

Minutes of the Ordinance Committee Meeting
Sheffield Lake, Ohio
February 4, 2010

The regular meeting of the Ordinance Committee was held Thursday, February 4, 2010. Chairman Eric S Elliott called the meeting to order at 7:24 PM.

ROLL CALL OF MEMBERS:

Present: Elliott, Bring

Absent: Huska (excused)

Attending: Councilman Kovach, Planning; Belaska, Law Director Graves,
Grant Administrator Gardner, Members of the Media; Avon Lake
Press

READING OF THE MINUTES: *Motion by Bring/Second by Elliott to approve the minutes of the December 3, 2009 meeting with any corrections. Yeas All.

PRESENTATIONS: None.

CORRESPONDENCE: None.

OLD BUSINESS:

Water base rate increase – **REMOVE.**

Wind turbines; Nex Gen – Law Director Graves advised we have the proposed contract from Nex Gen for the construction and operation and we are continuing to review that. Also as you know the ordinance regulating wind energy facilities I believe up for a second reading. Mr. Bring asked do they any idea of when they really wanted to get that thing up if everything goes well. Law Director Graves stated they would like to start it by April or May, they would like to go as soon as they can. Basically what we are waiting on is the legislation to be passed which as you know any type of new zoning would be require 3 readings plus the 30 days, you can't suspend the rules or do it as an emergency. Then after that with the way it is written it has to go to Zoning Board of Appeals I believe for an issuance of a conditional use permit. So once all that is done and the contract is acceptable which we do have several questions about the way this is structured and how the power – not so much the construction and zoning and so forth but the actual generation of the electricity and how that is going to be fed into the grid or fed directly into the shopping center; how that is all going to be structured. Chairman Elliott asked anything on the changes to the legislation? Law Director Graves answered I believe Council pointed out about 5 changes and I noted those and I will have a revised draft for Council next Tuesday. Chairman Elliott asked Debbie, do you have anything to add because I know this just came out of Planning? Mrs. Belaska answered no, I think everything is going accordingly.

NEW BUSINESS:

Law Director Graves stated as you are aware we do have the proposed legislation for the new waste contract. I have given up trying to figure out what to call them. As of the last amendment 3 years ago it was Allied Waste formerly known as Browning-Ferris. Now they are Republic Waste but the way they wrote it was back to Browning-Ferris. When he sent it to me which I completely rewrote, his original was about 1 page and I made it into 5 but he had Browning-Ferris and I rewrote it as Republic Waste Services and he called me on the phone and said no, we are still Browning-Ferris of Ohio for contractual purposes. I said I am not even going to figure it out I am going to take your word for it, whoever you want to be called that is what we call you. So I guess for our purposes we are still dealing with BFI but you have the proposal there and I encourage you to look at it. I did put the ordinance out as an emergency, I know you like to spend some time with these things and that is why I wanted to get it to you early. Obviously it is your prerogative if you want to not suspend the rules, the sooner that it passes the sooner they can implement the program. They could have it in place as early as March or I know the contract reads it will be done by April even though the new term doesn't actually officially start until May. Chairman Elliott asked this is for the fully automated pickup right? Law Director Graves answered that is correct with the recycle bank program. Mr. Bring added with the 1 week unlimited. Law Director Graves advised just to give you a quick rundown on the important details; cart system – everyone will be provided with 1 or more of the blue waste carts/either a 68 or 96 gallon cart, for seniors or individuals who do not generate much waste they could actually get a smaller cart that is easier to manage – a 42 gallon I think and then 1 – 68 gallon recycle bin. The residents are going to get 3 notices outlining the plan, what is recyclable, how the whole thing works and also advising them of the new collection schedule. Going to the fully automated system trash collection is now going to have to be spread out over 2 days. I said our residents have gotten very used to Friday collection and if it is at all possible can you structure this as a Thursday/Friday kind of a thing and he is going to try to do that – he said it will either be a Thursday/Friday or a Monday/Tuesday. I know there is some folks that kind of wanted to go to a Monday collection anyway, Monday is a good day with the weekend clean-out and then you can put your trash right out the next morning. So it will be that schedule. The one week a month there will be unlimited trash pickup, you can put anything you want out there. Doesn't have to be in the container; hefty bags, washer machines, couches, whatever you want – they will take it. Yard waste; every week they are still going to do quote/unquote unlimited yard waste. Branches; they still take anything you put out there so long as it is bundled. Grass clippings and leaves clippings have to be in the biodegradable bags. If you don't want to put them in the biodegradable bags then you can put them in your blue cart but that takes away your space for your trash but if don't have a lot of trash you can still throw grass in there – not in the

