EMERGENCY – October 25, 2011

COUNCIL NO. 052
SPONSOR: COUNCIL
ORDINANCE NO. **47-11**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF TAXABLE NOTES, IN A MAXIMUM ORIGINAL PRINCIPAL AMOUNT OF $3,200,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF RETIRING CERTAIN OUTSTANDING BOND ANTICIPATION NOTES OF THE CITY ISSUED TO PAY COSTS OF FURTHERING THE CITY'S REVITALIZATION PURPOSES BY ACQUIRING THE SHOREWAY SHOPPING CENTER IN THE CITY; AND DECLARING AN EMERGENCY.

WHEREAS, under Article VIII, Section 2 of the Ohio Constitution, it is a proper public purpose for the City of Sheffield Lake, Ohio (the "City") to provide for and enable the environmentally safe and productive development and use or reuse of publicly and privately owned lands, including those within urban areas, by the remediation or clean up, or planning and assessment for remediation or clean up, of contamination, or addressing, by clearance, land acquisition or assembly, infrastructure, or otherwise, that or other property conditions or circumstances that may be deleterious to the public health and safety and the environment and water and other natural resources, or that preclude or inhibit environmentally sound or economic use or reuse of the property; and

BE IT ORDAINED by the Council of the City of Sheffield Lake, State of Ohio that:

SECTION 1. Findings and Determinations. This Council finds and determines the following matters (capitalized terms not defined in the recital are defined in Section 13):

(a) The City has previously authorized and issued the Outstanding Notes. The Outstanding Notes were issued to pay the costs of the Project. The Outstanding Notes are about to mature.

(b) It is necessary for the City to issue the Bonds to pay the costs of the Project. It is necessary to issue the Series 2011 Notes in anticipation of the Bonds for the purpose of (1) retiring the Outstanding Notes and (2) paying the Financing Costs of the Series 2011 Notes.

(c) The Director of Finance has certified to this Council the maximum maturity of the Bonds and the Series 2011 Notes.

(d) All acts and conditions necessary to be performed by the City or to have been met for the issuance of the Series 2011 Notes in order to make them legal, valid, and binding general obligations of the City, have been performed and met, or will have been performed and met, at the time of delivery of the Series 2011 Notes, as required by law.

(e) No statutory or constitutional limitation of indebtedness or taxation will be exceeded by the issuance of the Series 2011 Notes.

(f) All formal actions of this Council relating to the enactment of this ordinance were taken in an open meeting of this Council, and all deliberations of this Council and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 2. Bond Terms. The Bonds will have the following terms:

(a) **Amount and Rate.** The Bonds will be issued in the maximum original principal amount of $3,335,000 and will bear interest at the estimated average annual interest rate of 6.00%.

(b) **Term.** The Bonds will mature serially over a period of 30 years in accordance with the following estimated principal payment schedule:

Year	Principal	Year	Principal
1	$ 55,000.00	16	$ 100,000.00
2	60,000.00	17	105,000.00
3	65,000.00	18	110,000.00
4	65,000.00	19	115,000.00
5	65,000.00	20	120,000.00
6	70,000.00	21	130,000.00
7	70,000.00	22	135,000.00
8	70,000.00	23	145,000.00
9	75,000.00	24	150,000.00
10	80,000.00	25	160,000.00
11	80,000.00	26	170,000.00
12	85,000.00	27	180,000.00
13	90,000.00	28	190,000.00
14	90,000.00	29	200,000.00
15	95,000.00	30	210,000.00

(c) **Debt Service.** The Bonds will be payable as to Debt Service from any lease payments to the City from tenants of the Shopping Center, from any money of the City lawfully available and appropriated for that purpose and, if that money is insufficient, from the proceeds of an ad valorem tax to be levied on all property within the City, subject to the 10-mill limitation imposed by Section 5705.02 of the Ohio Revised Code.

SECTION 3. Note Terms. The Series 2011 Notes will have the following terms:

(a) **Amount.** The Series 2011 Notes shall be issued in the maximum original principal amount of $3,200,000 or any lesser principal amount as determined by the Director of Finance in the Certificate of Award.

(b) **Date.** The Series 2011 Notes shall be dated the Closing Date, or any other date, not more than 31 days before the Closing Date, as determined by the Director of Finance in the Certificate of Award.

(c) **Maturity.** The Director of Finance shall establish the maturity date of the Series 2011 Notes in the Certificate of Award.

(d) **Interest.** The Series 2011 Notes shall bear interest from their date at a rate not to exceed 3.50% per annum, payable at maturity. Interest will be calculated on the basis of a 360-day year consisting of twelve, 30-day months. The rate of interest on the Series 2011 Notes shall be determined by the Director of Finance in the Certificate of Award.

