

**CITY OF SHEPHERDSVILLE
REGULAR COUNCIL MEETING MINUTES
MONDAY, September 10, 2012**

Councilman Corky Miller gave the invocation
Pledge of Allegiance was recited
Mayor Ellis called the meeting to order at 6:31 p.m.

In attendance were Council members Bernie Brown, Don Cundiff, Rob Flaherty, Larry Hatfield, Corky Miller and Faith Portman.

Mayor Ellis asked for a motion to dispense with the reading of the minutes from the 8/27/2012 regular meeting. Don Cundiff made motion to dispense with reading. Corky Miller 2nd. Motion carried 6-0.

Mayor Ellis asked for a motion to approve minutes from 8/27/2012 regular meeting. Faith Portman made motion to approve 8/27/12 regular meeting minutes. Corky Miller 2nd. Motion carried 6-0.

Old Business:

City Attorney Wantland: We've made an additional change from the copy you have and I want to speak to that and then make the reading. Councilman Flaherty contacted me earlier today, he wished to change in paragraph seven that the designation of a person failing to pay and to maintain the garbage service it be permissive and the word would be "may" rather than "shall". That's in the first paragraph under section seven. It's just the idea that it doesn't require criminal sanctions to be filed immediately upon the failure to pay; that there is some discretion on behalf of the City and the Clerk and the Code Enforcement Officer.

Robert Flaherty: Part of my thought I just don't know how good a policy it is that we adopt an Ordinance requiring the City to file criminal charges against our residents for not paying their garbage bill. So I suggested that we change that language from "shall" to "may"; that way it is an option should it be determined so; but just like most other type of law enforcement issues there is some discretion for the enforcement agency on how to deal with that. You never know what the specific circumstances might be or what hardships people might be dealing with and our Code Enforcement Officer and whomever else the Mayor may designate can look at those on a case by case basis. But at least our hands aren't tied. We have the option of pursuing it if we feel like it needs to be done. But it's not requiring us, and again, we've had service providers who make arguments that we are not enforcing our Ordinance because of that language being "shall" in the past. So by changing that it provides us with more discretion and hopefully will prevent conflicts with service providers in the future. I think there's already language that has been inserted that was agreed upon clarifying that service providers maintain a civil claim if they so choose. So they have an option of pursuing it as well.

Larry Hatfield: What are some of the other cities doing that don't have water? I still don't see in here how we're going to collect money other than going to court.

City Attorney Wantland: We're going to go to court. That's what the other cities do as well.

Larry Hatfield: File a lien on the property?

City Attorney Wantland: They either file a lien; the way this is being prepared and drafted is that we'll have the ability to cite the people criminally, have them appear in court. What I think is going to understand is the Judge will look at them; pay your garbage bill rather than pay court costs. Court costs are running about \$160 a filing and hopefully the people will realize that they have to maintain that garbage bill.

Larry Hatfield: So we don't need anything in the Ordinance where it says we will file a lien on the property owner?

City Attorney Wantland: This is directed to the occupier of the property and/or owner.

Robert Flaherty: It provides for both criminal and civil. So it can be pursued a couple different ways but obviously you have the benefit of pursuing it criminally it doesn't cost the City any filing fees you go through your law enforcement or the County Attorney's office; whereas if we file a civil suit we have filing costs and everything else associated with it. So it ends up actually costing more than we probably recover.

Larry Hatfield: The only reason I'm bringing it up is I don't think it's right that we have 75% of the people

