

Minutes of the Ordinance Committee Meeting
Sheffield Lake, Ohio
September 2, 2010

The regular meeting of the Ordinance Committee was held Thursday, September 2, 2010. Chairman Eric S Elliott called the meeting to order at 7:15 PM.

ROLL CALL OF MEMBERS:

Present: Elliott, Huska, Kovach

Attending: President Podmanik, Councilwoman Stark, Service Director Smith,
Law Director Graves, Concerned Citizens

READING OF THE MINUTES: *Motion by Kovach/Second by Huska to approve the minutes of the July 8, 2010 meeting with any corrections. Yeas All.

Chairman Elliott reviewed mission statement for committee: It is our aim to streamline the ingress and egress of this committee. Proposed ordinances may be forwarded straight to Council (instead of Worksession) if the following measures are met; 1) the issue is based on common sense, is enforceable and prudent, 2) the ordinance is scheduled for 3 readings and 3) the ordinance is sent to Council by a unanimous vote of this committee. All others will be forwarded to the Worksession for further discussion.

PRESENTATIONS: None.

CORRESPONDENCE: None.

OLD BUSINESS:

Wind turbines; Nex Gen – REMOVE.

NEW BUSINESS:

Increase costs of driveway pipe installation to \$14.00 per lineal foot – Chairman Elliott advised this would be an increase of \$7.00 and that would cover costs and like always the city isn't look to make any money, we just want to recover our costs. As you know gas prices have gone up and every year our employee costs go up. Service Director Smith added plus pipe and in some situations there is connectors and then we have back-fill and the stone. Chairman Elliott advised so we are looking to raise that costs to \$14.00 a lineal foot. Service Director Smith advised the sections of pipe are 20 feet long. Law Director Graves advised I would just like to add that today is the first day that I heard anything about this and I have not had very long to review our codified to find out whether or not we actually have any legislation on the books. I can tell you that I did not find any and I know the Clerk of Council much more thoroughly then I did and she did not find

any. This should have an ordinance if we are charging this fee, so we need to determine whether something exists and if so we need to amend it and if not we need to create a new section. Chairman Elliott stated that being said we were charging \$7.00 a lineal foot right? By the sounds of that costs that has to be very dated. Service Director Smith concurred it is very dated, probably the early 90's. Chairman Elliott stated I am going to go ahead and refer this to Council to go 3 readings. ROLL CALL TO REFER TO COUNCIL FOR 3 READINGS: Yeas All – Elliott, Law Director Graves asked are these situations where it is an asphalt or gravel apron? Service Director Smith answered gravel aprons, we don't replace concrete and we don't replace asphalt. Law Director confirmed just gravel aprons and this is where it is deteriorated to the extent that a new pipe needs to be done. Service Director Smith concurred for whatever reason a new pipe need to be, whether it might have one/it might have an old pipe/it might have a collapsed pipe/it might be plugged with concrete like we have over on Buckeye/it might be plugged with rocks like we have over on Alameda/it might be plugged with whatever. We used to put in steel pipes and they have rusted through and then the stone on top collapsed through the pipe. All the corrugated steel stuff that you know 25 years old – it is a mess. Law Director Graves asked does the city allow residents to hire private contractors to do this? Service Director Smith answered yes they do, we are just an alternative unless it is a situation that is deemed something that needs to be fixed because it is affecting the drainage of the street and other residents. Chairman Elliott stated so if you deem it an emergency, just go ahead and do it. Law Director Graves advised something that they would still need to get a permit for? Service Director Smith answered correct, a permit and then the Road Department sets the elevation. They go out and set the elevation, determine it whether it be by drawing and then Pat will go out and look out individual because every street is so different. Ditches piped in, every situation is different so Pat goes out and he checks and kind of determines how far down/the minimum of below grade is 6 but he determines if it has to be deeper or what and if there is going to be a catch basin close to it or not. Law Director Graves asked does the committee want to go 3 readings or as an emergency. He explained we can schedule it for 3 readings and add the emergency clause and if Council wants to suspend the rules they can. Chairman Elliott stated I set a little procedure as far as sending something straight to Council; 1) the issue is based on common sense, is enforceable and prudent, 2) the ordinance is scheduled for 3 readings, 3) the ordinance is sent to Council by a unanimous vote of the is committee. Those ground rules are set up so I think we need to follow them, we are going to go ahead and schedule those for a 3 reading. Law Director Graves asked with the emergency clause? Chairman Elliott stated then after the first reading then we will move to suspend the rules. ROLL CALL TO SEND TO COUNCIL FOR 3 READINGS WITH EMERGENCY CLAUSE: Yeas All – Elliott, Huska, Kovach. ***“Children at Play” signs in designated areas due to neighborhoods changing –***

