

**CITY OF SHEPHERDSVILLE
REGULAR COUNCIL MEETING MINUTES
MONDAY, OCTOBER 24, 2011**

Councilman Corkey Miller gave the invocation

Pledge of Allegiance was recited

Mayor Ellis called the meeting to order at 6:31 p.m. and welcomed and thanked everyone for coming out to the meeting and having a voice in your local City government.

In attendance were Council members Bernie Brown, Don Cundiff, Larry Hatfield, Corkey Miller, Faith Portman and Alan Wetzel.

Faith Portman made motion to dispense with reading of the minutes from the Regular Council Meeting on October 10, 2011. Corkey Miller 2nd. Motion carried 6-0.

Corkey Miller made motion to dispense with reading of the minutes from the Special Council Meeting on October 21, 2011. Alan Wetzel 2nd. Motion carried 6-0.

Corkey Miller made motion to approve minutes from the October 10, 2011 Regular Meeting. Faith Portman 2nd. Motion carried 6-0.

Corkey Miller made motion to approve the minutes from the October 21, 2011 Special Meeting. Bernie Brown 2nd. Motion carried 6-0.

Mayor Ellis announced that on Monday, October 31st, Halloween night, the Shepherdsville Fire Department will be hosting its first Trunk or Treat event from 5:00-9:00 p.m. Chief Troutman reported there were 50 businesses here in Shepherdsville that would be participating giving out candy.

City Attorney Wantland had second reading of Ordinance 001-(number to be assigned) amending ordinances concerning compensation of the City Council members of the City of Shepherdsville for the term beginning January 1, 2013. Faith Portman made motion to approve. Larry Hatfield 2nd. Motion carried 6-0.

Marty Brown was again present to report on the \$3.5 million bond anticipation note. He reported we have an offer to purchase the notes. The interest rate on the deal is 3%. The structure is a three year term. Final maturity June 1, 2014 for the purpose of completing the City's sewer construction project bringing into compliance the EPA mandate finally. Semi annual interest only June 2012 through and including June 2014. Principal amount due June 1, 2014. That's enough to provide \$3.1 million in construction plus engineering costs plus the cost of issuance of the note. The note is interest only until the end of the third year at which time, either at that point or some point hopefully before that, when the construction is complete we would roll that out into a permanent long term financing. The reason for doing this as a bond anticipation note, we've discussed this a couple times before but I'll just bring this back to the front of your minds; is number one, we don't know how long its going to take to build it; and number two, we don't exactly know how much its going to cost to build it because you don't have construction bids yet. So you do this as a note deal so that when all the costs are known you can fully flesh out your sewer charges to cover all your debt service. Now this structure is a general obligation note. We're doing it this way, again I'll bring this back to the front of your minds, in 2009, if I recall correctly, the City did an \$18 million borrowing from the Kentucky League of Cities and in those loan documents the City granted the League the right to approve any future parity financing and at this state they, or their advisers, would never approved an additional sewer revenue deal on top of what you already owe. So the only way to get this done is a general obligation deal. And that's just simply because of the financial condition of the sewer enterprise. But we anticipate at some point over the coming three years you having enough sewer revenue to present a very good debt service coverage at which point in time they would have no reason to refuse you doing a long term sewer deal to

take this note out. To recap all that; \$3.5 million; an interest rate of 3% and \$3.5 million is sufficient size to cover the cost of construction, engineering, incidentals, and the cost of actually getting the note deal done. It's taken a very long time to get the second round of financing done but we didn't give up on it and we're glad you didn't give up on us getting it done. The closing will be on or before October 27th.

City Attorney Wantland stated for the minutes we need a motion from the Council that we read by summary the bond Ordinance. Larry Hatfield made motion to approve reading by summary. Bernie Brown 2nd. Motion carried 6-0.

City Attorney Wantland read by summary the second reading of Ordinance 011-(number to be assigned) authorizing the issuance of the City's General Obligation Bond Anticipation Notes, Series 2011C, the proceeds of which will finance a portion of the costs associated with the Salt River Interceptor Project. Larry Hatfield made motion to approve. Bernie Brown 2nd. Motion carried 6-0. (There was a short recess from the meeting to sign the loan papers.)

