

Minutes of the Ordinance Committee meeting
Sheffield Lake, Ohio
October 5, 2017

This regular meeting of the Ordinance Committee was held Thursday, October 5, 2017. Chairman Kovach called the meeting to order at 7:25 PM.

ROLL CALL OF MEMBERS:

Present: Kovach, Erdei, Gee

Absent: Superintendent Hastings (excused)

Attending: Mayor Bring, Law Director Graves, Park Board Gee

MINUTES: September 7, 2017, *Motion by Erdei/Second by Gee to accept the minutes with any corrections. Yeas All.

PRESENTATIONS: **None.**

OLD BUSINESS:

***Industrial District* – REMOVE.**

Subdivision regulations – Law Director Graves advised you have a copy of what ours is and you can see that the bulk of this was passed in 1957 and it really doesn't have a lot to it. This came to light and you guys probably remember a few years ago when they were looking at building that tax credit housing over on the west side of the city and they came to the city and said what regulations do you have for subdivisions and we really don't have anything with substance. Now, we really don't have a lot of subdivisions in our area. Although, one guy was talking about doing Park Drive off of Richelieu to the east. There was some interest in finishing Park Drive. Mayor Bring advised that was Gilfeather subdivision. Chairman Kovach advised south of Richelieu, east of Irving Park. Law Director Graves continued I gave you a copy of the Avon Lake's subdivision regulations. Now, we do have PRD chapter, which is Planned Residential Development and sometimes it is called PUD which is a Planned Unit Development. Anyway, that provides for them to come in at a greater density, smaller lots and that can be viewed by the Planning Commission and a plat approved by Council. A lot of developers these days when they put in a subdivision would want to go PRD or PUD to maximize the number of units that they can get in there. But, I think that it is definitely worth reviewing this code and the way Avon Lake treats subdivisions, it involves a lot of work on the Planning Commission side. Perhaps Sheffield Lake should consider adopting something similar to this. If you would like, I can type this up in our ordinance form. If you don't like it, you can change it. Councilperson Gee advised I was looking it over earlier today, the Avon Lake version one; it really gives the Planning Commission a lot of duty in this. Not always is the Planning Commission always on the same board as far as what the city wants versus what they want. For example, the Planning Commission right now, they seem to be very concerned about minutes and how the minutes are written up versus the things they are addressing in the meetings. Also, I

noticed that this does a large amount of work for the Clerk of Council because in Sheffield Lake the Clerk of Council is the Secretary of the Planning Commission. I see an awful lot of work on that and I would also like to get the opinion of the Building Inspector before we go too far on this. Law Director Graves advised in Avon Lake the Secretary of the Planning Commission is also the Head of Public Works Department too. Basically, he is the person, he is like Pat doing a lot of the leg work, a lot of the front end stuff. He is the one that is kind of educating the Board/Commission, so they title it the Secretary but it is not something that we have to delegate to the Clerk of the Board. That leg work could be the Building Inspector or Zoning Inspector and you could take a lot of that review and make a Counsel. I think that the Planning Commission does some of the initial reviews before it comes to Council for final approval takes a lot of the work load off of City Council. You are free to go, whatever direction you would want to go. Councilperson Gee stated, but like you just pointed out, Joe has an education and is a big leader in Avon Lake. He is very much informed on many different things; such as Stormwater, be it numerous things. Sheffield Lake doesn't have that if it were written like this. It would have to be someone else added into it. I do agree that 1957, I mean, yes that has to be redone. Chairman Kovach pointed out I say we take some time as we have had this one on our books and in our minutes for several years and we have time to discuss it. Law Director Graves stated it is like Industrial, there is not a lot of Industry coming to Sheffield Lake, there is not a lot of subdivisions being planned out in Sheffield Lake. That is probably one of the reasons why these two sections of code are as old as they are. But that is not to say that in the future things could start to come and when that happens we should have legislation in place that properly addresses it. Councilperson Gee asked is there any way we could get some feedback from our Building Inspector and our Superintendent. Councilman Erdei stated we don't have anything right now where we have control of size of lots? Where they can try to jam in a hundred homes into 75 lot area. I have seen that builders have been trying to do that a lot. Chairman Kovach advised sure we do, we have 90-foot frontage and they have to come before Zoning for every variance. That is why they turned down the one project that DiBenedetto owns because they wanted to come in and build a PRD.

