

**CITY OF SHEPHERDSVILLE
SPECIAL COUNCIL MEETING MINUTES
MONDAY, February 9, 2015**

Mayor Ellis called the meeting to order at 5:46 p.m.

Council members present: Gloria Taft, Bernie Brown, Dana Bischoff James, Ashley Bratcher, Larry Hatfield.

Mayor Ellis welcomed County Attorney John Wooldridge and stated the purpose of the meeting will be to discuss bonding and processes for that nature. Robe Campbell is also present to answer any questions that the Council may have as well.

County Attorney John Wooldridge: What have you all heard? Anything? I'll tell you what's going on; I took office on the 5th of January and the first thing at Planning and Zoning I had people come to me saying that the some of the Cities were unhappy because the Planning Commission dropped the ball and we're approving plats, and wasn't taking any type of precautions to make sure that the roads got built, wasn't bonds, cash, whatever. And in fact there used to be provisions; the developers that I represented a lot of times we would put up a letter of credit to make sure that there were funds. But I was asked by the Acting Chairman of the Planning Commission to draw something up so that it would eliminate this problem. I think you all have probably two or three subdivisions down here that you have some questions about; Mt. Washington had two or three, still have one sitting up there but they got involved in litigation. So what I did I drafted a simple Text Amendment, it's not even done yet. I did one then I did another one. What it will provide simply in my opinion the way I want to do it, now I'm arguing with one of the members of the Board who wants to call the shots and I don't think that is a good idea. The Text Amendment will simply say that before the Planning Commission releases a plat for recording it will have in its possession a security to insure that the roads are built according to either the County or the City specifications. The way I drafted it, the Planning Commission is not going to hold the money; the Planning Commission is not going to set the amount; it's going to be the Legislative body. If it's a road in the City of Shepherdsville I don't want to tell you all how much money you think you need from a developer to insure that the project gets done. Same thing in Mt. Washington. It's their roads, it's their development, it's their citizens, and I want them to be the ones that have the final say. The way I envisioned it is that once a plat gets approved it's not going to be sent out; you guys will get a letter and the Text Amendment says that the City will receive a letter saying that this subdivision plat has been approved and whenever the City or whatever legislative body gives a letter back to the Planning Commission saying satisfactory arrangements are in place the plat will be given to the developer for recording. If the City doesn't want to have a bond they don't have too. Now the person on the Planning Commission kind of wants the County to control the funds and I'm hoping that doesn't pass because then it's the County that will be doing that. Of course the same token if the roads don't get built, the County doesn't have the money, you're off the hook, and the County Planning Commission has to build the roads out according to whatever the City specs would be. When I did this there are some cities that say you don't get a plat until the roads are completely done, we know that's now workable; you just can't do that. There are some of them, Bardstown for instance, that says you put up cash for the full amount of what the project is going to be. Taylorsville uses an approach that they take a mile of road and say its \$160,000 and that's how they do theirs. The way I looked at doing this I would draft it basically saying that the legislative body makes the decision no us. If I do it, I'm going to do it twice; I'm going to do it once with the County doing it and once for the cities. But I'll put in there that security can be cash, it can be a bond, it can be a letter of credit, it can also be by property if a developer wanted to use lots in the finished section. But really I don't want to be involved in that. I don't want the Planning Commission to be involved in that. That's something that should come back to you guys. And whatever you want all you're going to do if you have \$10 and you say we're happy, we're going to cut that plat loose. That's what I want to see done. I know developers and these days don't put in 150 lots and there is a reason for it. They don't want to put that kind of money out; they build as they need be and we don't need to financially tie them. So my thoughts, I've already met with the City of Mt. Washington, I'm going to meet with them again tonight; they believe that they are the ones that get to call the shot as to how much bond, what bond, and what they want to see done. I've talked to Mark Edison who represents several cities and he says his cities want to have the say.

