

**Minutes of the Roads, Drains, Water, Sewer & Refuse
Sheffield Lake, Ohio
December 7, 2009**

The regular meeting of the Roads, Drains, Water, Sewer & Refuse was held Monday, December 7, 2009. Chairman Smith called the meeting to order at 7:35 PM.

ROLL CALL OF MEMBERS:

Present: Smith, Kovach, Bring, Huska

Absent: Podmanik, Rosso, Elliott, Diebold (excused)

Attending: Law Director Graves, Service Director Arendt

READING OF THE MINUTES:

*Motion by Smith/Second by Huska to approve the minutes of the October 5, 2009 meeting as presented. Yeas all.

CORRESPONDENCE: None.

PRESENTATIONS: None.

SEWER CREDITS/UNPAID CHARGES FOR TAX DUPLICATE:

List for tax duplicate – None.

Sewer Credits -

441 Elm St.; \$42.24 – after a brief discussion, *Motion by Huska/Second by Bring for approval of sewer credit in the amount of \$42.24. Yeas All.

4427 Lake Road; \$137.80 – after a brief discussion, *Motion by Bring/Second by Huska for approval of sewer credit in the amount of \$137.80. Yeas All.

4625 Edgewater; \$376.30 – after a brief discussion, *Motion by Huska/Second by Bring for approval of sewer credit in the amount of \$376.30. Yeas All.

4443 Tennyson; \$52.92 – after a brief discussion, *Motion by Bring/Second by Huska for approval of sewer credit in the amount of \$52.92. Yeas All.

758 Sunset; \$79.38 – after a brief discussion, *Motion by Huska/Second by Bring for approval of sewer credit in the amount of \$79.38. Yeas All.

932 Warwick; \$349.86 – after a brief discussion, *Motion by Bring/Second by Huska for approval of sewer credit in the amount of \$349.86. Yeas All.

4120 Brockley; \$70.56 – after a brief discussion, *Motion by Huska/Second by Bring for approval of sewer credit in the amount of \$70.56. Yeas All.

OLD BUSINESS:

Projects:

Ferndale II – Service Director Arendt advised by next meeting we should have everything completed and it should be able to come off the list.

Walker Road, phase III – Service Director Arendt stated they come late and they leave early. Mr. Bring stated I went by there at 2:30 today and they were all gone. Chairman Smith advised they have their time frames don't they? I mean if they don't finish it within a certain period of time. Service Director Arendt stated they can always claim weather and

stuff like, the crane operator was supposed to come at 1:00 today to put those vaults in and stuff and I guess he didn't show so they left. I was there at 7:00 the other morning, went back at 8 they weren't there and went back at 9 with Bill and they weren't there and went back at 9:30 and they were there. The engineering outfit that we hired you know they have someone who oversees what they do but he doesn't have the authority to push them. So we have actually cut back that guys hours because you know we have to pay him so we have cut him back. Chairman Smith advised with the bid and the contract I mean they have got X amount of time to get the job done. Service Director Arendt stated it is ironic, Don Mould's talked to Bill today and he has been calling because he would like to get some money and Bill explained to him you come late and leave early and now it is not done. Mr. Bring stated they have the road blocked now. Service Director Arendt stated he says well we are going to work through the winter. Well that is great but they could have been done with everything they had to do by now. So now we are looking at them continuously working but their time frame as the weather gets colder and stuff – that time frame extends because of weather conditions. Chairman Smith advised I am sure you are probably keeping track of all that. Service Director Arendt stated we have got all the hours down – everything. Chairman Smith asked when they have to have that completed. Service Director Arendt answered because of winter coming up, they won't have to have it completed until the asphalt plants reopen in the spring for them to put the road down. Mr. Bring stated the only problem is like I said they got Walker Road blocked off and all dug up. It was beautiful weather, it is stupid. Service Director Arendt answered I was told last week that they were only going to be there starting Monday and Tuesday of last week and that would have been finished. We are into the new week and it hasn't changed. The big vault that they had to put into the middle of the street, I don't know if you have seen it – it should have been done and I asked him. They even left the ladder in there over night – they were supposed to pour cement and I said how did they pour cement with the ladder in? I mean if they came in and we had another big bid job and they came, you would have to consider this job as best and cheapest – you would have to reconsider their bid because of the way they work. Mrs. Huska stated shoddy work. Service Director Arendt answered it is not shoddy, it is just that it is all family. Like I say go past tomorrow at 2:00 – they won't be there. Mr. Bring stated I don't even think they showed up Friday at all. Service Director Arendt answered no. They did not come Friday at all. It is creating a headache for Councilman Diebold and all the tenants that he has. Chairman Smith asked they got that road closed right, where is it closed at? Mr. Bring answered right at the intersection of Walker and Abbe right there. Everybody is right there and they have to go down Buckeye and through there. If they has stuck with it then it should have been done. Service Director Arendt advised they told us last Monday that they were going to close it Monday and Tuesday and now we are into the next week. Chairman Smith stated our hands are kind of tied I think right at this point. Service Director Arendt stated we have already sent them one letter for not doing one thing that they were supposed to do. Mr. Bring stated when they enter the bids, is that a bid through just locally – it is not a bid through the state then? Service Director Arendt answered no, just local. Chairman Smith stated there has to be some kind of performance requirements usually that