Building Permit fees; commercial only – REMOVE.

NEW BUSINESS:

Law Director Graves advised Kay has provided you with 2 sections of our existing code, the one to focus on was 505.18 which is our vicious dog ordinance. We have had a couple of recent incidents; one where a dog actually killed another domestic animal, killed the neighbor's cat. Another where a dog actually bit a person and caused some serious injuries. Aside from the criminal dog at large component, there is a separate administrative function that the city needs to engage in and that is the designation of these dogs as vicious dogs which is again is an administrative

decision. Then, if they are so designated, if they are ever unconfined again, it would be fair to confine a vicious dog which carries much more severe penalties. Our ordinance only touches upon vicious dog, the state has actually since revised the state statute, the ORC and they have subdivided into nuisance dogs, dangerous dogs and vicious dogs. Nuisance dogs being more or less the ones that menace you/put you in fear. Dangerous dogs are dogs which have killed another animal or bit a person. Vicious dogs have killed or seriously injured a person and the most recent case here we would probably be looking to designate as a vicious dog because it was a serious injury. Our ordinance doesn't subdivide like it which I don't know that that is that big of a deal. There is a couple of problems, however, this ordinance specifically designates the Animal Control Officer as the person to make that determination and the state code designates to the County Dog Warden and we could I guess operate under the state but there are some issues with that as well. We would like to do it under our local ordinance. We don't have an Animal Control Officer, as you are probably aware the Animal Control Officer is a separate established position with an established rate of pay. It is not like some communities where they just assign it as an additional duty to one of the Police Officers and it doesn't even have to be a Police Officer. So, it doesn't in the absence or vacancy of an Animal Control Officer it doesn't delegate that authority to anyone else. So, we really can't make that determination unless we revise this and the recommendation would be that in the absence of an Animal Control Officer that that would fall to the Director of Public Safety. The other thing that this ordinance does not provide for that I think we ought to do it doesn't outline any type of an appeal process. The way the state code reads and I think it is necessary for due process to give someone the right to appeal an administrative determination. If the Warden designates a dog as nuisance dog, dangerous dog or vicious dog, that person is given written notice and they have 10 days to appeal that decision to the municipal court. I would think that our ordinance should also provide for an appeal process. Where it says "whereby your dog is designated by the Safety Director as a vicious dog or dangerous dog, then you would have 10 days to appeal that". Chairman Kovach asked would your intent be to appeal that to our municipal court or to our magistrate? Law Director Graves answered the state code provides that it is appealed directly to the municipal court having jurisdiction over the community. My recommendation is that an appeal be taken to the court. Mayor's Court is not setup to hearings on appeals. The other problem we would have here is the Mayor is the Safety Director and the Mayor would be hearing a determination that he himself made as the Safety Director. The only drawback may be is you may have to go over and testify. Mayor Bring advised okay. Councilman Erdei asked Avon Lake or Lorain? Councilperson Gee asked it totally makes sense that it is needed, but if we do this now, how is it going to affect the current case that just happened? Chairman Kovach stated this can't affect the current case because the dogs aren't found yet, are they? Law Director Graves answered we know whose dogs they are. We are looking into who should be charged

