

Village of Shawnee Hills Council Meeting

January 25, 2010

Mayor Monahan called the meeting to order at 7:00 p.m.

Council in Attendance: Charlie Callender, Yvonne Clippinger, Mahesh Dalvi, Kris Garren, James Gauldin and Rich Vedell

Also Present: Administrator Ed Swanson, Solicitor Brian Zets, Engineer Mark Cameron and Fiscal Officer Shirley Roskoski

It was moved by Callender, seconded by Clippinger to approve the minutes of January 11, 2010. Following vote on the motion was recorded: yea, 5; Callender, Clippinger, Dalvi, Gauldin and Garren. Nay, none. Abstain, one Vedell. Chair declared the motion passed by a 5-0 vote.

It was moved by Garren, seconded by Dalvi to approve the minutes of January 18, 2010. Following vote on the motion was recorded: yea, 5; Callender, Clippinger, Dalvi, Garren and Gauldin. Nay, none. Abstain, one; Vedell. Chair declared the motion passed by a 5-0 vote.

It was moved by Clippinger, seconded by Callender to approve the agenda with the following amendment; remove executive session. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Garren, Gauldin and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

Solicitor

Brian Zets said that he reviewed the firearms policy that Sean Lefever had forwarded to him and he apologized for the delay in that. Brian said that Sean did a really good job in putting that together. He also worked with Sean on a subpoena issue that he received from a civil matter and they got that taken care of. Brian said he did notify Paul Garinger after the last council meeting so Paul knows that he should prepare and show up for the oral argument. Brian said he worked with Shirley a little bit on public records and he just wants to let Council know that if they have any questions as to what really is a public record, when do we have to disclose public records, how do we have to disclose them, why do we have to disclose them, please give him a call or send him an email. We follow the sunshine law and it is fairly straightforward but sometimes people aren't quite sure what public records are. Council member Dalvi asked if there was a document on the website that they could review. Brian said it is online and Shirley said she would send the link out to Council. Brian said that if Council has any emails that document the business functions, goings on of the Village you have to maintain those emails in accordance with our records retention policy. Brian said if you have emails on your home server that documents the functions of the Village you have to keep those emails. Council member Dalvi said we have to make sure that our system can archive those records. Mayor Monahan said that is a good question for Joe See, our technical analyst. Council member Vedell said if he understands correctly, if we use our home address and our home computer, if there is a question, then they have the right and authority to come in and take our home computer to retrieve whatever

information is on it. Brian said in a sense yes, but he does not see anyone coming in and retrieving your computer. If you got a request for emails you would have to provide them from your home computer and your home server, whatever you have set up. If push came to shove and we were refusing to produce them, which we would not, that would be the last resort. He said he couldn't see anyone coming in to take your computer unless it was a criminal investigation. If you use your home computer, your work computer, you use any computer, you should be keeping those emails that document the business of the Village. Any emails sent to Brian are privileged communications.

Administrator

Ed Swanson informed Council that we have obtained a grant from the State in the amount of \$320,000.71. This is the third grant that we have obtained in the last six months, the other grants were in the amounts of \$206,266.00 and \$25,000.00. As far as he knows this is unprecedented for Shawnee Hills. The Mayor has a breakdown of the actual numbers, loan versus grant, that he will report on later. The Mayor and I are working on a couple of other grant possibilities, we have a couple of meetings coming up and I will keep you informed on that. Ed said that we have received a confirmation on the speed limit issue. The legal department from ODOT has sent us their decision and in their opinion the 15 miles per hour speed limit is an illegal speed limit, they would not recognize that even though we are a Village unless we did a traffic study and again they keep telling him that even if we do one it will not help. One criteria is that 85% of the people in this traffic study would have to be driving 15 mph or slower on our roads and he does not think that is going to happen. That's just one criteria, there are several more. He said that in ODOT's opinion, and he talked to her today, they will not change their minds even if a traffic study is done. Council member Vedell said what he is hearing is that 25 mph is the legal speed limit and therefore we could ticket people going 28 or 27. Ed said yes, if it was posted, right now it is not posted correctly. Council member Vedell said it is not posted correctly but according to ODOT the speed limit on that road is 25. Ed said the way he understand it is, if it is posted at 15 mph somebody is going to assume it is 15mph. even if we write a ticket, it is still illegal for the police to write a ticket if it is not properly posted. Council member Callender asked what would happen if we took down the 15mph signs and it is not posted and by law it is 25 mph in the residential areas. Ed said that there are ODOT specifications and ORC rules that state that speed limit signs have to be posted. You are supposed to know what the speed limits are but we also have to post it sufficiently so people know what the speed is. Mayor Monahan said if I can; Rich when you were gone we probably spent 45 minutes on this topic and what we are going to do, even though it has gone through Safety, we are referring it back to Safety to take another look and come back to Council with their input . Council member Vedell said he understands that, all he is saying is that we have a street and if the legal speed limit is 25 and if you are going 28 you should get a ticket and it should be enforceable and it should be enforceable by law. All you have to say is when you stop them, do you know what the speed limit is and if he says no then he obviously doesn't know and if you ask him how fast he was going and he says he doesn't know, he has no clue and you document that on the ticket and you go to court and if he is going 28 he is over the legal speed limit period. Mayor Monahan said let me make this really easy, start ticketing at 28. He directed this comment to the police officers. Let Safety take a look at this and start ticketing at 28 on the residential streets. Council member Vedell said let's see what happens. Mayor Monahan asked if he was agreeing to his statement to the police. Council

