

**Minutes of the City Council**  
Sheffield Lake, Ohio  
June 26, 2012

The regular meeting of the City Council was held Tuesday, June 26, 2012. Council Pro Tem Rick Rosso called the meeting to order at 7:08 PM.

**THE INVOCATION WAS GIVEN BY: Kay Fantauzzi**, who then led in the Pledge of Allegiance.

\*\*\*\*\***ROLL CALL OF MEMBERS**\*\*\*\*\*

- Present: Rosso, Smith, Belaska, Stark, Kovach, McCullough, Mayor Bring, Finance Director Smith, Service Director Smith, Law Director Graves, Treasurer Woods
- Absent: Podmanik, Elliott (excused)
- Attending: Planning; Erdei, Concerned Citizens, Members of the Media; Avon Lake Press

- \*Motion by Kovach/Second by Belaska to accept the minutes of the June 12, 2012 Council meeting with any corrections. Yeas All.
- \*Motion by Stark/Second by Belaska to accept the minutes of the June 19, 2012 Worksession meeting with any corrections. Yeas All.

**CORRESPONDENCE/COMMUNICATIONS: None.**

**PRESENTATIONS: None.**

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

**Roads, Drains, Water, Sewer, and Refuse: None./Safety: None./Buildings, Lands, Vehicles & Equipment: None./Ordinance: None./Finance & Audit: None./Council Representative to the Community Center: None./Council Representative to the Zoning Board of Appeals: None./Council Representative to the Planning Commission:** Representative Belaska reviewed the minutes of the June 21, 2012 meeting **/Representative to the Park Board:** Member Kovach reviewed the minutes of the June 18, 2012 meeting.

\*\*\*\*\***ADMINISTRATIVE REPORTS**\*\*\*\*\*

**MAYORS REPORT:** Mayor Bring advised we have the new machine – the boom mower going out. We have only used it for probably about 3 hours. We had a complaint on Abbe and Walker as you came out of Walker on the east side, if you looked to the left which is south you could not see. There were numerous close calls there. We spent about an hour and a half there the machine cleared all that back. This will be an on-going thing for the rest of the year and probably the beginning of next year with that machine. So it is going to be out there. Before the

next meeting we will probably have more done but we do have Community Days going up so I don't know how much time we are going to get to use it. Motion by Stark/Second by Kovach to accept the report. Yeas All./**FINANCE DIRECTOR REPORT:** Pro Tem Rosso asked based on the unusually dry summer this year, our water and sewer accounts are starting to get a little healthier? Finance Director Smith answered not yet, sewer is; actually sewer is not taking a hit like it had last year. The water is still a little weak because we are still giving that credit but it will get there. It just went in in May. \*Motion by Stark/Second by Kovach to accept the report. Yeas All./**TREASURER REPORT: None.**/**SAFETY DIRECTOR:** Mayor Bring reported we had some discussions about this – the last windy day with the waves and stuff where they had a little incident down in Huntington Beach and Mr. Smith and I were talking about it. So we are going to end up getting some flags (red flags) behind the Boat Launch and the Library, there has been numerous people using that beach and we had 3 young kids go down there the other day when it was real rough and the Service Director actually said something to them, so we had to send the Police down there to chase them away. So I think we are going to end up getting some red flags for that type of situation so we can stick them up. So we do not let them go down there and swim. We have had an excellent couple of weeks at the boat launch as far as no one doing anything wrong. We have had people down there enjoying themselves and have been cooperating as far as the parking. As far as the safety goes over there, it has been very good and I have been very pleased with that. Councilman McCullough stated you say they have been watching the parking over there, the other day there were 14 trailers parked across the street and there was only 3 trailers in the boat launch because all the other spots were taken by cars parked singularly. The people that come down with those kayaks, they are actually pretty good; they will double park themselves. But there is a lot of other people that come down to swim and they park at the end of the thing. I almost drove back home with the trailer, that is how I had to park; had to go in the overflow behind the old Hardee's and I might as well have drove home. Mayor Bring advised I have instructed the Police to go and talk to the people, I don't want to stop the people from coming down there and using the park like during the evening and such. I understand what you are saying and we are trying to enforce that lightly. Service Director Smith advised we just put up a sign stating car parking across the street. There are also signs coming no jumping off the rocks. \*Motion by Stark/Second by Kovach to accept the report. Yeas All./**SERVICE DIRECTOR:** Councilman McCullough stated I noticed that they moved a lot of dirt over on the south wall at the shopping center this week and they painted. Are we using city workers to do that and are we charging the shopping center back? Service Director Smith answered yes we are and that is not dirt that we moved./**LAW DIRECTORS REPORT:** Law Director Graves stated first I want to address some of my comments to the Planning Commission, I did report that the