Joe Wantland: Members of Council, previously we passed an Ordinance regarding use of firearms and sling shots within the City where the City Council has been contacted, I have been contacted that there are people who own property within the City that exceeds ten acres and in fact in one particular tract, 200 acres. With that outstanding I think the Council should amend the Ordinance to allow those people on 200 acres particularly to hunt. With that understanding I would like the Council to pass a motion at this time that deer or similar animals as to menace to public health or property and they may be destroyed with special permission of the Mayor. And this would be the notice of the City Council until we can amend that Ordinance that the Mayor can give permission to allow those people to hunt. Faith Portman made motion. Corkey Miller 2nd. Bernie Brown asked if that would take care of everything until such time. City Attorney Wantland stated we are going to prepare another Ordinance to amend this for our next meeting. Larry Hatfield stated the next Ordinance will amend that anybody who has ten acres or more will be allowed to hunt. City Attorney Wantland stated if that's the desire of the Council. Bernie Brown stated in talking about amending, we keep amending ordinances instead of repealing them and redoing it. I know it's caused some confusion. What would be wrong with just repealing the old one and issuing a new one? City Attorney Wantland stated he has no objection to preparing a new Ordinance. At this time Mayor Ellis called for a vote. Motion carried 6-0.

Angie Johnston addressed the Council saying they had the contract before them for Qk4 to hire Bobby Powell to do inspection services for the Salt River Interceptor project. She stated he was the inspector on the South Bullitt Regional Interceptor project and did very well. It actually had a very low percentage of change orders. He will also be assisting myself and the Sewer Department on new development inspections and doing some MS4 field reviews. The contract is for \$153,000 and that should cover the length of the Salt River Interceptor Project; which as a reminder, that project has been broken up into six parts. So we're going to have six separate contracts mostly going at the same time. He will be kept very busy. She stated the contract also includes providing a vehicle for Bobby Powell. Bernie Brown asked if that expense is properly chargeable to the project. Angie Johnston answered yes it is. Bernie Brown asked over what period of time this contract covered. Angie Johnston stated she believed Rob had set it up for approximately 48 weeks. She stated once we have the funding in place she would like Bobby Powell to review the bid packages before they go out. She stated she hoped to have an ad date the week before Thanksgiving. And to have bid openings on December 12th at the regular Council meeting. Larry Hatfield made motion to accept the contract for Bobby Powell. Don Cundiff 2nd. Motion carried 6-0.

Mayor Ellis asked if Gary Magruder or anyone representing him was present. He stated he had received a request to revisit the annexation and had requested him to be here tonight. Mayor Ellis asked the Council if we wanted to move forward even though he was not here. All agreed. Mayor Ellis called for a motion to remove the annexation from the table. Don Cundiff asked the Mayor if he told him he needed to be here. Mayor Ellis answered yes he told him he needed to be here tonight. Larry Hatfield asked if we need him here

to pull it off the table. City Attorney Wantland answered no. Larry Hatfield made motion to take off table. Faith Portman 2nd. Motion carried 5/0/1 (Bernie Brown voted against). At this time Mayor Ellis open the floor for discussion and asked Mr. Woodie Davis to come forward. Mr. Davis stated he would like to yield his time to Bruce Simpson. Mayor Ellis called Mr. Simpson to the podium. Mr. Simpson stated he needed about 15 minutes, maybe less to address the Council. My name is Bruce Simpson. I am an attorney. I represent Bardstown Junction Baptist Church in connection with the proposed annexation that's on the docket and before your consideration right now. I have to say that I'm extremely disappointed that the people who requested this annexation aren't here to present first. In every other proceeding that I think you all preside over in terms of making a decision, certainly anyone that I've ever been involved in in a land use change or an annexation question or even in a court case, the person that seeks an action, that seeks the approval of the given body goes first to present their case. To persuade you with evidence, to persuade you with the facts and arguments; to simply persuade you that it is the thing to do. And tonight there's no one here that's making this case. So in most instances, as an attorney when the applicant for a give request doesn't show up, doesn't appear, I would simply move the presiding official, as I will at this moment, as I would if I were in a court, and I know we're not in a court. But you've been requested to annex a lot of land and the applicant is not here to back up that request. So I would say based upon the rules of deciding cases; based on default, not showing up, not justifying the position that in absence of any proof justifying this request for annexation, that this City Council is obligated as a matter of law, and really as a matter of courtesy to all the people in the room who are against the annexation, to summarily deny the annexation on the basis that the applicant, the person who requested you all consider this tonight did not appear. After as a Council Member has indicated on the record; he said you need to be here and explain your reasons and your case so the City Council can make an informed decision at least on your part. And then they can hear those in opposition. You have no proof. I don't believe under the law you can even sustain a vote of annexation. And I would ask simply now as a matter of law, that the Council dismiss this application and permanently table it until such time the applicant's want to come forward and justify your all's decision to annex this property. So, Mr. Wantland, I ...

City Attorney Joe Wantland: If you're addressing me, I disagree with our point of law. The Council has the pleasure to do what the Council deems appropriate.