(e) **Redemption before Stated Maturity.** The Series 2011 Notes will not be subject to redemption before maturity, unless otherwise determined by the Director of Finance in the Certificate of Award. The Director of Finance may determine, in the Certificate of Award, to provide that the Series 2011 Notes will be subject to redemption, and may establish, in the Certificate of Award, notice provisions for that redemption, and any price for that redemption, which may be any percentage of the principal amount redeemed, not exceeding 103%; provided, no redemption shall occur within three months of the Closing Date.

(f) **Form, Numbering and Denomination.** The Series 2011 Notes shall be issued in fully registered form. They may be issued in Book-Entry Form if the Director of Finance determines in the Certificate of Award that it would be in the best interest of the City for the Series 2011 Notes to be in Book-Entry Form. They shall be issued in Authorized Denominations and in the numbers and amounts as requested by the Original Purchaser and approved by the Director of Finance. They shall be numbered as determined by the Director of Finance in a manner to distinguish each Note from any other Note. They shall express on their faces the purpose for which they are issued and that they are issued in accordance with this ordinance. The Series 2011 Notes will be designated "Taxable Land Acquisition Bond Anticipation Notes, Series 2011," unless otherwise designated in the Certificate of Award.

SECTION 4. Payment. The Debt Service on the Series 2011 Notes shall be payable in lawful money of the United States of America, without deduction for the services of the Registrar as paying agent. Debt Service on the Series 2011 Notes will be payable when due upon presentation and surrender of the Series 2011 Notes at the office of the Registrar. The Director of Finance may select such other paying agent as she deems appropriate.

SECTION 5. Signing and Authentication of the Series 2011 Notes.

(a) **Signing.** The Series 2011 Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities. In the absence of the Mayor, the Series 2011 Notes shall be signed by the President of Council, and in the absence of the Director of Finance, the Series 2011 Notes shall be signed by any deputy Director of Finance. Either or both of those signatures may be a facsimile.

(b) **Authentication.** No Series 2011 Note will be valid or obligatory for any purpose or will be entitled to any security or benefit under the Note Proceedings unless and until the certificate of authentication printed on the Series 2011 Note is signed by the Registrar as authenticating agent. Authentication by the Registrar will be conclusive evidence that the Series 2011 Note so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Note Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Registrar or by any other person acting as an agent of the Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Series 2011 Notes.

SECTION 6. Registration; Transfer and Exchange; Book-Entry System.

(a) **Registration.** So long as any of the Series 2011 Notes remain outstanding, the City shall cause the Registrar to maintain the Register. The person in whose name a Series 2011 Note is registered on the Register will be regarded as the absolute owner of that Note for all purposes of the Note Proceedings. Payment of the Debt Service on any Note will be made only to or upon the order of that person.

(b) **Transfer and Exchange.** Any Series 2011 Note may be transferred or exchanged for Series 2011 Notes of any Authorized Denomination upon presentation and surrender at the office of the Registrar, together with a request for exchange signed by the registered Holder or by a person legally empowered to do so in a form satisfactory to the Registrar. A Series 2011 Note may be transferred only on the Register upon presentation and surrender of the Series 2011 Note at the office of the Registrar together with an assignment signed by the registered Holder or by a person legally empowered to do so in a form satisfactory to the Registrar. Upon exchange or transfer the Registrar will complete, authenticate, and deliver a new note certificate of any Authorized Denomination requested by the Holder equal to the unmatured principal amount of the Series 2011 Note surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Registrar will undertake the exchange or transfer of a Series 2011 Note only after the new Series

2011 Note is signed by the authorized officers of the City. In all cases of Series 2011 Notes exchanged or transferred, the City will sign and the Registrar will authenticate and deliver Series 2011 Notes in accordance with the provisions of the Note Proceedings. The exchange or transfer will be without charge to the Holder, except that the City and the Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Series 2011 Notes issued and authenticated upon any exchange or transfer will be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Note Proceedings as the Series 2011 Notes surrendered upon that exchange or transfer. Neither the City nor the Registrar will be required to make any exchange or transfer of any Series 2011 Note selected for redemption, in whole or in part.

(c) **Book-Entry System.** Unless otherwise provided in the Certificate of Award, the Series 2011 Notes shall be originally issued in Book-Entry Form to a Depository, initially The Depository Trust Company, for use in a Book-Entry System. Under the book-entry system, the Notes will be registered in the name of a Depository or its nominee, the note certificates in fully-registered form will be deposited with and retained in the custody of the Depository or its agent, and the ownership of interests in the Notes may be transferred only through a book entry on the records of the Depository.

