

**CITY OF SHEPHERDSVILLE
CITY COUNCIL SPECIAL MEETING MINUTES
TUESDAY, September 12, 2017**

Arthur Jones delivered 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 called the meeting to order at 6:30 p.m. and announced this Special Meeting was called to have the second reading of Ordinance 017-244 establishing purchasing limits for the City of Shepherdsville.

City Attorney Walt Sholar had second reading of Ordinance 017-244 establishing purchasing limits for the City of Shepherdsville. (Ordinance sponsored by Mike Hibbard) Gloria Taft made motion to accept. Mike Hibbard 2nd.

Discussion followed: **Stacey Cline:** I have gotten a couple calls from Department Heads; the ones I didn't get calls from I called myself. I have some concerns. If one of the Departments has a problem where something happens at 12:30 on a Friday and they cannot get in touch with anybody and they have to call the vendor and can only get the piece of equipment they need by 2:00 in order to get it the next day. That is going to put them in a bind. I understand why we're doing it but when I think about the emergency issue for each department I'm concerned about that, we cannot legally vote on it if a sewer pump goes down at 3:00 am do you want them calling us? **Mike Hibbard:** I believe either they say they have replacement pumps or if they have none that would qualify as an emergency and the Mayor could have repaired or purchase and notify us at a later date. **Gloria Taft:** If they are worried about a particular device going down; the pieces that are this expensive don't go down that often and if you know or you can foresee that the normal life time is two years for a particular expensive part why wouldn't we after a year say I know this part is going to break why wouldn't you order one and have it sitting on a shelf somewhere secure that way when it does go down we don't have to worry about paying overnight charges and special Saturday delivery fees because we've planned ahead. **Stacey Cline:** Why would you want to inflate that? We're trying to cut the spending. I'm just trying to play devil's advocate so we can talk it over amongst each other. **Donna Burke:** Or in the second year that you know you're likely to need it the next year you factor it into your budget and you know you're going to buy it. **Bonnie Enlow:** I want to do a comparison with my office. I'm in charge of all orders to make sure we have everything. I order ink for our printers and we go through a lot but the main company, State Farm, decides when we're going to have new printers or computers or anything; so, if I buy in advance expecting to run out of ink and they send me a new printer I'm stuck with ink that I can't get rid of. Secondly, if the same for Sewer, some of that stuff changes especially for Fire, their stuff changes so they can't buy out too far in advance or we're going to get stuck with stuff that we're going to have to surplus. I get the reason why you want to do the \$5000; I don't have a problem with the reason it's just I think it's not fair to our department heads that we're going to squeeze their necks for the reason that we're squeezing someone else's neck. **Donna Burke:** Could we amend this to add on after prior to purchase order being issued with the exception of those expenditures necessary for urgent repairs. **Stacey Cline:** Walt, how do you feel about this? City Attorney Sholar: I don't think that the City Council can limit the Mayor's day to day week to week month to month ability to expend money on behalf of the City. They can't limit day to day week to week month to month his ability to purchase things. Here's why: KRS 83A.130 sets out powers and duties of the Mayor and Council in the Mayor/Council plan of government. If you look at 83A section two: each City under this section shall be governed by an elected executive who shall be called Mayor and by elected legislative body which will be call City Council. Such other officers and employees as may be provided for by Statute or City Ordinance. The executive authority of the City shall be vested in and exercised by the Mayor. The Mayor shall enforce the Mayor/Council plan, City Ordinances, Orders and all applicable statutes. He shall supervise all departments of City government and conduct of all City