So for the most part I'm getting feedback that the cities are the ones that want to make the final decision. And again if you make the final decision it really doesn't matter what I put in that Text Amendment as far as bond, lot, whatever collateral, once you get the letter to the Commission who does the plat approval since you guys aren't on it, and you a lot of times wouldn't even know about it; that's when you will just send a letter saying we have everything in order, release the plat, we'll be done with it, it's ready to go. It gives you all total control over the situation. I did draft the second for a year notice. I figure a year would be sufficient to get the roads in, get the rock down, and get your first coat of paving on. It may not get the finish coat out but I've got some cities that are pushing they want to get it done as quickly as possible; you all may not want to do that, but we put it in that the roads would be complete within a year. The Text that I drew up also allows the legislative body to release the bond at any time, lower the bond at any time, hold the bond over; it's going to be totally within your discretion. Like I said we're not trying to tell the developer they've got to put up \$150,000 or \$250,000 no way that's going to happen. It's a Text Amendment. When I finally get it done it will come to all the cities and the County and you all can simply say we're not interested in it. But after a City gets hung with a couple roads that don't get done, you probably for the most part really need to have that. It's not something new. We used to do it all the time. We used to put lots up and things of that nature. What's happened for the last several years I've watched plats go through and get approved because they weren't tied to any rezoning. Once the property had the zoning done, and somebody brings a plat on it seems like everybody forgets that this is a new development and it just didn't happen and a couple of bigger developments went under. There are developers in Mt. Washington who are still having trouble that the City hasn't got yet. We're just trying to eliminate a potential problem and hopefully it will work to everybody's benefit.

Dana Bischoff James: In your professional experience do you have any recommendations as far as things that we should look at including or just the whole procedure of the City?

County Attorney Wooldridge: Well the say we'll draft it its pretty simple to come up with a number. But a good number. You can look at your past history and find out what blacktop cost; you know how much road you're putting down. The second Text I did I actually put a cushion in it. It says it's going to be \$100,000; I want the bond for \$120,000 just because we never know where things are going to go. If somebody is putting up a letter of credit for the most part a lot of banks will not tie that much money up. They will give them a letter of credit but they are not going to say okay now you're paying interest on \$150,000-\$140,000. The main thing is to have a good idea of your developer; as long as you have something in place that will get the roads done should there be a default, I think timeline, realistically you all probably need to figure that from start to finish that road really needs to be in there within a year, at least everything but the final coat. Then you relax the bond and you keep what is necessary to put an inch to an inch and a half or whatever the amount of surface would be on that.

Dana Bischoff James: So you saying the bond would fluctuate?

County Attorney Wooldridge: The bond would be from start to finish to do the whole job but if a year has come and they've got everything done except they don't have the finish coat you don't need a \$120,000 bond for a \$15,000 blacktop. So you reduce the bond down and again that is going to be your call. I don't want the Planning Commission to be basically holding money and building roads. That's not their job. It's not your job to build roads. It's your job to hope that the developer builds the roads and if he doesn't it doesn't come out of taxpayer's pockets.

Bernie Brown: And we are responsible for protecting the taxpayers.

County Attorney Wooldridge: What's happened in Mt. Washington, they end up going in on one development that I was involved with and the property owners had to come out of pocket and pay money for roads that they already supposedly paid for when they bought their improved lot. So to try to keep that from happening this is the best way we know how to do that.

Larry Hatfield: Could we do it in sections? Where maybe if we give them 80% complete then we can release part of it for Section B. Can we do that?

County Attorney Wooldridge: You can do it any way. That's kind of what I'm thinking is going to happen. I think it a developer has 15 lots in this Section and he gets the roads in and he's got four or five lots left over; for whatever reason they haven't sold and he wants to put in his next Section, well you use those lots as part of the bonding for the next section. You can bond any way you want too. The idea that I see is not to require builders to go putting cash in the bank or in the hands of the City or hands of the Planning Commission and not have the use of the money. Letters of credit work far better for the most part. Insurance companies on bonding, if you get much it can set you on fire. So you try to stay away from that. We use to allow developers to use property and if he has property it's free. You basically can take property and put a mortgage or bond on it and you release as they develop out.