Bruce Simpson: I take it that you're not going to vote at this moment to deny it. Even though no one has shown up here to support it which I find very troubling. In light of the interest this application has generated since June, five months; and all these people come down here to listen and try to understand why are we doing this. Why is the City Council going to vote to approve and annex land? Why are they doing it? They would understand a whole lot better if a case was made. If a justification was made. But you're not going to hear that tonight. So in the absence of any argument, any facts, any evidence to justify your decision, let me suggest to you, and I say this as someone who has been privileged to appear in front of legislative bodies around the Commonwealth for 25 years in these kinds of cases, land use cases, annexation cases, things of that nature. I have the absolute utmost respect for people like yourselves who submit themselves to the voters of any given City or County, to make a campaign, to persuade voters, to put themselves before the electorate and be accountable for what they do and what they say. I have the utmost respect for anyone who does that and I say that sincerely and I say it to each one of you all tonight. I have to say, if I may offer this, that one of the troubling aspects of this particular situation tonight is that this initiative to develop this property started in the County. And there was a hearing in front of the Planning Commission which the church didn't get notice of, but the Fiscal Court did day you can have a public hearing and so we appeared and Counsel for the applicant's appeared and we have another full blown public hearing in front of the Fiscal Court. They heard all the evidence. They heard all the arguments that we made. They heard the citizens, and there's a lot of citizens I don't represent, many of the nearby neighbors, I don't represent them, I just represent the Church. But Fiscal Court heard all of that and they were set to vote on this case on September 6th of this year. They were set to vote on it and then the applicants withdrew it. They said we don't want you to vote, we're pulling it off the table. So the people I represent asked me why would they do that. They read the Planning Commission record and they heard 2-3 hours of hearing in front of the Fiscal Court and then the applicant says no we don't want you to sign it because we're going to go to the City Commission. We're going to let the City Commission decide this case. So bear with me if you will but its troubling to the folks I represent

because I've had to entertain these questions for the past couple weeks and particularly tonight, if we had a hearing in front of the County Planning Commission and Fiscal Court and they withdrew it and said no, no we don't want to go in the County we're going to go to the City and they ask you all to annex the property for the purpose of developing it then they don't show up tonight to back up their request with any justification. Help me try to persuade the people I represent and the others what's going on. How can the applicant all the sudden withdraw and say all the sudden we would rather be in the City, then they don't show up to justify their request. We've shown up to urge you to say no to annexation. And we're responding as we have much throughout this case to shifting positions and ghosts and who's behind the curtain with respect to the jobs that have been promised in connection with this development. We've never been able to find out one single employer in connection with this whole case who's committed to do anything on the property in question. Not one. A lot of loose talk. A lot of interviews with the Courier Journal. A lot of very sketchy promises. But not one person. I can represent to you my investigation. If we want to know who's behind the curtain, like they tried to find the Wizard of Oz, it's not the CEO of Amazon. It's not the CEO of any other similar company like Amazon. So what are you left with? A request by landowners who don't show up to say this is my case, and citizens that show up saying I really don't understand. I can't explain to my children the process of governmental decision making; how they can approve a request to annex 100 some odd acres, two miles from the City limits of Shepherdsville, annexing part of US 61 to put in a development to change the development posture and character of the neighborhood which is residential, rural and a church, without putting on any argument. Ladies and gentlemen, I'm not going to belabor the point. We put on a case at the County and the developer said we quit, we withdraw. We're going to the City. And so the folks that are sitting out there tonight, they're saying has the City already made up its mind in the decision of annexation in the absence of any justification, because you're not going to get it tonight. And they're going to say there's no way as reasonably elected public officials who came before the voters of Shepherdsville and will become before the voters of Shepherdsville again that they will look us in the eye tonight and say you know we're going to annex this property tonight even in the absence of any evidence to support it. I don't believe you're going to do that and in fact I'm asking that you not do it. And I appreciate your attention.

City Attorney Wantland: Mr. Simpson, I assume you're at your conclusion.

Bruce Simpson: Yes sir.

City Attorney Wantland: In speaking to the Council what objections, we're not here to talk about land use tonight we're here talking solely on whether or not this 169 acres becomes part and parcel to this City. And in effect we add new taxpayers to the City of Shepherdsville. That's the only issue really being presented. What objections does your client have to having new taxpayers into the City of Shepherdsville?

Bruce Simpson: Well I would say Mr. Wantland that the notion of having new taxpayers on this property is a fiction. That's never been established. That's wishful thinking. The second thing I would say is that if you're going to annex this property, that you ought to do it conditioned on going through the Planning and Zoning process so that by time you get the property for a final decision on the annexation the zoning has taken place first. Because in that way you will have the benefit, as did the Fiscal Court, of all the evidence; of all the consequences associated with the development of the property. You will have all that and you all will make the final decision, as the legislative body that has to make the final decision on zoning. To make that decision based on all that evidence, either for or against, and then annex the property. But I do believe it's premature. So that would be the second basis of my objection. The third basis of my objection is I don't believe it's legal under the laws of the Commonwealth of Kentucky to perform the annexation in the manner in which it's being performed by annexing up this road that I'm talking about.

