

Minutes of the City Council

Sheffield Lake, Ohio

January 11, 2011

The regular meeting of the City Council was held Tuesday, January 11, 2011. Council Pro Tem Rosso called the meeting to order at 7:06 PM.

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

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

Present: Rosso, Elliott, Kovach, Bring, Stark, Huska, Finance Director Smith, Service Director Smith, Law Director Graves

Absent: Podmanik, Smith, Mayor Piskura, Treasurer E Hoenig, Safety Director Arendt (excused)

Attending: Concerned Citizens, Members of the Media

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

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

CORRESPONDENCE/COMMUNICATIONS:

A – Monthly report of court receipts for month of December 2010 - \$5028.50. Receive and file.

PRESENTATIONS: None.

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

Roads, Drains, Water, Sewer, Refuse: Chairman Bring reviewed the minutes of the January 3, 2011 meeting. He advised under the Service Director's report we received a notification from the City of Avon Lake that our water rate is going to go up about .12 (12cents) per thousand gallons. We have not received the notification yet but apparently that is coming down and according to our ordinance they have to give us a 6 month notice before raising our rates so that is something that is going to happen.

Actually on the water usage per household it is about 6000 to 8000 gallons per month. *Motion by Huska/Second by Elliott to accept the report with any

corrections. Yeas All./**Stormwater: None./Safety:** Chairman Bring reviewed the minutes of the January 5, 2011 meeting. *Motion by Huska/Second by Kovach to accept the report with any corrections. Yeas All./**Buildings, Lands, Vehicles &**

Equipment: Chairman Kovach reviewed the minutes of the January 6, 2011 meeting.

*Motion by Huska/Second by Bring to accept the minutes with any corrections. Yeas All./**Ordinance:** Chairman Elliott reviewed the minutes of the January 6, 2011

meeting with any corrections. 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:Law Director Graves stated on behalf of the Mayor you should have received an email from the Mayor earlier today explaining that he was unable to attend tonight's meeting. Also he has asked Council to consider the appointment of Rob DeChant as the part-time substitute mechanic while John McCallie is out on medical leave. He also advised Council that he has accepted the resignation of Joe Arendt as Safety Director./**FINANCE DIRECTOR REPORT:None./TREASURER REPORT:**report attached./**SAFETY DIRECTOR: None./SERVICE DIRECTOR:**Service Director Smith advised as Steve had mentioned in his report we do have an on-going issue with the north parking lights in the Shoreway Shopping Center but we have a licensed registered electrician working on that and that should be taken care of shortly. It turned out to be a short/open in the ground fault. We are ready for the snow, we are coordinated and we have an action plan in place. We have our schedules, we are running almost 12 to 18 hours ahead of time with knowing what we are doing. I am real confident that we should handle this pretty easily. The issue was brought up with Allied Waste – actually Dennis was correct, we forwarded a large volume of complaints that we have had but in the last 3 weeks we did have some reoccurring issues that have all been the same and Lisa and Annie have to this point where they have been documenting and copying their faxes that they send to Allied Waste. Somehow once we fax a complaint to Allied Waste, for instance; like a resident wanting an extra can or a resident reporting their garbage wasn't picked up on a certain day and they were told that they would because we sent the information to Allied Waste that they were. The information wasn't getting back to the driver, it was definitely on Allied Waste side where the communication problem was. I tracked it and I wrote numerous letters and talked to both Dave Kidder and a route supervisor and just as we got that all straightened out they changed our route supervisor and we lost Seth and he has now moved to Columbus and has been replaced with a gentleman and his first 2 days as a route supervisor was yesterday and today. So that speaking I am expecting several issues but I want everyone to be aware that I am on Allied Waste about taking care of some of these resident's needs. There is no reason that a resident should have to wait 3 weeks for some of this stuff to occur and even though they are small and it is a lot smaller then it was before we are treating it as if it is a big issue. So rest assured that I am taking care of it. The other thing I just wanted to touch on real quick if you notice I brought some information to Buildings and Lands, that is because the Grant Writer grabbed me on the 3rd and