recycle cart! The other option is you can save all your grass and leave clippings up for your 1 unlimited week and put out in whatever you want to put it out in. So that 1 week of unlimited you can put it out in hefty bags or whatever you want and they will take it all. Chairman Elliott confirmed so you can put grass clippings in the blue cart? Law Director Graves answered right in the waste can – not the recycle can. Mr. Bring stated they will pick that up every week. Law Director Graves stated they will take it now you are using up some of your space for trash but like I said if you have extra space you can do it. The recycle bank program will be in effect, the way they look at it is per 800 homes. So we have about 3500 or 3600, just for an easy sake we will say we have 3200 homes then the city divided into 4 sectors and then they are going to look at those 800 homes for purposes of calculating the recycle bank. Every participating home owner, those recycle bins have a chip in there and they will scan it so they will know exactly who participated and what they are going to do is within an 800 home group they are going to take an average weight of those individuals who put material out. So if within that block, 50 people put their recycle cans out it is an average for those 50 people – they get the credit. Originally I was thinking is it everybody in the 800 homes, so if only a couple of people put it out that everybody gets the benefit of that. No it is only the people that participate. You will receive points, 2-1/2 points per pound of recycle material. Councilman Kovach joked so if I was to recycle some cinder blocks every week? Law Director Graves stated they are not recyclable. There is so much now that is recyclable, it is not like it used to be where it is just black and white. Councilman Kovach advised we should probably get a good list of that? Law Director Graves advised they will, they are going to provide the literature in the mail and it is also right on the lid of the green cart but they are going to put lots of literature out. All of your magazines, even the glossy colored print, newspapers, all your cardboard, any paper, all plastics, all metals not just aluminum, old phone books. So then your going to get these points and then the way your redeem your points is by either going on-line – there will be a website that you can go to and like check your points and print out a credit thing or you can call an 800 number and they will mail it. But you will get a set of points and I guess the conversion of points to dollars varies based on the participating retailer. So for example, for every pound you get 2-1/2 point maybe at and I am just throwing it out there maybe you get \$10.00 for every 100 points but maybe Drug Mart will give you \$15.00 for every 100 points. Different stores are going to give you different amounts of credit based on how many points you have achieved. But the recycle bank program is part of this. Chairman Elliott asked are they still recycling glass? Law Director Graves answered yes any glass, any colored glass. Mr. Gardner stated then you got the city stuff. Law Director Graves advised yes we will get the dumpsters and all that. Mr. Gardner stated plus all the Community Center covered. Mr. Bring stated I think we get 4 large dumpsters free and then 12 for the one year or something, I was reading that too. Law Director