City Attorney Wantland: Do you understand that in Bullitt County, Kentucky so far Hillview annexed the stone quarry by using the corridor of I-65?

Bruce Simpson: You know Joe, there's a lot of instances where people have done things that they count as precedence but just because they did them and they weren't challenged in the right manner ...

City Attorney Wantland: They were challenged.

Bruce Simpson: And I don't know that's similar to our case or not. I'm just saying from the standpoint of the citizens I represent that live out in the country, they're looking at you guys tonight for annexation purposes and we all know the purpose is to allow a development out there. An industrial type development. Taxpayers

as you said without any proof, justification at all from the applicant and the undisputed fact is you're going two miles out on a little strip of road to get to this 160+ acres to say we want that to be in the City based upon some assumption there's going to be new taxpayers there when there's no evidence, zero evidence, there's going to be any taxpayers other than the people that own the land as farm right now. I think it's premature. It's not justified and I don't believe you can vote for it. I'm asking you not to vote for it for all the reasons I've mentioned. But particularly for tonight because they defaulted on their application and request and wasted your time. If you're going to do something like this, ask you all to hear a case and have all these people come out, at least it's a common courtesy to come up and justify why it is its necessary. That's the basis of my objection. Thank you.

Mayor Ellis called Mark Harrison to the podium.

Mark Harrison: I object to this annexation on the fact of just morale reasons itself. It would appear that two weeks ago you all made up your minds already what you were going to do. You hired an independent engineer. \$4000 more that you spent for something of which is premature. And it would appear to every one of us since you refuse to do the right thing and default this and to say no if you're not going to consider this tonight without them showing up it would appear that your minds are already made up. That you've already disregarded that altogether. Mayor you gold me when you came out there to the Church, you said I see no residences there. Well sir, have you done any demographical studies on that property out there? Within that area right there, there are over 2700 people that are going to be adversely affected by what takes place out there. 2700 that will be adversely affected. Now you know the problem with that, the thinking of that is that you have a hope, you've been promised that it's going to be 3000-6000 jobs in accordance to what they build out there. They said one million square feet. Then they said two million square feet. And they said it would have to be that 3000-6000 people would be employed there. To do that, we'd already checked in to it; because we were going to build on to our church and we found out that we were gonna have to raise the land up because it is in a flood zone. Our property was going to have to be raised up at least six foot. The engineer told us there are some places in a water retention basin it may be 8 foot that the water retention basis would have to be. Consider this then. Six foot above where we are right now. Six foot above where the Church is at right now then you put a building on top of that, a two million square foot building. If you have no idea what that is go to Zappos, it's a 1.2 million square foot building and double that. That will give you an estimation of what we're talking about as to the size of the building that will go up next to us. You're talking about a 40 to 55 foot giant next to the Church elevated six foot off the ground to begin with then a water retention basin that they said they were going to build three-quarters around church property. That would completely surround us. We would be in a bowl. Now water goes to the place of least resistance. Where do you think all that water is going to go to? If they're going to employ 3000 people they are going to have to have 3300 parking spaces. If it's going to be 6000 people its going to be 6600 parking spaces. With all that impervious surface of all that water running off of there where do you think it's going to go? Someone said, well the Church was offered \$1 million by Red Rock to stay. Yes we were. We were offered \$900,000 to pick up and leave and \$1 million to stay. The fact of the matter is though our engineer told us that according to his specifications it will fail and you will be flooded. Why would you talk \$1 million knowing that you're gonna be risking the fact of being flooded. 2700 residents in the immediate area besides the Church and what you're asking them to do is to go ahead and accept the fact that this is gonna be developed in that way with the hope of this many jobs, that's 3000-6000 jobs with that hope. But I'm gonna tell you the moment you vote to do that you have adversely affected that many people immediately with your decision. I'm going to tell you when you consider jobs, consider this; Zappos, nearly a month ago said they wanted to hire 3000 more people. Two weeks ago all they had were 400 applicants. I got word today from Zappos; I said I want to know how many people you have hired. I got the word, 1000 people in the last 12 months. That's a far cry from 3000 people. That's a far cry from 6000 people. In fact that don't even come close to what it is they said they would be bringing in that place. Amazon.com said they are not going there. Zappos said they are 98% sure they're not going there. In fact Amazon.com wants property that's over on 480 or over in Southern, Indiana, that's where they're wanting to go to. When you consider the fact of jobs, consider this that for 55 minutes GE said they were hiring and they had to shut down the applications. All they wanted to hire was 300 people. They had over 6000 people in 55 minutes apply for those jobs. Ford said we want to hire 1600-1800 people and the newspaper reported over 13,000 people came to apply for those jobs. But yet right here