member Vedell said absolutely, 100%. Mayor Monahan said let Safety take a look at it and what he would suggest is that we take a look at it and in his opinion there are many streets that should be 25 just because of the fact that that is what people are doing but having said that, Safety will take a look at it. He said he would recommend, and it is up to you guys, (the Police Officers) that the first time somebody, a resident especially, gets himself a warning but let's make sure people understand it. We need to put something out to let the people know.

Ed said that the sewer inspections are about 65% done. Mark has been working on those even though it has been cold outside. In addition you should have copies of the latest summary of the recent activity that Mark has provided to you for code enforcement. Several code enforcement activities have been resolved, others are still progressing, for example one particular builder in the Village was fined \$387.00 for failing to comply with the mess he had. Shawnee Square Shopping Center continues to make progress and we should have a final report at the next council meeting.

Ed said that tonight we have First Energy representative, Tim Suter here to make a presentation on the Opt Out Program and how the residents can save 6% on their electric bill and how the Village can get a \$25,000.00 grant that the Village can use on anything that we want to.

Ed said he has an engineer's estimate from CPS for the sidewalks to just finish them with a broom finish, standard concrete, instead of the stamped, colored concrete. He provided Council with this estimate. Ed said the old price with the 6 foot sidewalk, stamped and colored, the estimate was \$135,000.00 plus and the other way with just the plain concrete the estimate is \$60,000.00. Council member Clippinger asked if there was any difference in price for the coloring if you chose a different color than red, maybe a more natural tone. Ed said they can color it any color they want and the price he got just for the color was an additional \$1.00 a square foot.

Visitor

Tim Suter, First Energy said he represents from Morrow County down to Clark County and Madison. He said what is happening in the electric industry, basically since 1935 up until about 2000 it was in a regulated world, after 2000 the State of Ohio started marching down the steps of competition. In 2001 they passed Senate Bill 3 at the state level that kind of created the wheel for competition. It allowed communities to go out and basically form a buying group, and what this buying group could do is interview different electric providers to see if they could get a better price than the host utility, in this case it's Ohio Edison. Last year in May the whole dynamics changed again. From 2000 until last May each utility in the state had a rate stability plan, a rate certainty plan with the state, during that time period what they were doing was paying back all the dollars that utilities laid out for power plants, equipment and that type of thing, it's called strategy cost recovery. Each utility had a different ending date on when they collect that. It just so happened that First Energy, Ohio Edison ended late 2008 so in May of last year they went out to auction. This was a day auction over internet with all the other generators out in the world. During that time period they had nine different companies bid on the full load of Ohio Edison, Toledo Edison and Cinergy. Out of that auction, 12 bid on it, nine were awarded. They all came in at their price that they could supply at, they filled the bucket up and averaged it out and that is

