

**CITY OF SHEPHERDSVILLE
CITY COUNCIL REGULAR MEETING MINUTES
MONDAY, November 26, 2018**

Pastor Randy Pace, Family Worship Center gave the invocation

The Pledge of Allegiance was recited

Council members present: Gloria Taft, Mike Hibbard Sr., Lisa Carter, Donna Burke, Stacey Cline and Bonnie Enlow

Mayor Hockenbury introduced the winners of the General Election that was present at the meeting.

Mayor Hockenbury called the meeting to order at 6:37.

Mayor Hockenbury asked for motion to dispense with reading of the 10/22/2018 regular meeting minutes. Lisa Carter made motion. Gloria Taft 2nd. Motion carried 6-0.

Mayor Hockenbury asked for motion to approve 10/22/2018 regular meeting minutes as written. Stacey Cline made motion. Donna Burke 2nd. Motion carried 6-0.

Mayor Hockenbury asked for motion to dispense with reading of the 11/8/2018 special meeting minutes. Gloria Taft made motion. Lisa Carter 2nd. Motion carried 5-0-1 abstention (SC).

Mayor Hockenbury asked for motion to approve 11/8/2018 special meeting minutes as written. Donna Burke made motion. Gloria Taft 2nd. Motion carried 4-0-2 abstentions (LC, SC).

Mayor Hockenbury asked for motion to dispense with reading of the 11/19/2018 special meeting minutes. Gloria Taft made motion. Donna Burke 2nd. Motion carried 4-0-2 abstentions.

Mayor Hockenbury asked for motion to approve 11/19/2018 special meeting minutes as written. Donna Burke made motion. Bonnie Enlow 2nd. Motion carried 4-0-2 abstentions.

Presentations:

Mayor Hockenbury introduced CR Wirthlin to the Council and audience. She will be the new City Clerk starting 2/1/2019 when Tammy retires. Donna Burke made motion to approve the Mayor's appointment. Bonnie Enlow 2nd. Motion carried 6-0.

Jason Strange with Stiles, Carter & Associates, presented the year end June 30, 2018 audit to the Council.

Old Business:

City Attorney Walt Sholar had second reading and public hearing on Ordinance 018-272; a request from A & H Lakeview Land LLC to rezone 7.79 acres, more or less, from R-1 Residential to R-3 Residential. Property is located at Lakeview Drive Lot 14 and listed in the PVA office as Parcel 045-SWP-02-030A. I believe it has been published in the newspaper that a public hearing would be conducted on this zoning map amendment and it's appropriate for the City Council to conduct that public hearing. Mayor if there is anybody signed in to speak either for or against it, they will need to step to the podium, identify themselves if they are not an officer of the Court they would need to be sworn. Once the Council conducts its hearing the Council and either make a decision based upon the evidence that it hears tonight for someone to sponsor this Ordinance and conduct a vote on it or if you take no action and choose not to introduce the Ordinance or sponsor the Ordinance and have it considered and voted on, the action that the Planning Commission took making a recommendation that it not be passed would carry the day and the zoning will stay the same. Eric Farris: I asked Mr. Hall to adopt what I tell you, so he'll be essentially affirming by comments. City Attorney Sholar administered the oath to Mr. Scott Hall, one of the owners of the property and Stacey Nicholas, who conducted a market