in Bullitt County Zappos can't even get 3000 people to come and apply for those jobs. Yet you said Mayor you want to annex this for jobs. Yet the jobs can't be filled. There's help wanted at GSI. They are wanting people over at Publishers; they've got their sign up saying now hiring. My goodness even over here at Frisch's they're saying they're hiring. Mark Edison told myself and Woodie Davis that there was a glut for unemployment here in Bullitt County. That if anyone that lived in Bullitt County there was no excuse for them not to have a job. He said if you want a job you can get a job but a job to support your family, he said that's another question. Why is it they run to GE? Why is it they run to Ford? It's because they can support their family. These jobs are not going to support anybody's family when you consider the fact that Zappos hires at \$8.75 for a daytime job and \$9.75 for a nighttime job. You can't support your family on that. I want to tell you that the jobs are there but you're wanting to destroy and to disrupt the lives of the people that live right around there by the very hopes of saying we're going to bring in more jobs. I want to tell you that when you consider this, consider that Bardstown Junction Baptist Church has been an asset to the County of Bullitt County and to the City of Shepherdsville. We've been one since 2007 according to the *Western Recorder* which is the publication of the Southern Baptist Convention here in Kentucky. With nearly 3000 churches that are Southern Baptist in Kentucky, Bardstown Junction Baptist Church since 2007 has been ranked in the top 100 churches of the Southern Baptist Convention in Kentucky for the number of baptisms it performs. Last year we were ranked number 43. There were only two other churches in Bullitt County that even came into that ranking with us in the top 100. It was Little Flock and Mt. Washington First. Do any of you belong to those churches? They're great churches. I want to tell you they're reaching people for Christ. They're making good citizens. And they're doing what God called them to do and that is exactly what Bardstown Junction has been doing. What you plan to do if you annex this land is to disrupt the very ministry that we have that God has given unto us. And I just want to say consider what it is you're doing. Consider it. Think about what it is that you are doing. Let me remind you of what Jesus said over in Matthew Chapter 18 Verse 6. (Pastor Harrison read the scripture from the Bible.) He continues: I want to tell you when you offend the church; when you stop the ministry of the Church; when you disrupt the life of a church, you're offending Jesus. I want to tell you consider this also; God takes everything seriously of what we do. There is a day of accounting. Pastor Harrison quoted Amos Chapter 2 Verse 6 and Hebrews Chapter 9 Verse 27. He continued: There is a time of accounting and I want to tell you our Church has been through a lot. Our Church has been through much and there is much that has never been told, never been found out. I wonder if any one of you have ever went over and got the records from Fiscal Court and read those records of the testimony that was given. Have you read that testimony? Have you looked at that testimony of the different studies that was never done by the opposing side? Yet all they come with was the promise of jobs. They've never done no traffic impact studies. They've never done no flood impact studies. They've never done no storm water retention studies. They've done nothing whatsoever and we have. We had the facts before them and I want to tell you that's why Fiscal Court, I believe at the last minute was told we don't want you to consider our application, we're pulling it; why, they didn't have the votes. They didn't have the votes. So it's just like an adolescent who couldn't get their way with daddy running to momma. And they're saying will you do it for us? That's what it comes down to. Consider what it is that you're doing.

Larry Hatfield asked Mayor Ellis: Did you ask Gary to be here? Mayor Ellis: Yes I did and he stated that either he or Kevin would be here. Bernie Brown: Are they obligated to be here? Mayor Ellis: I told them they needed to be here to take it off the table for vote on it. One way or the other it needs to be done. Bernie Brown: Well it would have been nice if they'd been here. Larry Hatfield: Is it my understanding and tell me if I'm wrong but we have not hired Strand yet. Mayor Ellis: No we have not. Larry Hatfield: Brother Mark called me today and the reason I indicated that we would if needed is because we would not use Red Rock's engineer nor would we use Bardstown Junction Baptist Church's engineer. But I really think due to the fact that there's been so much going on with this I would like the Magruder's present to know what their plans are now that everything has been kind of mumbo jumbled up or whatever you want to call it. Don Cundiff: I would feel more comfortable voting on it if there were here. Larry Hatfield: I would too and know at least what their plans are going to be. City Attorney Wantland: I think Don Cundiff made a motion to table until the Magruder's are here. Mayor Ellis: I would like to have the motion tabled indefinitely until the Magruder's can show up to request it be taken off the table. Faith Portman 2nd the motion I just wanted to make it indefinitely until they can come to a meeting. Bernie Brown: If it's tabled I guess it can be taken off

the table at any time. There were several comments from the audience at this time. Larry Hatfield: If they are going to talk have them come to the mike and record it. Don Cundiff: We've got a motion and a 2nd on the table. I say let's vote on it. It can say indefinitely that's fine. Let's move ahead. Mayor Ellis: Motion and 2nd, all in favor. 6-0. This item is tabled until further notice.