the cost that the consumers are going to pay. That auction price started June 1, 2009 and it goes through May 31, 2011 so that price is fixed for the generation cost. As you look at your bill you will see the generation line on our bill, there is a distribution line, the wire side which is still your host utility and your generation side. The generation is made up of nine different providers in there at their guaranteed cost. In June competition really heated up. It allowed the big boys, the auto manufactures, the large industrial customers, the large commercial customers were all targeted so all these utilities that were going to get in the competitive game went out and gave separate bids to all these companies and they signed up with, of course, the lowest price or the people they felt best with. This program that he is talking about tonight is basically geared to people that are not a target, residential, which it is tough to secure enough customers and that the beauty of this aggregation program, where a Village or a Township or a City can aggregate, pick a supplier and then name that supplier. First of all what has to happen is that a resolution must be passed by the Village, it has to go to the voters to vote on, if they say yes you move forward and select a generation provider, if they say no you are out of the game. He is here today to offer that proposal from First Energy. If you are able to pass a resolution, get this to your voters, once it's secured with the Board of Elections, someone from the company will come in and do a public meeting with your residents and explain that they are going to get a six percent discount on that generation auction price from now until 2018. Your commercial customers under 700,000 kilowatts hours will get a four percent discount. Every two years the generation price will change. Tim said a little over 50% of his own bill is generation, it all depends on the makeup of the customer, how much they use it, if they don't use it a whole lot the savings may be less because the overhead cost to provide the electricity is really the first bucket that gets filled. If this passes, within thirty days of passage, First Energy will contact Ohio Edison and get all the active customer list, populate that, they have to screen out anybody that has already shopped with someone else and they will screen out anyone that has not paid their bills. Letters will go out and within 21 days the customer has the option to send it back and say no I do not want this. If they do not send it back the customer will be part of your program. This is an opt out program not an opt in program as the opt in programs do not work. It has been tried in other states. After those 21 days First Energy will send a letter to the customer saying ok you did not send it back within 7 days if we do not get this letter back then you are in the program. What does that do for the Village, at this time First Energy has gone out to all communities and are offering the Village \$30.00 per customer that stays in the program and he did get guaranteed today that First Energy will give the Village a \$25,000.00 grant if it's passed. Council member Dalvi asked what is the hurry to get this on the ballot right now. Tim Suter said the rush is the next election is May 2 and due to Ohio law this has to be to the Board of Elections 75 days before an election and he thinks the cutoff date is February 17th. Council member Dalvi said if we miss the May election we could still go to the November election. Tim said he could not guarantee that the company will offer the grant funds after the May election. Council member Dalvi said he just wants to have some clarity. So you guys are not the producer, you are just the distributor of the energy, your generation will still come from Ohio Edison correct. Tim Suter said Ohio Edison does not own the generation, under state law they had to sell that off. First Energy is the parent company to a lot of utilities but it is an unregulated entity. It has totally different rules than the wires business which is Ohio Edison in your case. Ohio Edison gets paid with tariffs approved by the PUCO. The generation portion is owned by First Energy Solutions and they are the competitive wing of the organization. Council member Dalvi asked if there were other providers or is First Energy the only one. Tim said there could be many other suppliers,

when this thing first started in 2001 , he knows the City of Marion negotiated for an 11% discount, a year later it was down to 6 and a year later it was down to 3. A lot of companies jumped into it to see what they could make happen. Right now he is not aware of anyone else that is out there offering an aggregation price. Some of the reason is AEP has had lower rates because of coal generation in the southern part of the state and nuclear power at the northern end so the northern end has always had a disadvantage. When he talked about the stranded cost investment from 2000 until 2008 those were all recovered during that time period so what you are seeing in utilities is a rise in cost due to clean air act, EPA regulations, putting all this other equipment in so if anyone is familiar with AEP around here they asked for a 15% a year for the next three years and he thinks they were awarded half of that. What you are seeing is a stabilization or a equilibrium of prices coming out there. It is going to take some years. When you pass the aggregation program and he does not think this really applies to the Village because he does not think there are any AEP service within your boundaries. If you go to Concord Township about half are on Ohio Edison and half are on AEP electric. If they pass this they would also be able to aggregate for AEP. Right now there is not a price to compete with them, they are still lower than what the other utilities are willing to jump but if their prices keep rising in that time period you could offer a savings to them if the provider you have chosen elects to compete with them. Right now Ohio Edison territory is really the only one playing in it, First Energy is in there, a lot of other utilities opted to go into the wholesale, they had extra generation because of the down side of the economy, they had extra generation, so they bid on it that way. It costs a lot of money to be competitive at the residential and commercial ends. Council member Clippinger asked if First Energy was certified by the PUCO. Tim said yes, in order to sell generation in the State of Ohio any generator has to be certified.

Police Chief Report:

Sergeant Sean Lefever gave the report as Captain Cullen was not able to attend due to another obligation. He said he would like to welcome all the new council members. This will be his first time addressing all of you and we are glad to have you and look forward to working with you. Sergeant Lefever said this has been a pretty busy month. We have been trying to step up the equipment that we currently have and try to get everything back on track, where we want to be, get technology caught up a little bit. We just purchased new radars and they are going to be installed tomorrow morning. Western Reserve Wireless will be installing the radars and we will have a representative from MPH observing to make sure that these are installed correctly. He said that they are testing out a new camera that is also a product that is carried by MPH and these are worn on the front of the uniform and are another line of defense for liability reasons or accusations made against officers or ethics. They are still trying them out and they may end up purchasing more as time goes on or they are trying to work out a deal with them for all the problems they have had getting the radars installed. Two of these cameras were included with the radars that we purchased so that was a pretty good deal for us. These are in addition to what we already have. He said these will be good for training also. Sergeant Venrick is volunteering his time tonight to be here and he is the one that handled a lot of the radar purchasing, he is up on the technical aspect of the radar so if anyone should have any questions about the radar units, how they work, he can have Sergeant Venrick answer them tonight. Sergeant Lefever said they have created a new statistical data base for the police department and what that is going to do is allow the department to keep more accurate stats and more detailed stats than what has been