Chairman Elliott advised I have nothing new under that, I haven't really looked at it since I proposed it. Just give me a little bit more time. Chairman Elliott explained basically I have gotten several calls throughout a couple of the neighborhoods stating that they have had speeding issues on some streets and both of those complaints state there is numerous children that play in those areas so I proposing to put signage "children at play" and anybody caught speeding in those areas they would have to pay an increased fine. Law Director Graves asked so the legislation would just be to increase the speeding fine in those "children at play" zones? Chairman Elliott advised some of the issues that were brought up were that neighborhoods change from year to year. Maybe we need to set up a procedure as to putting those signs on those streets. So it is still under discussion. Law Director Graves advised my only comment would be is to make sure that we are clear on the parameters of the zone. Councilwoman Huska stated David, what I have seen in other cities is when you turn down one of those streets – the very beginning of the street has a huge sign and it is stated to 25 and that continues that whole street. Law Director Graves stated my first reaction would be too would that you would probably have every street in the city that would want one. Chairman Elliott advised which is why we would need to set up a procedure for putting these signs up. Like I said before, is it do-able, I don't know it is something that we have to discuss further/is it enforceable? It is for further discussion. Service Director Smith advised I believe at point of discussion when this was brought up the last time we discussed it had to do with designated children at play areas for streets – which went into streets. Chairman Elliott concurred right that was one of the things that we were discussing too was designating zones or streets.

Changes to Chapter 1375 Swimming Pools; requirements – after a brief discussion, Law Director Graves to review further. Chairman Elliott asked for the future if Mr. Nemecek request changes please have him attend.

Changes to Chapter 1377.01, .02, .03 and .04 carbon monoxide (CO2) detectors and alternate system – same as changes to chapter 1375.

Internet Sweepstakes Cafes – Chairman Elliott advised this was presented to Council by the Mayor; this is a new style business that I guess sales phone cards and then you can actually use the minutes to play a casino style game on a computer and possibly win prizes. Law Director Graves explained we have an individual in attendance tonight that is interested in this, we have also had several other outfits approach the city that are interested in setting up an operation of this nature. There was a decision out of the Toledo court; the Davis decision which was in November of 2009. A Toledo municipal judge found that these style of internet cafes did not fall within the prohibited gambling statute that instead they were more a kin to a promotional sweepstakes – so that was his decision. I am not aware of any other court decisions on point. However in May of 2010, just a few months ago – the Trumbull County Prosecutors Office did issue a rather lengthy opinion sitting forth their reasoning why these type of facilities did fall within the

Ohio Gambling statute would be prohibited. It is certainly a grey area, there is at least 1 court as we have said that has found that they are not gambling. Many communities in Ohio have allowed these. The ones that have allowed them are regulating them, they have adopted legislation that provides for a licensing fee and a fee per terminal and are allowing them as a conditional use. So basically it is certainly a grey area, it has not been determined whether or not. The other point to make is the decision is really being left to the local law enforcement and local communities. The Ohio Attorney Generals Office is not giving any real guidance or direction on these and the county Prosecutor's Office with the exception of Trumbull County are really not getting involved. The reason being that gambling 99% of the time is a misdemeanor offense and having the local communities on a case-by-case basis to determine whether in your community you think this falls within the parameters. So if an outfit wanted to establish here in Sheffield Lake – under the Toledo decision if it was the same kind of arrangement I certainly think a strong argument could be made that it was legal. It is going to basically boil down to what the community wants and if these are something that the community wants to see – I would recommend that we act rather quickly to enact regulations and keep track of it. The Garfield Heights legislation limits the number of terminals in the facility to 5 – it says less than 6. So you know other communities may have allowed more but that is what they are doing. Chairman Elliott stated the way I see this right now is that this really wasn't forwarded to us by Council. Although it was just as a discussion role so that we can advise Council. I don't see the Ordinance Committee actually making a decision, I think this will be a decision by Council as a Whole. We can discuss this and we can advise Council on what we want to do. But I really see our part in this as just an advisory role as far as to the Committee of the Whole. I just wanted to clarify that, that we are not going to be making any decisions tonight. I will however say this that I got the impression from Council that they were for regulating these businesses and not prohibiting them. Also right now the discussion really should go towards what our recommendations are to Council and they can make the decision. Law Director Graves advised I think that Garfield Heights has done a good job in terms of allowing them as a conditional use. They charge an annual licensing fee of \$5000.00 and then they assess a \$40.00 per terminal per month fee. I would not have any objection to going in that direction if the city wanted to look at regulating in that manner.

