

Minutes of the City Council
Sheffield Lake, Ohio
November 10, 2009

The regular meeting of the City Council was held Tuesday, November 10, 2009. Council President Edward Podmanik called the meeting to order at 7:03 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, Bring, Kovach, Elliott, Huska, Diebold, Treasurer E Hoenig, Finance Director Smith, Law Director Graves , Safety/Service Director Arendt
Absent: Smith, Mayor Piskura (excused)
Attending: Concerned Citizens, Zoning Board of Appeals; Ebenschweller, Planning; Belaska, Civic Center: Nicola, Members of the Media

*Motion by Bring/Second by Elliott to approve the minutes of the City Council meeting of October 27, 2009 with any corrections. Yeas All.

CORRESPONDENCE/COMMUNICATIONS:

Monthly report of court receipts for the month of October - \$8917.97. Receive and file.

Letter from Mayor Piskura regarding savings of items purchased from Home Depot.

PRESENTATIONS: None.

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

Roads, Drains, Water, Sewer, Refuse: None./Stormwater Utility: None./Safety: None./Buildings, Lands, Vehicles & Equipment: Chairman Kovach reviewed the minutes of November 5, 2009 meeting. *Motion by Huska/Second by Bring to accept the report. Yeas All.*/Ordinance:* Chairman Elliott reviewed the minutes of the November 5, 2009 meeting. *Motion by Huska/Second by Bring to accept the reports. Yeas All.*/Finance & Claims:* Chairman Rosso reviewed the November 10, 2009 meeting held just prior to this meeting.*/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: *None.***/FINANCE DIRECTOR REPORT:** Finance Director Smith reported I only have 1 thing, you will see Council#061 requesting that we authorize payment for an employee, we have an employee in our Stormwater

Utility fund that gets paid exclusively out of that fund. I am looking for relief that we pay him like half or somewhere in that neighborhood out of the roads. There is the money in the roads, the problem is the stormwater fund you know with all houses that have been foreclosed on and stuff. There is a lot of bills that haven't been paid. We will get that money but we aren't getting it right now. We knew we were going to have to do this, we really had projected this for 2010. This is for 2009, we need to start now or for the whole of 2009 and I know we have our SUAB committee Chair and this will make her very happy because the stormwater utility account does need the relief. We have a bond to pay and other things; small things that come out of there and we need to relieve it of some of the employee costs. President Podmanik asked we aren't causing our selves any problem with the stormwater utility with this move? Law Director Graves answered no. President Podmanik asked we would be completely above board on that correct? Law Director Graves answered yes. *Motion by Huska/Second by Bring to accept the report. Yeas All./**TREASURER REPORT:** report attached. Treasurer E Hoenig stated again I wanted to thank Rose for the wonderful job she is doing.

doing./**SAFETY/SERVICE DIRECTOR:** Safety Director Arendt advised the water tower came down successfully without any incidents, it is on YOUTUBE under Sheffield Lake water tower so we were pretty happy about that. They are still removing the steel, once they are done with that we will grade out the area and clean that up. The bike trail if weather permits November 19th we have Griffith scheduled to come in and actually finish the wooded area that isn't currently done now. So hopefully by the end of the year we will be completely done from Lake Road all the way through Ferndale. We do have them scheduled to come in on the 19th. As far as the city equipment, the snow plows – we have 2 of them completely fixed and ready to go. Out of the 6 we are working on the 3rd currently, the other 3 we have some problems they have some severe transmission problems and some other issues that we will deal with. But we will have 3 by another week or so.

Councilman Rosso asked I am assuming the costs for paving the bike trail is under the state bid minimum, so we don't have to bid it – bike trail, paving? Service Director Arendt answered that was all done previously before I got here, that was all set aside and money was put aside for that. That was long before I got here.

Councilman Rosso asked it is under \$25,000.00? Service Director Arendt answered I think it was \$40,000 or \$42,000 budgeted to do that. President Podmanik asked was the contract bid, did it need to be bid. If the costs was more than \$25,000 then it would have to be bid? Law Director Graves answered that is correct. President Podmanik asked do you know if the contract was bid? Service Director Arendt answered I do not know. President Podmanik answered he said he wasn't here – can we find out? Service Director Arendt answered absolutely.