presented before. There may be seven or eight bulleted stats that we have always kept track up, traffic citations, arrest reports and now we are going to include assisted citizens, a lot of the things that we do that really have no classification right now in our statistical data base so we remade the entire data base and it is going to provide you and us with a lot more stats on full time officers, reserve officers, the cruisers, interaction with the public, business checks, home checks, vacation home checks, just everything that we do. They have also updated log sheets, the daily log that our officers fill out will now have a little bit more data on it so that it makes it easier for those of us who compile all the data to get accurate numbers. He said he would like to congratulate Officer Jeremy Amick, Jeremy has recently received the black and yellow citation bar from the department to wear on his uniform for being the recipient of a letter of appreciation from the general public. Any time someone from the general public, village resident or even a passer through writes and has a good pleasurable experience with one of our officers that is something that we like to do, to let the officer know we appreciate their service. Sergeant Lefever said they are a little disappointed with the performance of the auxiliary officers right now, auxiliary statistics are down. This is something he, Sergeant Venrick and Captain Cullen are working really hard to try to rectify. They are doing that through evaluations which are currently being conducted. They are working on policy and procedure updates, they are trying to define the policy and procedures that they have now, although they are very good there are some specific areas that need more attention, need to be a little more personalized for the department. He said that they did have a recent donation that he would like to mention. A good personal friend of his unfortunately suffered a death in his family of his father last week and his father was a long time police officer and firefighter. His dad had a lot of equipment and things that he left in his will to be donated to anybody that could use it and a couple of things that were donated to the police department last week they brought with them tonight and will have on display during the break. He said they received a mobile drug identification kit and education kit that shows different types of street drugs, what they look like, the color, something they think will be good for Dam Jam or tournament time. The other item they received was a portable fingerprint station. Sergeant Lefever said he worked on a taser grant a few weeks ago, just made the deadline so they should be hearing something back on that. They asked for two tasers for the department and we do have a certified taser instructor as one of our officers. Some of the officers do carry tasers now but they would like have a couple of them available to officers who cannot afford to purchase their own. He said he will also be attending a grant class later in the year to try to get some more grants for the department. He said they are working on a records policy right now and how the records need to be maintained. They are also working on an evidence management policy. Council member Gauldin asked if there was a policy on how long the data is kept from the cameras that the officers are using. Sergeant Lefever said he is working on a policy, he said this is a new field with the mobile body cameras because it is under each individual officer control so they are looking at getting some policies written up. Council member Vedell asked if we could put together a program to fingerprint the children in the community. Sergeant Lefever said the he and Sergeant Venrick started on that project last year. He said it was after the Dam Jam last year that they had a lot of public interest in having a little bit more there for the kids and they also do the Central Ohio Cops and Kids day with the City of Westerville and that is something that came up and they have purchased those kits called Ident-A-Kid and they will be available for events this year.

Visitors

Kelly O'Brien said she has been in conversation with Council member Gauldin regarding a new sign for Straders' Garden Center and she brought some drawings to pass out to Council. She said she knows that the Village is in the process of changing their sign code. She referred to the drawing she passed out and told Council that this is what they are thinking about doing and wanted to know what Council thought about it and does it fit in with what you want to do. Mayor Monahan said the ABR has been working on a new sign code and we do have a sign code in our ordinances and he does not know if Waggoner boards are allowed in our current code. Council member Gauldin said part of our current code does not allow changeable copy signs, the previous sign was accepted through a Council recommendation and that was a long time ago and he does not know the history behind that. He said the question will be is the Waggoner board something that is going to be allowed in the future. Mayor Monahan said the monument sign is thought of real positively, I think your short answer is no, but the question is do we want to put a proposal forward to the ABR and say do you think this might be allowed. He suggested that he and Council member Gauldin meet with Kelly O'Brien and patty Anderson to discuss this further.

Communications

Mayor Monahan gave the following report

I received a letter from Mr. David Bano a Sr. Vice President at Nationwide Insurance. Mr. Bano was having dinner at Iacono's on Saturday the 16th and received a call from one of his children who needed a ride. He rushed out of Iacono's not realizing he had left his jacket and wallet with nearly \$1,000. 00 and credit cards in his jacket. On Sunday Morning the 17th before he realized he had left his jacket and wallet Mr. Bano received a call from Mark Katzenbach who let him know he found the coat and wallet. To quote Mr. Bano ***"I am grateful, but even beyond that integrity, honor and decency was exhibited by your representative! I want you to know how much I appreciate the return of my items and the effort of someone like Mark. It's very impressive"***. Mark great and thanks for all you do and how you do it!