said hey if you are going to a meeting tonight can you please give the status of this information for which I did. Councilman Kovach asked in regards to those trucks that are going to be running hard and heavy tonight, pending the approval of our technician when do you intend to start that job? Service Director Smith answered probably within 2 days. Councilman Kovach asked trucks are all solid and up and running? Service Director Smith answered everything is working out great, little normal things but like we had tire issues earlier today that we had some things that were in the tires but we replaced them and took care of it before the storm. We are in good shape. *Motion by Huska/Second by Bring to accept the report. Yeas All. ***/LAW DIRECTORS REPORT:*** Law Director Graves stated just briefly the legislation tonight; we have the ordinance approving the contract with the AFSCME union – we have gone over that so there are no surprises there. Also these will have to be added to the agenda. The other one that could be added to the agenda is Council#002 and that is making consistent the definition of a detached private garage. As Councilman Elliott pointed out I will be bringing a draft piece of legislation to Worksession to address repeat nuisance calls to rental property and it is an effort to try and hold landlords responsible to continue to maintain rental property in the city where there is repeat Police involvement. I would request what I promise to be a brief executive session for the purposes of discussing current litigation and also to discuss the appointment of a public official. *Motion by Huska/Second by Bring to accept the report. Yeas All.

CITIZENS COMMENTARY:

Linda Eyring, 4601 Lake Road stated I don't know anything at all about what was going on with these gambling machines that we were putting them in the city and whose idea was that and how come it wasn't put for a vote before the people before they went ahead and did that and how is the city getting money, how much money are we getting off of that? I was really upset when I found out that it is going in right across the street from my house in Schunenman's, how come the city didn't notify the people that this was an option? Law Director Graves answered first of all the way that they are structured they are legal, they are not gambling – they are legal businesses. These types of operations have approached virtually every community not only in Northeast Ohio but nearly across the state and even into other states and across the country. It is really exploding right now, communities are really falling into 3 camps. So them being legal they are just like any other business. Mrs. Eywing stated I am not complaining that they are illegal, I am just saying just because all the other communities do it do we have to jump off the bridge too. Do we have to follow along with what everyone else does? I am just upset that there is gambling going on in our city. Law Director Graves answered communities are falling into 3 camps; there are communities that are simply doing nothing and they are coming in. Then there are communities that are regulating

them and licensing them and that is what Sheffield Lake did so that enables the city to monitor them, keep control of the situation and also to reap some revenue from the licensing fees. Mrs. Eywing stated but somebody had to okay it by the city first before they are allowed into the city. It is just a normal business, anybody can open up one anywhere? Law Director Graves answered it is a retail operation, what the city did was actually place additional controls and requirements upon them so that they have to get the license from the city and pay the city some significant licensing fees and it also enables the city to continue to monitor them so that they don't cross any lines and start operating any type of an illegal operation there. The third camp that some cities are going is they are actually passing legislation banning them, they are passing moratoriums for further study. Now I don't know whether that type of legislation will actually hold up if it was challenged to preclude that certain business from the community but what they are saying is that they are not outright prohibiting them, they are saying a temporary moratorium while we do further study and review to learn more about the nature of the operation. So Sheffield Lake was approached I think by numerous operations wanting to come in and rent a vacant retail space and the city thought it was in the best interest of the city to regulate them and require them to be licensed. Mrs. Eywing asked so they can go into any city and open up one of these gambling things without the ok of anybody really? Law Director Graves answered first of all they are a retail establishment, they are selling phone cards and they have a sweepstakes as a promotional to buy the phone cards. Now that was found by a court to be legal and not to violate Ohio gambling laws. Mrs. Eywing asked so this is with that new gambling law that they are passed right, allowing these machines to go through to be part of the city? Law Director Graves answered no this has nothing to do with the casino's. Council Pro Tem Rosso advised this is not gambling, this is a retail store. This is no different than any other retail store in the city. Mrs. Eywing asked what are they selling? Council Pro Tem Rosso answered they are selling phone cards. Mrs. Eywing asked for what? Council Pro Tem Rosso answered phone time, you can use it to I am assuming to make long distance calls or whatever. Mrs. Eywing asked why is it called a sweepstakes than? Council Pro Tem Rosso answered than you could use to do a sweepstakes – they do have machines that you can get on the internet and you could do a sweepstakes. I always think is the best correlation – it is nothing more than a different type of Dave and Busters. You are basically playing a video game but it is not gambling. Law Director Graves stated the important thing to consider when you talk about the definition of gambling; there has to be risk, consideration and reward. When they buy the phone card; whether they play a game, play online or computer game – that is irrelevant, they never lose the time that they bought on the card. The customers money is never put at risk. So if you walk in there and buy a \$20.00