Graves stated it is a good plan, as we pointed out before North Ridgeville went out to bid and BFI won the bid at a higher price, a significantly higher price than what we have and Ridgeville is much closer to the landfill. So they are hauling trash a lot farther for us and we have a better price without going out to bid by just extending the contract that we have. Mr. Bring stated that contract reads what 5 – 1 year deals, can that be broke at any time or is that a 5 year deal? Law Director Graves answered yes, the last one was a 3 year. He was offering us a 3 year right now if we didn't go to the full auto but it would have been .50 (50 cents) more per household if we wanted the recycle bank program. Chairman Elliott stated I like it better this way. Mr. Bring stated hopefully it all works out. Chairman Elliott stated I think we were eventually going to have to do this anyway. Eventually the city was going to be forced, at least we can now do it on our own terms. Law Director Graves stated by doing this we remain eligible for solid waste grant money. Mr. Bring stated I think they said if older people couldn't get that out they would actually help do that too. Law Director Graves stated I think that if we had a few seniors that were really having problems that they would work around that. There are some communities in the county that are doing this on a pilot program, like a 900 home pilot program. In fact North Ridgeville did a 900 pilot program and they just are sitting up a full city wide program and it has been very successful. Also the City of Elyria does their own trash collection and they have now decided to go to full auto as a city and my understanding they are investing 3-1/2 million dollars in trucks and carts and everything to go to full conversion. I would imagine it is to reduce their workers compensation premiums, the trend nationwide is to get away from touching/handling the trash. Chairman Elliott stated I like the fact that you get points as an individual not so much as a group, it might actually encourage some people to recycle. Law Director Graves reiterated yes it is an average based on the people that participate in the 800 home sector. Councilman Kovach asked what if say only one person puts out a can say once a month and then there are others that have kids that do it every week. Law Director Graves stated they are going to read it every week and so you are going to get points, you will be part of the average on the days that you put it out. In fact I guess that is pretty common that people will not put the recycle cart every week, maybe every other week or whenever they can fill it. Mr. Bring stated with the containers and the lids and everything I think it will just be a much neater situation for the whole city. Councilman Kovach stated I see all these little bags blowing all over town and plugging up ditches that nobody picks up and stuff like that. Chairman Elliott stated I think it is just a better way to go about it all the way around. I didn't like the other proposal of going with the pilot program where they were only going to do so many streets for what 2 years or 3 years? Mr. Bring answered 2 years. Chairman Elliott stated I think this is the better way to go about it. Mr. Bring stated once we get everybody on the same page.

Law Director Graves stated I would like to raise one issue, I would like this

committee to consider revisiting the ordinance which requires City Council approval for all donations to the city. This type of ordinance is a very good idea, there are very good and sound reasons why we should scrutinize and have legislative approval for donations making sure that the objectives and principals of the city are met by not only the donor but the stated purpose of the donation. So I think that the concept is a very good one, the issue is the way the ordinance was written is City Council approves any and all donations with no wriggle room whatsoever, both tangible and intangible. We have had a number of situations which for example; if someone comes up at Pride Day and says I think the city is doing a great job – here is \$20.00, we have got to come to City Council and ask for authorization to accept that. Other things where some tile was damaged/needs replaced at the Community Center and someone says you know what, I want to help out the city – I will donate my time and materials and I will fix it. Well that might be something City Council has to approve because that is an intangible donation. My recommendation would be that you consider a sealing or however you look at it or a minimum threshold where perhaps City Council approves any donation to the city over \$1000.00 or over \$500.00. That way the city could accept nominal donations of time or service or material but would still have legislative approval over the significant donation. Chairman Elliott stated it doesn't make sense to me especially when you have to waste paper to draw something up to approve \$20.00, by the time you waste the paper and the time you pretty much already spent the \$20.00. Mr. Bring stated the only thing is we have the situation where the Fire Department is getting donations and this and that, we are just trying to keep track of all this money and I think that is why we initiated it originally. It wasn't just because of them and some other instances where we were just trying to keep track of all that. I would have to think about that, have something at the Worksession to really discuss that. Chairman Elliott stated I have already talked to a couple of Councilpersons and they have already stated that they are dead set against it but we can at least talk it out at the Worksession. Mr. Bring stated I think the reason is that we were not keeping track of some of the things. Law Director Graves stated prior to this I don't think there was any approval whatsoever, there was no approval needed. Mr. Bring stated for equipment like selling it. Law Director Graves stated selling is a totally different thing, selling under the ORC a department head can authorize a sell of any property under \$1000.00. It is over \$1000.00 the legislative body has to approve the sell. However to throw away or destroy anything that might have value, it requires legislative approval which is why periodically you will see me come to you with an ordinance that says seeking Council's approval to dispose of the following items attached with the schedule as they have little or no value and are no longer needed for any municipal purpose. So in terms of accepting donations in, you know someone says I want to give a \$1000.00 to the Service Department to buy a generator. You know you wanted to make sure that the person giving it was not an unsavory individual or an unsavory