supporting 25% of the people that don't pay. That's why if you all are comfortable that this has enough teeth in it to where we can lien, and not renters, don't care about the renters, whoever owns that piece of real estate; if we have to pay the bill we can lien the property. So you're telling me we can do that. City Attorney Wantland: There is a provision that you can file a lien but the way that this is being drafted and presented I think it has more teeth because it will be facilitating the City Code Enforcement officer to file a criminal citation on the person not providing for the garbage pickup service. I think the collections for the franchise fee will be better. The non-payments will be less. Larry Hatfield: If the company, whoever gets the bid, is going to do that, they are going to add money to the rate payers to cover their expenses. That's what I'm concerned with. Faith Portman: I talked with Tammy this morning about maybe we need to look at too, the property tax bill. Robert Flaherty: That kind of changes your whole framework of what you're doing. City Attorney Wantland: And it gets you into areas where once you start talking about providing services you're not talking about the tax. Ad valorem tax is very specific how it needs to be done and how it needs to be presented and you start getting away from that tax the way it is you really run into some situations. I'd love to put it on the tax bill. But I don't think it's going to be permissible. City Attorney had second reading of Ordinance 012-(number to be assigned) relating to mandatory pickup of garbage within the City of Shepherdsville and providing for payment therefore and penalties for failure to comply. Bernie Brown: Does this Ordinance then replace the previous Ordinance? City Attorney Wantland: It will be the new Ordinance. There are a lot of the same terms but it will replace. Bernie Brown: If this is passed is the old Ordinance repealed, abolished, forgotten about, thrown out, thrown away. City Attorney Wantland: Yes. Larry Hatfield: We are going to give them an option to do recycling, not mandatory recycling. City Attorney Wantland: Right. The advantage of this particular Ordinance over the old Ordinance for the franchisee is that the Code Enforcement Officer has the ability to cite the people for the violation. In other words, issue the citation and get them into Court. The Judges are very favorable asking people for remedial behavior, in other words, correct the problem rather than pay the fine, costs, whatever. I think that's what they are going to do here and I think people will be much more inclined to pay the garbage service provider rather than pay the State of Kentucky \$160 worth of Court costs. Faith Portman: The people who rent. I know a lot of people own property and the renter didn't pay for trash. The bill built up for months and months and the owner had to pay it. Is there any way that they can send the bill to the homeowner so the homeowner knows it's getting paid? I thought it should be whoever owns the house should get the bill. Mayor Ellis: If I was the homeowner I would have the bill sent to me and then put it on the rent. Robert Flaherty: When you start the service you can tell them where you want the billing address to be. That's between the owner of the property and the service provider to make sure they have the bill sent to the right place. Faith Portman made motion to accept. Robert Flaherty 2nd. Motion carried 6-0. City Attorney Wantland: For the record so we can publish this by summary do we have a motion for that? Don Cundiff made motion to publish by Summary. Faith Portman 2nd. Motion carried 6-0.

Rob Campbell: Joe and I talked beforehand tonight about the two items he had mentioned at the last Council meeting that he wanted added and while we've not put the final ink to that we've definitely agreed in principle to those two edits. Other than that during the two week period I haven't had any other calls about the contract. City Attorney Wantland: Mr. Campbell will you address these? Item 5.1.3 and Item 8.6. That's where it indicates that the City reserves the right to stop all work on the contract at any time with or without cause and then the termination talks about 30 days. Can you explain that to the Council? Rob Campbell: I think we are going to just ax the 30 days and just make it, per our conversation, eliminate the 30 days. The City has the right then to end the contract with or without cause at any time. City Attorney Wantland: Item 8.2 reuse of documents. I've indicated to Mr. Campbell the City is paying for the documents, I just want to put in here that all the documents furnished by the Engineer pursuant to this Agreement are instruments who will serve as with respect to the project. These items become property of the City. Rob Campbell: We have no issue with that. City Attorney Wantland: I want to make that clear what the City's paying for is the City's property and if the Engineer makes an error the City as a right to rely on the error. Rob Campbell: I understand. And we agree. I think the only thing that clause is trying to do is prevent reuse of the documents

for another project and then somebody says there is an error. I think that's where it was trying to go. Larry Hatfield made motion to approve with discussed changes. Robert Flaherty 2nd. Motion carried 6-0.