Ed please make sure this letter gets put in Marks personnel file.

I believe Council received a report of the current Code Enforcement activities. Council member Dalvi asked if this was going to be made available for every public meeting. Ed said this will be provided once a month. Council member Gauldin said one of the things on the bottom of that report that he thinks Mark has done a great job on is he has actually gone out and talked to people before things have become an issue, he is real proactive and that is definitely commendable to do that. Council member Vedell said at the bottom of this report it says presently working on several business on dumpster screening issues. He said Council last year passed an ordinance that we would waive the fee if they would submit and complete their dumpster screening by the 31st of December. How many of the businesses did that. Mayor Monahan said Strader's and Hella's. He said here is one of the problems that we have, our blight ordinance is one of the single best pieces of legislation that we have ever done. It has really

raised the Village up. You cannot necessarily legislate backwards, it is a grandfather thing, we have things that were passed and why they were passed that way I don't know.

Mayor's Report

Mayor Monahan gave the following report:

Mayor's Court report
Dec. 2009

\$1,906.00 Balance Brought Forward

Deposits:

\$1,869.00 Traffic Receipts

\$1,869.00 Total Receipts

Disbursements:

\$ 185.50 Treasurer State of Ohio

\$ 65.00 Copy Refund Check #1410 Sullivan Case #2009CRA0024

\$ 121.00 Computer Fund

\$1,497.00 General Fund

\$1,869.00 Total Disbursements

\$1,906.00 *Balance Brought Forward*

\$1,869.00 Disbursements

\$ 37.00 Balance Maintained in Checking

Respectfully
Joyce A. Armstrong
Mayor's Court Clerk

I want to recognize Ed and everybody else in their hard work in successfully getting the Grant from the Ohio Public Works Commission (OPWC), District 17 Area. Grant is further referred to as Issue 2 money

Grant amount is for \$320,071.00, broken down as follows: OPWC FUNDS DIVIDED INTO 2 CATAGORIES (1) Grant of \$240,071.00, and Loan of \$80,000.00(@ zero percent for 30 years). Additionally we are contributing a Local In-Kind amount of \$17,749.00 These amounts combined means we will be spending a total of \$337,844.00 on our storm water repairs.

The majority of storm water work begins at several locations along the river at Shawnee Trail and extends west from there.

There is no work that extends west of 745. This is the appropriate sequence of progression as all water in Village exits eventually to river.

Money available by July 1

We may start engineering and advertising process earlier in order to begin work in timely manner.

I am appointing Chris Anderson to the Architectural Board of Review with your confirmation.

It was moved by Clippinger, seconded by Vedell to appoint Chris Anderson to the Architectural Board of Review. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

I am making an appointment of Yvonne Clippinger to the Planning and Zoning Commission as the council representative with your confirmation.

It was moved by Vedell, seconded by Callender to appoint Yvonne Clippinger to the Planning and Zoning Commission. Following vote on the motion was recorded: Yea, 6; Callender, Clippinger, Dalvi, Garren, Gauldin and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

I asked Delaware County Commissioner Todd Hanks for help with the Prosecutor's office and received a call last Tuesday from Bill Owen concerning the Jeff Pearson case. Bill has committed to have charges filed by the end of this week. Bill and I also exchanged emails and I will follow up with him later this week.

I have asked Delaware County Auditor George Kaitsa for a clarification on the audit his office is doing on lots that are designated Agricultural and being taxed as such without any agricultural growth.

Pat, (Jan 20th email):

I met with our appraisal company this morning and received an update with respect your questions:

1. For the CAUV question and according to the State Dept. of Taxation, container farming is an acceptable agricultural use. Kelly Tennant is still looking for some any case law that might apply. The property would need to generate \$2,500 of income per year.

Pro Tem Report

Pro Tem Clippinger said tonight she would like to go ahead and make the committee appointments with Council approval:

Finance – Clippinger and Dalvi

Service - Callender and Vedell

Safety - Garren and Vedell

Utilities - Dalvi, Gauldin and Vedell

Rules - Garren and Gauldin

We have two positions on the Delaware County Regional Planning Commission and the representative will be Callender and the alternate will be Gauldin.