organization. Certainly the city doesn't want to get in the situation where we are accepting donations from something crazy you know and that the purpose of the donation is legitimate as well. But I also think that it makes rational sense to put a limit on it, not to have to approve every donation that comes in. Chairman Elliott stated we will forward that to Worksession for further discussion with Council as a Whole.

Law Director Graves stated we have an ordinance which requires that all homes that their sanitary lines be tied into city lines and so forth and if that doesn't occur or if there is a break in the line on the private residential property – so it is not a city responsibility it is a private homeowners responsibility and if there is a break in the sanitary line what you wind up with is their ground water and rain water and everything ends up infiltrating the sanitary sewer which overwhelms and creates lots of problems as you know. The way our code currently reads, we can shut their water off but if it is a vacant home and that may not be a big deal but there are even criminal penalties but that doesn't abate the immediate problem and there is nothing on the books that says the city in that circumstance can enter onto the property and remediate the problem and then put the costs on the private homeowners tax duplicate. There are many other examples in the code where that is the case; for the general health, safety and well being of the community and when a homeowner for whatever reason has refused to abate the problem – the city can go in and fix it ourselves and then costs of that be assessed to the homeowner and ultimately attached to the tax bill. So we have a situation right now, we have one right now we are going to get a consent that the costs just be put on their taxes. Chairman Elliott clarified so basically your recommendation would be for us to pass an ordinance that says that you go in and abate the problem? Mr. Gardner added and put it on their tax duplicate if they can't pay us. It is a federal law that they can go after us, the city if we don't do something about it but the penalty to the homeowner is significant; it is like \$500.00 and 6 months in jail. Law Director Graves answered it is a third degree misdemeanor which would be a maximum \$500.00 fine and 60 days in jail and a separate offense for each day for the violation. Chairman Elliott stated I don't have a problem with it. Mr. Bring stated so right now if you go on their property without their permission we can't do anything or we get sued, is that what you are saying? Mr. Gardner answered we can go on their property, it is just in the sewer case we really don't have any way of collecting if we do something but with the law the way it is now we have to do something if they don't and this particular example; this person is in Pennsylvania. Law Director Graves stated if it is the regular homeowner that is refusing to correct the problem, we can start charging them criminally and the threat of going to jail is a bigger hammer then a bill on your taxes. It is more of the out of town homeowner that we want to correct the problem now but then we don't want to just incur the costs. Chairman Elliott stated I know a couple of years ago we still had a couple of homes that were still hooked up to septic systems, do we have

anymore that are still? Mr. Gardner answered we still have 9. Chairman Elliott asked what about in this case where it is hooked up to a septic system, can we go in and correct it? Mr. Gardner stated if it is hooked up to a septic system and their system fails, the county is responsible for making them comply with a septic system. We can provide, if we bring a sewer to them/close to them then we can mandate that they have to tie in but that is not the case here. Right over here in the center of town we have 4 right down there in the old Mizpah subdivision. Chairman Elliott stated so that is more of a county issue not so much a city issue then. Mr. Gardner answered we have a requirement in our MS4 to get those people off eventually but there is no grant money that is free, there is money that is matching. I tried to use the CDBG money to do it over here on Allen Court but the people have to be low to moderate income and they make too much money on the lake, nobody can qualify. Chairman Elliott stated let's say that a home with a septic system is vacant. Mr. Gardner stated a home with a septic system isn't going to be an issue because it is not tied into our sanitary system. Chairman Elliott stated yes but it still leaks. Mr. Gardner stated it leaks in their yard, in theory there is no sanitation going on if nobody is in the house so it is not going anywhere. There may be some ground water contamination going on but as far as getting off the property, we don't have anything right now on that particular issue – that would be a county Board of Health which I am on the Board. That would be their issue, we go to them.