goes along with. Law Director Graves advised we continue to monitor it and if we have to be more aggressive then I am sure we will. Service Director Arendt stated in terms of legality yes but when you talk to them it is like in one ear and out the other. Mr. Bring stated we could get nit picky I guess on the finish work too if we want to if they want to play games.

Infiltration:

Flow Monitoring analysis – Service Director Arendt advised that will there I think until we get any some type of development in the shopping center then I want to move it to Lake Road.

Future Projects:

Sidewalks – Service Director Arendt advised we put a few in, we went over the list and saw everything single one of them that had money in escrow. We did do a couple of them but that is about all that we are going to do be able to do.

Misc:

Water meters – Service Director Arendt advised what I would like to do at the next committee meeting that we have, I have 4 different water meter companies and I have all their set-ups and what I would like to do is set-up and show exactly what we have today and what we would look for eventually in the future. They are already for display and stuff like that that I will be able to show you.

Pole for lights on bridge – Service Director Arendt advised I talked to Joe Faga last week and he said that their night crew would do it when they weren't busy but they have been busy so they haven't got to it but he did promise me, talked to him Friday and he did promise me that he would have it before the end of the year.

SERVICE DIRECTORS REPORT: None.

NEW BUSINESS:

Request for street lights on the southern most ends of Buckeye Drive and at the corner of Richelieu where the stop sign used to be – petition attached – Chairman Smith asked what do we need for that, we just need to request? Service Director Arendt answered I actually have the letters sitting in my mailbox if you approve it tonight and it goes to Council for approval. Chairman Smith asked is it 1 or 2 there? Service Director Arendt answered it looks like we could use 2 there and like I said I have the letter prepared if you guys approve it to go through Council. Chairman Smith advised the money is there. *Motion by Smith/Second by Huska to authorize the Service Director to get that in motion to get those 2 lights put up. Yeas All. **REMOVE.**

SUAB requests to change ordinances to allow Bill Gardner to attend meetings – Chairman Smith stated everything or a lot in the ordinances correct me if I am wrong, a lot of them say Bill Gardner or Service Director or what? Law Director Graves stated I think that on some of their own by-laws or their own internal governing things that might