analysis. Eric Farris addressed the Council on this zoning application: We will present to you overwhelming evidence as to why this zoning is appropriate; the existing zoning is inappropriate and in addition provide you with a number of reasons why there have been substantial changes in the physical, economic growth of this Community all of you are very well aware of. Particularly the past ten years is what we want to focus on in that regard. This is approximately 7.8 acres that does lie immediately west of Centerview Drive. This has for years to our knowledge we believed that this property was already R-3 Residential and in fact had certain documentation that indicated that to be the affect. However, upon presenting other applications at the zoning office we were advised we never did properly pass by Ordinance with this body. This property lies adjacent to the Lakeview Drive Apartment complex. That complex holds 138 units and they have been there for 20 years. This past March 2.5 acres immediately north of that apartment complex was rezoned by this Council to R-3 for additional multi-family dwellings. With the issue having arisen about this rezoning we have filed this application in order to clear the record and we appreciate on the extension of the resolution two of the Council members did recuse on that vote and respectfully hoping that they see fit to again do that for the same reasons that we talked about in the past. The first point to get across is there is an established need and it is an objective need; it is not a need we have manufacturing and to address that need I would like to introduce Ms. Stacey Nicholas, Senior Managing Director, Integra Realty Resources, she brings 26 years-experience in commercial, industrial, large residential tracts appraisal and market analysis. We have a full report that I'm going to present to you and ask it to be included in the record. Stacey Nicholas presented her Fundamental Market Analysis to the Mayor and Council. The Council had several questions for Ms. Nicholas. Mr. William Young had questions for Ms. Nicholas about information in her analysis. Eric Farris asked Mr. Hall to hand out information pertaining to this zoning issue. This document represents if you cut this in half lengthwise and stuck it on the end it would be the entire length of this tract and what's proposed to be built on the tract with the Centerview Drive property behind it. This is to show the drainage plan and the landscaping plan that Mr. Hall is prepared to commit to do. A number of complaints that we heard are that this property does not drain well, and it results in water coming up the pond at Centerview Drive tracts. What this property improvement will do with these apartment/townhomes would be pull that water away; these red lined on this drawing reflect where the water is going to pull from and it will go down the middle of the roadway that would serve units on both sides of a center roadway on this tract which is a little less than 200 feet wide and it's enough to accommodate units on both sides of the street. Drainage goes to the center and is carried back to the lake that's in the very back of the property. In addition there would be a six foot privacy fence constructed which under the zoning rules there is no requirement for any buffering whatsoever; however this applicant, A & H Lakeview Land will be providing buffering and that will include a six foot privacy fence; tree plantings every 40 week and in between these tree plantings will be a particular type of greenery (viburnum) on the side of the fence that faces the apartments that grows very fast and very thick. The reason this is proposed; we're talking two story units this will help reduce any noise that is associated with the lower portion of those units. The additional restriction that we are agreeing to is there will be no second-floor decks on these units so that no one can step out on their second floor and look beyond the fence. The only exterior exit will be at the first-floor level and that will be a patio. To give you an idea of the quality of these units, I'm handing out information on elevation of the unit from the front and rear. Mr. Hall: All the townhomes will be two bedroom 2-1/2 baths with washer and dryer hookups. An open floor plan on the first floor; they will be 1200 square feet. There will be 8 single floor units ... The exterior is going to be a mixture of brick and either vinyl or hardy board to break up the look of the building; the roof will be metal; wood construction. There will also be a clubhouse, a kid's area and play area. Regarding trash, we are going to have a centrally located compactor instead of having dumpsters spread out all over the complex there will be one area that has a compactor that will be picked up once a week and instead of everybody bringing their trash out we'll actually have staff that will go approximately 2-3 times a week and collect it at everybody's door and they will deliver it to the dumpster. This will eliminate couches, mattresses, etc. being thrown away in the dumpster. When we designed these, we did it in mind so there were no second story balconies; everything is on the first floor with a door going out the back and front of each unit. Everybody will have a private patio but again it will be on the first floor. Rent will be somewhere around \$1100.00. The Council asked Mr. Hall questions. Eric Farris: There are some here advocating for this project but I'm a firm believer that this project and all the other projects that the City has approved in the way of businesses; all the development that is going on in the retail sector, commercial sector, there is going to have to be additional relief there just like there was through Preston. I know they have said traditionally there would be no light but if we make ourselves known on a regular basis in Frankfort and District