Larry Hatfield: Will you all be doing that or do we just do the three, letter of credit?

County Attorney Wooldridge: The Text Amendment is going to give a multitude of ways. If it's in the

County what's in that Text Amendment will control because the County controls the unincorporated portions but if you all adopt that Text Amendment then anything that is in there you have the right to handle it as you see fit. You're not going to be required to pay the money to the County for them to hold. You're not going to be required to tell the Planning Commission what you are doing. You're just simply going to send a letter and say yes we're ready for that plat be to released we've got everything that we need in our possession. It can be a mortgage, it can be a letter of credit, it can be anything; we don't need to be in your business we just need to give you the opportunity to protect your citizens and protect your taxpayers. That's the intent of it and it's nothing new it's just for some reason it hasn't happened in the last 7 or 8 years. It got away and it should have never had. Gloria Taft: We just need to make sure we are doing it the same across the board and not have the for this one we're going to do A but for that one we're going to do C. County Attorney Wooldridge: Well it's not that you really have to do the same it's just that you treat everybody equally as far as if they have to have the same amount of bonding whether it's a mortgage or if its insurance or it's a banknote, whatever. If you treat everybody the same they all have the same options to go and get the same treatment from the same source or different sources. You do want to treat them fairly and really if we give you a multitude of options then you all can do it as you see fit. They can actually give the mortgage to the City if they wanted to. That's up to them. That's collateral. Of course you really don't like to have to collect it because that takes problems you're in foreclosure and you're spending money; that's why the standard letter of credit and give yourself a little bit of cushion I'm going to look probably at 110-120%; use one year to get the basic roads in and then give provisions that bond can start getting reduced. And what you would do if you file anything at the courthouse we use to do that, we used to take the lots. And we would put the lots up as collateral. You sold a lot, paid a commission and/or in this case it was a City the City would make a release and they would release the bond as to lot whatever in whatever subdivision. It keeps the developer able to move. We're trying not to tie their hands but again you try to be fair to both sides. Larry Hatfield: Mayor when we get to the point; this is a little bit different, but when we get to the point of this zoning map, I'd like to have a meeting like this also where we can just talk about it. John, our development too is probably going to be higher because we're going to have curbs and gutters and the County doesn't. County Attorney Wooldridge: You've got different ways that you can come up with your number. In the old days again I don't say they are the best ways but we would get a contractor when you had contractors that work in the community, people that did streets constantly, they can tell you pretty much this is what it's going to cost to do this. You can do that too. Larry Hatfield: You would want a little cushion in there. County Attorney Wooldridge: You need a cushion because things happen. You get a spike in concrete; a spike in this or that but you just want a cushion but you don't need to have such a cushion that it's exorbitant and it's overwhelming to a builder. You want to encourage them to build and you want to work with them as best you can. You're not trying to put more ways or impediments in them you want to just have them understand that while you're wanting them to succeed, you want them to succeed but if something would happen and things go out of people's control, you have to be the good steward that you are and take care of the rest of the citizens and taxpayers that you represent. You guys will be seeing the Comprehensive Plan; you'll get your notice 14 days before March 10th. I think March 10th is the five year anniversary and they are bound and determined that they are going to try to do that. They have to have a public hearing on that day and you have to have the Comprehensive Plan in your hands no later than 14 days before then. So they pretty well have it worked out; it's going in to be rewritten and redrafted but it's going to get looked over again so you all need to be aware that's coming in case any of you want to be at that meeting you need to mark it on your calendars. The Zoning map, yeah that's something that is going to have to get addressed. It hasn't been; it's pretty ship shod the way we've done things that way and we're going to try and get these things straightened out. We're trying to work on new subdivision regulations. I'm doing it myself just to kind of bring us up to date a little bit to try to make it easier for you guys to zone knowing what's going in a spot. When we show up here and we say we have 100 acres that is Light Industrial everybody goes my God what can you do out there and we're going to try to make these where you maybe have an extra zone to where it will work better and give you a whole lot better idea of what it is going to look like. Those are down the road as well. The Comprehensive Plan is the first thing we've got to get done. Larry Hatfield: Are you actually going to try to condense some of the zoning in the zone. Are they doing that? County Attorney Wooldridge: What I'm trying to do with the zone is trying to change the residentials to try to make those a little bit more proactive. Right now if you have a 10 acre tract and you want to give an acre away you have to rezone your whole 10 acres to give one acre away because it puts you in nonconforming unless you're in an R-1. So