referral from the Mayor on the change in the zoning ordinance for the minimum square footage had not been referred. Apparently we did pass that, I had completely forgotten that. We have a lot of legislation that has been floating around in different directions right now, waiting for public hearing and waiting for Council or being considered by Planning Commission. There is a lot of things in the works and we will try to keep it straight and Kay is doing a great job at that. Just to give you a heads up the proposed Speedway expansion, I had a conversation today with a representative of Speedway and gave them a time frame and they are in agreement with that for the proposed construction of a new Speedway that is going to be about 3 times larger than what is there now. They will be submitting a variance requests at the Zoning Board meeting in July and having Planning Commission continuing to review that site plan. They will also need a rezoning of the B1 lot that they purchased to B5. We will not have to send it to the Planning Commission because Planning Commission has already reviewed that for more than 60 days and actually submitted their recommendations to Council. We actually had a piece of legislation in 2008 setting that for public hearing but the public hearing never took place. So that rezoning can be expedited but I still would not anticipate that rezoning if it passes every step being complete until October. But Speedway is aware of that and they are okay with that. Moving onto the legislation for Council this evening, Council#019 is the third and I would ask that you consider adoption and also adopting with the emergency clause. Council#022 is third reading tonight on whether or not to approve the \$1000.00 donation to the Sheffield Lake Fire Department from Mr. Jim Kolleda. Council#024 is a first reading tonight on the adoption of the Fraud Prevention Policy that was discussed at the Finance Committee meeting. Council#025 is set for a first reading tonight and this is amending ordinance#20-91 establishing a deferred compensation program for the city. This would merely expand the available options for various deferred compensation plans to include a Roth option. Tonight we ask that you consider amending the agenda to include Council#026 and this is a correction to ordinance#89-08 which is attached and that was an appropriation change and if you recall this involved the contract for the services of a consulting firm called the Fair Housing Counsel of Northeast Ohio. What they did was work with the city in an effort to have our Fair Housing ordinance into what is known as substantial compliance under the federal guidelines. At the time that we engaged these consultants HUD was offering several hundred thousand dollars in grant funds to communities that took the necessary steps to achieve substantial equivalency. Out of those grant funds the \$10,000.00 we paid the consultants would have been a reimbursable expense. Thus on the appropriation change in 2008 that was characterized as an advanced out of the general fund for Fair Housing, subsequent to engaging the firm and achieving our substantial equivalency status HUD discontinued the grant program. So we never were able to receive any of the