*Motion by Huska/Second by Kovach to accept the report. Yeas All./**LAW DIRECTORS REPORT:** Law Director Graves reported I wanted to touch briefly on the status of the Civil Service Commission, they are making preparations to run

a second test for the position of Fire Chief. At this time we have 1 individual in the Fire Department who has expressed a willingness to take the test. We are waiting on the last response. They will meet tomorrow to open that response to see if we will have 2 people taking the test. If we do not, this one individual will take the test and if this person achieves the minimum passing score they would be certified for the position. If they do not simultaneously the Civil Service Commission have reviewed some changes to our local Civil Service rules which will be set for a public hearing which would enable the city in the event that run 2 tests for the same promoted rank, that they do not have any candidate achieving a minimum score they would be able to hire someone or test from outside the department. So that will be set for a public hearing coming up and we will keep everybody apprized of how that is going. I believe they will also be making preparations for a promotional examination in the Police Department for the 2 vacant Sergeant positions. Also wanted to touch briefly on something that Councilman Elliott talked about which was the wind turbine. As he said we have a company out of Boulder, Colorado that would like to build a 100kilowatt wind turbine. They are very excited about Sheffield Lake. They want to have one near the water, they originally approached the county. The county directed them to Sheffield Lake and said that Sheffield Lake has already been on the fore-front of the alternative energy movement and they have 2 functional wind turbines and they are probably the focus that you would like to meet with. They will build this for free, all the details have to be worked out and it will be a lengthy contract that we have to scrutinize but as a preliminary matter they are willing to do this. The agreement would involve the city purchasing power and then selling it to our tenants most likely Apple's Grocery Store at some savings per kilowatt hour over what they are paying right now. So it is a win, win, win – I think it is a good thing. I would like have this up sometime before next summer. They need to do a number of preliminary tests, this will involve the city entering into a non-binding letter of intent just to enable them to do some testing. The sticky issue with the testing is; one of the tests is to put up a temporary tower to measure wind speed at 160 feet. That exceeds the height limitation for B5 so at the next Zoning Board meeting the city will be requesting a variance from the Zoning Board of Appeals to, at least area variance to begin this testing and enter into the non-binding letter of intent to allow this company to start doing the testing that they need to do. Prior to any formal agreement or any construction we will need to enact a much more comprehensive wind turbine legislation. The proposal would be for this to be in the form of a conditional use permit with all the perimeters laid out as to where they can be built, what kind of fall radius and what other requirements the city would want to have on wind turbines in the city. But I think it is exciting, this company only has a limited number of turbines. I believe they only have 5. Service Director Arendt advised I only wanted to mention that when we were invited to the meeting, all the other surrounding us were invited as well. The reason they are so excited about

Sheffield Lake, we were the only city that showed up. Now that we were the only city that showed up and have shown interest and want to do this project, the surrounding cities now want to try to jump ahead of us and they only have these 5 turbines right now. Law Director Graves continued so it is a good deal and we will keep everyone apprized of it as we go. As I said Zoning Board will be taking a look at this and we will be working with the Planning Commission and City Council as well as we move forward. Just a quick recap of the legislation that could be added to the agenda tonight; we have the appropriations Council#060 that the Finance Director talked about, we have Council#061 that the Finance Director talked about that is reapportioning the payment of 1 Service Department employee who is currently paid exclusively out of the Stormwater Utility fund to be paid a portion of his salary out of the Road Department. We have Council#062 which is what Councilman Elliott advised, it is returning the base water rate from \$5.00 as it was increased in 2005 back to \$3.00 effective January 1, 2010. That is for the base water rate which includes 0 to .99 units of water. Council#063 which Councilman Diebold previously talked about is an ordinance increasing the rental rates for the Community Civic Center as recommended by the Advisory Board. They haven't been raised since 2005 and this would be implementing the recommendations of the Advisory Board. Council#064 is authorizing the Mayor to enter into a renewal for Rite Aid. The Rite Aid is the only, other then the Shoreway Lounge which is also month to month. Rite Aid's lease had expired and Rite Aid had elected to maintain a month to month tenancy subject to negotiations. At this point, they have approved a 3-year renewal of our current lease with Rite Aid. It is my inclination or my recommendation that we approve this and lock them in for another 3-years as their rent does comprise a significant portion of the overall rent roll in the shopping center. Our developers that are working to obtain pre-leases and ultimately and hopefully redevelop the center are aware of this and they are in agreement to go ahead and lock in Rite Aid for another 3-years. So I would recommend that we go ahead and do that. This would be the same terms and the same rent that they currently are. We continue to work on a lot of other projects that everyone on Council should be aware of. Councilman Diebold stated lets say they put that wind tower up, the temporary one/experimental one and there is not enough wind there is there anything etched in stone that we couldn't move that forward and maybe pick some more wind speed closer to the lake. Law Director Graves answered what they are going to put up is not a wind turbine, it is just a scope that measures wind speed – a little pinwheel type. They are going to put that up and measure the wind speed and they are going to do some core sampling and a number of testing. I would assume that if they found that that precise spot wasn't ideal they would make other recommendations. I think it is going to be costs prohibitive for them to put the wind turbine on the north side of Lake Road because the costs of running the connections to the shopping center is going to be significant, you would have to take them under Lake Road and it would not be

costs effective. But they will look at all their options. *Motion by Huska/Second by Bring to accept the report. Yeas All./**Civil Service – None./Demolition Board – None./Records Commission – None./Legislation** – noted above.

