

**MINUTES OF CITY COUNCIL WORKSESSION  
SHEFFIELD LAKE, OHIO  
April 19, 2011**

The regular meeting of the City Council Worksession was held Tuesday, April 19, 2011. Council President Podmanik called the meeting to order at 7:28 PM.

**ROLL CALL OF MEMBERS:**

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

Absent: Councilwoman Huska, Treasurer E Hoenig, Finance Director Smith (excused)

Attending: Concerned Citizens, Planning Commission; Belaska, SUAB; Gee, Members of the Media

**PRESENTATIONS: None.**

\*\*\*\*\***COMMITTEES**\*\*\*\*\*

**ROADS & DRAINS:** Chairman Bring advised we did have another incident today with some diesel on the road, one of the Allied Waste trucks – the filter for his truck blew out and went up and down our streets and got into our water system and it went out to the lake. They had an environmental company come clean that up with absorbent and they had a street cleaner come out and had a vac truck pump out water out of the stormwater. The streets over there on Thelma and Gayle look pretty nice right now. I think the street cleaners went up and down several times but they were over there for 5 or 6 maybe 7 hours. The Coast Guard was there again and I am sure the EPA guy was there and I know our Fire Department was there and another fire truck from another community there. President Podmanik asked so we will get a report from the EPA? Service Director Smith answered actually the Coast Guard will give another report. We haven't got the final from the Coast Guard yet on the first one. The EPA stated it was small and they were real happy with the cleanup. Councilman Rosso asked we can bill back? Chairman Bring answered that one is being charged to Allied Waste I think. Service Director Smith concurred yes Allied Waste was footing the bill on the cleanup on that but I have to give kudos to the Fire Department on how quick the response was that they had the booms in the water and securing the outfall. They were great, real quick and it was very noticed by the EPA./**SAFETY:** Chairman Bring advised I did get a letter from the Police Chief, there is another grant available for the hiring of some Officers again. This program is totally funded for 3 years, if we hire anybody we have to keep the Officer on for an additional 12 months after the 3 years. This is a hire for full-time or part-time or any Officers that were laid off or even if they were going to get laid off this would cover them. This grant can be applied for, has to be in by May 25, 2011 by 8:59 pm. There is 2 steps to this program. I know we possibly have some Officers retiring and this might be an opportunity for us

to take advantage of. Law Director Graves advised yes I did have a conversation with the Grant Administrator and he is aware of that./**BUILDINGS, LANDS, VEHICLES & EQUIPMENT: None./ORDINANCE:** Councilman Elliott advised just to let you know we are looking into a Charter Review. I know that it is long overdue. Law Director Graves advised it is a 9 member Board that has got to be appointed that have to be qualified electors holding no elected office in the city but I don't think it precludes appointed Officers of the city. They are appointed by Council. Councilman Rosso advised when we did it in 2002, each Council person had to appoint someone from their ward or at large anywhere in the city and that gave us 7 of them and I think maybe the Mayor appointed 1 and maybe you Ed. President Podmanik stated that is why I am asking because it sounds like we need to clarify a few things and get that ball rolling. So if the Law Director and Ordinance are looking at it. Councilman Elliott stated I am sure that we can have something for you by the next Worksession. Councilman Rosso stated what does Ordinance have to do, it says to have one every five years. Councilman Elliott explained it is something that we were doing in ordinance review and then I brought that we need to look at the Charter because I don't think the Charter has been reviewed in years. President Podmanik stated it seems to me a recommendation for that review would have to come from some committee I would think but maybe not. Law Director Graves read Article 13, section 7 regarding Charter Review Board. There was a brief discussion on the process and also before nominating someone talk to them first to see if they are willing to and how soon to get it started – when we get 9 people./**FINANCE: None./PARK BOARD: None.**

\*\*\*\*\*ADMINISTRATIVE\*\*\*\*\*

**MAYOR: None./FINANCE DIRECTOR: None./SAFETY DIRECTOR: None./SERVICE DIRECTOR:** Service Director Smith advised I have another one which David is going to cover under his report concerning manufactured mobile homes and I will let David go through that. We have all come to the agreement that it needs to be brought forth to you. We are pretty much done with our part down at the boat launch, the big machines will be moving in down there and as soon as that is done – he is just waiting for the waves to calm down. We will get in there and have probably a day and a half and we are out of there. Still doing stormwater too, a lot of stormwater. Councilman Bring asked the camera's at the boat launch? Service Director Smith answered they are already up and running. The system over at the Police Station is a computer system with their specific computer and a voucher has already been opened and they have already been out from what I understand to talk to Val about it and get to the bottom of it. The system went down February 26<sup>th</sup> and that is when the picture thing went but there is an on-going system problem over there in the Police Station with that individual computer./**LAW DIRECTOR:** Law Director Graves advised if you take a look the Building Inspector did send you a piece of correspondence. He consulted with myself and the Service Director; basically what it boils down to is for mobile homes, trailers, manufactured homes – any building code

