

Minutes of the Ordinance Committee Meeting
Sheffield Lake, Ohio
October 6, 2011

The regular meeting of the Ordinance Committee was held Thursday, October 6, 2011. Chairperson Huska called the meeting to order at 7:30 PM.

ROLL CALL OF MEMBERS:

Present: Huska, Elliott, Kovach

Attending: Councilwoman Stark, Law Director Graves, Service Director Smith

READING OF THE MINUTES:*Motion by Kovach/Second by Elliott to accept the minutes of the July 7, 2011 meeting with any corrections. Yeas All.

PRESENTATIONS: None.

CORRESPONDENCE: None.

OLD BUSINESS:

Internet Sweepstakes Cafes – Service Director Smith reported currently we have the Pizza Hut one operating which is the Coconuts. We have Spin Spot which is in Duff’s Corners and then we have Randy Gibson’s company out of Gus’s Restaurant.

NEW BUSINESS:

Chapter 7 – Chairperson Huska advised on hold.

Chapter 1383; accessory buildings – Law Director Graves reviewed the discussion from previous meeting. He advised having copies of Lorain, Sheffield Village and a copy of Avon Lake. I think that Avon Lake’s does a nice job in talking about the different types of accessory structures and laying out in different zoning districts whether they are permitted or whether they are not permitted or whether they are a conditional use/where they can be and how large they can be but it is a lot more comprehensive. I think that we should go to something like that to provide some clarity and avoid any ambiguity and between the 2 sections right now. Chairperson Huska asked is that possible to get copies of all that because that will already be November. Eric’s solution was nice and short, just leave the shed out but we really should get it right. Service Director Smith advised I agree with David which is the defining of other structures; separate structures – not sheds or accessory buildings. Such as; gazebo, carport, umbrella or something like that which is not necessarily an accessory building and confined to the ordinance requirements. But to be more definitive in both what you do want to know about and then what things you don’t want to regulate or you don’t restrict. I think that was it in a nut shell – that is why he wanted to expand; instead of just saying

accessory building because then you got residents arguing over what is the legal definition of an accessory building. Is a garage an accessory building, is my gazebo an accessory building – these are all structures that increase of a home. Chairperson Huska stated if we get it right in November then it would be enforceable and everybody would understand. Service Director Smith advised you can dictate what you want to enforce and then also at the same time basically say what is allowed, instead of just saying what is not allowed – you can say what is allowed. I think that was David’s reasoning for defining the different categories a little bit more than ours. Chairperson Huska stated because when you go out there, it is really confusing. Service Director Smith stated there is so many different things now a days that are available that were not available 10 years ago. You have plastic product things, you have recycle product things, etc. Councilman Elliott stated I think the problem is we only had 2 definitions and it was a shed or an accessory building. Service Director Smith advised for instance you could have a trellis thing over your patio, it is a structure but it is ornamental – expanding the definitions of what is covered and what is not covered is excluded in many products and the different things that are available today. All the different yard structures. I think that David brought up a very interesting point last week that lakefront property owners have sometimes different perceptions of what their front yard or back yard is. You know, their house might be real close – like we have a normal rear yard setback and they might have as a front yard setback so they may be opposite. That too I think punishes them from having the right to put extra stuff up, if they own the land and it is big and they got the room then why can’t they. Law Director Graves stated I have had a number of lakefront home owners in different communities that have done a lot of shore line improvement argue that that shore line improvement should not count as far as percentage coverage to their lot. It is usually exempt from the setback requirements but that it should also not count for percentage coverage because it is necessary to preserve the integrity of the bank. There is a lot of unique features on lakefront property that we could get into. Chairperson Huska stated actually that part I agree with being a lakefront owner, if you have enough money to do all that improvement to the lake bank only and the rest of your yard is just regular. Service Director Smith advised you are required to preserve/maintain the integrity of your property – you need to maintain a safe lake bank or one that is going to keep erosion from destroying your property. I think that is what David was trying to say, it is necessity versus a luxury. Law Director Graves stated is the Building Inspector counting concrete as accessory structure or as percentage coverage? Service Director Smith answered no, not concrete. Law Director Graves advised some communities limit the percentage of coverage of your lot, of any kind of paver stones or concrete or anything like that. You limit it to say 40 percent and a lot of lakefront property owners get close to that and especially if you count their shore line protection. Chairperson Huska stated we are all going to read this and we will go back to this in November.

