

**CITY OF SHEPHERDSVILLE  
REGULAR COUNCIL MEETING MINUTES  
MONDAY, April 27, 2015**

Pastor Randy Pace, Family Worship Center gave the invocation  
Pledge of Allegiance was recited  
Mayor Ellis called the meeting to order at 6:31 p.m.

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

Mayor Ellis asked for a motion to dispense with reading of the minutes from the 4/13/2015 regular meeting. Dana Bischoff James made motion to dispense with reading. Bernie Brown 2<sup>nd</sup>. Motion carried 4-0-2 absent.

Mayor Ellis asked for a motion to approve minutes as written from the 4/13/2015 regular meeting. Dana Bischoff James made motion to approve 4/13/2015 minutes as written. Bernie Brown 2<sup>nd</sup>. Motion carried 6-0-2 absent.

**Presentation: None**

**Old Business:**

Mayor Ellis asked Scott Fleming to give an update on the cost of improvements for 200 Frank E. Simon Avenue being used for Drug Court. Scott Fleming: We've received two of the bids we solicited; we are waiting on a third; I've spoken with Aaron at Drug Court so he knows what's going on. I will get back with you at the next meeting.

City Attorney Wantland had second reading of Ordinance 015-(number to be assigned) confirming annexation of unincorporated territory of 1.73 acres by written consent of all property owners. There was no public comment. Gloria Taft made motion to approve. Larry Hatfield 2<sup>nd</sup>. Motion carried 4-0-2 absent.

Larry Hatfield made motion to bring second reading of Ordinance 015-(number to be assigned) amending Ordinances 004-649, 011-079 and 014-169 imposing a license upon Insurance Companies doing business within the corporate boundaries of Shepherdsville off the table. Bernie Brown 2<sup>nd</sup>. Motion carried 4-0-2 absent. (Randy Hammond came in at this time.)

City Attorney Wantland had first reading of Ordinance 015-(number to be assigned) amending Ordinances 004-649, 011-079 and 014-169 imposing a license upon Insurance Companies doing business within the corporate boundaries of Shepherdsville. Mayor Ellis stated the second reading will be May 11<sup>th</sup>.

City Attorney Wantland had second reading of Ordinance 015-(number to be assigned) relating to a Telephone and Communications Franchise. There was no public comment. Larry Hatfield made motion to accept. Gloria Taft 2<sup>nd</sup>. Bernie Brown: What prompted this right now at this time? Mayor Ellis: It's expired. Motion carried 5-0-1 absent.

Further discussion on Bob Ryan's suggesting of paying \$500,000 on the KIA note. I'm going to ask Bob to come up. I do know that Steve Larimore has signed in to speak on this subject. I'll let you speak after Bob. Bob Ryan: Two weeks ago at the last Council meeting I brought before Council a proposal to use some of the excess funds that were coming in on the Beam money to retire a bond that the City has with Kentucky Infrastructure Authority. I started to get together some information at the request of Mr. Brown and a day or two later after that Mrs. Taft came in to the office and sat down and we were discussing this payment. There was some concern from Mr. Hatfield of using money that could be held in reserve for future construction; and Mrs. Taft said why don't we just split it in half. And all the sudden it just became so easy; at least to me, you have the money coming in right now – just to use an old trite phrase – make hay while the sun shines; while this money is coming in sitting in the bank earning absolutely nothing in interest and you've got this bond that we're paying 3-1/2% on that is due to retire in 2030; why not start with \$500,000, take out