The City and the Registrar shall recognize and treat the Depository as the owner of the Notes for all purposes, including payment of Debt Service, redemption and other notices, and enforcement of remedies.

If any Depository determines not to continue to act as a Depository for the Series 2011 Notes for use in a Book-Entry System or if the City determines to discontinue the Book-Entry System, the Director of Finance may attempt to establish a securities depository relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance shall direct the Registrar to make provision for notification of the book-entry interest owners by the Depository and to make any other arrangements necessary for the withdrawal of the Series 2011 Notes from the Book-Entry System.

SECTION 7. Sale of the Series 2011 Notes.

(a) **Private Sale.** The Series 2011 Notes will be sold at private sale to the Original Purchaser, in accordance with this ordinance, at a purchase price to be determined by the Director of Finance in the Certificate of Award. That purchase price shall not be less than 97% of the principal amount of the Series 2011 Notes, plus any accrued interest on the Series 2011 Notes from their date to the Closing Date. The Director of Finance may sell the Series 2011 Notes to an investment banker, acting as underwriter, or to a financial institution or other entity or person in a

private placement. The Director of Finance may enter into a Purchase Agreement with the Original Purchaser in that private sale, or may sell the Notes without a Purchase Agreement. The Notes shall be sold with and upon such other terms as are required or authorized by this ordinance to be specified in the Certificate of Award, in accordance with the law, the provisions of this ordinance, and any Purchase Agreement. The Director of Finance may sell the Notes at the same time, in the same manner, and in the same offering with other securities of the City, whether or not those securities have been consolidated with the Notes in accordance with Section 7(b) below.

(b) **Consolidation.** The Director of Finance is authorized, if she determines it to be in the best interests of the City, to combine the issue of the Series 2011 Notes with one or more other note issues of the City into a consolidated note issue in accordance with Section 133.30(B) of the Ohio Revised Code.

(c) **Certificate of Award.** The Director of Finance shall sign and deliver the Certificate of Award. The Director of Finance shall state in the Certificate of Award: the principal amount of the Series 2011 Notes; the interest rate on the Series 2011 Notes; the purchase price for the Series 2011 Notes; and any other terms required by this ordinance. The Director of Finance may state in the Certificate of Award any changes in the date, the maturity date, the redemption provisions, and the designation of the Series 2011 Notes; whether the Series 2011 Notes are to be consolidated with other note issues; whether the Series 2011 Notes are to be issued in Book-Entry Form; and any other terms authorized by this ordinance, subject to the limitations stated in this ordinance.

(d) **Delivery.** The Director of Finance shall sign and deliver the Certificate of Award and shall cause the Series 2011 Notes to be prepared, signed, and delivered, together with a true transcript of proceedings of the issuance of the Series 2011 Notes, to the Original Purchaser upon payment of the purchase price.

SECTION 8. Financing Costs. The City authorizes the payment of the Financing Costs for the Series 2011 Notes, as provided in this Section 8.

(a) **Bond Counsel.** The legal services will be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Series 2011 Notes and rendering legal opinions upon the delivery of the Series 2011 Notes. Bond counsel shall render those services to the City in an attorney-client relationship. Bond counsel shall be paid just and reasonable compensation for those legal services.

(b) **Original Purchaser.** This Council authorizes and directs the Director of Finance to select the Original Purchaser, either as an underwriter or as a purchaser in a private placement. The Original Purchaser shall be paid for services in accordance with any Purchase Agreement or, if there is no Purchase Agreement, in accordance with its proposal.

(c) **Registrar.** The City retains the services of The Huntington National Bank, or another bank or trust company as determined by the Director of Finance in the Certificate of Award, to act as Registrar for the Notes. The Registrar shall perform the services as bond registrar, authenticating agent, paying agent, and transfer agent for the Notes as provided in this ordinance. The Registrar shall be paid for those services in accordance with the Registrar Agreement.

(c) **Ratings and Insurance.** If, in the judgment of the Director of Finance, the filing of an application for (1) a rating on the Series 2011 Notes by one or more nationally recognized statistical rating organizations, or (2) a policy of insurance to better assure the payment of principal of and interest on the Series 2011 Notes, is in the best interest of and financially advantageous to the City, the Director of Finance shall prepare and submit those applications and provide to each of those agencies or companies the information required for the purpose. This Council further authorizes the fees for those ratings and the premiums for the insurance to be included in Financing Costs authorized under Section 8(e) below.