CITIZENS COMMENTARY:

Bob Ebenschweller, 362 Cove Beach advised I got an email today notifying me of the change in the Zoning Board meeting and I sent my replies that it would be fine with me and in reading the ordinance the Law Director covered a lot of issues that jump immediately into my mind because I attended that meeting as well and there was a lot of good information that I learned from that. But there was lot of things that I learned that were a little bit fearful, like the pictures if one of them come down and the fall zone of at least as high and maybe half again as high would leave a circle that would take in most of parking lot at the shopping center which would limit parking. As far as pedestrians, I don't think you would want to let them in that zone either. The other thing is that I am wondering are we there just for an informational thing or are we going to try to pass something to make an exception to our law which we don't have. We have no laws about wind turbines, only the height recommendation and I will tell you the truth this is one of those things that we often do. We pass legislation, you walk in and sit down and you got a piece before you that says may be added to the agenda tonight and it is under an emergency. There is no discussion in any committees on it and you are expected to act on it – oh we have to do it now because we will lose funding or we have to do it this that or the other thing. Now this you talked that in here, there are others that are going to be against it or don't want it and we have to act in a hurry. You know what when it comes to health, safety and welfare – right now, I am not in a position to stick something that big in the middle of that shopping center at the risk of hurting some people. Councilman Elliott advised like I said this is going to Worksession so we can get a direction from City Council on where they want us to go. Dave can talk in a minute about the zone or the safety zone that we were going to put around this but one of your concerns that you brought up was actually talked about in our meeting – fall radius I think is how it is termed. I don't think that we are going to pass anything in a hurry, especially something that is gonna put the residents in harms way. I am for the green initiative that Sheffield Lake is in the direction that we are going and I know that you are also. However I won't do that at the costs of safety. Law Director Graves advised absolutely and again reiterate, the urgency is not to pass any legislation to put up a wind turbine. The urgency is to get the non-binding letter of intent so that they can start the testing. The variance would only, the way I had envisioned this – the variance would be; not a use variance to allow this wind turbine to go up, that could be tabled – that could be put months in advance or months down the road. Any zoning change would enable or legislation that would provide for conditional use permit for the wind turbines has to go through the 60-day review period by the Planning Commission, it need to be set for public hearing and the ultimate legislation regarding the wind turbines is

going to be very closely scrutinized and keep the public safety foremost in everyone's mind. But the urgency is to allow this company to know that we are at least willing to entertain the idea, that we are in favor of them going forward with an alternative energy proposal and for them to start the testing. In order for them to begin the testing we at least need an area variance which you are aware of. A little different lesser standard than the use variance for the height so that can put the anemometer up in the air, measure the wind speed and begin to do this testing. The final agreement, the legislation – all that will be way down the road. Mr.

Ebenschweller stated wouldn't this be by passing that, wouldn't that kind of be opening the door and then somebody will say well we can't turn back now – we are committed. After they go through all this expense in doing this? Law Director Graves answered the number one concern in entering into a letter of intent is whether or not the city went into it in good faith, the good faith requirement is met if we are serious about talking about the issue. We don't enter into this agreement right now knowing full well that down the road it is just going to get slammed down. If everybody was saying absolutely not, never in a million years, it is not going to happen then it would not be good faith to allow this company to incur thousands of dollars worth of testing knowing that ultimately the project is not going to go forward. At this point we need to say we are willing to talk about and allow the testing to go forward, down the road if we can't get a proposal that everyone feels comfortable with then it won't go forward. Mr. Ebenschweller stated the thing I was worried about the fall zone, that might have an affect on the people we just hired that want to develop the shopping center. If it is going to screw up their plans and say okay we have to stay 250 feet away from the center of this thing and then we are out of room and we can't really do anything over because there is not enough land. Councilman Elliott stated I apologize Bob because I think we made it sound like this was something that was definitely going to happen. It is something that we are looking at, it is something that we are very excited about but we want to make sure it works first. Mr. Ebenschweller stated my experience in the past is just that we do things very quickly and then we find out whoops we screwed up or we say okay the project is done and I say no it is not done, you left something over here that has got to be taken care of and then I am told well that is not that big of deal, we are busy over here now we can't do that now and I say that takes precedence over planting posies or something. You got to get that hole fixed, you know the one I am talking about. I am worried about any decision that I would make would wind up getting somebody hurt or worse. I would like to look at it more. Councilman Elliott advised we are going to talk about it under Worksession and you usually come to Worksession's anyway. Come on out and give your 2 cents and I will give my 2 cents and maybe if everybody puts their 2 cents in we will come up with a dollar – I am not sure. Councilman Bring advised actually in that brochure Bob it says 180 feet away from any