Mr. Bring stated apparently we have situations where people are taking their water covers off and shutting their water off and the guys have said the residents have actually done that several times. Mr. Gardner stated we have had 2 different occasions where we have had an ordinance that said you can't do that but I don't think it is in effect now? Mr. Bring stated I know in Avon Lake if you lift up that and tamper it is between \$400 and \$500 a fine. Chairman Elliott stated this was brought up before at a Worksession, is what the intent I think is what it came right down to. Mr. Bring stated we just had another situation where they went over there and the people had already shut their own water off. Law Director Graves stated well that is illegal. Mr. Bring stated I know but they are doing it and we are not doing anything about it. Law Director Graves stated I think the way it was proposed the last time was illegal to even open the lid or look in there, I will look it up but you can't mess with your water meter. Mr. Gardner stated the language that said it was illegal to take the cap off has been taken out twice by the guy who does the recodification of the ordinances – we have lost it both times. We passed I know at least, I know we passed it once. Law Director Graves answered no the last time this came up you wanted to propose something that it may be illegal to open the pit and nobody agreed with that. It was not about merely opening it, it was the intent. Mr. Gardner stated if you go to the meters that are read from the road, they are going to have electric wires coming to them but if start lifting the lids up and stuff – it is going to get worse not better. Mr. Bring stated I just know that the

guys said something the other day and they said that a couple of people had shut their water off. They didn't do anything about it, they went there and took care of it. Chairman Elliott stated so basically if there is a problem in the house instead of shutting off the water main, you should be shutting off the water to your house inside the house. Mr. Gardner stated yes but there are many houses in this city that do not have master shut-offs unfortunately so they call us and we come out. We used to come out in the middle of the night and do this and we forced a lot of homes over on the Oaks over in there to put their because they had the pipes overhead and they were always freezing like in the living room. Well most of those houses have been rehabbed and that issue has gone away but we used to have to come out and shut the main off because they didn't have shut-offs. Chairman Elliott stated is it part of code now that you have to have a water shut-off inside the house. Mr. Bring stated I think everybody does, I don't know if there is a code. Mr. Gardner stated the plumbing code there is but as far as for an existing home it isn't that I know of, I mean it is stupid not to but we don't go after them. Mr. Bring stated I was asked to bring this up, I didn't know if there was anything on there anymore or not. Law Director Graves stated I don't see it right now, I know we discussed it a couple of years and it didn't pass. Chairman Elliott stated yes but now like Bill just brought up though we are wanting to put these new meters in or meter readers in and if they do take that lid off it could possibly damage the system. Mr. Gardner stated there is really no reason to ever have to take the lid off except to shut your water off or to turn it on and the problem we have had many times is people turn their water on after we have shut it off. Mr. Bring stated that was another thing that they brought up too. Mr. Gardner stated as far as I am concerned that is theft but everybody says it wasn't us, now come on give me a break. We have heard every story in North America over there so don't worry about it. Mr. Bring stated I wanted to bring that up and maybe David you can take a look at that and then we can have that further discussed. Chairman Elliott stated we can talk about that under Worksession too, there is new issues brought up with it so we can see what everybody says. Law Director Graves asked you are looking at something that makes it more specifically a violation to tamper with your meter or what? Chairman Elliott answered to me to tamper or remove the lid. Law Director Graves asked you want to go back to the proposal we had last time. Chairman Elliott stated we can talk about it but what I am saying right now is what we should just do is discuss under Worksession and see which way they point us. Mr. Bring stated I don't know if you can touch the lid, I don't think there is a problem but if you shut that water off without their permission or somebody there it is a \$400 or \$500 fine and they automatically fine and they put it on your bill and you have to pay it. Otherwise you lose your water rights. Mrs. Belaska asked what happens if it isn't the homeowner that tampered with it and it is done in the middle of the night? Mr. Bring asked who would do it? Mrs. Belaska stated you got all kinds of characters in the world, you got people who are

trying to take the rocks from the lake. Mr. Bring stated we need something as a deterrent because we don't want it to continue on.