(d) **Limits on Authority of Service Providers.** In rendering the services described above, as independent contractors, those service providers shall not exercise any administrative discretion on behalf of the City in the formulation of public policy; expenditure of public funds; enforcement of laws, rules, and regulations of the State of Ohio, the City, or any other political subdivision; or the execution of public trusts.

(e) **Payment of Financing Costs.** This Council authorizes and approves the expenditure of the amounts necessary to pay those Financing Costs specifically authorized above and all other necessary Financing Costs in connection with the issuance and sale of the Series 2011 Notes. Those Financing Costs may be paid by the Original Purchaser in accordance with any Purchase Agreement. To the extent that they are not paid by the Original Purchaser, this Council authorizes and directs the Director of Finance to provide for the payment of those Financing Costs from the proceeds of the Series 2011 Notes to the extent available and, otherwise, from any other funds lawfully available and appropriated for the purpose.

SECTION 9. Use of Note Proceeds. The proceeds from the sale of the Series 2011 Notes shall be deposited and used as provided in this Section 9.

(a) Any accrued interest or premium received on the sale of the Series 2011 Notes shall be deposited in the Bond Retirement Fund of the City and be used for the payment of interest on the Series 2011 Notes at their maturity.

(b) The amount necessary to pay for any costs of the Project and any Financing Costs of the Notes to the extent that those Financing Costs are not paid by the Original Purchaser in accordance with any Purchase Agreement and to the extent that the Director of Finance determines to pay those Financing Costs from the proceeds of the Notes shall be deposited in the proper fund or funds and used to pay, or reimburse the City for, the Project and those Financing Costs.

(c) The remainder of the proceeds shall be paid into the proper fund or funds and used to retire the Outstanding Notes at their maturity.

SECTION 10. Security and Sources of Payment. The Series 2011 Notes will be general obligations of the City.

(a) This Council pledges to the payment of Debt Service on the Series 2011 Notes the full faith and credit of the City including, without limitation:

(1) The general taxing power of the City, including the power to levy taxes within the ten-mill limitation, as defined in Section 5705.02 of the Ohio Revised Code.

(2) Any lease payments to the City from tenants of the Shopping Center.

(3) The proceeds to be received from the sale of the Bonds and of any notes issued to retire the Series 2011 Notes.

(4) Any money remaining from the sale of the Series 2011 Notes and not required for the payment of the costs of the Project.

(b) The Debt Service on the Series 2011 Notes shall be paid at their maturity from any of the amounts set forth above pledged to their payment, or any funds of the City otherwise available for their payment.

(c) During the years while the Series 2011 Notes are outstanding, there will be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually, subject to tax limitations, not less than the tax that would have been levied had the Bonds been issued without the prior issue of the Series 2011 Notes. The tax shall be and is ordered to be computed, certified, levied, and extended upon the tax list and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are computed, certified, levied, extended, and collected. The tax shall be placed before and in preference to all other items and for its full amount. The money derived from that tax levy shall be placed in the Bond Retirement Fund of the City and is irrevocably pledged for the payment of the Debt Service on the Series 2011 Notes, when and as that Debt Service falls due. If any of the following amounts are available for the payment of the Series 2011 Notes and are appropriated for that purpose, the amount of the tax levy in each year shall be reduced by the amount available and appropriated:

(1) Any lease payments to the City from tenants of the Shopping Center.

(2) Any surplus in the Bond Retirement Fund.

(3) Proceeds received from the sale of the Bonds or any notes issued to refund or renew the Series 2011 Notes.

(4) Any other money lawfully available to the City.

SECTION 11. Signing and Delivery of Series 2011 Notes and Documents. This Council authorizes and directs the Mayor and the Director of Finance to sign and deliver the Series 2011 Notes in accordance with Section 5 of this ordinance.

(a) This Council authorizes and directs the Director of Finance to sign and deliver, on behalf of the City:

(1) The Certificate of Award.

(2) Any Purchase Agreement.

(3) The Registrar Agreement.

(4) Any agreements or letters of representation in connection with a Book-Entry System for the Series 2011 Notes.

(5) Applications for and agreements in connection with obtaining a policy of municipal bond insurance for the Series 2011 Notes.

(6) Applications for and agreements in connection with obtaining one or more ratings for the Series 2011 Notes.

In the absence of the Director of Finance, this Council authorizes and directs the Mayor to sign and deliver any of those documents and certificates.

(b) This Council authorizes and directs the Director of Finance to sign and deliver, on behalf of the City, in her capacity as fiscal officer of the City:

(1) Any certificates required under Section 5705.41 of the Ohio Revised Code for any of the agreements in connection with the Series 2011 Notes.

(2) The statements of indebtedness provided for in Section 133.33(B) of the Ohio Revised Code.