NEW BUSINESS:

City Attorney Joe Wantland read text amendment from the Bullitt County Joint Planning Commission to add the definition of a "Structure" to Section 2.00 of the Official Bullitt County Zoning Regulations as taken from KRS 100.111 (21).

Mayor Ellis had to ask the church members leaving the meeting to quiet down as we were still conducting business and we could not hear anything. Pastor Harrison asked to ask one question. If we hadn't shown up tonight would you have given us the same consideration? Would you? It's not impartial? Mayor Ellis: Yes. If you're not here we're going to give you an opportunity to speak. Mark Harrison: But they did now show. But if we did not show would you have given us the same consideration. Faith Portman: We made a promise to you all that we would contact you and we did do that and we will do that again. Mark Harrison: You did contact us and we did show up but you know I think it's a good question because someone asked the question if we had not showed would we of been given the same consideration. Mayor Ellis: And I said you would have been given the same consideration. Yes sir. Mark Harrison: And only the Lord knows. Larry Hatfield: And me. Mayor Ellis: And me. And anybody else up here. You would have been given the same consideration. Corky Miller: Can I ask you one question before you leave. You all were offered \$1 million, is that correct? Mark Harrison: Yes sir. Corky Miller: But did you counter for \$3 million? Mark Harrison: Yes sir. Corky Miller: That's all I wanted to know.

City Attorney Joe Wantland read text amendment from the Bullitt County Joint Planning Commission to add the definition of a "Structure" to Section 2.00 of the Official Bullitt County Zoning Regulations as taken from KRS 100.111 (21) again. Larry Hatfield asked Daryl Lee what exactly is this? Daryl Lee: It's the definition of a structure. Some cities didn't understand it so we explained just what it says. Larry Hatfield: So structure is not in a KRS? Daryl Lee: Yes it's in a KRS. Larry Hatfield: So you're saying some of the cities viewed it as different than other cities? Daryl Lee: Right. So we defined it by the KRS and sent it to all the cities. Mayor Ellis: Anybody have any other questions on it? City Attorney Wantland: Maybe we should vote on it at the next meeting. Mayor Ellis: We'll vote on this at the next meeting on November 28th. Bernie Brown: Daryl, have any of the other cities taken action on this request? Daryl Lee: I think Hillview has for sure, I saw it advertised in the paper. I didn't even know it hadn't gotten here until I called Tammy and checked with Roanne. You should have had it earlier. Bernie Brown: So you think Hillview is the only City that's voted on it so far? Daryl Lee: I'll be glad to check and let you know. There's not time frame that the City has to do it. Most of them like to get it over with. Mayor Ellis: We'll give everybody a chance to look it over and we'll vote on it at the next meeting. Bernie Brown made motion we delay action on the issue tonight and consider it at the next meeting. Alan Wetzel 2nd. Motion carried 6-0.

Mayor Ellis: Everyone should have a copy of the Capital Projects equipment requested to be surplussed. Larry Hatfield: We're not surplussing the skid steer or the backhoe are we Chuck? Chuck Keith: Right now all the equipment that the City has that you all are surplussing we're using quite a bit until the sewer plant expansion is done. Larry Hatfield: You using the track hoe? Chuck Keith: We're using the track hoe and dozer. We used the track hoe all day today. Larry Hatfield: That's just because Judy is there and ours is handy? Chuck Keith: No we're using it for us. We've got that dirt, five humongous piles of dirt we have to move around back and if you all get rid of the equipment we're not going to have any way to do that other than hire somebody to do it. Larry Hatfield: Well you could do it with the backhoe but it would take you forever. It's went this long we can wait until we get the dirt moved if you want too. Mayor Ellis: We'll wait until this project is done and then do it. Larry Hatfield. That's fine. I never thought of that. Faith Portman: We'll wait.

Mayor Ellis: Next up is approval to pay City bills. Everybody should have a copy of the bills. There is \$2848.15 that is on the City bills that needs to be pulled off. One is an invoice that has already been paid (L & W Emergency Equipment) and the other is ADP. There are still some questions with ADP and until these questions are resolved they are not going to be receiving a payment from the City of Shepherdsville. The new total would be \$92,503.11. In doing some forecasting with Tammy earlier we can pay all these bills. That will catch us up current and not put us in the same situation as we were a few months ago when we were scraping to pay salaries and health insurance which we did without having to borrow any money. Faith Portman made motion to pay City bills except one already paid and ADP. Corky Miller 2nd. Motion carried 6-0.