actually say Bill Gardner by name which they need to change that. But in terms of ordinances and bear with me I didn't know this was on the agenda tonight. Chairman Smith advised I think the main purpose here is to. Service Director Arendt stated it really shouldn't read Bill Gardner, it shouldn't read that – what it should read under their own by-laws they have Bill Gardner name. Chairman Smith stated their by-laws they can change. Service Director Arendt stated which they are going to change, the way the ordinance should read is Service Director or his designee. Bill Gardner's name should not be and I am kind of surprised to see here – it should not be. If I am in the hospital or gone or something like that. Chairman Smith stated I think the question here is whether or not that is what we want to do? I am talking from the committee is that they want the ordinances to be changed that need to be changed to allow that and the question for us would be if it is what we want to do? Mrs. Huska stated so from what I get from this they want Bill to be there? Chairman Smith answered Service Director or designee if we need to. Service Director Arendt stated I guess Rosa wants Bill because I guess Bill started with Rosa and I did not know that she was going to put Bill Gardner's name there and I told her no, she shouldn't do it that way. Chairman Smith advised from what I understand through Kay is in the MS4 report his name is over and over and over which designees him as this, this and this. So I don't know if that is what we need to change or what? I think it is more in the MS4 report then it is anywhere else. Law Director Graves advised there is 2 ordinances that we need to look and one of them is 944 which delineates regulation of pollutants into the municipal storm sewer system. This basically governs the MS4, 944.01 under definitions 944.02a says that the City Service Director means employees or designees of the Director of the municipal agency designated to enforce the chapter. So for purposes of the MS4 report, it already says Service Director or his designee. That does not have to be changed, we already determined that. However 943 which talks about the stormwater utility, this is where it sits up 943.08 where it sits up the stormwater utility appeals board. 943.08b says that 5 members of the SUAB shall be appointed by the Mayor with the approval of 2/3 of the Council, the Service Director shall be a non-voting member of the SUAB. So 943 under definitions doesn't define City Service Director, so what I would recommend to address Rosa's concern is that 943.02 which is definitions governing the stormwater utility appeals board should be amended to include the language that 944 has clearly stating that City Service Director means Director of Public or his agent/designee, etc. If that is what Council wants to do, if Council still wants to the ordinance to require the attendance of the Service Director then you leave it alone but if you would want to entertain that legislation it could be amended to reflect the same kind of language that 944 does including designee. Chairman Smith stated so that is the question, the question is whether or not we want to do that or not – if we do then we are just going to forward that to ordinance for the change. So that would be the discussion and I think right now it is Service Director. Mr. Bring stated the problem that I have is it was basically sit up as an appeals board, if somebody had a problem with the square footage and the amount that they were getting charged. It has gotten way beyond that. Chairman Smith answered well that is because the MS4 creates the PIPE, that is what they do. That MS4 is the EPA report really that governs. Mr. Bring stated they were

supposed to meet 4 times a year – quarterly. Chairman Smith stated the appeals board is still the appeals board, that is what they call the meetings for correct. Mr. Bring advised that is the only time you would really need a Service Director then, as far as I am concerned. Service Director Arendt advised from what I read it seems to be getting a little bit bigger then it should. Mr. Bring concurred and stated I don't think we need the Service Director there for all those meetings for what they are going over right now. Chairman Smith advised well that is the whole point of the designee who he wants to show up or if he don't want to show up. Mr. Bring stated I don't even think we should have anybody there as far as that goes. You got a Chairman of the meeting. Chairman Smith stated yes but that is already sit up through the ordinance though as he is part of that Board because he is the one that does the monitoring as far as – you (Service Director Arendt) do the tests for the outfalls and all the other stuff and that is where their information comes from. Mr. Bring stated then they are having way too many meetings in my opinion. Chairman Smith answered well I do too but that is up to the Chairman of the Committee. Service Director Arendt stated as Mr. Bring said it is getting more then it should. The designee that we have for the EPA now and getting all the licensing that is necessary is Tom Erwin – with all our testing and everything you have to have one. The Board from what I read is maybe trying to go beyond its scope. Chairman Smith stated there is but I think that the misconception though is because the MS4 puts them there - like the PIPE, they spend a lot of time on that. That is why they have the meetings with their websites and they are doing their brochures and everything. That is not the appeals board, the appeals board itself for the appeals should only meet 4 times a year but through the MS4 report requires the city to set up the PIPE and that is why it is going to the stormwater utility, they are actually the PIPE Board too. We didn't do that, that is what the MS4 – that is what the EPA says you had to do. That is what they have more of their meetings on but yes the meetings do out beyond their scope of what they are talking about but that not our domain really that is their domain. Mr. Bring asked shouldn't the EPA be going to the Service Director? Law Director Graves advised under section 944, the regulation of pollutants into the stormwater sewer and the MS4 report is completely the jurisdiction of the Flood Plain Manager. The Flood Plain Manager has to enforce all of these provisions. The stormwater utility appeals board has powers and duties to settle disputes as set forth 943.08c including appeals of the decision of the Flood Plain Manager under 944. So if the Flood Plain Manager in enforcing the pollutants makes a determination the entity could appeal that to the stormwater utility appeals board but they are not body that is supposed to be enforcing. Chairman Smith answered they don't enforce nothing but if I am not mistaken there is an ordinance on the PIPE? Law Director Graves advised that is another thing, that is a third element. Chairman Smith stated they have got like 3 different elements. Law Director Graves stated you got them as an appeals board to settle disputes regarding stormwater utility, they are also an appeals board to settle disputes regarding pollutants in the MS4 reports and they are also designated under the PIPE which is the public information public education. They have to disseminate information to the public about stormwater compliance. Chairman Smith stated that is required through that report that we have one set up and I think we all chose that that is what the committee is.

