

Minutes of the City Council
Sheffield Lake, Ohio
October 12, 2010

The regular meeting of the City Council was held Tuesday, October 12, 2010. President Edward R Podmanik called the meeting to order at 7 PM.

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

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

Present: Podmanik, Rosso, Smith, Kovach, Bring, Elliott, Stark, Huska, Mayor Piskura, Service Director Smith
Absent: Treasurer E Hoenig, Safety Director Arendt (excused)
Attending: Concerned Citizens, Zoning: Ebenschweller, Planning: Belaska, SUAB: Gee, Members of the Media

*Motion by Bring/Second by Smith to accept the minutes of the City Council for September 28, 2010 with any corrections. Yeas All.

CORRESPONDENCE/COMMUNICATIONS:

Monthly report of court receipts for month of September 2010- \$10,859.15. Receive and file.

PRESENTATIONS: None.

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

Roads, Drains, Water, Sewer, Refuse: Chairman Bring reviewed the minutes of the October 4, 2010 meeting. *Motion by Bring/Second by Huska to approve the credit of \$71.55 for 612 Pasadena. Yeas All. *Motion by Bring/Second by Huska to approve the credit of \$190.80 for 785 Sunset. Yeas All. *Motion by Huska/Second by Kovach to accept the report. Yeas All./**Stormwater Utility:** Representative Bring advised the report of September 21, 2010 is attached and is very lengthy./**Safety:** Chairman Bring reviewed the minutes of the October 6, 2010 meeting. *Motion by Huska/Second by Kovach to accept the report. Yeas All./**Buildings, Lands, Vehicles & Equipment:** Chairman Kovach reviewed the minutes of the October 7, 2010 meeting. *Motion by Huska/Second by Bring to accept the report. Yeas All./**Ordinance:** Chairman Elliott reviewed the minutes of the October 7, 2010 meeting. *Motion by Huska/Second by Bring to accept the report. Yeas All./**Finance & Claims: None./Investment: None./Council Representative to the Community Center: None./Council Representative to the Zoning Board of Appeals: None./Council Representative to the Planning Commission: None./Council Representative to the Park Board: None.**

*******ADMINISTRATIVE REPORTS*******

MAYORS REPORT: Mayor Piskura reported just a couple of quick things; first, I had a number of questions about the property on Edgewater Drive behind the

Community Center and I had asked the Law Director to look into the matter. He has written a legal opinion, I am hoping maybe you could very quickly go over that with them under your report. It all has to do with that structure. I want to say that some of those first responders at the recent incidents that we have had have done an excellent job. There is nothing really pending that you are unaware of for me to go over with you but I would like to ask for a brief executive session to bring you up to speed on some personnel matters specifically with investigation into some complaints. Councilman Bring asked a while ago we talked about Administration and you had said that the Law Director or Service Director or whoever was supposed to be here at least one time a month? Mayor Piskura asked Joe is not coming to meetings? Councilman Bring answered right. Mayor Piskura advised I will take care of that, that was just brought to my attention. Councilman Bring advised it is very, very difficult, I have not actually had a phone call or any kind of conversation with him to run a Safety meeting. Mayor Piskura advised he should be here. Councilwoman Huska asked how did the meeting go at Ford? Mayor Piskura answered it went very well and I think it is on the first page of the paper today. They were all excited about the increase in capacity for next year. I think they said at a minimum 10% but they are looking in the 155,000 vehicle range and I think this year they were only at 88 or something like that. But it went very well. In case you are wondering why, the agreement that all of the politicians have universally is that if there is an announcement to be made concerning Ford Motor Company – Ford Motor Company makes the announcement and we will just stand there and support them kind of thing. So that is why I have not let anything out. It went very well and things are looking good. *Motion by Huska/Second by Bring to accept the report. Yeas All./**FINANCE DIRECTOR REPORT:** Finance Director Smith advised I don't really have a whole lot to report tonight. You will see attached to be added to the agenda tonight an ordinance that will renew our note for Shoreway Shopping Center and also it will be calling our stormwater 20-year bond. This is the first opportunity that we have with the bond to call it. It is now at a variable rate of 5%, we think that we can cut that in at least more than half for the last 10 years of its life and save the city in an excess of a couple hundred thousand dollars. Councilman Rosso asked Tammy do you have what you think the rate is going to be on the shopping center note? Finance Director Smith answered in the 2 to 3% range, it is currently at 5%. It has been dropping steadily every year. Of course, our experience too helps, it is not a fresh note – it is something that we just renew and the banks are a little more secure with it then they were 2 years ago when we first bought the property. Of course the whole atmosphere in the banking industry had just collapsed at that time so we were really fortunate to get it financed at all. It has definitely come a long way. Councilman Rosso explained well people will read and see the maximum of 8% and think that it is going out at 8% and I knew that wasn't the case. Finance Director Smith answered absolutely not they just put a seal in there but no it will not be even close to that. Law

