

Minutes of the Ordinance Committee meeting
Sheffield Lake, Ohio
January 4, 2018

This regular meeting of the Ordinance Committee was held Thursday, January 4, 2018. Chairman Kovach called the meeting to order at 7:34 PM.

ROLL CALL OF MEMBERS:

Present: Kovach, Erdei, Gee

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

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

PRESENTATIONS: **None.**

OLD BUSINESS:

Subdivision regulations – Law Director Graves advised there is rumblings of a potential new development on that property that has been for sale forever on the west end of town. If that goes forward I believe they are talking about a higher density plan, probably a PRD but single-family homes but a greater density which I think the Gilfeather development which was the last development that really went into the city. Mayor Bring stated national home builder and so forth, we have heard the same story about a hundred times. Law Director Graves stated if that did happen we would probably want to have some subdivision guide lines.

Enforcement backflow prevention – Superintendent Hastings advised I did review the ordinances and it is fairly well written. Our Record Operator Tom Erwin running around to various homes and businesses trying to get them to satisfy our requirements for our backflow prevention report on file with the utility. I didn't know if we could look at other communities to kind of firm ours up. Best management practices, I looked at Avon Lake and they have a very definitive cutoff date of May 25th I believe. I don't know if that is an EPA mandate or an ordinance of their own, I am not sure. I don't have access to their ordinance's but I would just like a very clear procedure for the utility so that our small staff is not running around and threatening to shutoff these businesses or homeowners. We literally got a handful of them completed at the end of the year here in December. It should be better advertised on our website, perhaps better defined in our ordinance or maybe I could just do it based on our ordinance now. Law Director Graves asked is that the norm that if they don't meet the deadline that they would shut off the water? Superintendent Hastings answered exactly. The problem is some people have sprinklers, where if you shut off their sprinkler; no harm/no foul but I guess I got to get to that. Others have their water to their home connected to the sprinkler. So, if they don't have the backflow tested we are ultimately shutting off the water to their house. Law Director Graves advised I can tell you at my house, I get a letter if I

don't have my sprinklers backflow tested and on file with the city, I get a letter stating that I have 30 days to do it in and if I don't do it they are going to shutoff my water. Superintendent Hastings stated we need that dedicated action here because it doesn't work like that here. Law Director Graves stated it takes them 4 or 5 minutes and they charge me \$45.00. Mayor Bring stated our guys have to physically go out and threaten someone and what Pat is saying is we need this in our ordinance. Chairman Kovach stated as far as ordinance wise, what do we have covering in that area? Superintendent Hastings advised we have a great backflow ordinance in place and I am not sure when David drafted it. What I am saying and I am using Avon Lake as an example, they have these very specific dates and the procedure that is going to happen if you don't comply which is not in our ordinance. Well, it is indirectly, saying that the Service Director can authorize an inspection to protect the public's water supply and that they will comply with the testing, it doesn't dates. Quite frankly, I don't know how Avon Lake does provide a date if that is something that is drafted by the EPA or if that is something in their ordinance. Chairman Kovach advised it was discussed at last month's Ordinance and Dave you were excused. So, maybe we just need you to bring that ordinance. I don't think we need it right now because you are past the season right? Superintendent Hastings answered yes, but admittedly some have gone by unchecked. It is what I want to avoid, I want to streamline it so that staff is not running around. Chairman Kovach stated I am saying that we have until next shutoff season to get this in order right? Superintendent Hastings answered yes, theoretically yes. Although some are in violation now. **Chairman Kovach advised Chapter 935.22 Enforcement Backflow Prevention policy/procedure on the agenda under Old Business.**

NEW BUSINESS:

Rental Inspections and Licensing – REMOVE FROM AGENDA. Law Director Graves advised the ordinance that I drafted and submitted was what I thought the safest and most justifiable defensible position. I didn't expect for Council to agree with everything, I wanted to give you a starting point to back away from Admittedly, some of the issues regarding the rental licensing and inspections are murky, there are some gray areas. Some of the case law has created some questions but one thing that is clear is the city cannot require warrantless inspections of rental property as a condition of issuing a license. We, also, if they refuse we cannot penalize them for that and we really cannot at this point seek an administrative search warrant because we don't have any authorizing legislation. So, however the committee feels about some of the aspects of this at a minimum I think the committee should consider amending the ordinance to not require the inspection as a condition of the registry or license. But instead to put in there that there will be periodic inspections based on the criteria that I outlined; specific evidence of violations, credible complaints, credible information from other communications, personal observations by the Building Inspector or other employees, documents of the city, general inspection