you've got a lot of ground out here in the County that is zoned AG and if you give an acre away it takes you three months to get your survey done, get before the Planning Commission, get before Fiscal Court; there's got to be a way to make that a little bit better. We don't have zoning for "condominiums" per se. We have an R-3 that everything jumps in to. But it's a Patio Home it's R-3; Row House R-3; Apartment R-3. WE probably need to get that cleaned up a little bit so you guys have a better handle on what's going there and what it's going to look like. Larry Hatfield: And the people buying the property. I've always said that needs to be changed. I said that in 1990. But trying to get that done was like pulling teeth. When people come in here they buy and R property they think Residential is just one person or two. County Attorney Wooldridge: What you can use an R-1 zone for is kind of loose and again if you're in a subdivision R-1 sounds great; but when you start putting a cow in the backyard maybe the neighbors don't understand that. We need to clean these zones up a little bit.

Rob Campbell: I will just say that it sounds like what they are doing is going to work hand in hand with the effort we've got going on with Tammy, Brenda and Margaret. We're working toward some similar ends so that will help to define the process. Bernie Brown: Rob are you going to have to have a copy of what they are working on? Rob Campbell: I assume that when he did his work obviously the City would get a copy then we'll get a copy from the Mayor. That is absolutely something we would need. The direction he is heading will leave some flexibility in there in letting you all have the say in it. I definitely agree with the direction he is headed. Larry Hatfield: How far along do you all feel we are as far as coming up with a number on what we're going to charge and how we come up with our charge? County Attorney Wooldridge: On what Larry, a bond? Larry Hatfield: Let's say a bond. County Attorney Wooldridge: That's strictly going to be the legislative body's deal. I think you've got a number of developers you have dealt with for many years and they can tell you what it costs to develop a subdivision. And you can verify that. I can tell you that I have one County that I've dealt with and again they just do a figure. They say it takes \$160,000 to put a mile of road in and that's basically a road; now the problem with that is a mile of road that does not have concrete curbs and storms is going to be less than a mile of road with concrete curbs, gutters, storm and all that. So you can do several things; you can either get your engineers that design that; you can get construction cost estimates. There are people that do this all the time. I don't think that's going to be a problem. Rob Campbell: This goes to the question of the process we're putting together. I do agree when Gloria said we need to keep in consistent; that's an area where I think determining the value, that needs to be consistent, the methods they use, letter of credit, property or bonding, that flexibility needs to be there I agree with that. I think though in terms of how we define the costs and what that 120% is that needs to be clear and consistent. County Attorney Wooldridge: The County does not have curb and gutter as a requirement but most cities do; so we have pavement and we have a rock shoulder but we do not have the curb and gutter with the drains and storms so it's apples and oranges. What I tell you the County may charge for a mile doesn't mean you're anywhere near that. You will have to do your from research and then come up with it. Rob Campbell: And specific to the type of development. We can put up a set of consistent rules that will apply to your different types of roadways and structures. County Attorney Wooldridge: We haven't even got in to that yet. Really we need to get subdivision plans updated for arterial roads so if you're going in to an industrial park you're going to turn in on a 60' right of way you need basically 100' in. I think what you can do to make your cost fairly easy is do it by square yard approach. If you use a square yard and you're using the same asphalt, the same rock and it's the same curb and gutters that would be pretty consistent across the board. And you could use that whether it be industrial or commercial.

Dana Bischoff James motion to adjourn. Larry Hatfield 2nd. Motion carried 5-0-1 absent. Meeting adjourned at 6:15 p.m.

R. Scott Ellis III, Mayor

Attest: _____
Tammy Richmond, City Clerk