Director Graves stated just to refresh everyone's memory the Finance Director did shop around and is planning to use a different investment banker this time which is going to significantly reduce the fees, so we will save quite a bit of money on that. Finance Director Smith advised yes about \$40,000.00 in fees just for one issuance and probably for both more then that at this point. *Motion by Huska/Second by Bring to accept the report. Yeas All./**T REASURER REPORT: None./SAFETY DIRECTOR: None./SERVICE DIRECTOR:** Service Director Smith reported I have several thing and I would like to address them kind of like in a quick run just to bring you up to snuff. October 23rd again, 8 am to 2 pm will be our Pride Day for fall. Curbs Dennis is absolutely correct with Sheffield Lake having a lot more curb and gutter around then we did over the last several years. One of things that we are going to be doing is a lot street sweeping. Currently going through side brushes real quick and I am awaiting a new one, so you will be seeing that on-going. Maple and Buckeye, we are going to start with the water drainage with the cross-over pipes but we are also going to be doing the plugged driveway pipes. That is our first and we have started kind of over there. The internet café forms, that is almost ready for legal review for David to make sure so that we can get that going. Tammy has done a great job helping get the forms and make sure all the information that is required is there and available on those. The Lowe's grant – the Lowe's people were out this week and delivered a lot of goods. We have tables being delivered today and chairs being delivered some time coming up. New outdoor lights have been installed and there has been bead board put on the west wall. We couldn't get the siding in, the siding and stuff will be done November 11th day – we have a volunteer day to do that. The floor has been tiled in and out of the office and the hallways have been painted a bright blue. It looks real nice, light bluish gray. So I would like you all to get a chance to see that. The water tower painting is complete. They are just finishing up some ruts that were made by the machine over in the field a little bit and we will finish those ruts and take care of that. The snow plow trucks are pretty much done, almost ready – a couple more days on that. I am entertaining 3 possibilities in Shoreway rental properties which I will talk to our electrical inspector about getting temporary service for electrical in there so we can upgrade some of those units and get them show ready. Councilman Bring advised I have been stopping periodically to see Len and if you guys get a chance to go over there in the Service Department – he has done an excellent job. They have painted a lot of the trucks and the equipment, he is over there every day and he stops in. The attitudes over there are tremendously better, the guys seem very upbeat. I just wanted to comment that I think Len is doing a very good job. Councilman Elliott advised Len I got a call from a resident today that basically said that they have tried calling Allied Waste to sign up for the recycling bank program that we got and when they try to activate their account Allied Waste said that their not eligible. Service Director Smith stated you can give me a call tomorrow on the exact address and I will look into but I know recycle bank is a