CITIZEN'S COMMENTARY:

Debbie Belaska, 4014 East Lake asked Mr. Graves is there anything under the Charter or under our ordinances about how many times you don't attend meetings because I take my position pretty serious when I get dressed and come down here and we don't have enough people for a quorum. I mean this goes on and on and on, I notice a lot less people being at the meetings. I think it is pretty serious when you get dressed, I am not part-time and I am not getting paid for it and I certainly enjoy and I am very honored to do it I would just like to come down here and have enough people to show for a quorum. Law Director Graves advised once you are on a board you take an oath, you are taking on a responsibility and if you repeatedly are absent you can be removed or the Mayor can ask if they just step down if they are not going to take their responsibility seriously and find someone to sit on the board that will. Mrs. Belaska stated it is volunteer, I am not complaining because I am very honored. I just think that when I come down here I hope that I am going to sit through a meeting, I get dressed to come down here and there is no meeting due to people who don't come. Mr. Gardner stated especially when there is major issues coming down that you need to be focused on. Mrs. Belaska stated well you know with the bad weather, you get dressed and you go out in this stuff and take a chance. I mean it is important to me, I come down here – you know a phone call if the individual is not going to show up would be appreciated like you discussed in Council that you aren't going to do that. A phone call would be nice and then others could be contacted. That is a lot on Kay, I just feel if you are going to show up then show up – make it a point to just come down here. If you are not interested then get off the board, I am sure there is a lot of nice people, a lot of people with different personalities can get together on those boards and make it a good board. Thank you for bringing up about the donations, with the Christmas coming up and all that. Now we are 8 or 10 months down the road here with donations so I would like to discuss with getting that together/getting a letter out/getting Mr. Edwards to write something up would be appreciated so we can start. Mr. Bring asked have you seen the City of Lorain? Mrs. Belaska answered no. Mr. Bring stated go at night – valentine hearts. Mrs. Belaska stated well we had talked at Parks of maybe having a Halloween walk or something else like Carlisle. Hopefully we can draw some people here, maybe each of these places like Apples can set up a separate area where they can do stuff. Where do I go to get the ball going, where am I heading with this? Law Director Graves stated I think what she is talking about is more of an independent rec budget to do a city wide holiday decoration project and solicit donations. We don't have a Rec Director, we have people that are paid out of the Rec budget for independent projects and I think the way that this should be handled would be to talk with Tammy, the Mayor and I can work with you as well. You know seeing what is

available in the Rec budget. Mrs. Belaska stated I am sure if we got some nice letters out that we can send to the businesses in this city, as long as the money is being donated to strictly that. I don't want to handle the money, I am willing to help decorate. I don't want to take this all on myself either, that is way too big. Law Director Graves stated we might be looking at the same type of thing for this summer again for the fireworks and trying to get donations together to continue the city fireworks display. Mrs. Belaska stated I see the Amvets really donates, I know VFW – I don't know if they would be interested but I know when they do their stuff they have to write off so much. So maybe we can approach them on this, I know they are doing a lot of causes for the Police and I know that is very important. I am hoping that maybe we can get the different businesses involved with those letters and maybe they will want to do their own displays or something like they do down at Carlisle. I want to get going with this because I know before long we all get busy, we say it and then we forget it. Just like the Joyce Hanks deal, we don't want to delay this too far.

MEETING ADJOURNED: With no further business before this committee,
*Motion by Elliott/Second by Bring to adjourn at 8:07 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 February 4, 2010.

CHAIRMAN OF COMMITTEE

Eric S Elliott

COUNCIL PRESIDENT

Edward R Podmanik

and/or

COUNCIL PRO TEM

Richard Rosso