Now whether it is going beyond their scope I have to agree. Service Director Arendt advised what Mr. Graves says is exactly correct, if they would confine themselves to those portions then it is an idealistic situation but they are trying to go a little bit beyond the scope. Chairman Smith stated I agree with you 100%. Law Director Graves advised also you do understand that the Stormwater Utility Appeals Board is only an advisory board. They give an up or down referral which is supposed to come to Council. He read any adjustments recommended by the SUAB shall be referred to Council and Council retains full authority to accept or reject any recommendation of the Stormwater Utility Appeals Board after full consideration of the recommendations. Thus SUAB has no legislative authority. Chairman Smith stated I know in here it says that they go over their budget. If they are out of their scope of what they are doing, what would be the procedure for that? Service Director Arendt state let me give you an example of where I think maybe the scope is getting a little bit further. You know we measured a lot of properties okay and they are getting letters to add onto their bills, like the storage center is listed as 3 or whatever. Well the Chairman now wants to go on the bike trail and measure all that and put that under stormwater and if you look at the width of it – to me it is more of a designate of a street which is not considered. Mr. Bring concurred streets are not a part of that. Service Director Arendt advised her recommendation is going to be coming to this Council where she wants to charge that and my recommendation is absolutely not, to me it is a street. Mr. Bring advised that is not her job. Service Director Arendt advised she wants the bike trail to be all charged for stormwater. I said no as well and she said she was still going to take it forward. I said we have police cars that are going to be going on it, we have traffic that is going to be going on it, it is capable of car traffic and it is a street. Law Director Graves advised as an appellant body they don't have any say over the initial determination. Service Director Arendt stated this is what I am saying and this is what Mr. Bring is saying also, it is going beyond the scope and I think that is why she put Bill's name in here because I say no. That is just one example, there is a few others. Mr. Kovach stated the request doesn't make any sense anyways, why do we need an ordinance so that Bill can attend a public meeting. Law Director Graves stated I think that the point is being the ex-officio or non-voting member of the Board she would like to see that be the Service Director or designee so that I guess Bill could still attend those meetings. Mr. Bring stated but we still can't put his name down. Law Director Graves stated his name shouldn't appear anywhere, nobody's name should appear anywhere. Mr. Bring stated it may not be Bill, if he decides somebody else then it should be somebody else. Service Director Arendt concurred my name shouldn't be there, nobody's name should be there – it should be Service Director or designee and that is it. Mr. Bring stated but just because we say designee doesn't mean that it is going to be Gardner. That is my point. Chairman Smith stated that is how it has been since it started up, I mean the Service Director is part of the committee and I think that is more of a checks and balance between them and the city because they are intertwined together and he informs them and they inform him and I think that is why he was on it. Service Director Arendt stated as I say it is getting a little more beyond its scope and just not the bike trail, several other things. Chairman Smith concurred Joe trust me, I agree with you 100% I just don't