employees, City officers and employees under his jurisdiction and shall require each department to make reports to him required by Ordinance or as he deems desirable. The Mayor shall maintain liaison with related units of local government respecting interlocal contracting and joint activities. The Mayor shall report to the Council and to the public on condition and needs of the City government as he finds appropriate or is required by Ordinance but not less than annually. He shall make any recommendation for actions by the Council that he finds in the public interest. Subject to disapproval of the Council the Mayor shall promulgate procedures to ensure orderly administration of the functions of City government in compliance with Statute or Ordinance. Upon promulgation or upon revision of the procedures copies shall be filed with the persons responsible for maintaining City records as provided under KRS 83A.060. The Mayor shall preside at meetings of the Council. The Council may set by Ordinance the manner in which one of its number may be elected to preside at the meetings of the Council in place of the Mayor. The Mayor may participate in Council proceedings but shall not have a vote except that he may cast the deciding vote in case of a tie. All Ordinances adopted by the Council shall be submitted to the Mayor who shall within ten days after submission either approve the Ordinance by affixing his signature or disapprove it by returning it to the Council together with a statement with his objections. No Ordinance shall take effect without the Mayor's approval unless he fails to return it to the legislative body within ten days after receiving it or unless the Council votes to override the Mayor's veto. Upon reconsideration of the Ordinance not later than the second regular meeting following its return by the affirmative vote of one more than a majority of the membership. Any delegation of the Mayor's powers, duties or responsibilities to subordinate officers and employees in any expression of his official authority to fulfill executive functions shall be made by Executive Order. Executive Order shall be sequentially numbered by year and shall be kept in a permanent file. This is the one that causes me significant concern: All bonds, notes, contracts and written obligations of the City shall be made and executed by the Mayor or his agent designated by Executive Order. The Mayor shall be the appointing authority with power to appoint and remove all City employees including Police Officers etc. etc. In (11) it sets out the legislative authority shall be vested in and exercised by the elected Council of the City. The Council shall not perform any executive functions except those functions assigned to it by Statute. Regular meetings of the Council shall be held at least once each month at such time and place as fixed by Ordinance. Special meetings of the Council may be called by the Mayor or upon written request of the majority of the Council. In the call, the Mayor or Council shall designate the purpose, time and place of the Special meeting etc. etc. The Council shall by Ordinance establish all appointed offices and duties and responsibilities of those offices. Council shall by Ordinance provide for sufficient revenue to operate City government and shall appropriate the funds of the City in a budget which shall provide for the orderly management of City resources. The Council shall have the right to investigate all activities of City government. The Council may require any City officer or employee to prepare and submit to it sworn statements regarding his performance of his official duties. Any statements required by the Council to be submitted or any investigation undertaken by the Council any office, department or agency under the jurisdiction of the Mayor involved shall not be submitted or undertaken unless and until written notice of the Council's action is given to the Mayor. The Mayor shall have the right to review any statement before submission to the Council and to appear personally or through his designee on behalf of any department, office or agency in the course of any investigation. Again, 83A.130 (8) sets out that the Mayor is the only authority in the City to effectuate all bonds, notes, contracts and written obligations of the City shall be made and executed by the Mayor or his agent designated by Executive Order. On page 461 or the book written by KLC it talks about budget administration in Paragraph E, it sets out once adopted the administration of the budget is the responsibility of the executive authority in cities with the Mayor/Council plan. Mayor/Council or Mayor/Alderman or Commission form of government. It is the responsibility of City Manager in cities with the Manager form of government. The executive authority and City Manager are required to submit operating statements to the legislative body which must include budgetary comparisons of each governmental fund set forth in the budget. These operating statements must be submitted not less than once every three months in each fiscal year (KRS 91A.030 (11)). The operating statements required by 91A.030 are different from the official financial statements required for cities by KRS 424.220 and do not have to meet the detailed statutory requirements for official City financial statements. The executive authority is authorized to expend funds in accordance with the adopted budget. The question frequently arises whether the Mayor in a Mayor/Council City may expend funds without further authorization from the legislative body. As long as funds are expended in accordance with the budget Ordinance no additional authorization is needed. It is not

