

Minutes of the Ordinance Committee meeting
Sheffield Lake, Ohio
July 6, 2017

This regular meeting of the Ordinance Committee was held Thursday, July 6, 2017. Chairman Kovach called the meeting to order at 7:48 PM.

ROLL CALL OF MEMBERS:

Present: Kovach, Erdei, Gee

Absent: Mayor Bring, Superintendent Hastings (excused)

Attending: Law Director Graves

MINUTES: June 1, 2017, *Motion by Erdei/Second by Gee to accept the minutes with any corrections. Yeas All.

PRESENTATIONS: **None.**

OLD BUSINESS:

Industrial District – Chairman Kovach opened the floor for discussion. Law Director Graves advised 1149 would be the proposed new Industrial District rules. If you recall what was presented before had a lot of extra stuff in it and there was some mis-numbering and it went into conditional uses and talking about the residential. So, Industrial District ordinance, I set this up in kind of the old format. Whenever you amend an ordinance, you have to state the existing one in its entirety and what I have been doing that has worked out nicely, is the Italicized/so you just write it once but this kind of the old way where you fully state it and then the new one follows. The whole first part of this is the existing Industrial District ordinance, so that is what we currently have. Then if you go to the fourth page, you should come to a page where it says section 2 is hereby amended as follows. This would start the new Chapter of 1149 of the Industrial Districts. It closely mirrors what they have in Avon Lake, we don't draw distinction between Industrial and Light Industrial, we just have Industrial. So, we have principal uses and conditional uses and if you look through there are all the permitted uses and uses identified with under (c) would be conditional uses. Conditional uses have to go through a separate process; Planning Commission and Council approval. They are allowed but are conditional with additional criteria and review. So, this kind of lays everything out; lot sizes, minimum lot area/minimum lot width. Member Gee advised under D5, should that be "from" instead of form? Law Director Graves answered yes, that should be from. Member Gee clarified the Industrial District is basically all in ward 1 right? Law Director Graves answered yes and reviewed map with Committee. Member Gee stated since this has been redone and I realize where the zoning district was for the Industrial, the only question/concern I have is some of those homes on Cove Beach are really kind of nice, under 1149.02C7, I am very much for organic materials and mulch and things like that but if you have ever lived in the wrong direction when the wind blows, compost is not nice. Is that going to be addressed? Law Director Graves

advised that is in a fully wholly enclosed building. If you are talking about outside storage of material, I believe that would fall under a conditional use. Member Gee verified so number 1149C7 is intentionally meaning anything in that category is in an enclosed building. Law Director Graves answered yes which answered her question. Chairman Kovach stated I guess that is the terminology, recycling center. That is what that means? Law Director Graves answered yes. He continued if you look under F of OUTDOOR ACTIVITIES, under General storage of materials accessory to a principal use in an enclosed building. If you are going to do outside storage of materials, that would be a conditional use. ***Motion by Erdei/Second by to refer the new Chapter 1149 regarding Industrial Districts to Worksession. Yeas All.** Law Director Graves stated right along the same lines, we have a new section of code Chapter 1152 and that is necessary because if we are going to have conditional uses then we have to have a section of code that talks about how you go about getting conditional uses and we don't have that in our existing code. Chairman Kovach stated that starts on page 3. Law Director Graves advised it starts right on page 1 because this is all brand-new code, nothing is being repealed or amended. Down the line we may want to consider expanding our conditional uses to residential which he explained. As Mrs. Gee pointed out some of our Industrial does abut some nice properties. It mostly just provides guidance for Planning Commission and Council's consideration. By the way, Zoning Board would still be able to review some of this for if they could establish practical difficulties or necessary hardship if it is a use variance then they could apply for a variance. Member Erdei asked I have one question on our Industrial area, how many acres does that actually come up to. Law Director Graves answered I don't know, I could find out and we could come up with that. Chairman Kovach advised that area is pretty easy to define and really it is from Walker to the city limits, it goes from Abbe Road to Cove Beach, behind Guenther Park to the surrounding Ford property and inclusive of the property north of Walker involving Abbe Road Lumber and that area south to Walker Road. How about for the sake of argument, less than 15 acres. Law Director Graves stated I want to say Shoreway Shopping Center is 20 acres? Member Gee answered no it is 10 acres. There was a brief discussion on how much acreage for the Industrial land. ***Motion by Erdei/Second by Gee to refer the new Chapter 1152 regarding conditional use regulations for Industrial Districts to Worksession. Yeas All.**

Subdivision regulations – None.