Mr. Jason Stifle advised I am Stifle Enterprise. Chairman Elliott asked what type of business, how big of a business do you think you are build and where were you planning on locating? Mr. Stifle answered where I wanted to go was the old bank at the shopping center. I like the size of it and I wanted to kind of do like some type of nautical type theme there because it is right on the lake. I thought it was nice because it is built out all the way back. Chairman Elliott asked how many terminals were you looking at or have you thought that far? Mr. Stifle answered I

was looking at 40. Chairman Elliott asked you would sell similar to these other businesses like phone cards? Mr. Stifle answered yes there is going to be a phone card, there is free food, free drinks and then you also can add internet access – check your email, copying. I am looking into a machine for doing photo printing, you know for cards but I am not sure on that yet. Chairman Elliott asked would you want to do this over the internet so people can do this at home or would this just be located at your business. Mr. Stifle answered no it would just be located there. There is something with using the internet for that but no. You can do that to like get on the internet to surf the web there and check your email but as far as the games that is server based. Law Director Graves asked you are familiar with the Toledo decision? Mr. Stifle answered yes. Law Director Graves asked is your proposal to do a club identically to what they have set up there? The Trumbull County Prosecutors Office – Dennis Watkins had a symposium if you will and they have issued a rather lengthy opinion that these things do violate the Ohio gaming laws but that is an opinion of the Trumbull County Prosecutor and again you have to look at these on a case-by-case basis. I am not in a position to sit here today and decide whether what they are proposing is legal or illegal. What I can tell you is that what they are proposing has already been determined by a court in the State of Ohio to be legal. Now that is not a binding court on this jurisdiction – it is what is called persuasive authority because it is a court that you can look at and say you can consider that but they are not binding on us because they are outside of this area. Chairman Elliott asked however there haven't been any court decisions against this either right? Law Director Graves answered no. Chairman Elliott asked violation of this would be a misdemeanor, is that correct – is that why it is going through municipal instead of common pleas. Law Director Graves answered right, establishing it under the Ohio Gambling Statute which is 2915 – operating a gambling; operating a gambling facility, public gaming/the definitions of games of chance and so forth. They are all misdemeanors unless they are repeat offenses and then they become felonies, so there is an enhancement. Chairman Elliott asked would this be the first business of this type in Lorain County as far as you know? Mr. Stifle answered no there is one in Vermilion. I haven't been to that one but I have heard it is a pretty decent size. Chairman Elliott asked as big as what you are proposing? Mr. Stifle answered I think it is bigger and actually Garfield has gotten much larger – they have 100 stations there now. Law Director Graves asked are they all under one club or are they multiple clubs? Mr. Stifle answered 1 club, they just turned them on yesterday. Law Director Graves advised they just provided me with a copy of their legislation last week which limits to 5. Mr. Stifle advised I have been speaking with the Mayor about it quite frequently over the past month and I don't know if you guys actually went out there? Law Director Graves answered I have not been out there, we had talked about going out there. I would like to get a first hand experience as to what this is but all I have done so far and read the accounts of it. Mr. Stifle shared the first time I went there

was a month ago and it was after my attorney showed me about the Toledo decision and I went there and then I came to see the Mayor. When I was there and that was a month ago there were 40 there. Law Director Graves advised he did say that they were talking about opening some more so I don't know. Councilman Kovach advised I do remember the Mayor saying that he wasn't gun-hoe about putting it in the center. Mr. Stifle answered yes he spoke with me about that and the major concern that he had with it and I agree was with a potential tenant that we are talking with about building out there, it is a Catholic based tenant – a very large tenant. My discussion with him was if that does become a problem then we will move. The primary goal is the shopping center, I have been working for almost a year on that thing. Chairman Elliott asked where would your secondary choice be? Mr. Stifle answered the Mayor spoke of a couple of spaces, he didn't get very specific at all with me but he said there are a couple of other ones and I said that is fine. Chairman Elliott asked so you are definitely looking to locate in Sheffield Lake. Mr. Stifle answered right and for a couple of reasons, this shopping center has turned into like a full blown mission – it has been a very difficult project. The tenants we definitely don't want unless you want an Auto Zone with a lake view but I don't think that is what you are looking for so we have been struggling to get the right tenants and you know the goal was I wanted to bring a new business in there. A bright business instead of things leaving to bring something new in there and I wanted to work towards other businesses in there and start peeling off the plywood so it is not boarded up. We are going to have that strip center for quite some time with the leases and that was the goal and with the Bowling Alley I spoke with the Mayor about a little of like a Dave and Busters type of theme. I am just trying to get the ball rolling a little bit. Chairman Elliott stated I don't look to speak for Council but I believe Council is leaning toward regulating that type business. I also want to re-emphasize that I have a written proposal for the same kind of thing from another outfit and I think there is even others that want to – I know there is several that would want to come in. The question would be how many would you want in a certain area, how many would you want at the shopping center – you could limit that. Then there is fees and then you get into possibly a bidding situation. Mr. Stifle advised David that is the reason I really came, was when I spoke with the Mayor about it this bidding thing has me nervous on a couple of reasons. Not so much on losing something but the problem is if we try to out-bid each other to do something is what is going to happen is it will sacrifice when we go to build the thing out. Right now as it stands to redo that whole bank center and with all the equipment it is going to be well over \$100,000.00 so when you start to bid more – it is a lot of money to recoup. Law Director Graves answered I understand but you are not the only person that has approached the city on this, so how do you decide who gets to do it or do you let everybody do it? Mr. Stifle stated no, no, no I mean I understand wanting to regulate how many places you have but you know like a bidding war – it would