necessary for the City Council to approve each expenditure as long as the expenditure does not exceed the amount appropriated for that purpose in the budget. 92-OMD-1688 states however it would be necessary for the City Council to approve by amending the budget ordinance the transfer of funds from one budgetary fund to another or expenditures from any fund that exceeds the amount appropriated to that fund. I'm of the opinion that the City Council cannot impose upon the Executive Authority of the City an additional budgetary limit of what he can purchase so long as it is in accordance with the budget that the City Council had adopted. **Donna Burke:** I agree because that is exactly what they told us in our budget training from legal counsel. I feel what we had is an issue of not being a line item budget last year is and has been fixed by making a line item budget this year. So, the reasoning behind doing this while I understand it seems to me it would have been fixed by the fact that we're restricted now by line item amounts. **Bonnie Enlow:** I agree that is the whole purpose of the line item budget was to restrict it and you understand now what our problem was with what happened. City Attorney Sholar: You may recall a week or two ago when I urged Bob to submit a regular statement or work something out where he is submitting what was spent, how it relates to the budget. Statute 91A.030 requires every three months the Mayor report to the Council what's been spent if it's not being done more often than that which is probably a good idea. **Mayor Hockenbury:** On the matter of going to one bank account I told Bob, instead of putting you in the spot of picking, he is going to each bank and solicit a bid/quote. **Gloria Taft:** We just want to limit massive purchases that we don't know about. **Donna Burke:** Which is what we do with our line item budget. **Mike Hibbard:** We watched Chief Troutman and Chief Puckett come before the Council and request to purchase from their mitigation funds, tow lot funds to purchase police vehicles and it was authorized. This did not happen. A grand total in just one department of about \$133,000 was spent. That is what we feel went against that whole procedure. No one was notified and I would love to sit here and say I promise not to do that again but that doesn't always work. I'm not talking about just current administration, there has been evidence of past and there may be future. That's what the intent of all this was. If this is not the vehicle to accomplish that I would appreciate suggestions on what would be. **Mayor Hockenbury:** There is a line item now and there are no cars in there. I just want to tell you I apologize that it was done that way. I wouldn't dare do anything like that again. **Lisa Carter:** The problem I have we sat here for ten hours in May and specifically asked the question do you need any police cars and the answer was straight out no. That's where the problem comes in. Fire Chief Layne Troutman: This all happened over something that in the budget was not set up the way it is now. I understand you don't want anything like that to happen again; I guess the idea that you want the \$5000 cap on it, why not make it where anything over \$20,000 has to be either bid out or bought on a state contract which doesn't have to be bid out. Walt just said anything over \$20,000 regardless of whether it has to be bid out or not have the department head come before you all and ask for it. City Attorney Sholar: I don't think they can do that. I'm of the opinion that violates KRS 83A.030(8). Layne Troutman: We have to bid out most things anyway. And we would have to come to them to accept the bid. **City Attorney Sholar:** I believe they can pass an Ordinance that requires anything above \$20,000 has to be bid. **Mike Hibbard:** That wasn't the issue how much we paid for each one, it was the fact that we felt according to what you read Walt, was the procurement was that anything of an expenditure in excess of \$20,000 had to be approved. **City Attorney Sholar:** It does not. **Mike Hibbard:** So, in our current budget Public Works has \$447,000 that can be spent tomorrow. **City Attorney Sholar:** If your budget was adopted by this Council and said we're putting \$447,000 in the Public Works Department and they want to go out next week and buy 15 dump trucks I think they can go buy them. **Donna Burke:** That was our bigger urgency was to get the new amended budget done. **Gloria Taft:** We were given a list of things that Public Works wanted to do but when the budget was published that was not broke down in the line items. **City Attorney Sholar:** The best suggestion I can give you the Mayor is supposed to submit a budget to the Council for consideration. He should put together his plan of what he thinks with the advice of the department heads what he thinks they are going to need. If they think they will need 15 cars or 15 dump trucks they should be something in there for you all to look at and approve or disapprove a line item for 15 dump trucks. That is a legal way for the Council to control what the expenditures of the City are. **Mike Hibbard:** It wasn't just spending last year apparently for the first time in a longtime revenue did not meet expectations and the expenditures continued. Even though there is an amount in a line item for an expense that's contingent upon receiving those assets and when you don't I know of at least one individual within the chain of this administration that should know when that point is reached that we no longer have new revenue if we are going to continue spending it has to be with the Council's approval of moving money from sources into the general fund to use