It was moved by Vedell, seconded by Dalvi to approve the appointments recommended by Pro Tem Clippinger. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

It was moved by Clippinger, seconded by Garren to break for ten minutes. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

It was moved by Vedell, seconded by Dalvi to reconvene. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

Legislative Activities

Third Reading – Ordinance 32-2009 – An Ordinance to alter, extend, and/or change thirteen existing conforming lots currently owned by Legacy Design LLC and amend the zoning map, rezoning +/- 2.041 acres. Council member Clippinger said she thinks this is great and she is looking forward to seeing this happen but she will have one concern until she sees the plans they bring forward and that is the ingress and egress for the commercial building. It was moved by Vedell, seconded by Dalvi to pass Ordinance 32-2009. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared Ordinance 32-2009 passed by a 6-0 vote.

Third Reading- Resolution 33-2009 – Amended – A Resolution authorizing the Mayor and the Fiscal Officer to enter into a contract with the Delaware Soil and Water Conservation District for certain Public Information and participation Programs/Services required under the Village Storm Water Management Plan. It was moved by Garren, seconded by Dalvi to pass Resolution 33-2009 as amended. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared Resolution 33-2009 passed by a 6-0 vote.

Second Reading- Public Hearing – Resolution 02-2010 – A Resolution authorizing the Mayor and the Fiscal Officer to enter into a contract with Sands Decker CPS, LLC for Engineering Services. Council member Callender asked if there was an increase in pricing from the last contract. Mark Cameron said that they are holding their prices for all the invoice fees to be the same in 2010 as it was in 2009. Council member Vedell said he has a statement: He said he was disappointed with the engineering unit when we went out to bid for the water erosion, for the Issue 2 money and he had requested that we look at the amount of money allocated towards each area and had requested that we look at those and see if we couldn't reduce those down by around 2.3% so that we could get one more of our projects in. The next one down the list was a \$7,000.00 project and he thought that with our \$300,000.00 request that we could have lowered some of the unit prices to be able to get this in and they refused to do that. Now we can argue all day and all night if a unit is a dollar per cubic yard or ninety five cents, it's an estimate, we can say it's one way or we can say it's another, so he was just disappointed in that and he was disappointed in the process and how it took place. He said he likes their services and he thinks they are doing a good job. But he would request in the future that when this happens that we sit down and discuss this in more detail than we did before, he was not happy with the process and of course, as you well know, when we go out for bids in June I will be paying a lot of attention to the bids when they come in.

Mark Cameron said that he and Rich talked today about this and he thinks the biggest problem in any misunderstanding is communication or lack of communication. This took place back in September of last year and he was made aware of that today. He thinks that had there been a problem or concern brought up he thinks he and Rich could have discussed this with a lot more understanding of what actually occurred if we had known it back then. Mayor Monahan said we went back to Edgil at that time and he did relook at everything. Mark said yes and he is going to get to that too. Mark said the process occurred that here is an area that the Village wants to have taken care of, we need estimates, we are going to go after funding. Edgil put the numbers together, brought them back to Ed and Ed said we really need to try to finesse this down as tight as we can. Edgil took those back and did that. There was a reduction probably in the 2 – 3% range. It was brought back to Ed and he thinks at that time that was the meeting that Council member Vedell attended and he wanted those reduced again. Now whether or not Council member Vedell was aware that we had already gone through this process, we actually had. Mark said they pride themselves on being able to put together sound funding packages. The economy today is all over the place and what we really rely on is historical data in projects that the Village has had bid, projects that they have bid for other communities as well as using ODOTS contract summary because again these are prevailing wage projects. They have to put all this data into a matrix and try to pull something out. Mark said this is also looked at by the review agency and they are not just looking at one or two packages, they are looking at 150 packages and if all of a sudden Shawnee Hills request, their numbers are red flagged because their percentages are out of line of everybody else's, all of a sudden you don't even get five or six projects funded, you get no projects funded. Mark said the other thing they look at is if a project is put out for bid and their estimate is say at \$100,000.00, in order to bid that at prevailing wage the bids have to come in within 10% over. If it comes in higher than that we have to rebid, two things are going to happen, typically Council looks at us and says how come your numbers were not in the right range for that project, they weren't high enough and the other thing is there is additional time taken in order to get a project rebid, reallocated and that window still keeps closing. Mark said it is a delicate balance on their part and he understands where Council member Vedell is coming from, certainly understand everybody wants to have things done a particular certain way but we really pride ourselves on being able to help any community we work for and he thinks the process really needs good communication all the way through to help you understand. Mayor Monahan asked Council member Vedell if he was aware that the first reduction had taken place. Council member Vedell said no, he was not. Mayor Monahan said he would ask that Mark be involved in that meeting as we go forward.