Larry Hatfield made motion to pay sewer bills except ADP. Faith Portman 2nd. Motion carried 6-0.

Planning & Zoning update- Daryl Lee – nothing at this time.

Board of Adjustment update- Duane Price reported Kenny Walls for Salt River Church of God at 559 Old Preston Highway South asked for a variance to allow the applicant to encroach 20' into the rear yard setback requirement with a new Church building and for a variance to encroach 2.75' into the side yard setback requirement with a new Church building. He also reported Tammy Ott has requested a Conditional Use Permit to allow the applicant to operate a Child Care Center "Todays Kids II" at 155 Lees Valley Road that will focus on parents who work second and third shifts.

Sign in speakers:

Brenda Fawbush addressed the Council asking why we don't have a code enforcer. Mayor Ellis stated we do. His name is Mike Miller and he's a Shepherdsville Police Officer. Brenda Fawbush: Ok. Well we have a problem with Thomas Givhan's field. It surrounds Bratcher Estates, Blue Lick, whatever. It has not been mowed in two years and from what I understand it was supposed to be mowed twice a year. It's now up to your waist. Is there any way we can get this field mowed? Faith Portman: We can give it to Mike. Chief Puckett also said he would have Officer Miller check out the problem. Brenda Fawbush: One other thing, why do we allow a dump truck in our subdivision? We're taking our subdivision down to nothing because we don't have a code enforcer or something to do what needs to be done. We have a dump truck that's operating a business out of his home. He goes in and out several times a day. We have carports that are added on to homes that are not supposed to be there. We also have overgrown yards that are not being properly taken care of. People parking on our streets, you can't get in and out. Mayor Ellis: That gentleman there in the nice uniform he's definitely someone to talk to on that. As far as the dump truck I have received several calls on that and I have spoken with the owner about it. I am going to talk with him again in the next couple days. He told me he has a place he can park it so I'm going to tell him he needs to park it somewhere other than his driveway. Brenda Fawbush: Also I want to know why we have to keep paying fire dues to Nichols and fire dues to Shepherdsville on our vehicle registration and our property taxes. City Attorney Wantland: That's been going on since 1999. I have been in the trenches ever since then and I'll be the first one to say with ever fiber in me that that tax needs to go. Brenda Fawbush: How many more years do we have to pay it. We've been paying it for 13 years. City Attorney Wantland: We're in the Court of Appeals for the second time. I'm a relatively old guy. I remember telling Judge Waller when he ruled the first time that the only thing he did by his opinion was to condemn taxpayers in your particular area and Southeast to two taxes. Judge Burress has ruled that you no longer have to pay this tax. Unfortunately Southeast has appealed that decision and we're now in the Court of Appeals. Brenda Fawbush: Well I just renewed by car registration and I had to pay it. City Attorney Wantland: Yes ma'am and I would encourage you, and people take this the wrong way, I'll try to be as specific as I can. Your County Judge Executive, Melanie Roberts, makes three appointments to the Trustees of each Fire District. She would be a good person to talk to to have Trustees appointed by her office who do not support the double taxation of Shepherdsville residents. Mr. Corky Miller pays the same thing. Corky Miller: I do pay the same thing and there are more in here that do. This is the first attorney that I think has made some actions to get the thing solved. So we're hoping that the Court of Appeals will rule that they don't have a case at Southeast and it will be over with. Brenda Fawbush:

Then they'll take it back to court again. City Attorney Wantland: Yes ma'am I do believe the fire districts are going to fight to their very last breath to keep this double taxation in place. Mt. Washington and Zoneton had similar issues but they have resolved those with the City to the satisfaction of the citizens. So two of the fire districts have been resolved. I'm looking at Chief Troutman; two fire districts have not been resolved. It is a political hot potato. I just think we gotta keep fighting. I'm going forward and fighting. As I say I'm in the trenches, I've been in the trenches with this particular litigation for a long time. Brenda Fawbush: How many homes are on this? Is it all of Shepherdsville? Where is the cut off, the beginning and the end of where people have to pay? City Attorney Wantland: The beginning and end is as this City has developed, this City is encroaching into the fire districts territory. There is a specific statutory remedy method for fire districts to receive compensation from the City, the municipal government, not from the taxpayers and so far the fire districts have fought that tooth and nail not to let that happen. That's the best way I can explain it to you. It's double taxation. Brenda Fawbush: But you don't know how many homes are paying this: City Attorney Wantland: No ma'am I don't because to me as far as the lawsuit that I'm handling that's not very material. As long as there is just one person paying that double tax that's one too many. So you really understand how far back this goes I can remember talking to a fellow by the name of Irv Maze who is now a Circuit Judge in Louisville. I don't know how many years ago but the discussion was one tax district, one county-wide tax, uniform taxation throughout the County and I can tell you it wasn't the City that backed away from that proposition. The City's position has always been uniform taxation within the City. Uniform taxation outside the City; and it has not been accomplished, but we're working hard to get that accomplished. Brenda Fawbush: It's just not fair for all of us to have to pay two fire departments. Our homes would burn down before Nichols ever got there. City Attorney Wantland: Ma'am what's not fair, the double injustice is, I keep saying this from the rafters, the people in Shepherdsville do not recognize what a blessing, what an asset to this community our fire department is, if for no other reason as I understand it, the ISO rating which is the way your homeowners insurance is calculated. Shepherdsville is equal to or better than any other fire district in the County. Brenda Fawbush: Oh I agree with you there. Hats off to them. City Attorney Wantland: That's a compliment to this community, to the fire department that it's equal or better rated than anyone that they have. That tax has gone on too long and I keep saying this to the rafters, all that lawsuit is about is ten cents on the \$100. One individual you can talk to, who has a direct bearing on who is in place to impose this tax upon you is Melanie Roberts, your County Judge Executive. As I understand the law, she makes three of the Trustee appointments in her office. And that's a good place to start by having people involved and asking why individuals pay two taxes.

