

Minutes of the Ordinance Committee meeting
Sheffield Lake, Ohio
February 1, 2018

This regular meeting of the Ordinance Committee was held Thursday, February 1, 2018. Chairperson Gee called the meeting to order at 7:17 PM.

ROLL CALL OF MEMBERS:

Present: Gee, Erdei, Radeff

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

MINUTES: January 4, 2018, *Motion by Erdei/Second by Radeff to accept the minutes with any corrections. Yeas All.

PRESENTATIONS: **None.**

OLD BUSINESS:

Subdivision regulations – Law Director Graves advised I didn't know I was supposed to do anything, is there any questions. Chairperson Gee advised we had talked about there being so much in the Avon Lake one that involved the Clerk where Avon Lake has 2 separate secretaries. In our case, Sheffield Lake only has Kay as one and we also discussed the Planning Commission being in charge of it with the Avon Lake one. Law Director Graves advised no, I think if you read it, Planning Commission is a recommending body for the most part and that is how it would be recommended to be structured here. They would take on a lot of preliminary review responsibilities but would ultimately be a decision of Council. You are correct, there are a lot of responsibilities once it gets to Council that would be the responsibilities of the Clerk of Council. However, at the Planning Commission stage Avon Lake does have a separate Planning Commission secretary who is also the Director of Public Works. If we are going to go that route, those duties; a lot of the notices and everything like that Planning Commission has to send out that could be designated to someone other than our Clerk of Council just because it would be a lot for her to be doing both responsibilities. So, you can really take this in any direction that you want, it is really just designed to give you some thought, some example of how other communities who have a lot of experience with subdivisions address that procedure. Sheffield Lake really doesn't have the land to really do a lot of subdivisions coming in but there is a possibility that we could have one. So, we should have a good process in place. I don't think that it is urgent and it is not something that is going to be occurring very regularly.

Enforcement backflow prevention – Superintendent Hastings advised David and I have worked on that. There is a couple of issues, 1) a time needs to be established in our ordinances. David has even gone so far as to talk to the Director of Utilities in Avon Lake who suggested and it is a good point, that we remain cognizant of the dates that all the communities have, so that we don't pick a date that will flood the

requirements and flood the ability of the **local plumbers** to even comply. So, we have been reviewing those dates and they range from notification in April through a requirement in May through penalty and termination in late June. That is pretty much the norm between Avon Lake, Avon, North Ridgeville. I think in the matter of time hopefully we can hammer that out for something that David can have in writing and I don't have the authority to say that but if he and I were to put a final thing together for you to consider and maybe send to Council. It would be ideal to have it go through committee in enough time so that we could have on our books the requirement that the city notify in April and then pick some dates that are appropriate and wouldn't clog the market. Law Director Graves advised currently Avon Lake's requirement to have your backflow's done is May 25th and I think Avon moved their date up I believe to co-inside with that same date. You only have so many plumbing entities out there that perform these tests. You are talking about literally thousands and thousands of tests when you think about everybody in Avon and Avon Lake that has sprinklers in their yards and so forth. So, even if we move that just one week later, you would free up for them to do the work. You don't want to go too much later though or too much earlier because people don't turn them on when it is cold but if you go too much later then by the time you get to really enforcing it the season is going to be almost over and people are going to be shutting off their sprinklers by the end of summer anyways. But we will definitely get together and get something for you on that. Member Erdei stated the majority of people have sprinkler systems, a lot of them it just right off of their house – no, they don't have a separate meter or anything? Law Director Graves answered it is not about having a separate meter. Superintendent Hastings concurred you are right, it is in many cases a single meter but still a separate device as it branches off. The very nature of that backflow is to prevent that water from coming back and mixing with the homeowners full of nitrogen and sulfate and everything else. Member Erdei stated the majority of them that put in that sprinkler system do have a backflow in there don't they? Superintendent Hastings answered absolutely. The only other discussion that I haven't had with David which he will now hear is backflow is not strictly related to sprinklers. We did talk about it briefly, yet I haven't seen some examples. Goodwill, Rite-Aid, all of those stores for new construction, commercial applications have backflow preventers, it has nothing to do with a sprinkler. It is a commercial application you know where the industry says hey, this is a possibility for backflow contamination. So, that is the other thing but my whole point in bringing this up and we are certainly on our way to solving it is a) having a date, b) having a fine imposed and c) defining a process be it through the mail. Our current system has a man running around with these people threatening to shut off their water, demanding that they do it and quite frankly, he is still denied. I want it professional, I want it to be sent out by mail with a process and I believe that is everybody's goal and I think we are close to getting there. Chairman Gee asked in the ordinance, are you going to address the issue where you had mentioned that some of the homes don't have a

separate shutoff which means if you go and shutoff because of no backflow, if you go and shutoff then the whole home is being shutoff on their water. Is that going to be addressed in the ordinance? Superintendent Hastings answered if someone chooses to have a sprinkler system and only one meter not including a deduct meter and then they violate the very ordinance that we are talking about then yes, it would be their whole property because the whole point is that they are compromising the water of the entire community. So, while your point certainly exemplifies how bad it would be for them. The case studies of backflow that have failed are bad including death.