separate entity then Allied Waste and it is out-sourced by Allied Waste and there is things you have to go through. But I will check into it if you just give me the information, I will be glad to. *Motion by Huska/Second by Bring to accept the report. Yeas All./**LAW DIRECTORS REPORT:** Law Director Graves advised not a lot to report this evening. I will go ahead and brief you on anything. He continued in 1968 the West Shore Club sold property to the city which ultimately was where the Community Civic Center now sits. In that grant which also included the shore line behind the six sublots which are now Edgewater to the east of the Community Center. That was granted to the city as well. Ever since then there has been a concern or a question as to the status of that land. Both the purchase agreement and the reserve for those adjacent property owners the exclusive use of that lakefront. While it does not come right out and say the word easement, all of the language in both those documents would suggest that the intent was to convey the property but to retain an exclusive easement for that property. When someone holds an exclusive easement, it is different then a normal easement where perhaps they have the right to cross over someone's property. An exclusive easement, that would mean that the easement holder is what is called a dominant state. They have the ability to exclude everyone else from the use of that. They have the duty to maintain it, they have the requirement to obtain all proper permits; submerged land leases and so forth for shore line improvements. They also would bare liability if someone was injured on that property. So while it is technically owned by the city, the city has no right to use it. It should be at this point an exclusive easement for those adjacent property owners. He reviewed the legislation on the agenda and also those proposed for addition; the ordinance accepting the donation of the Fire Department equipment from St John West Shore Hospital, the renewals of the borrowings for Shoreway Shopping Center and the Stormwater utility and then the annual resolution for all the various levies. All those can be added to the agenda if Council so chooses. *Motion by Huska/Second by Bring to accept the report. Yeas All.

CITIZENS COMMENTARY:

Debbie Belaska, 4014 E Lake Road advised I would like to make a donation tonight and ask if the Council would accept it, I am donating a case of lights for the Shoreway Shopping Center – strictly for that shopping center to put out lights so that we can have something lit up for Christmas. Would you accept my donation? Law Director Graves asked is the value under \$500.00? Mrs. Belaska answered then it does not require Council's approval. Mrs. Belaska advised I am asking anybody else who would like to donate would consider seeing me or seeing Len, giving him a box and match me. I would appreciate it. I don't know if you can put it on the water bill asking everybody to light up the city or a little remark Happy Holidays or something. Mr. Edwards could you get that in the paper and ask the citizens, if everybody does a little bit of lights outside. With times being bad maybe lights and a cup of hot cocoa/snuggling with the winter months coming on.

Council make everybody feel a little bit happier around the season. She continued what is going on with North Coast and when does that end with the contract there? Law Director Graves answered that exclusive option did expire at the end of September. Mrs. Belaska asked do we have a report on that of what has happened since then, nothing came of it at all? Law Director Graves answered I think they are still trying, I don't think they were able to really get any concrete direction on that. Mayor Piskura advised they only had an option to purchase and the agreement with them was that they were going to use their own dime to go out and market the property and try to get tenants in there and should they be able to broker a big enough deal they were going to exercise their option to purchase. They never did get as big of a deal as they thought, they weren't able to get enough traction on the project to get it to happen immediately – you know within the next year. So they never exercised their option, that doesn't mean that they are not still available to help us if we need them to. Right now their not doing anything, we have a couple of irons in the fire of our own. What I think that we can expect with the shopping center in the future is that as we pay down our debt service and the costs of our debt service gets less and less that frees up more and more rent roll for us to continue to do improvements. So I think that the redevelopment of the center happening over night is probably not going to happen. Originally we said probably a 3 to 5 year build-out and I will still stick to that. Maybe even extend to a 5 – 7 year build-out depending on the economics of the rent roll. But North Coast has not done anything, they are not going to do anything. Mrs. Belaska stated Mr. Graves – Mr. Kolleda came and he decided he was going to knock down that thing. Where do we stand with Mr. Kolleda on that from Planning's position? Law Director Graves answered I believe the Service Director could answer that, I believe he has pulled a demolition permit? Service Director Smith answered I believe he did. Law Director Graves advised I think he has a certain period of time to accomplish that.

Mark J Erdei, 4015 Tennyson asked what is going on with the bowling alley? Law Director Graves answered the matter is in litigation so I am not going to comment very much. The matter is still on-going and I am not certain of what the future of that building is. Mr. Erdei asked could we pressure him to pull those alley's out of there and we would have a nice big complex we could maybe lease out. Law Director Graves stated currently the city's position is that the lanes, ball returns and certain other property within the building are fixtures that are city property that would stay with the building. Mr. Erdei state it didn't really survive being a bowling alley, we could look into other venues to have it make money. Mayor Piskura answered we have been talking about it. Mr. Erdei stated that is a nice size building, good parking – I mean that would bring some money in. I mean instead of sitting there and constantly being empty. Service Director Smith advised the legal end has to be finished first before we can do anything so we are caught in the same limbo. Mr. Erdei asked so those alley's are actually our alley's now right?