Councilman Elliott stated this covers fencing and everything? Law Director Graves answered yes but we don't have to incorporate all this, it is just an example. I would probably not want to recommend looking into the fences and the pools as we have already dealt with that. I would limit it to accessory buildings and accessory structures. **Discussion for next meeting.**

Tree Lawns – Councilman Elliott stated in some neighborhoods the city owns the tree lawns and then in other neighborhood – the homeowner owns the tree lawn correct? Law Director Graves advised if you go to the auditors website, you will see that the private parcel usually ends at the sidewalk and that the tree lawn is actually owned by the city along with the road. It depends on how it was originally laid out, if it was originally Torren's deeds but in some communities the road is a right of way; just a right of way – not a fee simple ownership. In other communities Sheffield Lake for the most one, the city actually owns it. Now that presents some interesting issues. I can tell you that no community that I am aware that owns the tree lawns maintains the tree lawns for the private property owners. The city cannot be called upon to say they have a duty to maintain the tree lawns of every lot in the city, to cut all that grass and trim those trees and plus many people have improvements in their tree lawn. Drive around the city and you will see hundreds and hundreds of people who have really kind of taken over the tree lawn as part of their yard. The city has the right to enter upon the tree lawn for public safety; to trim back trees, to access sewer and drainage if necessary, for the general welfare and for the most part to keep the visibility of the roads and again for safety purposes. We do not have the obligation to maintain that. State code is clear that even where the city has a fee simple, complete ownership of those tree lawns – the adjacent property owners have the exclusive right to use those and they have the obligation to maintain them and not let them become a public nuisance. If they didn't it would present a weird situation because a private property owner would not have the right to exclude from their tree lawn if strangers were congregating there. They could say this is city property I can stand in front of your house, it would give rights to all kinds of crazy things. So they have the obligation to maintain and not let it become a public nuisance. That should be made clear in our ordinances, it is the law in Ohio and we can enforce that but there is currently no specific ordinance that you can show a homeowner you have to maintain these tree lawns. If you talk to people throughout the city they understand that when it comes to their grass but they don't understand that when it comes to their trees. They think that the city has to maintain those trees but they know that they have to cut the grass. Chairperson Huska asked is it possible to write up something to clarify? Law Director Graves answered yes. Councilman Elliott stated I would like to know what the specifics would be before you write them. Is there an urgent need Dave? Law Director Graves answered I wouldn't say an urgent need, it should be done. It is the law that we can enforce it but I would have to go to case law. It is derived from the common law which means that if it is law derived from court decisions –

it is statutory. You can point to all that and show this is the law in Ohio but at some point we should clarify it in the local ordinance. Service Director Smith advised I believe we do have it in ordinance form don't we about residents maintaining their tree lawn and I think that is listed in one of the ordinances. Law Director Graves advised it is not. Service Director Smith continued the other thing is an example of what David was talking about is and I know this because I was looking up parcels for Dollar General concerning the Lake Road/Harris Road property's was that the right of way went to the center of Lake Road – the property parcels went to the center of Lake Road but the right of way went to where the right of way was on the outside of the bike trail but on the county map when you go on there you actually see the residents parcel run all the way out to the center of the road and a northern Lake Road property owner abutted the southern Lake Road property in the center of Lake Road - I actually saw that. Law Director Graves stated that is not the case if you go through the neighborhoods in Sheffield Lake, if you look at the side streets – now that might be on Lake Road but if you look at the side streets the tree lawns are part of the city property. The private property parcels; on Hollyview I can guarantee you it stops at the tree lawn – you do not own past that. When I use the word right of way I am using it in the legal sense of almost like an easement. When I say a right of way I don't mean a fee simple ownership interest. I mean you have basically an easement, a right of way over someone else's property and there are places in communities where the roads are a right of way. That is where he is talking on Lake where your property goes to the middle of the road but the city has a right of way through it and if that is vacated then it reverts and your property goes out to the center of the road. Sheffield Lake it should be and in Avon Lake they actually have deeds showing that, so when a developer puts in a development they give the city deeds to that land with the road that describes it – they own it on a deed. Sheffield Lake should have them but if you look at the description on the county auditor the city owns the roads. Councilwoman Stark shared storm incidents on Thelma Drive of a tree that was hit by lightning twice and debris is still sitting there. So I think we need to have something on the books. Service Director Smith explained it comes down to this - when they call a tree guy and the tree guy comes out and says it is going to be \$1200.00 to take your tree down then all of a sudden it is well I am not paying that, it is going to be the city's responsibility. What David is saying when it comes to mowing your grass, it is a tank of grass or 2 pints for an average yard. So it is necessity to the homeowner but a lot of people say well I am going to try to go as far as I can so why not try to get the city to take care of it. When there is an emergency or safety issue, once it is explained to the residents for instance by the Law Director the next thing I know I am inundated with how much of a safety issue it is and that is the reason why the city should be taking it down. When a homeowner says that crack has been there for 5 years and I have been worried about that crack in that tree on that tree lawn. Well for 5 years you had the ability to take that tree down and you refused to do it.