know the process of controlling that committee. It is not our committee to control. Service Director Arendt answered no I can handle that, that is not what I am saying – they have to change their by-laws which they are supposed to be changing. If we do change anything in 943 should read identical to 944, if it read identical then it would be fine. Chairman Smith answered I don't have a problem with that, having the two read the same; Service Director defined as the Service Director or his designee. This way if something happens and he is sick and he can't go then he can say hey go to the meeting for me tonight and represent me. That is the only reason I can see putting it in there, I think you need to take Bill out of it because he can say Bill you are going to go or Bill you are not going to go. Mr. Bring stated he can say whoever he wants to go. Chairman Smith concurred exactly or if he wants to send somebody else. I think everyone is concentrating on Bill but if you put Service Director or designee it is up to him to do it and I think they both ought to be the same. Service Director Arendt advised the Chairman is concentrating on Bill because I have had several disagreements of what should be charged and what shouldn't be charged. They can bring it to Council if they want. Chairman Smith advised I would make the recommendation to send it to Ordinance Committee to change the first section to read the same under definitions as the second one. If you want Bill to go to the meetings then you tell him to go and if you don't then you don't. That takes care of that plain and simple. Mr. Bring stated the only thing that I understood too is that they made a request for appeals and also with the financing they could request papers to view the finances and that was basically it at first, then quarterly meetings. Chairman Smith stated the only reason that that changed is for the MS4 report. Service Director Arendt advised that is fine and the education part of it is fine, there is a few Board members that have come to me and said they want to resign because of the Chairman and not because they don't like her, it is just because they feel it shouldn't be this way. Law Director Graves advised they consider disputes regarding calculations of the billing, total number of billing units. Chairman Smith advised she does a good job as far as getting out there and telling the people what stormwater's are. Service Director Arendt advised but you can't be knocking on peoples doors. That is one of the disagreements we have gotten into. Law Director Graves advised I have pointed that out to her before, there is a difference between public information, public education and code enforcement and we say look you can notice things but you need to pass that information onto the Building Department. Chairman Smith advised it is up to the residents to clean their ditches so you have an informational that says that but you don't go knock at someone's door and say hey you got to clean your ditches out here. Mr. Bring stated she has no authority to do that. She has identified herself as a public official. Chairman Smith stated trust me I know where you are coming from and they don't particularly care for me because I am not their little Council speaker. Service Director Arendt stated she does a super job in many areas but if she would just come and say to either me or Shannon or any one of the guys or the girls about a ditch or anything like that – great, just don't knock on the people's door and identify yourself as a public official and say if you don't do this and then I get a phone call and now they are screaming. Chairman Smith asked if we need to does anyone have a problem with making those 2 sections

identical under the definitions for Service Director because we do then we will send that to Ordinance Committee – that issue is done. Law Director Graves advised under 943.08b, I mean it just says the Service Director shall be a non-voting member. It doesn't say the Service Director shall attend the meetings or can't have his designee present at the meeting. Mr. Bring stated you might not even have to change it then. Law Director Graves advised he could still designate a representative to attend the meetings, they just would not be a member. I mean the Service Director is a non-voting member. Mr. Kovach stated it would probably be a good idea to have the 2 pieces of legislation say the same thing. Chairman Smith concurred. Law Director Graves stated unless you feel that there is different purposes, under the MS4 I can see where it says it is the person that he designates to just handle that aspect of it which right now it is Tom. So Tom is the designee for that but on the other hand do you want a designee being a member of the Board? You might have to have like an annual designation like this is my designee to now be a member of the Board. You are almost making the Service Director make an appointment to the Board. Service Director Arendt advised I can't do that. Mr. Bring stated originally it was wrote for each ward. Law Director Graves advised that was changed, but it was originally. It is who is going to be a member of the Board, it is not saying you got to be there. Chairman Smith advised I see what you are saying because you are sitting that up as him the Service Director being on that Board, will be on the Board as a non-voting member and then by putting it in this section saying or designee meaning that once he goes on the Board he has to appoint somebody to be there. Service Director Arendt advised I shouldn't be allowed to designate someone to be a member of the Board. Law Director Graves advised I think the answer is they just need to change their by-laws to get Bill Gardner's name off of that thing or their own rules. I would recommend no change at this point. I think that she can accomplish what she needs without having to change the law. Chairman Smith stated as far as out of its job scope, I think that is no different then any administrator – it is appointed by the Mayor and we approve it, if they are out of bounds then it is up to the Mayor. It is no different if you or Larry or Bill as Acting Chief were out of line, that is not up to us that is up to the administration to take care of that - just like with Ed with us. Service Director Arendt advised I am not asking for that I just don't want the Board to think that I am not aware of it and trying to correct it. Chairman Smith advised I think in certain instances it needs to be discussed in a manner that people can come to a conclusion. I mean I have seen and I know exactly what you are talking about. Mr. Bring advised if you think they are out of line then you should go to the Mayor and he would send a letter saying this is the way it is going to be. Chairman Smith stated just like if we are out of line then it is up to Ed to have a talk with us but like if I am not running my meeting right then Ed needs to talk to me. Stormwater would be what, it is not a committee of Council – it is just an appointed Board no different then Planning. Law Director Graves advised I can have a conversation with her that there is no needed changes.