\$150,000 for operating expense; and split whatever is left and half goes to a monthly retirement of principle and the bond and the other half goes in to again another restricted reserve fund and when I worked through this using the money; if you agree to it, back it up to February when the \$400,000 started coming in; a bond that is due to retire in 2030 is paid in full November of this year. At that same time you end up with possibly \$1.4 million in a reserve fund for construction. Larry Hatfield: But if the money was to slow down then we can stop. Bob Ryan: Exactly. You've got the money coming in now; it goes in to Peoples Bank, it's earning a whopping .005% and that's standard throughout all banks in the area; banks are paying nothing and you're paying 3% on a note that again there is an annual payment of principle and interest of approximately \$50,000, it will retire in 2030 and at least by the end of the year you can have it off your books if the money coming in from Beam goes down to what it had been prior to Beam processing the rye, then you just go back to your normal operation but in the meantime again you have built up some funds. Again, the funds that you build up in the reserve account are not going to earn a great deal of money; banks aren't paying a lot and you can't really go out and invest in anything that is going to pay anything because of the KRS restriction on how you can invest public funds. After talking with Gloria and putting these numbers together I wrote on a note to her "imaging the possibilities" paying off a \$1.2 million dollar debt by the end of the year. Bernie Brown: There's no risk involved. It's a no brainer in a way. The only thing I question whether the amount of money coming from the Beam line is going to remain as it has been the last couple of months. Bob Ryan: Again I say while it's coming in make use of your surplus rather than let it just sit in the bank and do nothing. Gloria Taft: The operating expenses are still the same. The operating revenue is being taken out before you look at putting monies away for future construction which we will have to have and you're also retiring old debt. The only thing that could happen is you put away a little less and you pay off a little less every month if the payments go down. Gloria Taft made motion to take \$150,000 of the monthly payment and split the overages in half; pay half to the KIA debt and put half in the reserve account for future large projects. Dana Bischoff James 2<sup>nd</sup>. Steve Larimore: I think Bob said it; it's a no brainer. I was just going to ask if we didn't understand that it was a no brainer. Mayor Ellis asked for any further discussion. There was none. Motion carried 5-0-1 absent.

#### **New Business:**

Anita Stump with the Bullitt County YMCA addressed the Council about a parade permit for 3<sup>rd</sup> Annual Bullitt Blast Dash 5K walk/run. Anita Stump: There are no changes; it's the same as it's been the last two years. Dana Bischoff James made motion to accept. Bernie Brown 2<sup>nd</sup>. Motion carried 5-0-1 absent.

Mayor Ellis asked Rob Campbell to address Council on the bids received on the Hwy 44 Sewer Improvement Project. Rob Campbell: Last Friday we accepted nine bids on the Highway 44 Sewer project. That's a strong showing; we're really happy with the number of bidders that we had. We have completed our evaluation of the bids; everybody should have a copy of the two page letter and the summary spreadsheet outlining the bids received. The low bidder was Bischoff Brothers Contracting and their bid was significantly low. It was \$297,542 with the engineer's estimate being just over \$500,000; a little over \$200,000 less than what we anticipated and so many times you get a bid of that nature you immediately start to question it. We did normal standard process, we put all the bids in to a bid tabulation and started identifying the high numbers from each bid that seems significantly high and the numbers from each bid that seemed significantly low and seen if we could identify where somebody could have gone wrong. We quickly ascertained that Bischoff Brothers missed two categories; they actually made what I would characterize as a mistake; something was wrong and it was obvious their pipe price barely covered the material cost. You're usually going to see at least 100% mark up on material cost for the pipe price so that was in our mind an error of some sort and I'll elaborate on that in a second. The second thing is we gave a specific maximum amount for mob and demob and they did not adhere to that and therefore submitted an unresponsive bid that needed to be thrown out based on that. We did hear from them; they did call and say there was a little more something straight forward that was the problem with their bid and that is they had a spreadsheet error before they hand wrote it on their bid and they didn't include their incidentals in the pipe price and that's why it was so low. So they had called and asked for the bid to be thrown out if possible. The way these bids are set up you all can take their bid bond if you all are basically injured financially through the process of them being the low bidder which didn't occur and so because this City is not out anything we didn't recommend that you take their bid bond we recommend that you just reject it. We did also review the