phone card; whether you play the game or don't play the game, whatever – you walk out with a \$20.00 phone card just like you would if you bought that at Target or Drug Mart. Mrs. Eywing asked but how do they get their money than? Law Director Graves answered 100% of the business is derived from the sale of the phone card. Mrs. Eywing stated but if they are getting their money back I don't understand how they are making any profit off the sale of the phone cards. Law Director Graves stated I don't know what you mean by get their money back, you buy a card and that is your card to keep no matter what. Now you can swipe that card which gives you so many points you can play a game, whether you play the game, whether you win the game, lose or whatever – you still have the same time on that card and that never comes off. You can also use it to make phone calls – phone time. Mrs. Eywing stated that is a sneaky way of gambling. Councilman Kovach stated the best comparison to give you and this I believe is what the basis of the lawsuit that the court that approved this was, the sweepstakes at McDonalds. You buy a product and your cup comes with a little sticker thing, you pull the sticker off and you win or you lose whatever but you still have your cup of pop or whatever product you have. That is the best way I think to describe it. Mrs. Eywing stated I was really upset when I saw that there, did it have to go before a Council vote in order to have it. Law Director Graves answered no it did not, what went before Council was the legislation licensing and regulating them. Mrs. Eywing asked but those can go in anywhere. Council Pro Tem Rosso stated any place that is zoned for a retail business. Mrs. Eywing asked how come they just started now, has this been going on for years and years and I didn't know about it? Law Director Graves answered really I think this is in the last few years. There is a lot of communities that have them that are not deriving any licensing fees or regulating them in any way. Mrs. Eywing asked but the city is getting a kick back from this somehow? Law Director Graves answered it is not a kick back, it is a flat licensing fee – it is not in any way related to the profits of the business. It is \$5000.00 per year for the café and then it is \$30.00 per terminal per month and that fee is reasonable in light of the amount of time and effort that the city has to put in monitoring the operation. Council Pro Tem Rosso stated now I will admit there was a gentleman here a few months ago that had your same concerns because the one went into the old Gus's restaurant. We never heard another word, doesn't have any issues and what is there - 10 cars there maybe at any given time. Mrs. Eywing stated well it is brand new. Council Pro Tem Rosso stated it has been open for 2 months I will bet at least but your concern is going to be noise and traffic? Mrs. Eywing added and the type of people it is going to attract? Councilman Bring asked have you been in one of those? Mrs. Eywing answered no but I have been in casio's, I know what casio's are like. Councilman Bring advised take 5 minutes of your time and go down to Gus's and walk through there. Mrs. Eywing stated how