Second Reading- Public hearing- Ordinance 01-2020 – An ordinance authorizing all actions necessary to effect a Governmental Electricity Aggregation Program with Opt-Out provisions pursuant to Section 4928.20 Ohio Revised Code, directing the Delaware County Board of Elections to submit a ballot question to the electors. Mayor Monahan said he is going to ask Council if they wanted to declare this ordinance an emergency as he thinks that to declare an emergency on this will not go through. Is there a pleasure to go ahead and declare this as an emergency? Council member Clippinger said in her opinion is to not do it as an emergency And she would like to hear from the other council members. Council member Callender said he honestly has no difference one way or another, he thinks what we are looking at here is giving the residents of Shawnee Hills the option of voting on it or not voting on it, so whether it gets on the May ballot or it gets on the November ballot he does not see a problem. Council member

Clippinger said if we do not do an emergency tonight and it goes to the next Council meeting which would be February 8th, if it passes we could do it as an emergency that night. Shirley said it could not be an emergency as that would be a third reading. Council member Vedell said that's the question, if we wait until the next meeting, is there enough time to put it on the ballot. Brian Zets said if you are going to read it then you should read it and ask for an amendment if you are going to take the emergency off or read it and ask for a motion to declare an emergency, if the emergency doesn't pass than it is just a regular reading or you could table it and read it at the next meeting and pass it as an emergency because it has to pass tonight or at the next meeting as an emergency because you do not have enough time for three regular readings. Council member Dalvi said he has more questions and he can ask them here and they can go to a utilities meeting, it's up to you. Council member Dalvi said one of the questions he had was how many communities has First Energy gone to with this program. Tim Suter said the ability to aggregate started in 2001 and at that time they went out to the communities, this incentive was not in place at that time. Tim said that the City of Marion, the City of Ashland and the City of London did jump in at the beginning. Council member Dalvi said he wanted to know who did not join and why. He wants to understand the pros and cons, he also does not know what the known risks are, those are the kinds of information that he wants because at this time he understands that the people are going to vote on this but as a council representative he personally does not have enough information to explain this if someone asks him about it. Tim Suter said they have 800 numbers that customers can call and ask questions. Council member Dalvi said what kind of information are we going to provide to the residents, we have not seen anything, the only thing we have seen until now is those four or five pages of documents and that is why he does not want to rush it and make it an emergency. He asked Tim Suter if there were other companies that could supply the generation. Tim said back in 2001 there were many other providers but from what he has seen today it is either First Energy or someone that is working as a consultant for First Energy. He said he has covered ten counties, in his mind he is saying that he wants to get out to these communities because if this gets fully subscribed this incentive may not be available anymore. Council member Dalvi asked Ed Swanson is what kind of reference check have we done, did we go to different communities and ask what they have done. Ed said that he talked to the PUCO because he was skeptical in the beginning, he said this is endorsed and the only downside the person he talked to at PUCO is if we sign up for this as a Village it is a nine year contract and the Village will get \$25,000.00 and the residents get a 6% savings. If the people want to opt out of this thing they can anytime they want to for a \$25.00 fee or every third year they can opt out for free, they don't pay anything. If you are concerned about the residents they can get out of this anytime that they want. The other thing is no matter what happens this auction is every two years and if we do not enroll in this program we are going to pay the market price but if we are in this program we will always pay 6% less. We are in an area that is only serviced by First Energy there is no one else offering this service to compete with First Energy. He said he talked to Radnor and they have agreed to put this on the ballot. Council member Garren said that the question was asked how many communities have voted it down and why. Tim said the only areas where he has seen it fail is in townships that have more than one provider, than what happens is that you get voters that will not be affected by this proposal and they will not vote for it. Council member Garren said then for communities like us that only have one provider you are seeing 100% passage of this. Tim said pretty much. Council member Garren said the 6% is only until when. Tim said it is a nine year deal off the generation, but realize that generation is an auction price, which we call market price, and that changes every two years. It was moved by

Clippinger, seconded by Garren to table Ordinance 01-2010. Following vote on the motion was recorded: yea, 4; Clippinger, Dalvi, Garren and Gauldin. Nay, two; Callender and Vedell. Chair declared the motion passed by a 4-2 vote.

Second Reading- Public Hearing – Ordinance 03-2010 – Sponsored by Planning and Zoning – An ordinance to amend Section 1113.07 of the Codified Ordinances of the Village of Shawnee Hills, Neighborhood Commercial District.

