

# JACKSON CITY COUNCIL

*Minutes from*  
May 11, 2015  
7:00 p.m.  
Regular Session

Jackson City Council met in regular session on Monday, May 11, 2015 at 7:00 p.m. at Jackson City Council Chambers. President Pro-Tem Eric Brown called the meeting to order. The Pledge of Allegiance was led by Mr. Queen. The Prayer was given by Mr. Hensler.

Mr. Kitchen made a motion to excuse President Ron Speakman from the meeting, seconded by Mr. Hensler. In a voice vote, all members agreed.

Roll call was taken as follows:

- Mr. Brown-present
- Mr. Kitchen-present
- Mrs. Jones-present
- Mr. Hensler-present
- Mr. Queen-present
- Mr. Elliott-present
- Mr. Foster-present

Mr. Hensler made a motion to approve the minutes from April 27, 2015, seconded by Mr. Kitchen. In a voice vote, all members agreed.

## **VISITORS**

## **COMMITTEE REPORTS**

**UTILITY-** No report.

**BUDGET & FINANCE-** No report.

**POLICE, FIRE, & TRAFFIC-** No report. Mr. Queen stated people are concerned with the amount of traffic at the intersection of Wood and Boyd Avenues. There is a school bus that stops there and a lot of children play in that area. They would like to see about having a 4-way stop put there. Mr. Sheward stated if it has not had a 4-way stop there before, there would need to be a traffic study done first. They will look into this and see what needs to be done.

**SERVICE –(STREET & ALLEY, RECREATION, BUILDINGS & GROUNDS-** No report.

Mr. Brown asked if there had been anything else discussed regarding the Bocce Ball court that Mr. Matchett presented to council. Mayor Heath stated he had looked at an area by the kiddie pool and it looks like that might be a good place for it. He will have to do some measuring to make sure it will work. Mr. Hensler wanted to know if there is any way to keep cats out of it. Mayor Heath stated he didn't know, but he would have to look into it.

**CITY AUDITOR-** No report.

**LAW DIRECTOR-** No report.

## **MAYOR**

Mayor Heath stated the State of Ohio Controlling Board released \$344,000.00 that they can use for the construction of McCarty Lane. It was a group effort and wanted to thank the following people, Jennifer Jacobs and Sam Brady with Jackson Economic Development, State Representative Ryan Smith, John Molinaro and Katy Farber of the Appalachian Partnership for Economic Growth, and Governor Kasich's

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Jobs Ohio program. Mayor Heath stated he hopes more funding becomes available so they can reconstruct this road rather than fix it temporarily.

Mr. Sheward stated the TIGER Grant is very competitive, but if it is awarded to the city, it would make it possible to do the full replacement of the road. They will still need to have a backup plan to repair the road even if they can't replace it. Mr. Hensler asked if there was any chance of us getting it and Mr. Sheward said this year they said a portion would go to rural areas, so there might be a chance the city will get some of the money. It would also give them access to the airport. Mr. Sheward stated they are working very hard to find money to get this done. Mr. Queen asked if it is the whole road or just part of it. Mr. Sheward stated it is just from the railroad tracks to the top of the hill.

Mayor Heath stated they put a new coating on Griff Field and Eddie Jones Field. He said it seems to be helping soak up the water faster.

## SERVICE DIRECTOR

Mr. Sheward stated he had given everyone a copy of the Service Director's report and said he had attached a copy of the Ohio Ethics Commission statement regarding Geiger Brothers Mechanical doing work for the city, since his son-in-law is an Officer of the company. Mr. Queen made a big deal out of this at the last meeting that could have been avoided by asking about this prior to the meeting.

Mr. Queen asked if it is just an opinion. Mr. Sheward stated the Ohio Ethics Commission Staff Advisory Attorney signed the letter. He stated he didn't know what more they could do unless they go to court. He had checked with Mr. Kirby and he felt it was fine. Mr. Kirby stated with the Ethics Commission it does serve as a defense. The opinion would work in something like this. Mr. Queen stated Geiger Brothers website shows Mr. Sheward's daughter as being an employee, so he asked if she is or not. Mr. Sheward stated she is a private contracted employee.

## ORDINANCE NO. 21-15

### **AN ORDINANCE REPEALING AND REVISING SECTION 557.04 OF THE CITY OF JACKSON CODE OF ORDINANCES SO AS TO INCREASE THE AMOUNT CHARGED FOR THE CITY MOWING PRIVATE LOSTS TO A MINIMUM CHARGE OF \$250.00.**

#### Second Reading

Mr. Sheward stated they are getting ready to send out letters for the first mowing. If it doesn't get passed tonight, mowing season will be about done by the time it goes into effect.

After much discussion whether to it needed to be passed as an emergency or not, so it will go into effect as soon as possible, council decided they would just pass it by suspending the rules. This way it will go into effect in 30 days, which is before the next letters are due to go out.