remaining bids and found the number two bidder, ConnHurst LLC out of northeast Kentucky near Flemingsburg, north of Morehead, they were the low bidder, their bid was responsive and did adhere to the requirements of the bid so we are recommending that their total bid of \$559,645.00 be accepted and we need Council action in order to move forward with signing of contracts and moving the project forward. Larry Hatfield: We do have them bonded. Rob Campbell: We will execute all that; that all comes next if you guys approve it then we will acquire their bonds and get a contract signed. Larry Hatfield: Who is going to be responsible for going over change orders if there are any? Rob Campbell: Right now I'm assuming everything that we would interact with them and then work through Scott to get anything approved. There would be a two phase thing and another item after we get through this I want to talk about inspection but obviously inspector and contractor would interact and we would approve or disapprove and then we would take that to Scott after we've reviewed it and made sure we agree with it or not. Bernie Brown: How about an inspector. Is there going to be an inspector there during the entire construction at all times? Rob Campbell: Yes. That is going to happen and Scott and I have been talking about that. That was going to be a second item I was going to bring up and just let you guys know that in very short order as soon as I finish talking about schedule with the contractor we're going to put an inspection contract in front of you all for consideration. A full time inspection is going to occur; if they are out there there will be an inspector out there and all that remains is the contract to put that inspector out there. It is not in place so you guys will have to review and approve that. Dana Bischoff James: Is this a company you've worked with in the past? Rob Campbell: I've never worked with them. No. I called their references and got really good references from some of our other consulting engineering companies that we are familiar with and I had a long talk with the head guy there and we feel like there is not any significant reason to now award them. Bernie Brown: When would they be able to start? Rob Campbell: I've asked them specifically; we don't have a contract yet so of course there is not a schedule in place but their actual start date we don't know yet; as soon as we start the process of signing contract we'll know that. From the day the notice to proceed is issued they have 180 days to finish. That was in the contract bid. Larry Hatfield: Are you opening up the tap on buy on when they start you think? Scott Fleming: Yes. Bernie Brown: Has the City Attorney reviewed the contract? City Attorney Wantland: There is no contract yet but I'll review it. Rob Campbell: That will be part of the process absolutely. City Attorney Wantland: What I need from the Council for our records we need a motion to reject the first bid as nonresponsive. Gloria Taft: When you check their references did you ask their references what was their percentage of completing on time? Rob Campbell: We weren't make aware of any problems with meeting schedule; the only problem that we were made aware of is that there was on a project in Winchester it was in backyards of a residential area that there was some complaints from the residents about the final restoration. They did come back and fix it. That was the only negative comment we got from anybody. We did not hear from anybody that they missed schedule or didn't resolve claims. Winchester said ultimately those claims were resolved. Dana Bischoff James: Which if any are from Shepherdsville? Rob Campbell: The highest bid was from Shepherdsville; Kelsey Construction. To be honest I'm not trying to beat anybody up but the high bids, the top two or three bids were contractors that really weren't going after the job. They were submitting a bid and I'll just leave it at that. They weren't going after the job or they wouldn't have bid at that amount. Flynn Brothers is a company that works down here frequently; their home office is in Louisville. Dana Bischoff James made motion to reject the first bid as nonresponsive. Randy Hammond 2<sup>nd</sup>. Motion carried 5-0-1 absent. Bernie Brown: What time frame, there will be something spelled out? Rob Campbell: 180 days is the timeframe. The State encroachment permit has specific hour restrictions along with the work hour restrictions that we've put on them in the contract. Bernie Brown: Will there be penalties if they don't finish on time? Rob Campbell: There is \$600 a day penalty for not meeting schedule. Larry Hatfield made motion to accept ConnHurst LLC as the contractor. Gloria Taft 2<sup>nd</sup>. Motion carried 5-0-1 absent. Rob Campbell: I'll make sure to get the inspection contract in front of you well ahead of the next meeting so you all can consider that and call me with any questions. City Attorney Wantland: For the record, thank you for your hard work in getting those easements.

City Attorney Wantland to have first reading of Ordinance 015-(number to be assigned) rezoning 1.73 acres more or less of C.W. and Shirley Shepherd. Mayor Ellis: Second reading and public comment will be on May 11<sup>th</sup>.