Mayor Piskura answered that is what we are arguing over. The contents of that building; the balls, the shoes – that kind of thing, those probably go with the business but there are things that are built into that building that the previous landlord wants to make a claim to that we are sorting all out in court. When that is done and resolved completely and they get all their stuff out and the judge rules – that is when we will be able to do something with that building. Until we really know what is going to happen then we really don't know how to plan but you are right and I agree, bowling alley hasn't done well there. So we should take our thinking toward something else and I can tell you that we have had those discussions but nobody has come to any concrete conclusion of what is best but they have been revolving around using it as more of a recreational based facility catering to the youth. Mr. Erdei asked structure-wise is it a decent building. I mean is the roof going to handle another 2 years of being empty? Service Director Smith answered the building is in great shape, the exterior needs some sprucing up; painting, awning, some glass in certain areas. But the problem is that we can't do anything until the legal end is over. It is just a waiting game for us. Councilman Bring clarified you guys have left the utilities and stuff on though right? Service Director Smith answered yes to maintain the internal environment to keep any degrading conditions from occurring. Councilman Bring advised it is not like they shut everything down in there.

Bob Ebenschweller, 362 Cove Beach stated we are not privy to all the discussions that you all have about sale of land and discussions of other contracts and what but I had downloaded something off of Grains Business Cleveland at the time that the city signed a contract with North Coast and they outlined it that North Coast had partnered up with it now escapes me, I just had it on the tip of my tongue but under the new town center LLD was going to work toward the development of the shopping center but it seems that the one entity has kind of done an end-round, around this and is opening up a business elsewhere and I thought it was a little curious that someone who is supposedly had a part in the development of that shopping center would go down the road and open a business rather than something in the shopping center which was the main goal of that and does he have intents on doing something in the shopping center along the same lines. The first thing you think of is well maybe these guys have decided that it is just a dog and they can't do anything with it and say we might as well go out and you know try to make some money elsewhere – it is discouraging because we don't really know what is going on. Mr. Stifel, you know I thought it was ironic that the name you know the development down there. Well I make a joke about it but it was a combination of those 2 – North Coast and him in this new company but then he goes out. I am trying to figure that out in my mind. Law Director Graves explained he had actually approached us about opening one in the shopping center, so I think that is something that he would be willing to do. There are a lot of legal concerns as far as bidding that out, I think we talked about this at one of the committees.

Mayor Piskura advised Bob when this came to Council, there were 2 questions that were put to Council which is do you want to regulate the internet cafes and if you do want to regulate the internet cafes rather than to try to outlaw them do you want to permit them in the shopping center? That individual had come to us first and wanted to go into the shopping center and we haven't had the opportunity to answer the second question which is whether or not we want it in the shopping center. He has indicated that if business is well and Council is willing that he would in addition to what he is opening up now open one up in the shopping center. There was nothing that I am aware of that was talked about prior to their option expiring and as far as the article in Crain's – that came out immediately after we signed it and that was in order to try to generate interest to the leasing community to get the ball rolling and it just didn't generate enough interest. Mr. Eberschweller stated the 26 conditions that have to be met by someone opening one of these internet cafes, how restrictive is that – if it is not going to be gambling, why would someone have these restrictions that you wouldn't impose on any other business person that wants to open up something in the city. Unless there is some feeling that maybe somewhere down the road the State of Ohio is going to say nope can't do it and then they will have to – I read that and I said why are they imposing such restrictions. Like you are going to be a police officer or something. Law Director Graves answered actually some of the model ordinances that we look at are much more restrictive than what Sheffield Lake ends up implementing.

Debbie Belaska, 4014 E Lake stated Mr. Bring under Ordinance under citizens commentary, I just like your remarks. I am impressed with them and I hope to see you follow them through in your Ward along with Leanna'a there. 17 times that a police officer has to come out since January. Councilman Bring advised actually our Clerk has been looking into that, she has called a few city's, she has gotten the minutes from the Lorain and they were seriously considering it. We are looking into the legality of that and I know David has looked into it a little bit so until we find all of that out we can't do anything. It would definitely help the police out and make the city better. Mrs. Belaska stated I think it is also considerate of homeowners that has been here a long time and have resided in their homes and to have this kind of ruckus going on in our community. We live in a nice community and I think we need to put the brakes on this one.