Building Permit fees; commercial only – Chairman Kovach opened the floor for discussion on proposed fee schedule. He advised I think the variance increase from \$100 to \$400 was one of the concerns Council had. Law Director Graves advised I have no problem with the first page and most of those changes are decreases. Chairman Kovach recalled discussion from Worksession and question of, what if someone wanted to build a 10,000 foot addition and that would be to me a rather....that is like 5 times the size of my house. So that would not be an addition, that would be an actual structure of some sort and that to me was kind of baseless

because I don't know who is going to build a 10,000-foot addition. If you put in a Industrial situation. Member Gee advised this is Industrial that we are talking about. Chairman Kovach suggested let's say that they know down Abbe Road and rebuilt a structure of similar size, I guess then that would be about a 10,000-square foot structure. I might be wrong but just guessing but let's use that, so 10,000 square feet on an Industrial unit from .0175 dollars which would be how much? Law Director Graves answered I don't know why Jeff did that there on the Industrial, the way ours reads is \$200.00 plus \$1.75 per hundred square feet, so he just broke it down per individual square foot. That is why it looks like such a small amount of money, it is 1.75 or 1 cent. Member Gee asked so it is going up a quarter of a cent is all it is going up? A quarter of a cent per square foot? Chairman Kovach answered okay then multiply that times 10,000 square foot and what does that come to? You are talking a minimal amount of money. Chairman Kovach continued on the only other question I remember coming up was on the variance fee going from \$100 to \$400. Member Gee added and the zoning change from \$450 to \$800.00 but really it was only \$400 to begin with. Law Director Graves started with I will tell Jeff that this Industrial Unit is under part B which is the plan review schedule. The Industrial Unit really ought to be moved to the first page where he is doing the Plan Review fee – that should be right there. Chairman Kovach noted the increase would be from 1.75 to 2.00 per hundred square feet and would go from \$175 to \$200 on 10,000 square feet which is an increase of \$25.00. Law Director Graves continued with *Fire Suppression* also under Plan Review and moved to the front page. We ought to restructure the schedule so that those are both under Plan Review. He continued the new version that he did under Zoning & Building Appeals fees, was he took out Land Sale because nobody can even figure out what that is for. It is on the application as a Land Sale fee but nobody remembers it ever being charged to anybody and I can't find it in any ordinance and I don't know why it is there. So, we are going to take it out. Land Split; his proposal from \$100.00 to 300.00 with an increase of \$200.00 and if you at the ordinance 137.13(b1) the fee is \$50.00 but the application that we have been using says \$100.00 and I don't know when that happened or how that happened, I don't know who has been charged \$100.00 for a lot split but should only be \$50.00. After a brief discussion, it was determined Current fee \$50.00/Proposed fee \$150.00/Increase of \$100.00. Law Director Graves continued variance (zoning) he wants to take that all the up to \$400.00 and I think that is rather high. Member Gee stated I think Lorain's is \$200.00 but I can't remember who I asked Lorain or somewhere else. Member Erdei stated I think that is a little steep myself and I would say \$200.00. Member Gee concurred with \$200.00. Chairman Kovach advised we all agree. Chairman Kovach asked when is the last time somebody applied for a zoning change? Law Director Graves advised recently. After a brief discussion recent proposal, Chairman Kovach advised the very most the city would have lost was \$350.00 by this chart. How often do we get a request for zoning changes? Law Director Graves answered not that often. On a zoning change, there