commercial structure and 500 feet away from residential and it says 180 feet away from commercial.

Debbie Belaska, 4014 East Lake Road asked I noticed on the website there the guys that we hired to do the shopping center that under major tenants they state Apples; the grocery store, Chase, Rite Aid, US Post Office, Sheffield Lake City Hall and Family Dollar. Sheffield Lake City Hall isn't there and then we are trying to get some business there from them. That might even be something that somebody would say boy we don't want that there if they already have a Sheffield Lake City Hall. You know it is misleading and it is not even there, it is incorrect. On North Coast Capital website – it is not correct and I just wanted to bring that to your attention. I have something else I wanted to state and this is a very sensitive subject so I am going to be very delicate with this but I would like to have some of the answers, some of my questions answered possibly. It is my understanding that the City of Sheffield Lake had some classes on sexual misconduct and I am not sure how to use that word. Is that true? President Podmanik answered yes that is true. Mrs. Belaska asked can I ask who paid for that, did she come in was that a volunteer deal, did you have to pay the individual to come? President Podmanik answered it was paid for by the city. Mrs. Belaska asked is that budgeted in this years finances? Finance Director Smith answered yes. Mrs. Belaska asked who attended? Law Director Graves answered all city employees and some Council members. All full and part time employees of the City of Sheffield Lake attended and Council was optional. Mrs. Belaska asked how many classes in total were there? President Podmanik answered 3. Mrs. Belaska asked I would like to know the speakers name if possible and her phone number or where she had come from and what her credentials are? President Podmanik stated he can get you the information afterwards. Law Director Graves answered Attorney Diane Citrino, former head of the Ohio Civil Rights Commission. She is an attorney that practices almost exclusively in this area and as the former head of the Ohio Civil Rights Commission which is the organization charged with investigating any claims of this nature she has a significant amount of expertise and she is the one that conducted the 3 meetings. Mrs. Belaska explained I had asked the Mayor and I should have really waited for you to come back because I had asked and he didn't have her name at the time or the firm she had come from. President Podmanik stated Mr. Graves attended all 3 meetings and he has all that information. Mrs. Belaska stated I asked at the last Council meeting to the Mayor and I really should have waited for Mr. Graves to come back, that is what I am making clear what I did.

Rosa Gee, 588 Kenilworth stated after the meeting I could email you the link. Service Director Arendt advised I will call him tomorrow. I have some questions in regards to the same site. Their traffic count is 15,000 vehicles a day, NOACA has 7,750 – I can understand there being a slight difference but that is almost double. The population they are saying is 6095 with an average household income of

\$62,742.00. When you consider they are saying total amount of households 2,215, in other words all of us are making roughly a little more than \$60,000 a year but nobody considered a lot of those population are children. So I find it hard to believe and most of my neighbors and most of the people that have emailed me in regards to this find it hard to believe where they got their facts. Now they are publishing this under the name of Sheffield Lake basically. This isn't good for us, Council really needs to read what they are saying on this site as in regards to how many people are going to be shopping there and how much we make because if they rent to people under false pretences when those companies don't make the money, they are going to be out of there and then we are back to empty store fronts again. What they implied is more traffic then the Commons in Avon get and we all know that is not true. Law Director Graves advised sounds to me like there are inaccuracies in the website but I think the car count. Service Director Arendt advised the traffic count we borrowed from the City of Lorain – their traffic counter and the traffic count on Lake Road averaged 11,000 and on Lake Breeze averaged 4500 or so. Mrs. Gee stated but the one on Lake Breeze was put at the railroad tracks, we all know that the people that come home from work go over the railroad tracks and turn onto South to go home. Those people don't make it all the way to Lake Road and that still isn't the same as the 15,000 vehicles daily. So Council could look into that. Also the City of Avon Lake, Ward Councilman Jennifer of ward 2 – she is in charge of Finance also over in Avon Lake. They are inviting city head officials and finance people to a free gathering to where they are going to have lectures from people with audits. It is all involved on financing and auditing and she has been trying to get a hold of Sheffield Lake and hasn't managed to get through yet. Finance Director Smith asked did she call city hall? Mrs. Gee answered yes. Law Director Graves asked are you talking about Jennifer Fenderbosch? Mrs. Gee answered yes. Law Director Graves answered I know her personally, she hasn't tried to call. Mrs. Gee advised well Jennifer was with me at the County PIPE Board meeting today and she said she hasn't gotten her calls returned but she is sending an email, I gave her Council email for her to send it to that. Clerk Fantauzzi advised I have not received any messages. Law Director Grave advised I haven't either. Mrs. Gee asked as the Chairman of SUAB has the Law Director been able to discuss that ordinance we have been discussing with stormwater please? Law Director Graves answered yes. Mrs. Gee asked when I am going to hear something, my meeting is Thursday – when is stormwater going to hear something. Law Director Graves advised we are going to talk about that at the next Roads and Drains meeting. We did look at one of the ordinances which actually already says the Service Director is defined as Service Director or his designee. We may only need to amend the one on the Board, the ordinance referring to the SUAB Board and if Council so chooses that could be amended to also define Service Director as the Service Director or his designee. Mrs. Gee asked then it will go to Council for a vote and it is up to Council then right? Law