regulations related to those we are preempted by the State of Ohio. They have exclusive jurisdiction to regulate any building code issues related to manufactured mobile homes. We do have some portions of our local code; 1353.29(f) where we require certain things but we cannot enforce that. So probably a good idea to simply repeal that. But more importantly we have a mobile home that has recently been installed on Abbe Road where the previous single family residence burned down. Since then the Building Inspector I believe has received I think 3 additional applications to build mobile homes in the city. While we are preempted by the State of Ohio building code, under home rule authority we do retain local power to regulate the zoning and we have nothing in our zoning code that talks about where mobile homes or manufactured homes can be located. That being said absent any specific provisions in the zoning code mobile homes can be built anywhere we allow single family residential homes. So I think that it is a good idea and the Building Inspector and the Service Director concur that we take a look at our zoning code and maybe consider whether we should add some amendments, clarify where mobile homes would be allowed and the city does have the authority; the Supreme Court ruled in a case involving the City of Canton where they actually zoned them completely out and said that they are not allowed in any zoning district within the city and that was upheld that under local home rule authority the city would have the power to zone them out completely. So it is something that I think we should at least have a discussion about where you would want them zoned, if you want to amend the code, etc. Like I said if we do nothing there is nothing in the zoning code right now that addresses them, so they are allowed anywhere single family homes are allowed – R1 residential districts. Councilman Rosso stated you keep saying mobile homes, are you talking trailers under this too? Law Director Graves answered under the state definition; mobile homes, manufactured homes – they are all under the same. We haven't given you all the state codes – no. Councilman Bring stated I think the issue on Abbe Road was the square footage because it was under what we require for a single family home. The manufactured homes are not that bad. Councilman Smith stated 1500 square feet right? Councilman Bring advised I think the one over there was 900 square feet. The prefab that comes in sections are not that bad but the square footage. Councilman Smith stated but it is 1500 right? Councilman Bring answered yes. Councilman Smith stated so he went to Zoning and Zoning gave him a variance? Law Director Graves advised I believe the problem was existing non-conforming? Service Director Smith advised this situation kind of caught us off guard and then David did a comprehensive review of the way it is. Manufactured homes, modular homes, pre-manufactured homes – they are all different building categories. Mobile homes on a rolling chassis are concluded in the same as a manufactured colonial that is made of 4 quadrants. What David was saying and we discussed this today, apply equally to manufactured homes as they do with a mobile home. So it is up to Council to determine if you want skirts and trailer wheels on any street within the city and that is basically what this whole thing is coming to and you got a group of people including the home manufacturers who are trying to

say that their mobile home is affordable housing and has a right to go anywhere they want. Councilman Smith asked how do they get around the 1500 square foot? Service Director Smith answered because it falls within the state codes and they prevail when it comes to the installation. Councilman Smith stated our zoning doesn't allow that under 1500 without going to get a variance, so how did he get a permit approved if our zoning says 1500 square feet and he didn't go through Zoning? Law Director Graves answered that is a good question, I think that the prior structure was existing non-conforming. Councilman Smith stated yes but you have to attach it to the same building. Councilman Rosso stated we had the same issue on Warwick years ago when the Smithberger home burned down and they were never allowed to rebuild because the lot is too small. Service Director Smith advised several years ago HB422, I remember the battle that was on State House and I believe that that is the correct number that it was. Councilman Smith stated February 8<sup>th</sup> of this year he was approved, who was he approved by? Councilman Bring stated according to Steve he was not allowed to go look at that. Councilman Smith stated how did he get around that, meaning that if we have a zoning that says a structure can't be less than 1500 square feet without going to Zoning so how can we not look at something that goes on a zoned piece of property that is in a R1 residential district in our city. Law Director Graves explained the state code talks about building and zoning and what they told Steve was that he wasn't allowed to do anything with that. I believe the prior house was existing non-conforming, after it went up and we started getting these other inquires Steve asked me to take a look at this and that is when I found the Supreme Court case with the City of Canton which under home rule authority this city can still enforce local zoning restrictions. Mrs. Belaska stated I had spoken about an addition on a modular, I spoke to those people from Findley Ohio and they said it had its own crawl space and it would be on its own foundation. It would have its own furnace going into the new one, new electric into it – they could do that and wire it into an existing home but they come in sections with a crane, they sit the 4 sections and they build it by Ohio Revised Code. This is a prefabbed addition. President Podmanik explained the modular home is not the issue as much as it is the square footage of the living space because it doesn't matter if you build the walls out of town and ship them in and set them on a foundation – it shouldn't make any difference. The only issue we have here is the square footage. Service Director Smith stated our building codes are null and void when the state intercedes. Councilman Smith stated you are talking a building code versus a zoning code – an R1 district that doesn't allow any structure to be put up on that piece of property no less than 1500 square feet. It has got nothing to do with a building code, it has got to do with a zoning code – you cannot put a structure that is not less than 1500 square feet. So if that was the case, you have no building code to tell you what kind of requirements that the mobile home has to be – you have to follow state code but the mobile home has got to be 1500 square feet in order to go on that piece of property that we have zoning laws on I would think. President Podmanik stated as David says the structure that burned down; first it was non-