has to be a public hearing and it has to be advertised. Member Gee advised the newspaper ad is what is the killer on it. Law Director Graves concurred that is true and I remember the application fee wasn't enough to cover the costs of the mandated advertise for it. After a brief discussion correct current fee being \$400.00 – not \$450.00/advertising cost that are high now, Committee agreed zoning change/ current fee \$400.00/proposed \$600.00/ increase \$200.00. Chairman Kovach advised moving onto vacate land fee. Law Director Graves advised well I will tell you something, when we vacate land...we are doing this offer, a lot of expense and a lot of engineering that goes into that surveying/redrawing, the legal description and the revised consolidation plat and everything else. Member Erdei stated they are not cheap. Member Gee advised you have a notation here of 137.13, Law Director Graves answered yes it is here under 137.13a(1) with a fee of \$250.00. Member Gee advised we already know that the \$250.00 doesn't even come close to covering our costs, right? (no voice was heard) Chairman Kovach stated well, in any of these issues though above and beyond the fees that we collect, isn't part of what we do as a city and the costs that are incurred like a cost of doing business. Law Director Graves stated but if you are talking about this proposed vacate, we are going to vacate a road for a new construction, a new business and to me it is no different than giving them a tax abatement or something like that, it is an economic development incentive. Chairman Kovach advised well I am just saying that when you do something like this, you are doing something to make an improvement in whatever you are doing and when you do that you have a fee to collect to do the paperwork and the logistics on it. But the costs of doing business is also the cost of improving the whole neighborhood or the project zone. Law Director Graves stated if someone was requesting it we could negotiate it and say well we are not that inclined to do it but if you were willing to contribute some of the costs of the engineering and such. Member Gee clarified when we vacate land, we are getting nothing right? Law Director Graves advised it depends if we are just vacating parcels of land which we own quite a few parcels of land or if we are vacating a road right of way. If we vacate a parcel of land, that is actually a lot quicker and we can actually sell that. I mean it is an existing parcel, there is no new legal description that has to be drawn up or anything like that. We say, alright you pay us and we vacate it, you pay us a fee and we sale you land and the city can do that. Now, if we vacate a road right-of-way that is much different. Basically, our right of way through the property goes away and it just reverts to the adjacent property owners and that requires a new plat and a new legal description because where there was once a road there is none. So, vacating a road is much different. Chairman Kovach asked whose responsibility is it like when somebody comes to you and they want to request to vacate a road, if it is the residents or the businesses request for that, does all the engineering fall on them then? Law Director Graves answered I would say yes. Member Gee asked has it? Chairman Kovach advised I guess the question would be shouldn't it? Law Director Graves answered it depends. Chairman Kovach advised the argument here is that when you

are doing something like that, in most cases it is for the sake of an improvement that you will have years ahead benefits to cover these costs? I don't have a problem with going from \$250.00 to \$500.00. I don't see where you are talking, it would have to be a private negotiation on each basis as far as you are talking about. Law Director Graves stated I agree with you, especially when a commercial operation comes in and says we would like to do a vacate on this road. That is a case by case consideration and what are you going to bill. It is almost like giving them a tax abatement. What are you going to bill, how much money are you going to invest, are you going to build a 20-million dollar building. How many jobs are you going to create, you know you ask all these questions and if they are willing to do all that then yes maybe the city should eat the cost of the surveying and engineering. Some private resident or whatever just would like more property then I would say they need to come to us with everything done. You know, go hire an engineer and put it all together yourself. So, it really has got to be a case by case consideration. Member Gee stated if we have this at \$500.00 and let's say an industry came in, a business and wanted to do something, the city could always waive that cost as part of their negotiations. Law Director Graves advised I think this fee is fine. I think that you are not going to cover all those other fees with the application fee. I think that this proposal from \$250.00 to \$500.00 is fine. Chairman Kovach advised the last one, the Board of Building Appeals. Law Director Graves answered my recommendation on that would be the same as a zoning variance. Chairman Kovach stated so you are proposing the \$200.00 fee? Law Director Graves answered yes. He advised I can get it to Jeff and where do you want that to go? Chairman Kovach answered to Worksession one more time. Committee reviewed changes made in the meeting.