Larry Hatfield: I'm very unclear on how we're doing this transaction on this \$3.5 million. Who is signing off on these documents when this work is done on the interceptor? Rob Campbell: Are you talking about the certification of the plans or the payment? Larry Hatfield: I'm talking about when we're out there in the field and we've laid 150' foot and they are billing us \$200,000. Are we getting an invoice here at City Hall? Who is Okaying that it's done, finalized, finished and that it's okay to pay them. Rob Campbell: The process right now is, and it does need some clarification, Bobby Powell, the inspector on the project will inspect the project and he'll certify the units that are being requested on the pay application. After he's reviewed that to determine that they are correct, he gives it to me and I review it to verify that I agree that Bobby is correct and then after Bobby and I have reviewed it we turn it back over to the City for approval and payment based on the fact that Bobby and I have both reviewed and agreed on it. In the past Angi would have carried the torch from there and filled out a requisition form for payment to come from that GO BAN bond. She did one August 3rd, that was the last one she did do since that time I don't guess there have been any payments on that project. Larry Hatfield: Me and Leanne were talking earlier; has there or have there not been any payments? City Controller Leanne Goetzinger: I think there have been some to Qk4. Rob Campbell: That came out of the GO BAN? Leanne Goetzinger: That came out of the Sewer Fund that needs to be reimbursed. Rob Campbell: Okay, so for them to be reimbursed from the GO BAN I think the City has to officially name somebody to sign off on that because Angi use to do that. I think now it's just the Mayor and I think I saw the form and it shows both Angi and you both signed them. Unless that was done at the last Council meeting officially. Mayor Ellis stated he was handing it off to Leanne to do that. Larry Hatfield: My question is why are we transferring funds out of our Sewer Fund, why are we not paying them directly out of the \$3.5 million. Mayor Ellis: We have been doing that several times with all this. When the bills come in pay them out of the Sewer Fund and then do a draw to immediately put back in the Sewer Fund. You get one from Qk4 for \$20,000 and you may get one from someone else for \$20,000 and instead of keep going in and taking out \$20,000 at a time, pay the bill and do a \$130,000 draw down and reimburse the Sewer Account totally. Rob Campbell: I know August 3rd I looked at that with Angi today, and she showed me there was Kelsey, TSI Paving, and another contractor ant Qk4. There was four items listed and then totaled up. I didn't know, I guess because Angi was a part of it, I knew there was the requisition form with two signatures. Larry Hatfield: I was always under the impression that it was coming out of the \$3.5 million; that it wasn't coming out of the Sewer fund. Mayor Ellis: Qk4 as far as I know is the only one coming out of the Sewer fund. TSI and those folks were paid out; so when we would do a request it was for the full amounts. Leanne: They haven't been. She was having trouble with the wires or something. City Clerk Richmond: The wires weren't going through to the vendors but it was coming in to us so we were writing the checks out to the vendors and then drawing the money back down to the Sewer department. Larry Hatfield: So you're tracking the \$3.5 coming in and going out and that is just from the interceptor project. Leanne: Correct. Rob Campbell: I have a question, so when I finish a pay request review I should give it to Leanne? We're out of the requisition form signing. Leanne: What Angi was doing was giving us the monthly draw down with all the amounts. Rob Campbell: I can do that. The Mayor and Angi were the only two people to sign off. Larry Hatfield: That's the problem I have is unless the Engineer or somebody from the Engineering company is signing off on that we don't know if that work has been completed. That won't work. City Hall can do it however they want to do it but I just know that you're dealing with a lot of ins and outs out there in the field and if it is not tracked back to this area it's not going to be right. Rob Campbell: Bobby and I both sign the pay request form from the contractor. What I was envisioning now is that I would take that pay request form after we review it and hand it into Leanne and she would total them up and do the requisition. Leanne: If I'm on there I can do that. Larry Hatfield: Do we need her signing off on the requisition? Leanne: Yes we do. Rob Campbell: I think that may require some action by you guys because I'm pretty sure it was a Council action. Bernie Brown: Isn't there going to have to be a Resolution too that makes that change? Mayor Ellis: If they require one, yes. I'd say we probably should do one. Larry Hatfield: Does anybody know where we stand

percentage-wise on finishing this project? I know we haven't bid Line F yet. Rob Campbell: Dollars percentage. I didn't come prepared with that but I can give the Council that tomorrow.

New Business:

City Attorney Wantland had first reading of Ordinance 012-116 establishing the real property ad valorem taxes and providing assessment, equalization and collection pursuant to the provisions of KRS 92.280, ET. Seq. Mayor Ellis: The Sheriff's Department is asking for this to be rushed to them so I would like to have a Special Meeting this Wednesday at 5:00 for a second reading and vote so we can get this to the Sheriff's Department so they can get tax bills done.

City Attorney Wantland had first reading of Ordinance 012-115 levying personal property, and property of public service companies ad valorem taxes and providing assessment, equalization and collection pursuant to the provisions of KRS 92.280, ET. Seq.

Daryl Lee: Nothing to report.

Duane Price: Nothing to report.

Sign in Speakers:

Lois Reading: What I'm here to address the Council in regard to the water fill station that was closed. As it is now when you all closed that fill station you told the public that we could get an irrigation meter. That's not true. Upon calling them I find out that I to have a sprinkler system. I've got four water meters right now that I pay a sewer rate on. They are legitimate because I have bathrooms in two buildings, my home and of course the plant charges. All I want to do is to get a meter that does not go in to the sewer plant because I want to fill tanks with it. The only location that I've got right now is out on 245 which that's not working out. I also sent an email to Faith and a couple others asking to approach the Council about using the facilities that was there at the old City Hall. I was turned down because I understand that you think it's a liability to the City. Is that correct? Mayor Ellis: Actually we spoke with some folks from Louisville Water and they said we legally cannot do that. Cannot allow you to put anything on that and run personally because it is on government property. That came strictly from Louisville Water. Lois Reading: I don't understand why I can't get a meter down there at our work facility. I've got an empty warehouse that I can't get a meter on. Mayor Ellis: That I can't answer, that has to come from Louisville Water. I did have somebody come in today that has a garage in the City that has no toilets, one outside spicket and he's being charged a minimum monthly sewer bill and he has nothing that goes into the sewer. Lois Reading: Did Louisville Water take over the fill station here in Shepherdsville. I don't understand why they wouldn't take it over because there are a lot of water haulers. Mayor Ellis: I have no idea why they didn't want to take it over. Lois Reading: Tammy has put in an email for me which we haven't had a response back but I don't understand why. There's got to be an answer to this. It's actually making a hardship not only on the businesses but it's making a hardship on people that haul water to their homes. I just feel like Shepherdsville ought to have some type of facility local that they can use. I can get an irrigation meter if I have a sprinkler system which this building that I wanted to put the water facility at, there's nothing there; we use it to store equipment. There's no use to have a sprinkler system there, nothing can catch on fire. Can I apply for a meter on Frank Simon? Mayor Ellis: We'll talk with Louisville Water tomorrow and we'll see what we can do.

Department Reports:

Leanne Goetzinger: I'm wondering about closing down the Republic Bank account and putting those funds in the Peoples Sewer account. It's costing us to keep that account open and it's not being used for anything. Faith Portman made motion to close Republic Bank sewer account without affecting the loan payment. Don Cundiff 2nd. Don Cundiff: Do we have a loan payment with them? City Clerk Richmond: It doesn't come out of the account. We've got books through there. Don Cundiff: Sometimes banks have a requirement that you

have to have an account or they jack your rate up or something. You might want to double check on that before we do that. City Clerk Richmond stated she would check with the bank to see if it would affect the rate if we close that account. Vote was taken and passed 6-0.

Council Reports:

Larry Hatfield: Chuck have we got 36” pipe cleaned from the railroad to the plant? Chuck Keith: Under the bore I don’t think is cleaned yet but everything else is. Larry Hatfield: Is that what you all agreed to do? Chuck Keith: Yes. Scott Fleming: We actually have a meeting tomorrow with Kelsey and three contractors to get bids from them. Larry Hatfield: I asked for how much money we’ve spent on Civil Service for the last two years. I didn’t get anything. Leanne: I don’t think I got that. Larry Hatfield: I’ll resend it.

Corky Miller: I’ve got the Ordinance that was adopted in 2006 pertaining to building permits for new subdivisions. Joe you signed off on this; evidently it was never put into effect and I’d like for you to take this and look it over and see if this is when we talk about surety bonds, because it does mention that in here. Getting that started and one of the things I think we need to think about is a City Engineer because a City Engineer is supposed to look over this and take care of this situation which we never did have. Another reason for a City Engineer is we’re behind on mapping. We’re losing money from the State because we don’t have proper maps in Frankfort that we should be receiving money on. That’s one of the things we’re going to have to have an Engineer to take on other than sewer pretty soon because we’re losing money for that very reason.

Don Cundiff: Where do we stand with the drainage issue with Shawnee Acres? Mayor Ellis: I now have Scott that I need to go out there and take a look at it and get some ideas on it and we need to go out with Rob. I know Angi was looking at it at one time. It needs to be looked at to do it now. And I’d say that now is the best time to do it; unfortunately it’s going to be in the area of \$125,000. Rob Campbell: I think we can do something for less. Let’s get together sometime this week and discuss. Don Cundiff: That is a drainage problem we need to address and we said we were going to try to do at least little by little so I’d like to see us move ahead with that.

Faith Portman made motion to adjourn to Executive Session to discuss personnel and property acquisition and I would like to bring Rob Campbell back to get some guidance. Larry Hatfield 2nd.

Don Cundiff made motion to return to Regular Session. Bernie Brown 2nd. Motion carried 6-0. City Attorney Wantland: The Mayor has been given some instructions with the City Engineer on how to proceed on acquisition of some real property. A personnel matter was discussed. Resolution was had and the Mayor has taken action on that.

Larry Hatfield made motion to adjourn. Faith Portman 2nd. Motion carried 6-0. Meeting adjourned at 8:04 p.m.

R. Scott Ellis III, Mayor

Attest: _____
Tammy Richmond, City Clerk