proposed grant funds. Therefore in retrospect that should have been characterized as a transfer out rather than of the general fund, rather than an advance out because it is not going to be reimbursable - this is just a clarification. Council#027 is a resolution authorizing the Mayor into a partnership agreement with the other communities and also Vermilion and Lorain Community College to apply for a grant for a study on how to engage some fiber-optic lines and improve our networks. I would ask for an executive session to discuss current and pending litigation following ordinances and resolutions. Councilman McCullough stated I am sitting reading this 89-08 and there was an advance out of \$10,000.00 which is an increase in that fund and then establishing an increase of Fair Housing of \$10,000.00 and I am assuming that is the same \$10,000.00, is that correct? Finance Director Smith answered yes. Councilman McCullough stated if it nets \$20,000.00 of outs then where is the credit at? Finance Director Smith answered that line never existed when we did our initial budget for 2008 so we had to establish that and I am not sure that we had any decreases. You see a lot of decreases, we actually took it out of engineering so we decreased engineering to pay for advance out and then the only way to add it to Fair Housing fund and then make it where I could pay it – we had to have an increase. It is not really \$20,000.00, it is the same \$10,000.00 but you have to show it as an increase to that line because it started at 0 or wasn't even established at the time. Councilman McCullough stated I am aware of that but you took the \$10,000.00 out of engineering in advanced out, it never came out of advanced out to go into Fair Housing. Finance Director Smith answered it is an advance out because it is an expense of 101 that is why it is an increase to that line. It gets expensed out of 101 and it goes into revenue in 292, you don't show the revenue part on an appropriation change – that goes to the county and they approve that I am giving the Fair Housing fund \$10,000.00 and then once that is established that that fund has \$10,000.00 then I can appropriate it with \$10,000.00 in that fund. Councilman McCullough stated I am aware of that but you decreased engineering by \$10,000.00 and you increased advanced out by \$10,000.00 – that is the wash. Then we establish and increase Fair Housing by \$10,000.00 – in my mind there is \$10,000.00 there that doesn't balance back out; there is not a debit for the credit. Finance Director Smith advised because you are not seeing the revenue portion of the 292, that doesn't show up on an appropriation change. That I actually have to go to the county and show them that there is going to be money. General fund is just like – we can transfer anything out of general fund that we require to another fund and all it is is once I transfer it out of general fund into Fair Housing I still have to have a line that I can expend it out of Fair Housing. Councilman McCullough stated right but my question is we decreased to increase \$10,000.00 but we never decreased the advance out to increase the Fair Housing \$10,000.00. So 2 things got increase \$10,000.00 and 1 got decreased \$10,000.00 so to me that is \$10,000.00 got increased that didn't get decreased somewhere. I guess I am

missing what you are saying where that other \$10,000.00 is at but it looks like in the budget part of it \$10,000.00 came out to make the advanced out \$10,000.00/I am looking for an advanced out that gets decreased by \$10,000.00 to increase the Fair Housing to \$10,000.00 and that is where the \$10,000.00 is at. Finance Director Smith explained actually if we had gotten the money, if we had gotten the grant and we would have received that \$10,000.00 and then we would have had another line in Fair Housing that would say advance out because it would be going back to general fund. We never got that, hence it is not an advance – it was a transfer to that fund to pay for the fees. Councilman McCullough stated I guess where it is losing me at is I am looking for the debit to go along with the credit or the credit to go along with debit. Finance Director Smith answered well the credit in Fair Housing is something I report to the county auditor, there is no councilmatic action for that. That is just something I report to the county auditor that there is \$10,000.00 revenue going into the Fair Housing fund. Where it comes from is really a non-event. Councilman McCullough stated I understand that but if engineering would have went down \$10,000.00, Fair Housing went up \$10,000.00 – I don't see a problem with that. Where I am getting stuck at is there is \$10,000.00 in the advanced out that is an increase, where is that \$10,000.00 at? Council Pro Tem Rosso advised what you are not seeing and what you are looking for is the \$10,000.00 in the advanced out – that move is not from advanced out to Fair Housing; is not an appropriation change but that \$10,000.00 in advanced out allowed the city to then move that money into 292. You don't see the transaction that offsets it because we did not increase or decrease the general fund by that extra \$10,000.00 that you are looking for. That basically said we appropriated \$10,000.00 out of the general fund that the city was allowed to use to put in the Fair Housing but you won't see like a checkbook where there is a plus and minus for everything because the movement of the funds from the 101 advanced out into the 292 Fair Housing isn't an appropriation change, it is just a transaction and for lack of a better term – in the background. So that gets reported to the county that hey we just moved from here to there and then we appropriate in Fair Housing which then gives the city the authority to spend it to pay in this case the consultants. So there won't be a corresponding decrease out of that advanced out. Councilman McCullough asked then why is this in front of us? Council Pro Tem Rosso answered because they want to change it from advanced out which implies that it was going to be repaid but it is not. Finance Director Smith added in order for it to be corrected on our financial statement, it has been sitting out there as an advanced because we had thought that we were going to get that money back. In all reality in probably 2009 or 2010 I should have already done this but we kind of let it slip through because it is immaterial as far as the auditors are concerned. So this year we looked at it and said you know we really should correct that so the language is correct. It is not an advance, it is actual transfer out of 101 to 292.