Law Director Graves advised I talked to Dave Kidder again, he is still processing our last proposal and he should be getting back he said by the end of last week but I didn't hear from him. So hopefully by the end of this week. Chairman Smith advised he is from BFI.

Law Director Graves concurred yes from Allied Waste on our proposal. Mr. Bring asked why is it taking so long? Law Director Graves answered I think we made a really good offer and I think he is trying to work it through the powers that be so we will see. Service Director Arendt advised just to let this committee know I have contacted 2 other hauling companies to get quotes from them just in case something doesn't go right. I made contact especially with this company J&J is really interested and I sent them all the information that is required. Chairman Smith asked how many other companies are there, there is like Waste Management? Service Director Arendt answered no Waste Management is now with Allied. Mr. Bring stated I think that is because of the land fills though? Service Director Arendt answered right. Believe me, whatever they decide to do or whatever they send us I said it has to be preliminary because if the Council decides that they want to go out for bids then it would have to be put in a bid package. So I was very careful in the way I spoke with him, this is not a bid – it is a proposal that you are giving us. You know let's assume that Allied doesn't bend and let's assume that public opinion is that they don't want then we have to have other alternatives and the other alternative may worse then Allied in costs or whatever I don't know. At least I got 2 other companies working on it to give us an idea of where we are at. Law Director Graves advised our current contract is up in May. Mr. Bring stated that is earlier then we thought because we were thinking 2 years. Law Director Graves answered yes it is up in May, the last 4 years have flown by but what we have proposed is an extension at a favorable rate you know with some options for the city and going to the city wide containers with the green for the recycle and then the blue. Chairman Smith stated I would have though that would have been a no-brainer for them, I thought they would have jumped on that because that was the whole purpose was to get everybody on at one point. Law Director Graves advised they want to implement the program and raise the rates and our feeling on it is that we will do the program but I don't know about raising the rates when you are going to be benefit from this program most definitely and the solid waste money is not a guarantee. There is some reasons why we think it might there but there are no guarantees. Mr. Bring advised even it we go with this it still might not be guaranteed. Service Director Arendt answered the only portion of it is the \$30,000.00 incentive, not the \$60,000.00. Law Director Graves advised the solid waste money, I asked a lot of questions a lot of things I didn't really understand, all of the solid waste money comes from the tipping fees for the dumping in the landfill by Allied Waste and with the merging of Allied and Republic Technology's they were hauling Cuyahoga County's trash and Cuyahoga County had no landfills. So they were bringing that in, dumping it in Lorain County and paying quite significant tipping fees and the County wouldn't work with them so they began to haul the Cuyahoga County trash out to Mahoning County. Even though it was a long drive it was cheaper to dump it out there then to pay the tipping fees in Lorain County. Well when they starting hauling all that trash out there, the Solid Waste went down and the Commissioners hired a Toledo law firm and began to negotiate. So now that is coming back to the landfill in Lorain but there is a lot of things that could still go. Service Director Arendt added their deal still isn't 100% done with the waste management but it is possibly going to be part of Allied and Republic.

MEETING ADJOURNED: With no further business before this committee, *Motion by Kovach/Second by Bring to adjourn at 7:30 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 COMMITTEE

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committee Of Sheffield Lake, DO HEREBY CERTIFY that this is A true and exact copy of the Minutes of COMMITTEE Of December 7, 2009.

CHAIRMAN OF COMMITTEE

Alan Smith

and/or

CO-CHAIRMAN OF COMMITTEE

Dennis Bring

PRESIDENT OF COUNCIL

Edward R Podmanik

and/or

COUNCIL PRO TEM

Richard Rosso