**Daryl Lee:** No report.

**Duane Price:** No report.

**Sign in Speakers:** None

**Department Reports:**

**Chief Layne Troutman:** I just want to make the Council aware back on April 3<sup>rd</sup> the Shepherdsville Fire Department was called by Okolona and we sent our Swift Water Rescue Team in; and while they were in Okolona we rescued 103 people from out of the flood waters in the Okolona area. We also had to rescue five people out of the Zoneton area; some off Brooks Hills Road and some off of Zoneton Road and we rescued five people here in the middle of Shepherdsville. I just wanted to make you all aware of how the Fire Department operates and how things are going. Our guys did an excellent job on April 3<sup>rd</sup>. We were also called in to assist Okolona at the GE Plant where we sent one engine company; they covered the entire 16 hour shift for them so their guys could take a break, they had been up 60 hours straight at that point in time. So we were kind of returning the favor from the fire we had here in Shepherdsville at Standard Publishing. They came out and helped us on that so we're just returning the favor to them. But I just wanted to make you all aware of things that are going on here; how good our guys and girls are doing. Thank you.

**Bob Ryan:** Just one thing I wanted to mention; I don't know if the Council had a chance to look at the March Statement for Sewer. Revenues for the Sewer just from Louisville Water Company are 50% in March of what they normally are. That being that Louisville Water Company said we're tired of holding deposits for customers in Shepherdsville so in March all the deposits that the water company was holding on sewer revenue was reimbursed to those that had deposits with the water company. The other thing in March there were five weeks; the fifth week those receipts were recorded the first week in April. That amounted to about \$84,000. So if you take the revenue from the water company that's on your statements for March add \$60,000 in deposits they paid out and the \$84,000 for the fifth week; that will put your March statements in line with the rest. I just wanted to bring up if you did look at that and see revenues really down in March there is a reason for it.

**Council Reports:**

**Larry Hatfield:** I think Bernie talked to Joe this morning; I'd like to create a position for the Council to have their own attorney if they need it. I'm not saying that we will; I'm not saying that we won't but I would like to have that drawn up and let the Council then vote on it or how ever we need to do it. Do you need a motion on that? City Attorney Wantland: If we are going to create a new position how do you want to fund it? Bernie Brown: I think that will be worked out. City Attorney Wantland: If anybody has any comments get a hold of me and we'll start working it for the next meeting. If we create a position we need to fund it. Bernie Brown: Well we can amend the budget. City Attorney Wantland: I understand that. Larry Hatfield: That's the way to do it isn't it; to create the position? Do I need a motion? City Attorney Wantland: You need to pass an Ordinance, I'll be happy to do that.

**Dana Bischoff James:** I just want to say thank you to the various departments working together and especially Public Works, I look forward to mosquito spraying.

**Bernie Brown:** A follow up to the issue of the rough railroad crossing on 44. I know you contacted the State, have you heard anything back from the gentleman you contacted? City Attorney Wantland: I've heard from him but not about this particular issue. Bernie Brown: No response. City Attorney Wantland: Not on this particular issue no. Bernie Brown: You know that crossing is getting worse it seems like by the week. It's in I think desperate need of some repair/fixing. What can we do? Would it help to get a letter sent on Shepherdsville letterhead? City Attorney Wantland: I think CSX is familiar with the issue; I think the Department of Transportation is familiar with it. The squeaky wheel gets the grease so I think everybody needs to be contracting District 5 and Mrs. Belcher if you know somebody at the Department of Transportation. Rob Campbell: Are you talking to Ron Gevenden? City Attorney Wantland: Yes. Rob Campbell: Ron is in the right of way acquisition. I would try Tom Wright; he's over maintenance for this District. He works out of District 5 on Westport Road. On those type issues I've had success with Tom. Bernie Brown: How about Mr. West? Rob Campbell: Jonathan West. He would probably put you in touch

with Tom but Jonathan is pretty far up the food chain. He would be a good person to talk to also. Bernie Brown: Could we get a letter sent to District 5 and point out that issue there and request that they make an inspection and if they want someone there I'll be glad to be there with them when they do. I think that would be a good idea. I'd appreciate it if that would be done. City Attorney Wantland: I'll be happy to. Bernie Brown: I talked to Scott Fleming about this. Scott have you had a chance to go by Raymond Road about that? I think the City back some time ago when they put that little driveway in there by the lift station on Raymond Road they didn't put a tile in there and that needs to be done and maybe the ditch cleaned out a little bit. It's causing some flooding problems. Scott Fleming: I have been by there. Mayor Ellis: I've gotten with Scott and Josh both and said it doesn't matter if it's a City right of way or a County right of way or State right of way we need to get it clean. We're going to have to go all the way down 44. Bernie Brown: I think that is a State Road but the City caused some of that problem. Mayor Scott Ellis: It doesn't make any difference it's a resident of the City of Shepherdsville.