UNFINISHED BUSINESS: None./NEW BUSINESS:*Motion by Huska/Second by Kovach to amend the agenda to include Council#040, 041, 042 and 043. ROLL CALL FOR AMEND THE AGENDA: Yeas All – Bring, Smith, Kovach, Rosso, Stark, Elliott, Huska.

Councilman Elliott advised I was just advised today that Patrolman Kent Reiber's Father passed away as of Sunday I believe. Just keep him in your thoughts and prayers.

ORDINANCES AND RESOLUTIONS:

Council#036 – THIRD READING – an ordinance of the Council of the City of Sheffield Lake amending ordinance 01-96, section 1 regarding the rate of pay for part-time dispatchers in the City of Sheffield Lake’s Police Department, and the declaring of an emergency.

*Motion by Huska/Second by Bring for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Stark, Elliott, Rosso, Bring, Kovach, Smith, Huska.

Ordinance Passes#39-10

Council#040 – EMERGENCY – a resolution authorizing the City of Sheffield Lake to accept and approve goods and services donated by St. John West Shore Hospital for the Sheffield Lake Fire Department, and the declaring of an emergency.

*Motion by Huska/Second by Bring for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Bring, Smith, Kovach, Rosso, Stark, Huska, Elliott.

*Motion by Huska/Second by Bring for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Elliott, Kovach, Smith, Bring, Stark, Huska, Rosso.

Resolution Passes#40-10

Council#041 – EMERGENCY – an ordinance authorizing the issuance of taxable notes, in a maximum original principal amount of \$3,500,000, in anticipation of the issuance of bonds, for the purpose of retiring certain outstanding bond anticipation notes of the city issued to pay costs of furthering the city’s revitalization purposes by acquiring the Shoreway Shopping Center in the city; and declaring an emergency.

*Motion by Huska/Second by Bring for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Bring, Kovach, Smith, Rosso, Huska, Elliott and Stark.

*Motion by Huska/Second by Bring for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Rosso, Huska, Bring, Smith, Kovach, Elliott, Stark.

Ordinance Passes#41-10

Council#042 – EMERGENCY – an ordinance to provide for the issuance of refunding bonds of the City of Sheffield Lake, Ohio, in the principal amount of \$1,600,000 for the purpose of refunding the city’s storm water improvement bonds, series 2000 and paying the issuance costs related thereto, and declaring an emergency.

*Motion by Huska/Second by Bring for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Bring, Stark, Huska, Rosso, Kovach, Smith, Elliott.

*Motion by Huska/Second by Bring for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Stark, Kovach, Bring, Rosso, Elliott, Smith, Huska.

Ordinance Passes#42-10

Council#043 – EMERGENCY – a resolution accepting the amounts and rates as determined by budget commission and authorizing the necessary tax levies and certifying them to the county auditor and the declaring of an emergency.

*Motion by Huska/Second by Bring for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Elliott, Rosso, Kovach, Stark, Huska, Smith, Bring.

*Motion by Huska/Second by Bring for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Smith, Elliott, Rosso, Bring, Kovach, Stark, Huska.

Resolution Passes#43-10

*Motion by Rosso/Second by Kovach to go into executive session for the discussion of the investigation of complaints against a public employee.

ROLL CALL TO GO INTO EXECUTIVE SESSION: Yeas All – Stark, Kovach, Huska, Elliott, Rosso, Smith, Bring.

*Motion by Bring/Second by Kovach to return to regular session.

ROLL CALL TO RETURN TO REGULAR SESSION: Yeas All – Huska, Elliott, Kovach, Rosso, Stark, Smith, Bring.

COUNCIL PRESIDENT: None.

MEETING ADJOURNED: With no further business before this council, Motion by Kovach/Second by Bring to adjourn at 8:04 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

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 October 12, 2010.

COUNCIL PRO TEM

Richard Rosso

MAYOR

John J Piskura