Director Graves answered that ordinance goes to Council. Mrs. Gee stated as far as the ordinance hopefully tonight it will get passed, when the stormwater utility was originally started we never believed we would be paying a fulltime employee with full benefits and if you back to the very beginning that thought was never going to happen. We over estimated how many homes were going to be tapping in, the stormwater utility really does need help paying that employee.

John Edwards, Avon Lake Press stated I would just like to say that what North Coast Capital Partners is doing is advertising and if anybody here thinks there is truth in advertising they haven't watched commercials.

UNFINISHED BUSINESS: **None.** **NEW BUSINESS:** *Motion by Huska/Second by Bring to add to tonights agenda Council#060, 061, 062, 063 and 064. ROLL CALL TO AMEND THE AGENDA TO INCLUDE COUNCIL#060, 061, 062, 063 AND 064: Yeas All – Huska, Rosso, Bring, Kovach, Elliott, Diebold.

ORDINANCES AND RESOLUTIONS:

Council#060 – EMERGENCY – an ordinance providing for the establishment and increase and decrease of certain funds within the annual appropriations ordinance of the City of Sheffield Lake, Ohio and the declaring of an emergency.

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

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

*Motion by Huska/Second by Bring for ADOPTION.

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

Ordinance Passes#60-09

Council#061 – EMERGENCY – an ordinance authorizing the payment out of the road department funds of a portion of the wages of a service department employee who is currently paid exclusively out of the storm water utility fund effective the first pay period of 2009, 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, Diebold.

Councilman Rosso stated Tammy I want to apologize as we have talked about this 3 times today and I am still confused. I don't understand, we are taking someone who is paid entirely out of stormwater utility and we are moving it to roads right? But I don't understand it says a portion of their wages but we are moving all of it right? Finance Director Smith answered no, probably 50%. We have several employees that we – like our water clerks, they get paid out of refuge, water, sewer and this is kind of the same idea. Councilman Rosso asked so 50% of the money will still come out of stormwater utility? Finance Director Smith answered at this time and as his costs increase that will probably go to a lower percentage honestly. That is why we kind of left the percentage up.

*Motion by Huska/Second by Bring for ADOPTION:

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

Ordinance Passes#61-09

Council#062 – FIRST READING – an ordinance amending section 935.15(a)(1) of the codified ordinances of the City of Sheffield Lake establishing the monthly water consumption base rate for the municipality effective January 1, 2010, and the declaring of an emergency.

Council#063 – FIRST READING – an ordinance of the Council of the City of Sheffield Lake amending section 969.06 of the codified ordinances regarding rental rates, and the declaring of an emergency.

Council#064 – EMERGENCY – an ordinance authorizing the Mayor to enter into the fourth amendment to lease agreement with Rite Aid of Ohio, Inc., for retail space in the Shoreway Shopping Center located at 4100 East Lake Road, 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, Elliott, Diebold, Kovach, Huska, Rosso.

*Motion by Huska/Second by Bring for ADOPTION:

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

Ordinance Passes#62-09

COUNCIL PRESIDENT: None.

MEETING ADJOURNED: With no further business before this council, Motion by Kovach/Second by Bring to adjourn at 7:58 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 November 10, 2009.

COUNCIL PRO TEM

Richard Rosso

MAYOR

John J Piskura