Councilman McCullough stated okay and somewhere this \$10,000.00 got spent. Council Pro Tem concurred out of the Fair Housing 292 account – that went to the consultants. Finance Director Smith stated the auditors required per the Ohio Revised Code and we made the change in the 2011 financial statement and before we can close our audit, they just want us to correct the language. Finance Director Smith advised each fund is its own animal, you can't intermingle the 101. So the 101 increase and decrease, the decrease in engineering is because you didn't have money anywhere else to pay for it so we took it out of there to increase.

Councilman McCullough stated now it is going to get back to my original question which is fine and I understand all that but then the advanced out you took that \$10,000.00 and that went into Fair Housing and it is showing here twice on this paper without another. Finance Director Smith advised it is not showing twice on the paper, it is showing once in general fund and once in Fair Housing and that is exactly how it should be done, it is the only way I can do it actually. Council Pro Tem Rosso stated it just looks confusing because it all happened in one day.

\*Motion by Stark/Second by Kovach to accept the report. Yeas All.

***CITIZENS COMMENTARY:***

***Mark J Erdei, 4015 Tennyson Ave.*** stated I was approached by a gentleman going around for people to sign a petition for November for Apples to sale wine on Sundays. Council Pro Tem Rosso asked don't you have to have that in your ward, not city wide, that ward boundary changed. Law Director Graves advised the Board of Election is aware of the change. Council Pro Tem Rosso advised I am just saying that Mark's signature being in ward 4 is not valid on the petition. Mr. Erdei stated I would just encourage everybody to sign it to help out Apples.

***UNFINISHED BUSINESS: None./NEW BUSINESS:*** \*Motion by McCullough/Second by Belaska to amend the agenda to include Council#026 and #027. ROLL CALL TO AMEND THE AGENDA: Yeas All – Smith, Rosso, Belaska, Kovach, McCullough, Stark.

**ORDINANCES/RESOLUTIONS:**

- 1) Council#019 – THIRD READING – a resolution authorizing the City of Sheffield Lake to accept an assignment of property from Brett Locher, President and statutory agent of North Coast Shoreway Lanes (NCSL), for purposes of settling litigation related to Lorain County Common Pleas Court case no. 10 CV 168084 and the declaring of an emergency.

\*Motion by Kovach/Second by Belaska for ADOPTION:

Council Pro Tem Rosso asked since you had made a comment under your report David, everything gets auctioned off and split between the 3 parties; Chase Bank, the City and the Levin Trust. You also mentioned that all the costs for removal and all that will be taken out before any of the money is