Department Head Reports:

Doug Puckett stated he would like to commend Detective George Jetter and Captain Dan Patchin for the great job they did last week on the Best Buy theft. They served search warrants in Bullitt and Nelson County and they recovered property from Nelson, Bullitt and Jefferson County. Three arrests have been made and the case is still ongoing.

Chuck Keith stated that in the last couple weeks we heard that some of you all might think the sewer plant is not like it should be or there are some problems. The sewer plant itself is running perfect right now. Matter of fact it's running better than it ever has. We don't even have the normal odor that sewer plants have right now. I just wanted to tell you all that. Now the collection system is a whole different story. It is in bad shape. But as far as the sewer plant, I wanted you all to know that it is working great. The guys over there are doing a good job. I just wanted to make you aware the sewer plant is not in bad shape, it's good. Now, Kevin Mooney called on the odor on Steven Drive. Its hydrogen sulfide coming from the Rest Area. The Rest Area station is not ours but for some reason in the past the City has been putting in this chemical to kill the odor. The last time we put it in there it cost \$3000 and we didn't even fill it up. We billed the State for it, they never did pay it. I feel like the Mayor, or Joe, or somebody should call our State Representative and look into them paying for this. Right now the pump is bad over there. I don't know what it's gonna cost to be replaced. But the only way you're going to stop that odor is to refill that tank. Larry Hatfield: Isn't it in the works Angi to have that removed? Angi Johnston: Yes. Larry Hatfield: That's going to be gravity fed. Chuck Keith: I understand that. What are we going to do until then? Bernie Brown: What's the status of that with the State

out here at the Rest Area? Angi Johnston: The Agreement went back to the Finance Cabinet for their review. Mr. Wantland has reviewed the Agreement. The deal is there will be a private developer who will be building it. The City will pay for it but it's more of a pass through. The Finance Department will be reimbursing the City. The City hasn't been maintaining the pump station but we've been paying for the sweetener. That's been an ongoing expense. I noticed at the time it was built, in one of the Sewer Ordinances, it actually would have had them paying more for that but I'm not sure exactly what happened.

Council Reports:

Larry Hatfield: I want Connie working on collecting this \$77,000 in unpaid connection fees. Let's get her started on it.

Corky Miller: I just want to say that the City will not be out any money for the Trunk or Treat. Mr. Weck and I have collected \$800 so far this week and we're still working.

Bernie Brown stated he would like to commend the Police Department and those that were involved in breaking the case out there at Best Buy. Thank you all. I appreciate it. I'm proud of our Police Department.

Don Cundiff made motion to adjourn to Executive Session to discuss personnel and possible litigation. Bernie Brown 2nd. Motion carried 6-0.

Don Cundiff made motion to return to Regular Session. Alan Wetzel 2nd. Motion carried 6-0. City Attorney Wantland: Mr. Mayor and members of the Council, Counsel has had a meeting; there is discussion with the police officers concerning their compensation. The Department of Labor with the State of Kentucky has been involved. The direction by the Department of Labor, Patty Majors, is that the City does owe compensation to the police officers for a period of time August of 2006 to November of 2007. The Council has directed that that number be calculated and paid immediately. There are other issues of compensation due to police. Council is open and will meet with officers to resolve their differences to mutual satisfaction of all parties

Motion to adjourn by Faith Portman. Larry Hatfield 2nd. Motion carried 6-0. Meeting adjourned at 9:14 p.m.

R. Scott Ellis III, Mayor

Attest: _____
Tammy Richmond, City Clerk