5, we will get a light there. There are just too many school properties and too much need for residential; there is too much going on right now. Mayor Hockenbury asked the sign in speakers in the audience if they had any questions for Mr. Hall. William Young asked how many units there were going to be. Eric Farris: Provided the Council with information presented to the Planning Commission with additional information added. He summarized the report and asked the Council to consider a motion to approve because the existing zoning classification is inappropriate. Mayor Hockenbury asked if anyone was in favor of the zoning you would be given time to speak. There was no one. Mayor Hockenbury asked if anyone was in opposition to the zoning. Several people in the audience raised their hands. Mayor Hockenbury called up to the podium and City Attorney Sholar swore them in: Shirley Dunn, 543 Centerview Dr and 439 Centerview Dr; Eva Moser, 505 Centerview Dr; Melanie Thompson, 505 Centerview Dr; William Young, 526 Centerview Dr; who spoke against the rezoning. Eric Farris called Ms. Nicholas back to the podium to rebut some remarks made. Gloria Taft had some comments on documentation she found concerning this rezoning pointing to the property is already zoned R-3. Several Council members asked questions and discussed this documentation. City Attorney Sholar's comment on Gloria's researched documentation: September 28, 1992 regular City Council meeting was called to order at 6:30 p.m. by Mayor Hatfield. It goes to a rezoning; it doesn't say it was an Ordinance just a rezoning was read for the second time on the Pauline Cundiff estate. Next paragraph a rezoning was read for the second time on J.P. & Jean Hatzell from R-1 & B-1 to R-3. Eric Farris was present representing the Hatzell's and showed a video the type of rowhouses they wanted to build. There was a large number of adjoining property owners against the rezoning. They had no opposition to lot 11, 12, 13 being rezoned to R-3 but asked that lot 14 be left R-1. Motion was made by Terry Edwards; 2nd by Bill Bishop to leave the rezoning as it is. Vote was 6-0. As I read that Mr. Edwards made a motion and Bill Bishop 2nd it to say we're not going to rezone it. Leave it as it is. It passed 6-0. Gloria Taft: I read it differently. City Attorney Sholar: My interpretation of that after 38 years legal experience is that property wasn't rezoned. Mr. Farris is here to ask that this property be rezoned tonight he was there in 1992 so if he thought that it had all been rezoned R-3 why would he be here tonight. The City Council made this vote on September 28, 1992; whatever the Planning Commission did before that is pretty much irrelevant to what the City Council did. Donna Burke made motion to concur with the recent Planning & Zoning finding based on tonight's hearing and my own experience of traffic on 44 to leave it as it is, R-1. Lisa Carter 2nd. Vote 2 in favor-2 opposed-2 abstain. City Attorney Sholar: It takes a vote of the entire City Council to override the recommendation of the Planning Commission. In order to override the recommendation of the Planning Commission it would take a vote of no less than 4 of the City Council to override it. The Planning Commission recommended that the property not be rezoned. Eric Farris: Can I disagree with that and state that it would take a majority of the City Council. City Attorney Sholar: A majority of the City Council but not just those here; it's a majority of the entire City Council. Eric Farris: That would indicate that abstention votes would go with the majority. I'm saying that 2 votes being carried today here one way or the other but with 2 abstentions. City Attorney Sholar: I disagree with you. It my belief that it takes a majority vote of the entire Council to override the recommendation of the Planning Commission. Eric Farris: Please note my ... (can't hear). Bonnie Enlow: What is our final finding? City Attorney Sholar: It would be my opinion that it takes a majority vote of the entire Council which would be 4 to override the Planning Commission. Bonnie Enlow: So it's not overridden then? City Attorney Sholar: It is not overridden. The vote that occurred here; somebody would have to sponsor this Ordinance which has not been sponsored. It's been read because it's read so you can discuss it. Nobody here promoted it; there was no second of this motion; so there's been no vote to override the Planning Commission's recommendation. Donna Burke: So we're concurring with the Planning & Zoning not to change the zoning? City Attorney Sholar: Concurring with the Planning & Zoning's recommendation; and that was to deny the zoning request. There was a motion made by Mrs. Burke, 2nd by Ms. Carter to concur with the Planning Commission's recommendation. Donna Burke: So, we did not have anything that then did concur with them because we did not have a majority; so does that mean the current zoning is what remains in place? City Attorney Sholar: Unless you override the Planning Commission by a motion to adopt the zoning change then the Planning Commission's recommendation carries the day. Do we need a motion from me because I would be in favor of changing the zoning? City Attorney Sholar: You get to make what ever motions you want to make. Gloria Taft: I will sponsor the Ordinance and make motion to pass the Ordinance as written. Donna Burke: You have to have information to fill in the blanks as to why. City Attorney Sholar: You would need to put in your findings of fact as to why you are overriding the Planning Commission's recommendation so that the body can consider it appropriately. Gloria Taft: Finding of facts page two of the Ordinance: the existing zoning classification