take away from the build-out that we are trying to do and it would end up just being a dark dungeon where you just sit in front of a computer and that is kind of not what we are going for. Service Director Smith asked when you were talking about other spaces you mean privately owned vacancies that are within the city? Mr. Stifle answered I don't know the Mayor told me about them but we didn't get specific on them. I have no idea, he just said there is a couple of other spaces. Service Director Smith asked but your proposal isn't Shoreway specific? Mr. Stifle answered no it is not Shoreway specific but because of the involvement with the development project, of course I would like to go I would like to be there. It would be nice to bring a new business in there. We have got businesses leaving there, it would be nice to say we have a new business that is going to attract new people and it might bring in other tenants that would want to occupy the spaces that we have got there. Chairman Elliott stated I think we definitely want to put a regulation as far as how many businesses of this style go into Sheffield Lake. Just real quick Diana I don't think you were at the last Council meeting but is your opinion, I mean should we allow and regulate these businesses or in your opinion should we just all out ban them? Councilwoman Huska answered we need to regulate them but I wouldn't exactly put them at the shopping center. We have other vacant large properties in the city that are already built. I am not sure that the shopping center is the ideal spot for that. Councilman Kovach stated I gave my opinion the other night at Council, let's move forward as quickly as possible. Chairman Elliott stated my thoughts are I think we should allow these businesses and regulate them. However I don't see a problem with it being at the shopping center. These are possibly 2 different issues that we are discussing right now. Right now I think we need to concentrate on allowing it and regulating it and then we will tackle that problem later. Councilman Kovach stated the administration could put it wherever they want. Councilwoman Stark stated I would like to know where these alternative spots would possibly be that the city is looking into. Some of these other places where businesses have come in and they have wanted to do well and not done well. I am for regulating but we have to discuss where. President Podmanik advised I don't see this as a bad thing. However there are still a lot of unanswered questions, I don't see a problem with it. Law Director Graves stated if they were not at the shopping center, that takes the city out of the ballgame as far as being a landlord type thing. There was a brief discussion on regulations from samples from Garfield Heights municipal court says. President Podmanik asked on food for service, tech on duty, hours of operation? Mr. Stifle answered the hours are kind of fluctuating, you know Garfield is from 11 in the morning to 4 in the morning. I am not quite sure what time it would close but it would be 7 days a week. We would of course have a cashier, basically we are probably looking at 5 full-time employees. I would like to hire people that are in the area. President Podmanik asked security? Mr. Stifle answered on security – this is very new. As far as security, we don't know yet. If it is something that we

need then it is something we are going to get. Law Director Graves stated my understanding is this is the same cliental that plays bingo, that is what I have heard in other jurisdictions. A lot of times it is a older crowd, the same ones that would go to church bingo hall. President Podmanik emphasized I want to know that this place is going to have good solid security and that we are not going to allow that sort element to even begin to creep in. Chairman Elliott advised we don't make bars have on-site security and I would think that they would attract more riff-raff then this type of establishment would. Mr. Stifle advised it also depends on how the place looks. Chairman Elliott asked what about liquor? Mr. Stifle answered no I think it is a bad combination, a little bit of the moral thing too because if they are drinking they are going to do more. Law Director Graves stated if you want some proposals for Worksession then we can do that. Chairman Elliott concurred for Worksession. Service Director Smith asked if things are going good, do you need the ability to expand and increase the number of machines? Mr. Stifle answered in an ideal situation I would like the ability to. Chairman Elliott asked as far as prizes go, how would that work? Mr. Stifle answered the first idea is we were going to do a car. FORWARD TO WORKSESSION.

ORDINANCES BEFORE COUNCIL:

Law Director Graves advised of an ordinance coming to bump up the starting pay for part-time dispatchers to reflect the increase to minimum wage.

CITIZEN'S COMMENTARY: **None.**

MEETING ADJOURNED: With no further business before this committee,

*Motion by Kovach/Second by Huska to adjourn at 8:10 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 September 2, 2010.

CHAIRMAN OF COMMITTEE

Eric S Elliott

COUNCIL PRESIDENT

Edward R Podmanik

and/or

COUNCIL PRO TEM

Richard Rosso