have a brief executive session. Councilman Kovach advised myself and Mr. Rosso were approached with the question, trees on city right of ways are whose responsibility? Law Director Graves answered they nearly always the responsibility of the homeowner. The city has obligation to maintain the right of ways in a safe manner. So if there was a tree that was impeding the visibility then the city would trim that back and I think it is important to differentiate between a right to do something versus a duty to maintain and in most cases what the city has is more or less a right to enter upon those tree lawns for the purpose of trimming back vegetation that could be become a safety hazard but not necessarily a duty to maintain that for the property owner. Law Director Graves advised the city would also have a right but not a duty to go and remove or trim back trees that they felt were diseased or imposed a threat on other trees and put the costs of that on the lien.

**/COMMUNICATIONS: None./OLD BUSINESS: None./NEW BUSINESS: *Charter Review Board* – None./Councilwoman Belaska asked when was the last time people getting an increase at the next election, like the Mayor making \$8000.00 a year. An increase in the future, Council people – for the year 2014? Law Director Graves stated it has been a long time since the last increase. There was a brief debate on the Charter which Finance Director Smith advised PERS is looking to make a**

minimum threshold to allow people to be in the PERS program and they are looking at \$10,000.00 a year. That right now is in the house or senate one or the other. Clerk Fantauzzi advised which was the reason for the last increase years ago was because PERS mandated it.

**ORDINANCES AND RESOLUTIONS: Councils Agenda –**

Council#019 – THIRD READING – a resolution authorizing the City of Sheffield Lake to accept an assignment of property from Brett Locher, President and statutory agent of North Coast Shoreway Lanes (NCSL), for purposes of settling litigation related to Lorain County Common Pleas Court case no. 10 CV 168084.

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.

Council#022 – THIRD READING – a resolution authorizing the City of Sheffield Lake to accept and approve the donation of one thousand dollars from James Kolleda to be used for the Sheffield Lake Fire Department, and the declaring of an emergency.

\*Motion by Rosso/Second by Elliott to go into executive session for pending litigation. ROLL CALL FOR EXECUTIVE SESSION: Yeas All – Elliott, Smith, Rosso, Kovach, Belaska, Stark.

\*Motion by Rosso/Second by Elliott to return to regular session. ROLL CALL TO RETURN TO REGULAR SESSION: Yeas All – Kovach, Smith, Elliott, Stark, Rosso, Belaska.

Law Director Graves advised let the record reflect that the City Council of Sheffield Lake did adjourn into executive session for the discussion of pending litigation with the City Attorney in compliance with the Sunshine Laws.

**MEETING ADJOURNED:** With no further business before this council, Motion by Kovach/Second by Elliott to adjourn at 8:30 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.



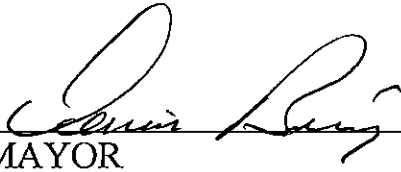
  
\_\_\_\_\_  
CLERK OF COUNCIL/COMMITTEES  
*Kay Fantauzzi*

\_\_\_\_\_  
COUNCIL PRESIDENT  
*Edward R Podmanik*

*and/or*

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

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 WORKSESSION of June 19, 2012.

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