In the absence of the Director of Finance, this Council authorizes and directs any deputy Director of Finance to sign and deliver any of those documents and certificates.

(c) This Council authorizes and directs the Mayor, the Law Director, the Director of Finance, the President of Council, the Council Clerk, and any other City officials:

(1) to sign and deliver any certificates, instruments, and other documents that the official considers necessary or appropriate in connection with the issuance

and sale of the Series 2011 Notes, and that are not inconsistent with this ordinance; and

(2) to take such actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

SECTION 12. Certification to County Auditor. This Council directs the Director of Finance or the Clerk of this Council to forward a certified copy of this ordinance and a copy of the Certificate of Award to the County Auditor.

SECTION 13. Definitions. Words and terms are used in this ordinance with the following meanings:

"Authorized Denominations" means the denomination of $100,000 or any integral multiple of $1,000 in excess thereof.

"Bonds" means the taxable bonds anticipated by the Series 2011 Notes.

"Book-Entry Form" or "Book-Entry System" means a form or system under which (a) the ownership of book-entry interests in Series 2011 Notes and the Debt Service on the Series 2011 Notes may be transferred only through a book entry, and (b) physical note certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the Series 2011 Notes deposited and retained in the custody of the Depository or its agent.

"Certificate of Award" means the certificate authorized by Section 7 of this ordinance, setting forth the terms and other provisions of the Series 2011 Notes required or authorized by this ordinance.

"Closing Date" means the date of delivery of and payment for the Series 2011 Notes.

"Debt Service" means all amounts due as principal, interest, and any premium on an issue of securities.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a Book-Entry System to record ownership of book-entry interests in securities or the principal of and interest on securities, and to effect transfers of securities, in Book-Entry Form and means initially The Depository Trust Company, New York, New York, a limited purpose trust company.

"Financing Costs" means any financing costs authorized to be paid by Section 133.01 of the Ohio Revised Code.

"Holder" means as to any Series 2011 Note, the person in whose name the Series 2011 Note is registered on the Register.

"Note Proceedings" means, collectively, this ordinance, the Certificate of Award, any Purchase Agreement, and the other proceedings of the City, including the Series 2011 Notes, that provide collectively for, among other things, the rights of Holders and beneficial owners of the Series 2011 Notes.

"Original Purchaser" means the entity selected by the Director of Finance under Section 8(b) as purchaser of the Series 2011 Notes.

"Outstanding Notes" means the City's $3,245,000 Taxable Land Acquisition Bond Anticipation Notes, Series 2010, issued November 29, 2010 and maturing on November 28, 2011.

"Participant" means any participant contracting with a Depository under a Book-Entry System and includes securities brokers and dealers, banks and trust companies, and clearing corporations.

"Project" means (1) the purchase of the Shoreway Shopping Center, (2) the clean up and remediation of that site, and (3) to provide for and enable the environmentally safe and productive redevelopment and reuse of that site.

"Purchase Agreement" means any Note Purchase Agreement between the City and the Original Purchaser, entered into in accordance with Section 7 of this ordinance.

"Register" means all books and records necessary for the registration, exchange, and transfer of the Series 2011 Notes.

"Registrar" means The Huntington National Bank or any successor registrar designated in accordance with the Registrar Agreement, or any other bank or trust company as designated by the Director of Finance in the Certificate of Award.

"Registrar Agreement" means the Note Registrar Agreement between the City and the Registrar, as supplemented, amended, or modified.

"Series 2011 Notes" means the Taxable Land Acquisition Bond Anticipation Notes, Series 2011, authorized by this ordinance. The interest on the Series 2011 Notes shall be included as gross income for federal tax purposes and shall not be treated as an item of tax preference for purposes of the alternative minimum tax.

"Shopping Center" means the Shoreway Shopping Center in the City.

Section 14. Effective Date. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety in the City, and for the further reason that the Series 2011 Notes shall be sold promptly in order to retire the Outstanding Notes and preserve the credit of the City; and provided it receives the affirmative vote of at least two-thirds of its members elected to Council, this ordinance shall take effect and be in force immediately upon its passage by the Council and approval by the Mayor; otherwise it shall take effect and be in force after the earliest period allowed by law.

PASSED THIS _____ DAY OF _____, 2011.

_____
PRESIDENT OF COUNCIL
Edward R. Podmanik

and/or

_____
PRESIDENT PRO TEM
Richard Rosso

_____
MAYOR
John J. Piskura

_____
CLERK OF COUNCIL
Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Council of Sheffield Lake DO HEREBY CERTIFY that this is a true and exact copy of Ordinance # _____.
PASSED _____, 2011.