and what the appropriate charge is but aside from charging, this isn't expos factor of criminal law, aside from charging failure to confine of a dog at large ticket. This is a separate administrative determination and I think that if we change this language to give that authority to the Safety Director then they could in this particular case make that determination. You cannot retroactively apply a criminal code, you can't make something a crime that wasn't a crime when it happened. But, this prospective, we haven't had a hearing yet and nothing has been determined. So, we will make the authority to the Safety Director and he will convene a hearing or have a determination made that in light of all the evidence I am designating this dog as such. The notice will go out and then they can appeal that to the court and then the judge will hear it. Councilperson Gee advised in that case this is something that needs to be done quickly. Law Director Graves stated I think if you are on board with this, we should proceed with this on Tuesday because, you know, unfortunately when we have a serious incident like this the criminal violation is a simple minor misdemeanor dog at large. Even though you have a very serious outcome, it is not a serious offense. The ability to appropriately deal with the dogs is very important, so we have to do this. Councilperson Gee stated so at this point all you are really doing is changing animal control officer to animal control officer/safety director. Law Director Graves answered, I would put in the absence or vacancy in the position of an animal control officer then it falls to the Director of Public Safety. Chairman Kovach explained it is best to leave that in there as the Safety Director could spontaneously appoint an officer that was on duty to contain the said animal. Law Director Graves stated we would probably use the services of the county, the Dog Warden to control an animal. Mayor Bring advised they still have the right to plead not guilty and go to court. Councilman Erdei stated so you would add that appeal process too, and have that ready for Tuesday? Law Director Graves answered yes. Mayor Bring advised this has happened a couple of times and Chief Campo has brought it up. *Motion by Gee/Second by Erdei to direct the Law Director to draw up the amendment to the legislation for Tuesday's Council meeting as an emergency. Yeas All.

CITIZEN'S COMMENTARY: None.

All ordinances before Council at this time:

Council#057 – THIRD READING – a resolution authorizing the Mayor to enter into a lease agreement with Goodwill Industries of Lorain County, Inc., for the premises located at 4136 Lake Rd., Sheffield Lake, Ohio and the declaring of an emergency.

Council#060 – EMERGENCY - a resolution accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the county auditor and the declaring of an emergency.

Council#061 – EMERGENCY – a resolution of the City Council of the City of Sheffield Lake authorizing the Mayor to request that the Ohio Department of

Transportation perform a speed zone study for State Route 301 from U.S. Route 6 to the City's Southern Boundary and the declaring of an emergency.

Law Director Graves advised a discrepancy has come to light in regard to the project that the city is doing over on route 301, Abbe Road and it turns out that the journalized speed limit with the State of Ohio and it is a state route which goes back to 1973 is 40 mph. As long as anyone can remember the city has set that speed limit at 35 mph while the state journalized record controls. However, there is a mechanism by which we can appeal that and the first step in that process is ODOT will come in and do a speed study. They will do that at no charge to the city and up until very recently they have just done it upon request, but now they are requiring a resolution of Council. So, that is what that is to get that done. Even if ultimately the speed limit goes to 40 mph, having that speed study will be beneficial to the city especially when looking at other projects. Chairman Kovach advised Pat went over this briefly at Roads & Drains. He explained we might have to have the traffic study because one group thought it was hazardous at the intersection, high accident area and the other side of the coin was it was already set at 40 mph and most of Council is aware of this.

Council#062 – EMERGENCY – a resolution of the Sheffield Lake City Council authorizing the Mayor to submit an application to the Northeast Ohio Areawide Coordinating Agency for a Transportation for Livable Communities Grant and the declaring of an emergency.

Law Director Graves advised Pat wants to go for some more TLCI funding for the Shopping Center's, again TLCI through NOACA is all about economic development. Chairman Kovach advised was presented at Roads & Drains also. Law Director Graves advised to continue if you recall, we did the TLCI plan back in 2007 and we would be referencing that along with what we are currently doing with the lakefront connectivity.

Council#063 – EMERGENCY – a resolution authorizing the Mayor to enter into a first amendment to lease agreement with North Coast Woodshop, LLC (NCCW) for the premises located at 4214 Ivanhoe Ave., Sheffield Lake, Ohio and the declaring of an emergency.

Law Director Graves advised there will be an amendment to our lease. Mayor Bring advised they keep asking me about it so if we can get that passed. They just want to know how they are going to move forward.

MEETING ADJOURNED: With no further business before this committee,
*Motion by Erdei/Second by Gee to adjourn at 7:48 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 October 5, 2017.

CHAIRMAN

Steve Kovach

COUNCIL PRESIDENT

Rick Rosso