program based on administrative and legislative standards, the amount of time which has lapsed since the last inspection, the nature of the building, the condition of the surrounding area. Using those factors for periodic inspections and then if they decline those inspections authorizing the city to go for it and seek an administrative search warrant. Our current doesn't include any of that. So, what it reads right now is if you don't get an inspection you don't get a license and if you rent it without that license you get penalized. So, you are penalizing them for not consenting to the inspection which I think is clearly, you can't do it. The second issue and again this is not at all as clear but I just want to make sure that the committee is aware. Anytime the city charges a fee for anything, that fee has to be reasonably related to the service being provided. So, in other words, the city can't go out and do a 2-minute inspection and charge somebody \$1000.00, it is not reasonably related to what we are doing. So, the question becomes, if we are not requiring the inspections, can we justify charging the fee for the license. It is at least a question, it is not at all clear and so, if you want to keep the fee for the registration or license then that is fine. If you want to tie it to the property taxes, that is fine. Councilperson Gee advised the fee isn't \$1000.00 though, isn't it just covering our expense. Law Director Graves advised I use the \$1000.00 as an example. Councilperson Gee stated isn't it more like \$35.00 I think, something like that? Law Director Graves stated no the annual for registry is \$100.00 bi-annually for single family residential and for the multi-family it goes up to - well, the biggest ones are \$1200.00 a year. There is only 2 paying that; Mariners and The Perch pay \$1200.00 a year/150 units and up. Councilman Erdei stated that isn't bad for all those units. Law Director Graves stated the thing I am trying to say is you are licensing them but we are not requiring a fee. So, that is fine, if we want to keep that in there. If the only change that we make is changing the license, the inspection requirement to a periodic inspection program where we will just determine this property needs inspected, that property needs inspected based on those factors. If the property owner doesn't consent then we have the ability to get the administrative warrant. If that is the only change that we make, I think that that is fine, at a minimum we should consider that. Mayor Bring stated actually David ran that by me and it made total sense to me and I was actually in agreement with him. Law Director Graves stated incidentally I don't think there is any other community in Lorain County that is even doing this. I talked with Jeff about it and he thinks Bay might, I don't know. But I don't think that anyone else in Lorain County is charging these licensing fees. The way ours reads right now is identical to the Portsmouth ordinance that was found unconstitutional. Councilman Erdei stated if you remember at the last meeting I agreed with that last comment but I was against dropping the licensing fee. We can check into that and that gives us a little bit more power. Chairman Kovach stated if that is the case then can you rewrite the legislation because I felt that everybody at last month's meeting was totally adamant about being done with it but I thought that we should at least have the clause in there to at least be able to seek a warrant. That part I agree with 100% because without that.

Law Director Graves stated yes, because without that you have to have authorizing legislation, either in the ORC or in your local ordinance. You got to be able to point to a law to put in front of the Judge that says pursuant to this...asking for a warrant. Otherwise there is nothing for us to point to. Chairman Kovach advised Kay, leave the rental inspections and licensing on the agenda and we will continue this for next month review.

Councilperson Gee advised this was mentioned earlier and was also on last month the Manager's duties 969.02, I had Kay print out the whole thing connected with the Community Center. It has been brought to all of our attention that there is a little bit of issues now that we have the Custodian over there. We have to consider what to do on this legislation, so we don't have for example; the chairs breaking. Now, it does say in the ordinance that the Park Board can be used for quite a bit of this stuff but it refers more to them outside then inside. Chairman Kovach advised I thought that earlier but I thought this really should have been brought through your Civic Center meeting. We do have the ability to use the park personnel for I'm not mistaken. What is your pleasure to do with this Rosa? Councilperson Gee stated well this is Ordinance and something needs to be changed on the ordinance to make sure that we have what we need over at the Community Center, am I right? Superintendent Hastings answered yes but to Steve's point, maybe the Advisory Board ought to provide this committee what we are seeking. Maybe that is the most logical way. Councilman Erdei stated looking at 969.05 duties of the Service Department, shall provide maintenance whether external or internal of the Community Center. Superintendent Hastings advised the reality is that it also references the Board of Trustees which has been disbanded, so I mean there is several areas if you wanted to clean it up then we could. Again, to Steve's point, we have the meeting next month and I could have everything prepared on how to separate and we certainly can use the parks in the meantime as we have always had that ability. Chairman Kovach concurred as usual we are in that gray area, the building is the Advisory Board and the property is the Park Board. We probably just need some clarification and cleaning up. Councilperson Gee stated so we will bring this up and then bring it back to Ordinance after the Board meeting. Chairman Kovach advised you do realize that even though you meet quarterly if you should need an emergency meeting, you have all of the abilities to call an additional meeting in between quarterly. Councilperson Gee advised we did discuss maintenance at our last Community meeting. That was brought up then on the chairs. Superintendent Hastings concurred it was. In the meantime, I have been doing it personally but I don't want to keep doing it.

Mayor Bring advised if you look at 139.02 Director of Public Service section (a) it says Director of Public Service shall be a fulltime position in the city. I would like to entertain in changing that language to say to the Mayor's discretion being for full-time or part-time. I don't know about how the salary would change but that would be something that the Finance Director would look at. But I would entertain that if

you would be acceptable to looking at it. Whether I am here or anybody else, that there would be the opportunity to do that and possibly in the future save the city some money. Right now, it says you shall which means sooner or later you are supposed to fill that position with a fulltime position. I would like to see if we could change that to full or part time position to the discretion of the Mayor or however David would change that if you guys would be in agreement to that. Chairman Kovach stated I am open to discussion on it. What are your thoughts on this David? Law Director Graves stated first of all, just right off of the cuff, I don't believe that this would require any change to the Charter. I think that change to this ordinance would strictly legislative act which we would be authorized to do under the Charter. I think that making it a full or part time Service Director would be fine and then if we did that we would also bring an ordinance establishing a rate of pay for part time Service Director when those discussions take place. Law Director Graves also advised I think it would be very minor changes, just a full or part time at the discretion of the Mayor and that Council shall establish a rate of pay for part time position. *Motion by Gee/Second by Erdei to direct the Law Director to draw up legislation for Director of Public/changing to at the discretion of the Mayor for part or full time position for Worksession. Yeas All.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this committee, *Motion by Erdei/Second by Gee to adjourn at 8 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 January 4, 2018.

CHAIRPERSON

Rosa Gee

COUNCIL PRESIDENT

Rick Rosso