for this. We were not informed of that by anyone. It's frustrating somewhat other than we should give scouts honor this won't happen again; it wasn't that the departments did not exceed their individual budgets they ran out of total revenue before they got to that point. Then it continued and it continued with items that had someone brought to our attention the first things we would have said is what do you want to buy that we don't feel you need right now. That didn't happen so a good portion of the expenditure in addition to the revenue was on items that probably did not need to be purchased at that point and could have carried over into the new budget which was a week or ten days later. That is our concern and that is what we want to address in whatever legal or acceptable manner that we can. **City Attorney Sholar:** I'm not aware of a way to do it other than allow in the budget. Here is another thing that apparently didn't happen by law the executive authority of the City is required no less than every three months to inform the City Council of expenditures and how it relates to the budget. When the City Council gets that at the end of the third quarter of the fiscal year and they see we don't have enough money in here to be doing that that is a good time to amend the budget. **Mike Hibbard:** The monthly reports we get is sufficient to meet that requirement. Completely through the month of May it showed no deficit or overspending anywhere. It happened in June and obviously we did not get our reports and no one said anything and we did not get factual evidence that it happened until July. **City Attorney Sholar:** So, this reduced revenue that I heard spoken of only happened in one month? **Mike Hibbard:** I don't think so. I can show you the numbers, spending did not exceed revenue until the month of June. The year was over it was all said and done. We have spoken with the Mayor, Bob, and Chief McCubbin and we do not get the impression that anyone felt there was anything wrong with that. I don't think we should be operating under that mindset. **City Attorney Sholar:** My many years' experience is with the County and the system of County government is significantly different in that the entire body is the executive authority. However, going back to that fiscal court would be made aware by the county treasurer with regularity. County officials were informed with pretty significant regularity on no less than a quarterly basis we're down, up, whatever so I don't understand how whatever the budget shortfall was that it only occurred in the month of June. If there was money that didn't come in the month of January and the Council wasn't informed of in the month of February I would strongly urge the Mayor to correct that and/or the Council set up something with regard to the manner of the reporting that you are to receive. The Statute says it has to relate to what has been spent and how it relates to the budget. I think it also relates as to what revenue has come in. **Donna Burke:** The budget itself because it had not been amended when the tax rate was affected probably did not show that they exceeded the budget according to the numbers. The problem you would have is by Council that was being relied on for whether or not you could do this even though that particular Council had been saying spending is tight and in this particular situation did not say spending is tight and that was someone the Mayor was relying on. That's the biggest issue to me. **Stacey Cline:** We all are looking at everything and we take the time and effort to do it and we kind of feel like it was done behind our backs. **Mayor Hockenbury:** I want to make a comment about the cars. When I came in the previous Council approved 7 police cars to be bought. Where are the 7 cars they replaced? My management style is park it and at a Council meeting we're going to go look at it and if it needs to be replaced that's what will happen. They only had 70,000 miles on them you don't need new cars at that point. With your help, we won't be buying new cars if a car only has 70,000 miles. What we'll do to solve that is we'll look at it and make the determination. **Gloria Taft:** Can we change this Ordinance to say all purchases exceeding the amount of \$5000 must be bid before purchase or prior to purchase order being issued; because according to KRS we can lower the bidding threshold from \$20,000 to \$5,000. **City Attorney Sholar:** I don't think you can do it tonight; that's a totally different Ordinance. Can you require that any purchase above \$5000 has to be put out for bid, I think you can. **Gloria Taft:** What can we do now and when we can look at the budget to stop large purchases from happening that may or may not be necessary like the third dog that somebody is talking about that Council has never approved of. **City Attorney Sholar:** I don't believe there is anything other than either the bidding or limit the budget that you have x amount of money to spend on dogs that you can do to tie the Mayor's hands. **Bonnie Enlow:** They have already spent everything in the line item for the dogs. If they have it in the line item and they didn't spend it out of this year's budget we can't stop them from buying a dog until we amend the budget. The Mayor knows we don't want to buy another dog, right? Mayor is that a problem not to buy another dog right now? **Mayor Hockenbury:** No, I will tell them tomorrow. **City Attorney Sholar:** I don't think the Council can make an Ordinance or valid motion that says the Mayor cannot spend money that has been budgeted. If you try to say the Mayor cannot spend money that we have budgeted and that's what you are doing, you can't do that.