do you get rid of them if you want to get rid of them, did they sign a lease with that building to have those there for so long – is there a lease signing there with them? Law Director Graves answered I am sure they did but that is a private business transaction that the city is not involved with. Mrs. Eywing stated it is just unbelievable, to me it is gambling; a sneaky way of gambling. Council Pro Tem Rosso stated the position of the city is that business was opening whether we did anything or not, we could not stop it and all we did was put on guidelines and controls and allow the city to charge the annual and monthly fees. I guess in your mind it would be the best of 2 evils that it is going in no matter what and at least this way the city is getting a benefit from it and has control of it so there is no issues. Mrs. Eywing stated because somebody told me it went to a vote before Council. Council Pro Tem Rosso explained it went to Council to vote to pass the legislation controlling it and assigning the fees, not allowing it. There was never a vote to allow them, they have always been legal in the city and quite honestly they could have opened 2 weeks before and not have no control. Law Director Graves stated for example some of them want to engage in the sale of internet time and the City of Sheffield Lake has taken the position that if you are going to have internet sweepstakes café here it has to be the phone time because that is the specific situation that was found legal in the Toledo case. I know other communities are allowing the internet time but we are not allowing the sale of internet time. We are not going to go out on a limb and start deciding something is legal or illegal that hasn't already been adjudicated in court. So that is one of the things that by regulating them, that is the benefit of that that we are able to keep some control. Mrs. Eywing stated I am for regulating and I would like to get them out of here. I don't think all the money in the world is worth having them. It is funny that 3 of them would open up in our teeny tiny city that we would have 3 of these. It is just unbelievable. Councilman Elliott stated actually there is 1 open and 3 pending. Mrs. Eywing stated I think it is going to bring our property values down. Councilman Elliott stated I don't want you to think that we just put a rubber stamp on this and said okay we are just going to mark this as a cash cow, I mean we did put some controls in. In fact, if you want a copy of the ordinance we could get that for you. Councilman Bring asked are you upset about the gambling? Mrs. Eywing answered yes the gambling. Councilman Bring asked what about the Ohio Lottery that sales in every place? Mrs. Eywing answered that is just a simple little thing. Councilman Bring stated that is the same thing but that is legal gambling and the state is behind that and that is a lot different than what this is and you still get people going in and out of those stores every day and if you don't like those people than you aren't going to like those people. Finance Director Smith stated may I also add that if the city were to fight all of these businesses that are coming in it would cost us hundreds of thousands of dollars in legal fees. We would actually

have to hire in legal aids to battle it because it is not fair that they are simply a business. Mrs. Eywing stated that is awful, so they come in and take over our whole city practically. Finance Director Smith stated I don't see them taking over the whole city. Mr. McCullough stated I felt like you do but for different reasons but the fact is this, it is a business and if we start regulating all of our businesses – tell businesses what can and can't come here, you talk about your property value now. My concern with them was the all night traffic, I was kind of like you I was worried about how much it was going to bring and what element it would bring. I go to casio's quite a bit and I have had ladies throw buckets at me that I would never expect a bucket be thrown at me just walking by because she lost her money in a slot machine. This is totally different and I think what Councilman Bring said is to visit up at Gus's because he suggested that I take a ride up there too. It is just a nice little clean quiet business with not a lot going on. Also remember there used to be 4 gas stations in this city. Councilman Bring stated it is right across the street from my house. Mr. McCullough stated they are not open all night. Mrs. Eywing stated I am just finding out about it and I live here, a lot of people don't know they are here yet. Council Pro Tem Rosso stated but it went through a Worksession that was talked about every line of that ordinance in great detail, it went through a Council meeting – both meetings public and both in the paper that we were having them. Mrs. Eywing stated obviously I have to get more involved in the city. Council Pro Tem Rosso stated it wasn't that it was a back room pass it through without anybody knowing, we had at least 2 if not 3 public meetings discussing it in great detail. Mrs. Eywing stated I thought you said it didn't have to go through the Council? Council Pro Tem Rosso answered it didn't, regulating it did. Mrs. Eywing stated I am all for regulating it but I just wish it wouldn't have been here to begin with, that we wouldn't even have to regulate it. I can't believe that they put in 3 already and where is the fourth one going to go. Service Director Smith stated I understand your concern but it is more of an opinion, these are businesses and when you say they are gambling they are not and the courts back them up. In May Council passed the regulations and what they were saying was that we were restricting some use of internet sweepstakes cafes and basically it cut out all the ones that sale the internet time. Our Law Director here had gone to several seminars with the Ohio Attorney General's office, Prosecutors and different people and got a large amount of legal opinion from across the state and I believe that Sheffield Lake is following the true intent of the law. There is no secret things going on with any of this, it is the true intent and what we have done is limit what can come here – we have restricted some of them in a legal fashion as compared to we didn't have to because they could have just opened up anyways before any regulation. It is just like a grocery store they can open up what they want, they meet the zoning requirements they can open a business. Mrs. Eywing stated I just