split up, the city is not on a hook to pay bear all the entire costs and hopefully none of the costs. Law Director Graves answered I just read through it and that is not listed in here but that is my understanding of the settlement. Council Pro Tem Rosso clarified to have the costs come off. Law Director Graves stated yes. Council Pro Tem Rosso asked but that is not listed in here? Law Director Graves answered no. Council Pro Tem Rosso asked so is that 20 or 19? Law Director Graves answered 20. Council Pro Tem Rosso stated so the course of action could be do nothing with either one of them or if 19 passes then just table 20 until that change is made? Law Director Graves answered yes. Council Pro Tem Rosso stated so then that just allows us to accept the property from Brett, table 20 until those changes are made which would be specified out which then relieves the city of the costs. Law Director Graves advised we are negotiating the agreement right now and to be honest with you that term has been discussed and that was not part of the legislation that the costs would come off the top but that can be added. Law Director Graves stated if that is a clause that Council is strongly in favor of including in Council#020 then I would recommend tabling #020 and if there is any issues to discuss I have asked for an executive session to discuss current and pending litigation so that could be asked in executive session. Councilman McCullough asked are we accepting this property free of any liens and encumbrances or are we just accepting the assignment of this property? Law Director Graves answered we are accepting it subject to the existing liens by Chase Bank and the Shoreway Trust but the litigation is still pending in which we have asserted that we own much of the contents which would not be subject to the liens. Council#019 basically gets NCSL out so that we can negotiate the settlement with the Bank and the Shopping Center. NCSL has played no role in any of this since basically they have been evicted and they really have no say in it, they have no interest in the liens. The existing liens are probably triple the value. Councilman McCullough stated I guess that is my question if we accept this we are not accepting any liens or encumbrances that are on that personal property, we are just accepting that personal property. Law Director Graves answered no we are accepting the liens and encumbrances. Councilman McCullough stated but then Chase can turn around and tell us we owe them the money for that. Law Director Graves answered it is just an assignment of the collateral and that is going to be auctioned off and one way or another the proceeds divided. Councilman Smith stated the key, it says; for the purposes of settling litigation so without #020 you are not settling any litigation. This just gives him the ability to accept if the litigation gets settled. Law Director Graves concurred Alan is correct, we are not going to sign any assignment

or accept any assignment. There will be 2 documents the settlement agreement and assignment.

ROLL CALL FOR ADOPTION: Yeas All – Smith, Belaska, McCullough, Rosso, Kovach, Stark.

**Resolution Passes#21-12**

- 2) Council#020 – THIRD READING – an ordinance authorizing the Mayor to enter into a settlement agreement between the City of Sheffield Lake, N.C.S.L., Inc., DBA North Coast Shoreway Lanes, and Marc Levin, Trustee of the Shoreway Shopping Center Trust, and the declaring of an emergency. \*Motion by Smith/Second by McCullough to TABLE.

ROLL CALL TO TABLE: Yeas All – Smith, Belaska, McCullough, Rosso, Stark, Kovach.

- 3) Council#022 – THIRD READING – a resolution authorizing the City of Sheffield Lake to accept and approve the donation of one thousand dollars from James Kolleda to be used for the Sheffield Lake Fire Department, and the declaring of an emergency.

\*Motion by McCullough/Second by Rosso for ADOPTION:

Council Pro Tem Rosso asked this donation in my understanding in talking to the Fire Chief is based upon Mr. Kolleda's need to use of the ambulance and the service that they provided to him and this is not the first time that Mr. Kolleda has made a donation to the Fire Department. His family has used the safety services and it comes with no stipulation or association or ties to what is going on between Zoning and Dollar General, correct? Law Director Graves advised I am not going to speculate on Mr. Kolleda's thoughts for giving a donation. Council Pro Tem Rosso stated there is nothing pending that requires Council action that is involved with the alleged lawsuit between Dollar General, Mr. Kolleda and the Zoning Board correct? This is totally separate from the litigation between Dollar General and the Zoning Commission where Dollar General is challenging the Zoning Commissions ruling for the corner, they are 2 separate things. The question has been posed that this is Mr. Kolleda giving the city \$1000.00 and we are going to walk away and let him have his zoning change and I am saying the 2 are not inter-twined at all. Council has nothing to say in that, Council can't tell you to drop out of – you are representing the Zoning Board. The Zoning Board was sued correct? Law Director Graves answered they have appealed the decision of the Zoning Board, that is correct. Council Pro Tem Rosso stated City Council hasn't been named correct. Law Director Graves stated if you want to talk about that litigation I would be happy to discuss that with you. I think there are implications to Council. I mean Council spoke through legislation when they zoned it B2, I mean I don't want to get into all the litigation. Okay, on its face this legislation has nothing to do with the