conforming which means it wasn't 1500 square feet but in order to build on that existing property – does he have to build to what the current code is or was it to prior? Councilman Rosso stated that happened on Warwick years ago, that is why there has never been a house on that lot. Councilman Smith stated you follow the zoning, you got to follow the zoning – not the building. You follow the zoning code first than the building comes. Service Director Smith stated you know a lot of these new laws with the state came in affect several years ago and I am talking about probably 2002/2003. There was a big war in Columbus over the manufactured homes and it caused a Supreme Court case that I am sure David will be able to look up. Councilman Smith stated I understand and I have got no argument that mobile homes aren't habitable because there is nothing wrong with them. There is nothing wrong with putting a mobile home and there is nothing wrong with people living in them. Law Director Graves advised I believe the prior house was existing non-conforming which means it predates the zoning code which means it is grandfathered in and that means it can be reconstructed again. Our code says that a non-conforming structure may be renovated and even reconstructed up to a 10% increase in size. Councilman Kovach stated it can't be any smaller though can it? Law Director Graves answered it could be, it could be up to a 10% increase in size. Now a lot of city's don't allow the reconstruction, our code specifically says reconstruction. So we have always said as long as it is on the same footprint than it can be reconstructed. Councilman Smith asked so is it on the same footprint? Law Director Graves answered I believe it is. Service Director Smith stated I don't have the blue prints in front of me. Councilman Smith asked does it sit on a foundation? Service Director Smith answered no foundation. Councilman Rosso stated so you can go into a house that is too small on a lot that doesn't meet the current requirements – tear the house down and build a bigger house on it? Law Director Graves answered if it is on the same footprint/up to a 10% increase in size. Service Director Smith advised we tried to go the route with forcing it onto a foundation and the State got involved – it can go on pedestal. Law Director Graves advised I don't know with these other applications that have come in where they want to build but I would agree with you under our zoning if it is a vacant lot and they just want to build a mobile home there – we can say no, reconstruction has to be 1500 square feet unless it is a 1500 square foot manufactured home. President Podmanik stated back to the question; repeal or add language? Law Director Graves stated bear in mind that the state code does say that they preempts us on the building code and the zoning. But what the Canton case says is local communities/home rule authorities can still – if you are a Charter municipality you can still enforce your local zoning which statutory cities have to. There was a brief discussion. Law Director Graves continued drawing your attention to the legislation tonight; we also have Council#023 which is the donation of the cabinets from Lowe's. It does have the emergency clause, we do have the cabinets and this ordinance would approve the donation and also authorize the Service Director to establish a program for the disbursement of the cabinets. There is not a lot of detail in here, if Council wants to add some language or add

some detail or guidelines as to how these cabinets could be disbursed. What some of the ideas that have been discussed would be to use the similar application process as we have for the CHIPS grant money and go from there. It is basically a 2 step - we have to approve the donation and come up with a program for the disbursement of the cabinets to the community. We are not going to charge any money for the cabinets, they are free to whoever qualifies and we again are not going to warranty them, we are not going to deliver them and we are not going to install them. But they are available. Councilman Bring asked what is the amount that they can donate without asking Council? Law Director Graves answered \$500.00. These are valued at over \$18,000.00 – 80 some cabinets. It was really a nice jester on Lowe's part; we want to thank them as they have been a great partner to the city. We just got to figure out how to disburse them. You also have Council#024 which is the stormwater elicit discharge ordinance. This is the one that we redid in 2009 and the only reason we are doing this now is to codify it. It really should be codified, we do have section 944 in the code but all it does is reference the special ordinance – it doesn't have the special ordinance/it doesn't have the actual language actually in the code. So this will be taking the elicit discharge ordinance and formalizing it in the code, there is good reason for that making contractors and other outside entities aware of the city's requirements and also make them aware of any penalties for not complying. You also have Council#025 and Council#026, #025 establishes section 945 the construction site runoff and #026 establishes section 946 of the code post construction stormwater management. These are the 2 that the city is required to update, this is the proper language from the model codes and these updates have to be done by the city by June 4<sup>th</sup>. That gives us enough time for a couple of readings but though I would ask that Council considers voting on this with the emergency clause after a couple of readings so that we don't have to wait the 30 days. If we did go 3 readings with the emergency clause it would probably be on June 4<sup>th</sup>. Councilman Bring asked this is actually mandated by the EPA, we don't have any real choice in this. Law Director Graves answered yes. There is a lot of stuff here, we are not asking you to just suspend the rules and pass it by emergency. You know there is some time to review it and give it a couple of readings but we are going to have to do it prior to the full time frame. The only other thing that I would report on is the Bowling Alley settlement is still being tweaked. I am going back and forth on some of the details but the main thrust of it is that there would an auction and property would be disbursed 3 ways and I have yet to discuss that. If anyone would have any specific questions on that matter I would ask that we do an executive session under the exception for the current litigation.