Anybody can sponsor and put together an amendment to the budget. The Mayor is required to bring a budget to the City Council every fiscal year and present it to them then you all get to do what you want to with it. **Gloria Taft:** So, it falls on the City Council to amend the budget when the Council is informed there is going to be a budget revenue shortfall? **City Attorney Sholar:** It absolutely falls on the City Council to amend the budget if it is going to be amended. It falls on any member of the Council or the Mayor to propose and amendment if they deem it appropriate. Layne Troutman: You were talking about line by line item and actually when we did our budgets we did our budgets like we've always done them. We were never told it was going to be a line item budget until the night you all voted it in. What you all were trying to fix then you did fix because there is nothing in any line item, besides payroll, maybe the buildings, that there is that much money in that someone can blow it. I think you corrected the whole thing with a line by line budget. There is a way to put things in the budget to show what we plan on buying but there are things especially in our service that come up over the year that take precedent over what we were planning on buying that we have to go ahead and purchase. I think when the year started and we set our budgets up like we normally do then you all made it a line by line item I think you took care of a lot of the problems because some of the problems took place in our old budget and with this budget I think you solved it because this year you haven't come across anything like that because of the way the budgets are set up now. **Mike Hibbard:** I will withdraw my sponsorship and support of this Ordinance. I think we need to set a time when part of us or all of us can meet with the staff that handles off this and get our concerns out there and take care of it if we have to amend the budget to allow for stuff we can do it that way. My main concern is that this could not continue as normal business. Whatever the reason some may think valid some may not but we feel definite procedures and considerations should have been addressed and they were not. I all for working to solve that problem and making it better and I think we will have to do something with this year's budget as well as last year's budget to make it right. I think sitting down with Bob and getting these numbers and knowing where they are coming from and what they represent will be a first step. On that I will withdraw my sponsorship and support. **Gloria Taft:** I withdraw my motion for approval I think we need to when Bob returns have him redo the revenue expected coming into the City because I don't know if he used 13.9 and 13.6 or if he used 14.5; if he used 14.5 we are going to have the same problem. Mayor will you ask him that when he gets back from vacation? I would like to see the Council after Bob gets back and gets those figures to us schedule a budget workshop to redo the budget and make sure those line items are where they need to be and split up some of the line items that have very large amounts to make sure that money is spent how we have been told they are going to spend it not necessarily thinking it might happen. **City Attorney Sholar:** Someone said earlier that we ask for stuff and we don't get it. If you ask me for something and I said yes and didn't do it; then you ask me for something else and I didn't do it; you become frustrated by that and I assure you that if you ask me to do something the Mayor has told me that he wants me to be available to the Council so I'm going to do what I reasonably can try to be of help to you all because I want you all to feel good about the City Attorney. But if I don't do what you ask me to do you just have to lump it but if I don't do what he tells me to do he gets to fire me. So, if I were a member of this body instead of asking for this I would be asking the Mayor to see to it that this happens; a direct line to him and when he directs somebody to do something and they don't do it and with the Civil Service Ordinance that we have what the Mayor can do is file a complaint that they are not complying with his orders. If it were that somebody is not complying with reasonable requests from people that don't have the authority to direct them that's not going to get you very far. My point if you have a concern and you don't think you're getting what you want the person that can fix that is the Mayor. Donna Burke: When I copy the Mayor on a request that's where I'm hoping that there is substance to my request and my request was something very simple which was to give me an email of a report that had already been provided to us. **Mayor Hockenbury:** If that happens I encourage you to send it to me without anyone else attached and ask me to follow up on it for you.

Donna Burke made motion to Adjourn. Stacey Cline 2nd. Motion carried 6-0. Meeting adjourned at 7:41 p.m.

Curtis Hockenbury, Mayor

Tammy Richmond, City Clerk