Options for driveway additions, amend section 1345.01 of the codified ordinances of Sheffield Lake regarding certifications of occupancy – Chairman Kovach reviewed the proposed legislation for driveways and advised I believe this is for final review. He advised to my knowledge the only thing that is really a concern that would keep this from passing and becoming an ordinance, where was that paragraph? Member Gee advised we took the restoring of the driveway back to original state, that was one of the issues that David was going to remove. Law Director Graves answered it was, it was removed. Chairman Kovach asked did we also remove the paragraph with the backyard concerns? Law Director Graves asked are you talking about the discussion at Worksession? Member Gee answered yes. Law Director Graves continued so after...the last time it came before Council we had removed a couple of things; the portions that require to be restored if you have a noncompliant addition – restored to grass or brought to code upon any sale or transfer, we took that out. We also took out the minimum 10-feet. Member Gee advised we decided not to do them as structures and I see that is corrected. Law Director Graves advised there were 2 concerns that Council raised, the one concern raised by Councilman Cizl was in regard to smaller utility trailer and whether those

would be required. Both of the concerns by the way, were really not related too much to the driveways but more related to the first portion of this which is the off-street parking. So, the concern was would this apply to smaller utility trailers that were not designed to be taken on the road and my opinion was that no, this would not require small utility trailer to be parked on the driveway. You could still park those at the rear of your home, etc. He had emailed that he was satisfied on the reply to those. Now, Councilmen Smith and Wtulich had concerns about requiring rear-yard parking to be on a driveway especially in regard to; boats, boat trailers, RV's, things like that. They felt that what you do in your rear-yard is your business and that you should be able to park them in the yard if you so choose so long as it was in the rear yard. Chairman Kovach asked which paragraph was that in? Law Director Graves answered rather than...it is in the very first part of the ordinance; 351.21 which he read; *in any area of the City which is zoned residential, or that is used for recreational purposes, off-street parking of all motor vehicles, watercraft and/or recreational vehicles shall be limited to and must be upon a driveway which has been installed and established in accordance with the provisions of the codified ordinances of the City.* He continued so rather than get into front yard, rear yard, side yard...we say it has to be on the driveway. So, if your garage in the rear of the home then your driveway extends to your garage then you can park there. It is in the rear but it has to be on the driveway, it is getting away from front yard, side yard, rear yard and saying it has to got to be on that hard surface driveway, wherever that driveway might be. There was also an issue with the Service Director and not always does the City has a Service Director and I see you corrected that with Service Director or Building Inspector. Law Director Graves answered yes. Chairman Kovach advised I am good with this to go for its next 2 readings. We will keep it on the agenda until the recess, we will remove it in September. Councilperson Gee and Councilman Erdei concurred I think it is very fair. Law Director Graves stated I do have one question addressing the driveway and it is not addressing the ordinance but it is a question that has been asked and I think it is worth discussing and that is for people who have gravel primary drives, they are grandfathered in and their house has always had a gravel primary driveway. We are not making them change it to concrete or asphalt or whatever and they can have that driveway of non-conforming use. Are we going to make them meet the same standards for gravel that we are making people meet for the gravel driveway additions, that is the minimum of 4-inches of at least 57 limestone with a hard border so that it doesn't spread. I mean are we going to do that for those primary drives or are we going to say, no it is all grandfathered in as to where it has always been and they have what they have. Chairman Kovach advised grandfathering only allows them to have what they have there, that doesn't mean that it shouldn't be kept up. Member Gee concurred and added doesn't mean that they don't have to maintain it. Chairman Kovach asked wouldn't that fall under property maintenance? Law Director Graves answered well yes but property maintenance it has to be like a nuisance. You know you can't nick-