Second Reading- Public Hearing- Ordinance 04-2010 – Sponsored by Planning and Zoning – An Ordinance to amend Section 1113.08 of the Codified Ordinances of the Village of Shawnee Hills, Community Commercial District

Second Reading- Public Hearing – Ordinance 05-2010 – Sponsored by Planning and Zoning – An Ordinance to amend Section 1113.09 of the Codified Ordinances of the Village of Shawnee Hills, General Commercial District. Council member Gauldin said as we make these changes and they all kind of relate to the commercial area plan overlay, as we make these changes we are removing things that describe architectural details and all sorts of other things from our plan and he would ask that we charge the ABR, and this doesn't directly have to do with this, this is kind of an offset but what we are about to do is open a window where things can happen and commercial area development can come in and put in an application in which we may or may not have control over specific architectural types and it is his feeling that we have right now this idea of a country feel for our Village and that is all we have, we don't have any basis behind that and as we open this window we leave somebody the opportunity to come in with a design that may not fit yet we do not have anything really to control that except for the ABR. He thinks we need to give them a charge of some sort that says A. Exactly what is this country feel. Can we put together some photos or general verbiage that gives some sort of teeth that gives them direction as this commercial overlay plan comes off. Mayor Monahan said he agrees with Jim but he thinks the main thing is we get this passed and then tweak if necessary and in the tweaking we have to make sure where there is a vulnerable like you are pointing out it might be good to spend a little time to write out the direction where you think that is and he will be willing to meet with Jim and the ABR and kind of explain why we think that would be worthwhile to bring forward. Council member Gauldin said he is not going to hold this up but he thinks there is that portion in there that we should cover. Brian Zets said just so he is clear, those first sections that dealt with the individual districts, not the design standards, the only thing that was amended was the design standard was taken out of each of those commercial zoning districts and pushed into 1113.13. He said whatever development standards existed are now in 1113.13. Council member Gauldin said we changed the glass frontage area and there are other things that have been changed in there, it's not the exact same but we are also dealing with something that he saw when he sat on the ABR which is there was not a clear path. Mayor Monahan said we will continue to tweak this code to make it better as we move forward.

Second Reading- Public Hearing- Ordinance 06-2010 – Sponsored by Planning and Zoning – An Ordinance to amend Section 1113.13 of the Codified Ordinances of the Village of Shawnee Hills, Commercial Area Plan Overlay District

First Reading- Ordinance 02-2010 – An Ordinance to amend Section 1121.02(d)(7) of the Codified Ordinances of the Village of Shawnee Hills, General Development Standards. Shirley said this has to do with the fees if they end up going to Mayor’ s Court and she will bring the current code to the next meeting as she forgot to bring it tonight.

First Reading – Resolution 03-2010 – A Resolution to adopt the updated agreement that establishes Emergency Management in Delaware County. Shirley said that they had to amend their agreement to align the office with the current laws of the State of Ohio.

First Reading- Ordinance 07-2010 – An Ordinance to reappropriate funds for current expenses and other expenditures of the Village of Shawnee Hills, Ohio during the fiscal year ending December 31, 2010 and declaring an emergency. Shirley said that every year in October she has to guess what the ending balance will be in each fund on December 31 and what revenues we will collect for the following year and the county will send what is called a Certificate of Estimated Resources to the Village with those numbers on it and the budget that we pass for the following year is based off of those numbers. The budget we passed for 2010 had a few fund accounts that went over these estimated resources so she has reappropriated those funds to line up with the Certificate of Estimated Resources so that the County Auditor will approve our budget. Council member Vedell asked if when the reappropriations ordinance is written if it will be shown whether the amounts are higher or lower than the previously approved amounts. It was moved by Clippinger, seconded by Callender that the rule requiring readings on three separate days be suspended and this Ordinance shall pass on its first reading. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote. It was moved by Vedell, seconded by Clippinger to pass Ordinance 07-2010. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared ordinance 07-2010 passed by a 6-0 vote.

Bills

It was moved by Garren, seconded by Gauldin to pay the bills in the amount of \$12,117.59. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

Treasurer’s Report

It was moved by Vedell, seconded by Callender to approve the following treasurer’s report: General Fund 169,355.17, Street Fund 21, 850.08, State Highway Fund 2,766.50, Enforcement and Education Fund 1,560.00, Computer Fund 8,736.71, Fire Fund 31,623.31, Weed Fund 5,309.85, TIF Fund 73,196.01, Veterans Memorial Fund 1,260.00, Building Expansion Fund 700.00, Capital Projects Fund 1,223.84, Sewer Operating Fund 30,005.60, Sewer Replacement Fund 10,000.00, Storm Sewer Fund 4,831.30, Enterprise Debt Service Fund 11,941.10, Enterprise Debt Service Reserve Fund 78,118.90 for a total of \$452,478.90. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the motion passed by a 6-0 vote.

There being no further business, it was moved by Clippinger, seconded by Callender to adjourn until February 8, 2010. Following vote on the motion was recorded: yea, 6; Callender, Clippinger, Dalvi, Gauldin, Garren and Vedell. Nay, none. Chair declared the meeting adjourned at 9:13 p.m.

Fiscal Officer

Mayor