Chairperson Huska asked David should you get this ready for Worksession? Councilman Elliott stated I think we have a lot of issues to talk about here, do we want to standardize city wide, make it simpler? Law Director Graves asked are you talking about the tree lawn maintenance? Councilman Elliott answered yes we still got to figure out in what neighborhoods or what, you said you haven't really even looked. Law Director Graves stated I think regardless of how it is – it is the homeowners responsibility to maintain the tree lawns and to keep them free from permanent obstruction but a tree is permanent obstruction. But they at a minimum have to cut the grass, trim the trees, clean the ditches. Again it would be clarifying the city's position that there is a difference between the right to enter upon there versus a duty to maintain it. Chairperson Huska stated so it is not necessarily different districts, it is needs to be uniform and standardized. **Law Director Graves advised we can put a draft together for the next meeting.**

Bath Salts – Law Director Graves advised the state has addressed this and we discussed this last night at the Safety Committee meeting and I was going to also report there will be some legislation coming to Council out of Safety for the part-time Dispatcher and part-time Patrol Officer uniform allowance. But with the bath salts, when I had originally brought this issue up and it really is a problem – some communities in Ohio had already measures to make these substances illegal locally. The Federal DEA has banned them and I think on July 17th Governor Kasich signed legislation banning spice and bath salts – that has a 90-day waiting period and will go into effect on October 17th and that will be the state law. He explained the street drugs which are sold at trendy boutique candle shop kind of places and they sell them to teenagers and they are smoking this and they are getting a high and it is very dangerous. Bath salts is also a street name – this is not stuff you put in a bath, it is a chemical and they call it bath salts but it produces a hallucinatory effect and extreme paranoia that can last for days. We have had some incidents here in Sheffield Lake where people have been pretty messed up for several days on this stuff. The bath salts chemicals have been added to the list of banned substances and spice will now be treated in the same manner as marijuana with the enhancements based on volume so forth. There was a brief discussion on other products being abused at this time.

Political sign ordinance – Chairperson Huska asked is this unenforceable? Law Director Graves answered we revised a number of years ago and I thought we had taken that section out but in looking at it we haven't. In a nut shell you can't treat political speech which is political signs any different than any other temporary signs. You can't say well you can get a permit and have a temporary sign for something for 30 days but political signs you can only have up for 14 days prior to the election which is what our ordinance currently reads. So for enforcement purposes and this is what we have done for the last several years, political signs can go up 30 days – you can get a permit for a 30-day temporary sign. Right now we treat the political signs the same way as other temporary signs which would be

a 30-day permit. But we still have on the books the political sign ordinance – we don't enforce it. Councilman Elliott advised we should repeal it then. **Law Director Graves to prepare repeal for next Council meeting.**

Service Director Smith advised I am analyzing the sewer rate at this specific time now that we are in par with our ordinance and everything. I am analyzing and forecasting on dollars and expenses in the fund versus how much money comes in and how much goes out and where we need to be. So I will be in the future bringing it up to Roads and Drains but it is something that we are probably going to have to act on fast or faster than normal. The reason is we have had a lot of incurred costs in the sewer fund due to all the rain that we have had and has infiltrated the system because as you know we basically pay for what goes in the sewer line and all this rain has made it probably be a record year for the City of Sheffield Lake of sewer that went out.

Ordinances before Council at this time:
Council#

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this committee,
*Motion by Kovach/Second by Elliott to adjourn at 8:07 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 COUNCIL

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committees of Sheffield Lake DO HEREBY CERTIFY that this is a true and exact copy of the Minutes of Committee of Ordinance for October 6, 2011.

CHAIRPERSON OF COMMITTEE

Diana Huska

COUNCIL PRESIDENT

Edward R Podmanik

and/or

COUNCIL PRO TEM

Richard Rosso