given to this property is inappropriate and requested zoning classification is more appropriate because of the following: per 1992 Planning & Zoning case 92Z-44 was approved by Planning & Zoning to R-3. October 18, 2017 Planning & Zoning map references lot as R-3; City Ordinance 017-248 references lot as R-3; March 2018 City Ordinance 018-255 map shows lot as R-3; Planning & Zoning 2018Z-05 states that the land use east is vacant and listed as R-3; the following major economic, physical and social changes have occurred in the area of the requested zoning change which were not anticipated in the adopted comprehensive plan which has substantially altered the basic character of the area around this requested zoning change as follows: the presentation of the expert shows the need for 1200 new townhomes. Mike Hibbard 2nd. No discussion. Vote was 2 in favor-2 against-2 abstained. City Attorney Sholar: There must be an affirmative vote by a majority of the entire City Council to override Planning & Zoning's recommendation. There was a motion to concur with the Planning & Zoning's recommendation and that motion was a tie 2-2. There was subsequently a motion to pass this Ordinance 018-272 which would rezone the property contrary to the Planning and Zoning's recommendation and that motion was 2-2. The Mayor does not have authority to vote on a tie in a zoning matter by Statute and Case Law; since that is not a majority vote of the entire City Council i.e. four people for, I am of the opinion that it does not override the recommendation of the Planning Commission and therefore their recommendation that this property not be rezoned carries the day.

Mayor Hockenbury introduced Chrystal Mingus with McKendree University who addressed the Council and Audience: I am the recruiter for McKendree University. We have been at Bullitt Central College and Career Center since 2015. We currently have adult classes in the evenings twice a week. You can complete a college course in one month. We have Bachelors, Masters, and Doctorate degrees. We have online classes and the online class format is eight weeks each. I just wanted to make you aware that we are in the City; you do have a University in the City. We have Business Administration, Human Resource Management, Management Marketing, we have nursing RN to BSN, Psychology, Criminal Justice, Entrepreneurship, I invite you to take a look!

City Attorney Sholar read Resolution 2018-30 making findings of fact regarding proposed closure of a portion of the public way known as Keystone Crossroad Drive. Donna Burke made motion to approve. Stacey Cline 2nd. Motion carried 6-0.

New Business:

Mayor Hockenbury asked Controller Stephanie Kellerman to the podium. Stephanie stated the only difference between WesBanco and Fifth Third was lower closing fees; they both had the same rate at 3.5%, I recommend WesBanco for award of the bid to fund a Firehouse and Fire Training Tower. Gloria Taft made motion to award the bid to Firth Third because there really is no difference between Fifth Third and WesBanco and Fifth Third is the only one to properly submit their bid on November 2nd. They are the only bid we received for the first publication. Mike Hibbard 2nd. Motion carried 4 in favor-2 against (SC,BE)-0 abstentions. Craig Kinslow with WesBanco was present at the meeting and disagreed that there was only one bid turned in on time. Bids were due on November 2nd; WesBanco hand delivered ours in on October 31st in a sealed envelope. Mayor Hockenbury asked if this information changed anyone's mind. Donna Burke stated it changed her mind. After discussion a motion was made by Donna Burke to set aside the vote just taken and passed. Bonnie Enlow 2nd. Vote 3 in favor-3 against-0 abstentions. Mayor Hockenbury broke the tie with a yes vote to set aside. Motion carried 4-3-0. Bonnie Enlow made motion to accept the WesBanco bid. Stacey Cline 2nd. Vote 3 in favor-3 against-0 abstentions. Mayor Hockenbury broke the tie with a yes vote. Motion carried 4-3-0.

Chief McCubbin addressed the Mayor and Council regarding SROs in schools. Chief Rock McCubbin: The SROs (Resource Officer program) we've been working with the school board for about a year. I've spoken with many of you individually. We've been working hard in trying to get more officers in the schools. Like any Police Department we cover the streets first. We have finally, with the new Superintendent and that Committee, have made an offer to us and I think it is very good for the City. They want to contract out one of our officers. As you know we do have an officer that the City fully funds that is the SRO for all 5 schools in the City. He tries to cover all 5. School Officials would like to have a second and possibly, in the future, a third. With the City funding one it gets down to bodies and money. What we have agreed with them on and ultimately this body's decision, it's basically a 70/30 split give or take because we're mid-year; this will be January so