Rental Inspections and Licensing – Law Director Graves advised you should have a copy of the revised ordinance which still requires the annual/biannual licenses and still has the fee and still retains the penalty. Chairperson Gee advised we do not have a copy of it. Law Director Graves reviewed the most important aspect of this is as I have gone over in the past, what seems to be clear in case law is that we cannot require an inspection of property as a condition of the rental license. But we can implement a periodic inspection program based on readily available criteria and when we license them advise them that they will, may or most likely be notified of a time when we will be conducting an inspection of the property. I have listed if you have it, the one that is be copied right now has the same language; under the periodic inspections of rental property a number of criteria to look at. Where we have credible information received by the city, a complaint, personal observations by the Inspector or other employees, any documents and then the inspection program based on the amount of time that has lapsed since the last time that it was inspected, the nature of the building and the condition of the overall area. So, we are not just saying that you have to let us inspect your property, there has to be some basis for it. Then if they decline, to allow the city to inspect it this provides for a procedure whereby we can go to the court and ask for an administrative search warrant and then demand that the property be inspected. That was one of the things in the Portsmouth case, you have this procedure available to you whereby you can go the court and get a warrant and if you think the property has code violations and hasn't been inspected in a long time, it is a low standard, low burden to me when you go to court for one of these inspections. It is a much lower standard for me then when you are trying to get a criminal search warrant so, that is available. However, you can't do that unless there is some law that authorizes it. So, we have to have an ordinance that says the city may go and attempt to get a search warrant and then when we go to court we can say pursuant to that ordinance that is why we are here. Under the new one, that is really the only change. Chairperson Gee asked the fee is still in? Law Director Graves answered yes. Chairperson Gee stated I see it now. Law Director Graves advised under 1395.22. It is kind of my obligation to advise you that any time the city charges a fee for anything, it has to be reasonably related the service/function that we are charging the fee for and that is just general rule. Chairperson Gee stated what if that were called a licensing fee? Law Director Graves advised that is what it is. You have

got the annual and biannual fees for rental permits. So, I don't see any reason why we can't include that and you know, the penalty phase of this is not – we are not penalizing them because they did not allow the inspection, the penalty would be that they didn't get their rental permit. The permit is not conditioned on the inspection, the inspections are almost treated separately. There is going to be this program periodically we are going to ask you to allow us to inspect and if you don't we can get a warrant but the penalty side of it is not getting the license. That was the other thing the court made clear is that we can't penalize, we can't charge them a fine for refusing the inspection, it is an unlawful search and seizure. Chairperson Gee asked we are not charging them a fine for refusing inspection? Law Director Graves answered no, our remedy on that would be to go to court and get a search warrant on it. Then if they don't comply with the search warrant then it is a whole other thing. Chairperson Gee advised well, we have a month to review this. Member Erdei stated in a way it is here to protect the citizen that are doing the renting or whatever, I mean that are renting homes or apartments and when you get complaints and people don't acknowledge it. You got people that got bad things going on in their apartments and the city can only go so far, I think this is good. It will get the ball rolling and get our foot in the door and be able to correct some of these problems. So, it is a win-win really if you ask me. Member Radeff asked why is there 2 – 1395.22's and 2 1395.21's? Law Director Graves answered just forgot to renumber it. As we added the sections and stuff, I had to redo the numbers and forgot, I'm sorry. Chairperson Gee advised **we will keep this on the agenda for our next meeting.**

Director of Public Service/full or part-time position at the Mayor discretion – Chairperson Gee advised we had talked at Worksession I believe on the allocation of the hours and the salary but then it was also pointed out that would be in a different ordinance, has anybody discussed any of that? Mayor Bring answered I have not discussed the hours. You had asked my opinion of why I wanted to do it which was just the fact of the wording from what it says now. It says shall and I am trying to get away from that wording and then have the option if it arises that we can go to a part-time Service Director. Not only me but in the future for a Mayor to have the opportunity and it also gives them some flexibility of how to run that department and also have their staff. I think periodically through the years we have gone back and forth with Fire Chief's, Law Director's and everything else. I mean, if you look at some of the past things of the old books and just about everybody was part-time and went full-time but there is flexibility on how to operate. Also, with the state taking money away from us we have to be very cautious on spending money. It is just another avenue on saving money and like I said it gives the Mayor or whoever is in charge the flexibility of that. There may not be a Mayor in the future, it might like Oberlin has. Chairperson Gee answered a general manager. Mayor Bring advised what is that – a city manager and they may want to change it. Law Director Graves asked wasn't it at Worksession? Chairperson Gee advised they kicked it back here because of salary and stipulated hours. Law Director Graves advised you want