**Gloria Taft:** I see that we are getting our traffic light at the end of Conestoga which is good news with the exception of Keystone Crossing in trying to get out at either end of Keystone Crossing you are at the mercy of no one letting you out unless you want to turn right and go way out of your way. What can we do to mark that street to stop drivers from blocking the intersection? Bernie Brown: Make it one way going the other way. Make them go around and come out on Conestoga Parkway. Gloria Taft: You can't get out because when we put that traffic light there at Conestoga it's going to lock traffic up and as it is now you get five or six cars and a semi you cannot exit out of Keystone Crossing and I don't think it's fair to expect people to turn right and come up here to the Walmart light and then try to pull a U turn to go back down to the next light to be able to turn left. Mayor Ellis: What are your thoughts Rob? Rob Campbell: This admittedly and I think I've had this conversation with several people; we've got a real mess on our hands and the immediate fix that's best for safety is make that a right only and eliminate the ability to get across and put an actual median that you would have to mount to turn left. It's dangerous to turn left there. Gloria Taft: Which direction are you referring to? Rob Campbell: If I'm pulling out of Wendy's to turn left to go to 44; that movement shouldn't be allowed. Gloria Taft: But once we get all this new traffic light at Conestoga you still can't turn left because there is no way out of this road at either end. Rob Campbell: I think these are all good points and I wouldn't want to argue for one thing or another right off the bat but it really deserves some study by guys that do traffic design every day but one thing for sure is it's not working right now and I think we would all agree on that. Gloria Taft: The quick fix would simply be to take that white line; put up a sign that says Do Not Block Intersection to stop the traffic so that at least one car could turn left from either end of that so that people can start getting out. Rob Campbell: I can tell you that I think ultimately even after the traffic designers looked at it you're going to end up with the circumstance where a U turn is involved somewhere. It's not a good situation and the U turn is the lease of the evils as far as safety is concerned. But it does need study. Roadways that have a lot of turning movements on them and some of them are signalized and some of them aren't some of the recent solutions on roads of similar size have included intention U turns designed for U turns. Dixie Highway in Hardin County, Radcliff is the same way. They have a similar problem; different spot but the solution they came up with, the guys that design it every day involved U turns so I think for the sake of the City Council and Mayor being convinced what should be done I think a study is absolutely warranted. You have to define the scope of all you want to study; I think me and Arthur have talked about this before there has been a need for traffic planning for quite some time in town and the scope of that study could be as simple as this specific area or a large area; they are both warranted because the way 44 and Adam Shepherd and Conestoga are set up; just those then schools and all you've got major traffic issues. I think at this point all anybody can agree on is that it's a mess and there needs to be something done about it and I think if you're going to do something about it I would recommend that you make sure that there is a public comment part of that process. If you take a quick action you can eliminate the opportunity for people who use it every day to weigh in on it. I think some process which I think you guys would be in favor of obviously to get public comment and professional comment on it is warranted.

**Bernie Brown:** I don't know what the speed limit is supposed to be on Salt Well Road but there is no speed limit sign up there and I have had a complaint about people driving fast; even the school buses. Mayor Scott Ellis asked Claude to get a 20 mph speed limit sign up.