middle of the Fiscal Year. The officer would be assigned to the high school. If this happens that officer will be on that campus, the high school. David Smith would move to cover only the elementary and middle. At this point the Sheriff's office provides the Deputy at the Alternative High School. As it stands right now if we can get that second SRO in there; it's a great benefit to us because basically we would be paying for a Police Officer 30%. At a \$60,000 salary that split would be the school board pays \$42,000; we pay \$18,000 for a Police Officer. We get that Police Officer in the summer The good news is as I start off, I'm not asking for any money we can actually absorb that. We've done well with our budget, we've been carrying a vacancy credit since back in the summer while we're trying to hire; retirement isn't what we thought it was going to be. The next Council I would have to address and see if we can continue this, but it is still at basically that 70/30 split. What I'm asking you to allow me to do/approve, since I'm not asking for money, I do need that 33rd person. It's not an Ordinance, it's approval of the Mayor and Council. We are authorized at 32; if you allow us the 33rd person that's the School Resource Officer that the school is paying 70% for. The Council had some questions that Chief McCubbin answered. Bonnie Enlow made motion to approve. Donna Burke 2nd. Motion carried 6-0.

City Attorney Sholar had first reading of Ordinance 018-274 an Ordinance closing a portion of the public way known as Keystone Crossroad Drive. A special meeting will be held Wednesday, November 28th at 6:30 p.m. for the second reading.

Daryl Lee, Planning & Zoning Appointee: No report.

Duane Price, Board of Adjustments Appointee: No report.

Council Comments:

Bonnie Enlow: Still getting complaints about a speeding car (black sports car) on Riverview Lane.

Stacey Cline: Got a complaint from a lady in The Pointe subdivision, when coming out of the subdivision going right the building lights on the side of the building across the road are blinding and you just can't see; I have pictures from Shannon Lane about ditches at the last two houses on the right near the school, there is really bad standing water back there from when they worked on Bullitt Lick Middle School and at the last house on that street to the right, the whole side of their house has water and it goes all the way in the front; I've had several complaints about speeding in the Mallard Lake subdivision, straight back to the left; they also have problems with stuff being stolen off porches. Mayor Hockenbury: Jim Eadens, Hillview Mayor, told me they got one or two speed/radar solar signs that can be put on poles. It's a big deterrent.

Donna Burke: Donna Burke made motion to appoint Bonnie Enlow the Traffic Study Committee Chair. Arthur is super busy, and he's being given more responsibility and she's already on the Traffic Committee and the issue previous was that it might not be finished prior to her term and it's going to be finished. It makes sense we're having more meetings to keep us abreast of what's going on. Stacey Cline 2nd. Motion carried 5-0-1 abstention. I recently participated in mock interviews at Bullitt Central.

Mike Hibbard Sr.: Received calls from Mr. Poynter with the Scouts regarding a scheduling situation at the Community Center. I also received a call from Grant Knox to see what we are going to do about the lights at the ball field. Mayor Hockenbury: We're planning three public meetings this spring to see what we're doing with the part and where everything will be laid out. Sometime back I asked about progress on the Police contract. Mayor Hockenbury: They haven't had a FOP President. I was contacted by Casey Clark last week and he would like to sit down and talk. He is the acting FOP President.

Gloria Taft: New City trucks still do not have emblems. Mayor Hockenbury: I've signed a PO to purchase them. Gloria: Do we have all our Sewer trucks in our possession and useable? Arthur: Yes. All are operational. Gloria: John and I have been working on the Code Enforcement Ordinance for months. Is Walt going to pass that to Tammy; I know it's being looked at and worked on, but I don't know where it is. City Attorney Sholar: If you give me a call Friday I'll let you know. Gloria: I talked with Todd from Republic about a mess left on a City street, garbage cans in the street, garbage bags left where they just left them when they fell out of cans.

He said he would look into that. There was another incident with an umbrella left in the middle of a street in the City; I got 3 more complaints about Republic putting the can too close to the mailbox and mail not being delivered. I think we had an email saying Republic would be at the next meeting. Mayor Hockenbury: They will be here December 10th. Gloria: I've had meetings with the Fire Department and they are requesting a couple Ordinances. Will those be on the Agenda next month? Mayor Hockenbury: Yes. Gloria: Donna and I participated in the mock interviews; we've got a lot of good kids coming up; very intelligent bright youth. It was a pleasure serving our school system in that manner.

Donna Burke made motion to adjourn. Bonnie Enlow 2nd. Motion carried 6-0. Meeting adjourned at 9:48 p.m.

Curtis Hockenbury, Mayor

Tammy Richmond, City Clerk