to stay away from including specifics like that in the codified ordinances. The codified ordinances and this is just setting up at 139.02, they are ordinances that are designed to be in place for a long time, lasting more of a permanent nature. When you are talking about details of an individual's employment, those are more appropriately expressed in a special ordinance like for that person. You know like when we do the annual pay ordinances, things like that. So, if it ever got to the point where you are hiring a part-time Service Director, there would be pay ordinance. I call it just a general pay ordinance, you know what employment ordinance that would setup the nature of that person's hours and compensation that Council would have to pass and I think that is more appropriate. Mayor Bring advised we have run into problems when we have hired I think some Policemen and I think some other ones where the ordinance said they had to work X-amount of hours for this amount and that amount back in the day was okay but now it doesn't co-inside with what we have and it is still in effect which I think we are going to have to change that too. But there has been several instances where we have come up with hiring and like I said to bring somebody over here and they are basically taking a 5 or 6 dollar pay cut to come work for us and you know you are trying to attract people and that is part of the point that David is making is that if you that pay in there then that may stay there for a long time and if we are trying to get somebody in there it is just not going to work. Chairperson Gee added the other issue at Worksession that was sent back here on was the allocation of the salary, should that be in what you have drawn up? You know how a percentage comes out of each department and that was one of Rick's questions? Law Director Graves stated again I think that is something that would be more appropriately addressed in a future ordinance. Chairperson Gee stated on the one that you sent for Worksession, it does show it on there? Superintendent Hastings advised that is the existing language. Law Director Graves answered yes, that is existing. So, if you want to keep it like that, that is fine. Superintendent Hastings advised theoretically even if you cut the pay in half, it would still be ratio to pay the salary but not specific to David's point. Law Director Graves advised over the years that I have been here, we have changed a lot of these. Years ago, I don't why but it seemed like in the codified ordinances there were all these specific pay raises. They had we are going to have this position and it will be paid this and this position and it will be paid that. It was all in the codified ordinances and over the years, we have gotten away from that because those specific details of someone's employment really shouldn't be in the codified. But again there is nothing per say wrong with it, if you want to keep those ratios, that is fine and it has worked out in the past. Chairperson Gee asked do we have to send this back to Worksession or can we send it on to Council? *Motion by Erdei/Second by Radeff to accept and keep what has been submitted to us and was discussed at Worksession as it is and send on to Council. Yeas All. Chairperson Gee asked we can send this on to Council? Law Director Graves answered yes.

NEW BUSINESS:

Member Radeff asked for the gravel driveway ordinance that was passed last year, have they started registration for that yet? Mayor Bring answered we have not and have kind of explained that to committee's. I wanted to just go through the winter without interrupting everybody until we figure out how we are going to proceed and I have to talk to the Building Inspector and Property Maintenance Officer. So, we will probably be proceeding with that some time in the spring and looking at it. But I did not want to do anything as it is kind of difficult going into the winter and making people be accountable. There were probably a dozen to 15 residents that came down that were worried about that. I just explained to them and they said well, we didn't want to not be in compliance and I told them you are not going to be fined or anything like that. Member Radeff stated I guess my question was related to so, if someone has an issue with someone's gravel going in their yard, can they still be cited under that ordinance? Or do you have to wait until someone registers? Mayor answered technically right now there should be no add-on's or anything because the ordinance is in place. Member Radeff stated pre-existing I am saying. Mayor Bring stated the pre-existing we are pretty much leaving alone. We will be compiling a portfolio to include addresses come spring season, it will be slower process. We don't want to bombard everybody. Law Director Graves advised if someone has a pre-existing one and wants to be proactive and start making it right, they can do that. If they want to install a border and get the 4 inches of stone and get it up to par and I know it is not good weather for that but you don't have to wait and you can do that. Chairperson Gee stated better to have that 4 inches of gravel before the rain comes. Member Radeff advised I was just asking because I had talked to David about.

CITIZENS COMMENTARY: None.

ORDINANCE/RESOLUTIONS BEFORE COUNCIL AT THIS TIME:

Council#004 – EMERGENCY – a resolution authorizing the Mayor to enter into a memorandum of understanding between the Lorain County Commissioners and the City of Sheffield Lake to participate in an emergency system and the declaring of an emergency.

Law Director Graves advised we entered into a memorandum of understanding about 3 years ago and we participate for things like amber alerts and things like that so that contract is up and the new contract is with the same company and at the same rate. So, they are just renewing it and it cost the city about \$457.00 a year.

MEETING ADJOURNED: With no further business before this committee, *Motion by Erdei/Second by Radeff to adjourn at 7:46 pm. Yeas All.

CLERK OF COMMITTEE AFFIRMATION:

This Meeting of the City Committee of the City of Sheffield Lake, Ohio, was 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 February 1, 2018.

CHAIRPERSON

Rosa Gee

COUNCIL PRESIDENT

Rick Rosso