don't think it is worth all the money that the city is going to get from it, I am against gambling I guess. It is a personal thing, my religious beliefs and it just really upsets me that they allow it. Councilman Elliott stated you could look at it like this if we didn't choose to regulate it I think most of your city bars probably would have switched over to internet sweepstakes in a bar. We actually tell them they can't operate both businesses at once, you cannot mix alcohol with this business. What they are actually watching on the internet – to me this was the best case scenario. We are making sure that they are walking the line of law and the Law Director has already said if you cross that line, your license gets revoked right there on the spot. So we are actually regulating it. Mrs. Eywing stated I am glad you are regulating it but I just wish it wasn't even here to begin with. Councilman Elliott stated of all the businesses we have in this city this is probably the most regulated and probably the most watched. Law Director Graves stated it is something that is in every community surrounding us too. Mrs. Eywing asked it is in every community, where is there one in Westlake? Law Director Graves stated I don't know if there is one in Westlake. Mrs. Eywing stated I don't know of anyone who has one of these? Several voices – Elyria, Amherst, Vermilion. Mrs. Eywing stated in Lorain County but what about Cuyahoga? Voice – Garfield Heights. Law Director Graves advised of meeting that was attended by Northeast Ohio Law Directors, Assistant Law Directors and Prosecutors in which this topic of conversation was discussed at the November meeting.

Kerry McCullough, 685 Roberts Street stated just want to let Council know that my wife has been ill and snow fall and Lenny had put this on his thing and I would like to thank the Service Director to make sure that we could get out of our yard every day for treatments and we really appreciate it and I just wanted to be on record as saying that.

UNFINISHED BUSINESS: None./NEW BUSINESS:*Motion by Huska/Second by Bring to amend the agenda to include Council#001 and Council#002. ROLL CALL TO AMEND THE AGENDA: Yeas All – Rosso, Huska, Kovach, Bring, Elliott, Stark. *Motion by Kovach/Second by Huska to approve the appointment of Rob DeChant as part-time technician for the city. ROLL CALL TO APPROVE THE APPOINTMENT: Yeas All – Huska, Bring, Rosso, Kovach, Elliott, Stark.

ORDINANCES AND RESOLUTIONS:

Council#011 – EMERGENCY – an ordinance authorizing the Mayor to enter into an agreement with Local 277 of the American Federation of State, County and Municipal Employees, AFL-CIO, and the declaring of an emergency.

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

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

*Motion by Huska/Second by Bring for ADOPTION: Yeas All – Stark, Elliott, Kovach, Bring, Huska, Rosso.

Ordinance Passes#1-11

Council#002 – FIRST READING – an ordinance amending section 1111.04(35)c of the codified ordinances of Sheffield Lake regarding the definition of private garage.

*Motion by Bring/Second by Elliott to go into executive session for the discussion of current litigation and appointment of a public official. ROLL CALL TO GO INTO EXECUTIVE SESSION: Yeas All – Kovach, Bring, Stark, Elliott, Huska, Rosso.

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

Law Director Graves advised let the record reflect that City Council of Sheffield Lake did adjourn into executive session for the consideration of the appointment of a public official and to discuss current litigation pursuant to the Sunshine Laws.

COUNCIL PRESIDENT: None.

MEETING ADJOURNED: With no further business before this council, Motion by Kovach/Second by Bring to adjourn at 8:17 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 January 11, 2011.

COUNCIL PRO TEM

Richard Rosso

MAYOR

John J Piskura