litigation. Councilwoman Stark asked would it pass the legal spell. Councilman McCullough asked has Mr. Kolleda's family donated money at any other time to the Fire Department? Council Pro Tem Rosso stated at Safety the Fire Chief reported that he has done it every time he has used an ambulance run. Law Director Graves advised I can tell you that I have never drafted legislation in the 8 years I have been here approving a donation. Council Pro Tem Rosso stated we haven't had to have legislation for 8 years. Law Director Graves advised for at least 5 or 6 you have and we only recently put the \$500.00 limitation on it. Mayor Bring stated actually what the Fire Chief stated is that we have had numerous other residents donate money to the Fire Department for the same purpose as what Mr. Kolleda, he never said anything about – if you go back in the minutes said anything about Mr. Kolleda donating at any other time.

ROLL CALL FOR ADOPTION: Yeas – McCullough, Rosso/Nays – Smith, Belaska, Kovach, Stark. **FAILED 4 TO 2.**

- 4) Council#024 – FIRST READING – an ordinance adopting a Fraud Prevention Policy for the City of Sheffield Lake.
- 5) Council#025 – FIRST READING – an ordinance amending ordinance no. 28-91 regarding deferred compensation plans for city employees.
- 6) Council#026 – EMERGENCY – an ordinance correcting ordinance number 89-08 to reflect a transfer for Fair Housing consulting and the declaring of an emergency.

\*Motion by Stark/Second by Smith for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Smith, Rosso, Belaska, Kovach, McCullough, Stark.

\*Motion by Stark/Second by Smith for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – Rosso, Smith, Belaska, McCullough, Kovach, Stark.

**Ordinance Passes#22-12**

- 7) Council#027 – EMERGENCY – a resolution authorizing the Mayor to enter into a partnership agreement with Lorain County Community College and Municipal Governments throughout Lorain County and the City of Vermilion in Erie County to apply for a local government innovation fund grant, and the declaring of an emergency.

\*Motion by Stark/Second by Belaska for SUSPENSION OF RULES:

ROLL CALL FOR SUSPENSION OF RULES: Yeas All – Stark, Kovach, McCullough, Belaska, Smith, Rosso.

\*Motion by Stark/Second by Smith for ADOPTION:

ROLL CALL FOR ADOPTION: Yeas All – McCullough, Kovach, Stark, Belaska, Smith, Rosso.

**Resolution Passes#23-12**

\*Motion by Stark/Second by Belaska to go into executive session to discuss current and pending litigation. ROLL CALL TO GO INTO EXECUTIVE SESSION: Yeas All – Rosso, McCullough, Stark, Smith, Belaska, Kovach.

\*Motion by Smith/Second by Belaska to return to regular session. ROLL CALL TO RETURN TO REGULAR SESSION: Yeas All – Kovach, Stark, Smith, Belaska, McCullough, Rosso.

Law Director Graves advised let the record reflect the City Council of Sheffield Lake did adjourn into executive session for the discussion of current and pending litigation with the city attorney pursuant to the Sunshine Laws.

**COUNCIL PRESIDENT: None.**

**MEETING ADJOURNED:** With no further business before this council, Motion by Kovach/Second by Stark to adjourn at 8:47 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.

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CLERK OF COUNCIL

*Kay Fantauzzi*

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PRESIDENT OF COUNCIL

*Edward R Podmanik*

*And/or*

I, Kay Fantauzzi, duly appointed Clerk of Council of Sheffield Lake DO HEREBY CERTIFY that this is a true and exact copy of the Minutes of Council of June 26, 2012.

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COUNCIL PRO TEM

*Richard Rosso*

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MAYOR

*Dennis Bring*