pick people's yards, it has to be pretty bad before we are going to say fix your driveway. Chairman Kovach stated are you suggesting that we should add language if that is what we so desire to this ordinance? Law Director Graves answered I am saying that as the ordinance is currently written it would not apply, it only applies to the gravel driveway additions and would not apply to people with primary gravel driveways. This is....you are getting into that area where you are going to start telling people they have to invest money in their property. You are going to say well you have always has a gravel driveway and now you are going to say...where it is an inch or two thick now you have to put in a bunch more stone and you have to put in a border. So, it is a tough call, the primary ones can be kind of lax but the additions we are going to put at a higher level because primarily they weren't allowed in the first place and people going forward aren't allowed. Just those people that register for them during that 90-day window. Member Gee stated Chapter 1357, residential driveways and driveway additions, so doesn't that cover the driveways – it says driveway and driveway additions? Law Director Graves stated because it talks about material standards for primary drives and then it talks about the driveway additions. In 1357.03, primary residential driveways which are composed of material other than Portland cement concrete at the time of the adoption of this Ordinance which have been composed of such material since the construction of the primary structure may continue to be utilized and maintained as an existing nonconforming use as set forth elsewhere in this code. Chairman Kovach stated doesn't "utilize and maintain" pertain to what you are talking about? Law Director Graves stated then if you look at 1357.04(d), noncompliant driveway additions shall meet all of the following construction standards; gravel driveways additions or extensions. It is kind of that moratorium if you will, they are going to have that window to register them and get them up to speed and then we won't make them rip it out because they are allowed. The primary gravel drives are allowed, it is a nonconforming use, that is the way the house has always been. So, I guess, we may end up having a double standard where you are going to have primary gravel drives that may not have a border or may not be that big. But the additions will have to be maintained with those extra standards. Member Gee stated that might end a lot of issues that started this whole thing from the beginning, all the extra little side pads especially over on Irving Park area. Law Director Graves answered that is what it is all about, now in using the property maintenance code obviously if someone has a primary gravel drive and it is like really spreading out to the point where it is mostly just dirt and whatever, then yes the property maintenance Officer could give them notice that you need to maintain your driveway. But that would only be in the most offensive situation. Member Erdei asked isn't there a gentleman right now that is bordering in his driveway, putting landscaping timbers in? Member Gee answered yes. Chairman Kovach advised I think that was one of the first properties under discussion. What is it you suggest David? Law Director Graves answered I am going to tell you something, I think you are going to get a lot of push back from the resident if you tell people that have

always had a gravel driveway that now you have to invest money in that drive, that you have to bring it up to some additional standard. That is kind of the nature of a non-conforming use of property. I don't think that it is really going to be applied unless you really want it to apply to the existing primary gravel drives. Here is the thing, that is why you have non-conforming uses you are not supposed to be able to pass a zoning ordinance or a building code ordinance that is applied retroactively. In other words, something that you were allowed to do yesterday, today you are not and now you have to put money into it. You say well you are grandfathered – it is only forward looking. In the case of the additions, they were never allowed in the first place because all of these were put in after the passing of the ordinance requiring new driveway construction to be concrete or asphalt. I just passed out one of the unfortunate side effects to all of this is we are going to have primary gravel driveways that aren't meeting that standard. I just think that is how it is going to be. Chairman Kovach stated I believe at this point with all of the work that we have done and avoid any further push back from not only residents but additional Members of Council and sit this off for another 6 months. I feel that having these 2 actually under 1357.03(a), they can be utilized and maintained as an existing. You have got language right there and if you go down to (b) it says as the City as set forth herein be maintained pursuant to the standards as set herein. I guess at that point, if there is an out of control driveway that that is something that if the Administrative Building Inspector and/or Property Maintenance Officer use to rectify then so be it. Member Gee stated I think that the way it reads we have the best chances of reaching our goal.

NEW BUSINESS: None.

CITIZEN'S COMMENTARY: None.

All ordinances before Council at this time:

Council#029 – THIRD READING – a resolution authorizing the Mayor to enter into an agreement with Payment Service Network, Inc., to provide online payment services and the declaring of an emergency.

Council#030 – THIRD READING – an ordinance vacating a portion of Hawthorne Avenue.

Council#031 – THIRD READING – an ordinance establishing section 1151.07 of the codified ordinances of the City of Sheffield Lake regarding residential HVAC condensing units and generators.

Council#033 – THIRD READING – a resolution authorizing the Mayor to enter into an agreement with the Lorain County Office on Aging and the declaring of an emergency.

Council#036 – SECOND READING – an ordinance amending sections 351.21, 1173.02, 1345.01, repealing section 903.05 and establishing Chapter 1357 of the codified ordinances of Sheffield Lake regarding residential driveways, driveway additions and residential off-street parking.

MEETING ADJOURNED: With no further business before this committee,
*Motion by Erdei/Second by Gee to adjourn at 8:55 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/COMMITTEES

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committee Of Sheffield Lake DO HEREBY CERTIFY that this Is a true and exact copy of the Minutes of the Ordinance Committee of July 6, 2017.

CHAIRMAN

Steve Kovach

COUNCIL PRESIDENT

Rick Rosso