Mayor Ellis: I do want to follow up with Arthur on an email conversation with Randy. We had a meeting with the folks from the Division of Water a couple weeks ago. We had the folks from FEMA on the phone with us at that time and they have shot us down on all of our appeals. I'll turn it over to Arthur at this time to give any insight. I don't mean to put you on the spot but this is something that definitely has to be addressed for the residents of this Community Arthur Jones: I totally agree. Just to give somewhat of a synopsis of that meeting for those of you that weren't able to attend or weren't able to attend based on not having too many Council members at a meeting. What we did we went through step by step each and every appeal that we had given to FEMA and every bit of that we went through a detailed discussion of why is this not okay, why are you not taking this information into consideration and it got down to the fact that they were going to hold their ground with they have executed the contract that they were given. Even though they had inadvertently delayed the process by over two years through an omission or error on their part they still continue to hold their ground and dig in deep that they had fulfilled their contract. Then after trying to explore an option of based on the delays that they created would there be an ability to take additional information and use that into the model; they again refused that and made it very clear that they were not going to be budging and not moving any whatsoever on their model that they had produced. Bernie Brown: Did you get an official response denying? Arthur Jones: We have yet to receive an official letter denying our appeals and comments. Bernie Brown: Would that start the 30 day clock or before is something else going to be? Arthur Jones: The next thing I anticipate from them is a letter formally rejecting all of our comments and appeals and telling us what the effective date would be of the maps. Bernie Brown: Okay so the clock hasn't started yet on the City taking any further requests. Arthur Jones: Correct. Larry Hatfield: Do we have any further requests? Arthur Jones: At this point we need to have that discussion; if we can create a panel for that review; a scientific panel that would be good for us. If they are going to hold strong on their they don't view it as an appeal but more of comments that we gave them then I don't know how that is going to fall out but I think it's in our best interest to at least explore that option to go for a scientific appeal because if we do a scientific appeal panel that is the last avenue we have before litigation. Bernie Brown: Who makes the decision on that? Arthur Jones: We would have to have that discussion with the Division of Water and see whether or not they merit that and if they don't object to it then we can present that to FEMA and whether or not they will be receptive to it I have yet to see. That doesn't say that we shouldn't go down that avenue and explore those options. I'm not saying we don't I'm just saying I'm not getting my hopes up based on the dreams that have been bashed in the last few months. Mayor Ellis: They were pretty rough on us in that phone call conversation we had with them. Bernie Brown: I think we should pursue every possible option. Arthur Jones: Very good. I'll get in contact with the Division of Water and see if we can't secure a scientific resolution panel and I'll let you know the results. Bernie Brown: Did they give any indication as to when that letter might be coming? Arthur Jones: I have not heard anything official. Mayor Ellis: They didn't give any indication whatsoever. Dana Bischoff James: Did they have any timeframes that they have to send this to us by before they can't deny them? Arthur Jones: That's a good question. I don't know the answer. Dana Bischoff James: Sounds like we need to find a way to fight fire with fire. Mayor Ellis: Do some homework on it and see what you can come up with and fire off some emails and see where we are at on it.

**City Attorney Wantland:** I have four matters four closed session; one is litigation with Ryder Trucking, I wanted to report to Council about the litigation up on Chapeze Lane with Miller, Mutual Aid discussion with Southeast Fire Protection District, and prior litigation which I sent an email two weeks ago concerning property on Old Ford Road.

Mayor Ellis asked for a motion to adjourn to Executive Session to discuss litigation. Randy Hammond made motion to adjourn to Executive Session. Bernie Brown 2<sup>nd</sup>. Motion carried 5-0-1 absent.

Gloria Taft made motion to return to Regular Session. Dana Bischoff James 2<sup>nd</sup>. Motion carried 5-0-1 absent. City Attorney Wantland: Report was made by Counsel; Council has given Counsel instructions on litigation concerning the Ryder Trucking Company which we are going to follow up tomorrow; I gave a report concerning litigation concerning George Miller and his property on Chapeze Lane with the City, that case has been resolved to the satisfaction of Mr. Miller and the City both; Mutual Aid was discussed with Southeast Fire Protection District, this Counsel and the Fire Chief have been given instructions by this Council on how to proceed; and there has been a report made concerning litigation on Old Ford Road

concerning an error in description in litigation back in 2007-2011 this Counsel has been instructed to make efforts to have it corrected.

Dana Bischoff James made motion to adjourn. Larry Hatfield 2<sup>nd</sup>. Motion carried 5-0-1 absent. Meeting adjourned at 7:51 p.m.

\_\_\_\_\_  
R. Scott Ellis III, Mayor

Attest: \_\_\_\_\_  
Tammy Richmond, City Clerk