\*Motion by Kovach/Second by Bring to include the afore mentioned pieces of legislation from the Law Director. Yeas All. Service Director Smith stated I just wanted to ask regarding the cabinets, that you guys consider in the formation of taking ideas and figuring out how to disburse the cabinets; that we did have a lot of flood damage. If there is some way that we could come up with a way of incorporating recipient's that had flood damage in their basements or something that they could also be eligible

to receive some of these. Law Director Graves advised the language that we put in was to authorize the Service Director to implement a program for the disbursement including but not limited to income and flood damage. Law Director Graves stated I would just like to on the record thank Andrea Woods for all of her typing because there was a lot of typing here. These had to be all redone into our format and she put a lot of hours into that so I would like to thank her for that. President Podmanik added she did a nice job and it looks great./**COMMUNICATIONS: None./OLD BUSINESS:** Councilman Rosso asked did anyone have a chance to look through the Planet Aid stuff if anyone may have any concerns or questions, any reason why we shouldn't consider replacing that Planet Aid donation box with a Goodwill box? Service Director Smith advised already doing it. Councilman Rosso asked did you contact Goodwill already? Service Director Smith answered no the first thing I was going to do is I made sure that everyone in our department read this first before I do this. We have been passing around that pamphlet that you gave me on the information. That was any phone calls that we take we can head off first before we get an abrupt flip-flop. I told them in the next couple of weeks we would be flipping around and getting Goodwill in there and talking to them./**NEW BUSINESS:** Manufactured Homes/repeal local or add language to zoning code – as discussed above; legal research via Law Director which will be sent to Planning Commission.

**ORDINANCES FOR COUNCILS AGENDA:**

Council#019 – SECOND READING – an ordinance of the Council of the City of Sheffield Lake amending ordinance 39-10, 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.

Council#023 – EMERGENCY – a resolution authorizing the City of Sheffield Lake to accept and approve the donation of kitchen cabinets, counter tops, and molding, with approximate value of \$18,000.00, to the City of Sheffield Lake to use in a refurbishing and remodeling program which will be established and administered by the Service Director, and the declaring of an emergency.

Council#024 – FIRST READING – an ordinance by the Council of the City of Sheffield Lake establishing Chapter 944 of the codified ordinances of Sheffield Lake regarding regulation of pollutants into the municipal storm sewer system, and the declaring of an emergency.

Council#025 – FIRST READING – an ordinance by the Council of the City of Sheffield Lake establishing Chapter 945 of the codified ordinances of Sheffield Lake regarding construction site runoff control and the declaring of an emergency.

Council#026 – FIRST READING – an ordinance by the Council of the City of Sheffield Lake establishing Chapter 946 of the codified ordinances of Sheffield Lake regarding post-construction storm water management and the declaring of an emergency.

Council#027 – 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.

Councilman Bring asked Council#019, did we ever discuss the amount that was? Law Director Graves answered yes, after 100 hours it goes to \$10.00 an hour. As it stands right now it is minimum wage and then after 1000 hours it goes to the 70% of the full-time and this creates an interim level that after 100 hours it goes to \$10.00 an hour.

**MEETING ADJOURNED:** With no further business before this council, Motion by Kovach/Second by Bring to adjourn at 8:15 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/COMMITTEES  
*Kay Fantauzzi*

---

COUNCIL PRESIDENT  
*Edward R Podmanik*

*and/or*

---

COUNCIL PRO TEM  
*Richard Rosso*

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 WORKSESSION of April 19, 2011.

---

MAYOR  
*John J Piskura*