Mr. Hensler made a motion to suspend the rules, seconded by Mr. Foster. In a roll call vote, council voted as follows:

Mr. Brown-yes  
Mr. Kitchen-yes  
Mrs. Jones-yes  
Mr. Hensler-yes  
Mr. Queen-yes

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Mr. Elliott-yes

Mr. Foster-yes

In a roll call vote to adopt the ordinance, council voted as follows:

Mr. Brown-yes

Mr. Kitchen-yes

Mrs. Jones-yes

Mr. Hensler-yes

Mr. Queen-yes

Mr. Elliott-yes

Mr. Foster-yes

**Ordinance No. 21-15 duly adopted.**

**ORDINANCE NO. 24-15**

**AN ORDINANCE APPROVING ADDITIONAL APPROPRIATIONS TO THE HANDICAPPED PLAYGROUND EQUIPMENT FUND AND DECLARING AN EMERGENCY.**

First Reading

Mr. Kitchen made a motion to adopt the ordinance, seconded by Mr. Foster. In a voice vote, all members agreed.

Mr. Sheward stated there were some handicapped swings and equipment at Manpower Park and around the city that were broken and Virgil Hamilton donated \$2,000.00 to the city for this purpose. This ordinance is to appropriate the money so it can be used.

Mr. Kitchen made a motion to suspend the rules, seconded by Mr. Foster. In a roll call vote to suspend the rules, council voted as follows:

Mr. Brown-yes

Mr. Kitchen-yes

Mrs. Jones-yes

Mr. Hensler-yes

Mr. Queen-yes

Mr. Elliott-yes

Mr. Foster-yes

Mr. Queen stated he had some citizens asking if they could put a fence up by the railroad and the creek to keep kids away. Mr. Elliott stated he was down there with his grandchildren and they wanted to go to the creek also. Mayor Heath stated they would check into it.

In a roll call vote to adopt the ordinance, council voted as follows:

Mr. Brown-yes

Mr. Kitchen-yes

Mrs. Jones-yes

Mr. Hensler-yes

Mr. Queen-yes

Mr. Elliott-yes

Mr. Foster-yes

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**Ordinance No. 24-15 duly adopted.**

**ORDINANCE NO. 25-15**

**AN ORDINANCE APPROVING ADDITIONAL APPROPRIATIONS TO THE DRUG OFFENSE FUND AND DECLARING AN EMERGENCY.**

First Reading

Mr. Hensler made a motion to adopt the ordinance, seconded by Mr. Kitchen. In a voice vote, all members agreed.

Mr. Reed stated they have started giving the city part of the confiscated drug money again. They would like to have it appropriated so they can use it for equipment. It is money they are getting from forfeitures.

Mr. Kitchen made a motion to suspend the rules, seconded by Mr. Hensler. In a roll call vote, council voted as follows:

Mr. Brown-yes  
Mr. Kitchen-yes  
Mrs. Jones-yes  
Mr. Hensler-yes  
Mr. Queen-yes  
Mr. Elliott-yes  
Mr. Foster-yes

In a roll call vote to adopt the ordinance, council voted as follows:

Mr. Brown-yes  
Mr. Kitchen-yes  
Mrs. Jones-yes  
Mr. Hensler-yes  
Mr. Queen-yes  
Mr. Elliott-yes  
Mr. Foster-yes

**Ordinance No. 25-15 duly adopted.**

**ORDINANCE NO. 26-15**

**AN ORDINANCE APPROVING ADDITIONAL APPROPRIATIONS TO THE SEWER COLLECTIONS FUND: JUDGEMENT & CLAIMS AND DECLARING AN EMERGENCY.**

First Reading

Mr. Elliott made a motion to adopt the ordinance, seconded by Mrs. Jones. In a voice vote, all members agreed.

Mr. Sheward stated the city is under a consent decree from the Ohio EPA. Whenever there is a sewer overflow, the city has to self-assess a fine which is \$2,000.00 per event. Due to the wet weather, all of the money has been used in that account. They are hoping \$10,000.00 will take care of the rest of the year.

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Mr. Queen asked if this problem would be taken care of with the upgrade. Mr. Sheward stated they are trying to prevent the overflows and the increased sewer plant capacity should help. They are working on the worst problems first that were detected with the study they did last year.

Mr. Elliott asked where the money is coming from. Mr. Sheward stated it is out of Unappropriated Funds in the Sewer Dept.

Mr. Brown asked where the money for the fines is sent to. Mr. Reed stated it is sent to the EPA. Mr. Sheward stated two things can cause an overflow; one of them being high rain flow or a plugged sewer line.

Mr. Brown made a motion to suspend the rules, seconded by Mrs. Jones. In a roll call vote, council voted as follows:

Mr. Brown-yes  
Mr. Kitchen-yes  
Mrs. Jones-yes  
Mr. Hensler-yes  
Mr. Queen-yes  
Mr. Elliott-yes  
Mr. Foster-yes

In a roll call vote to adopt the ordinance, council voted a follows:

Mr. Brown-yes  
Mr. Kitchen-yes  
Mrs. Jones-yes  
Mr. Hensler-yes  
Mr. Queen-yes  
Mr. Elliott-yes  
Mr. Foster-yes

**Ordinance No. 26-15 duly adopted.**

**ORDINANCE 27-15**

**AN ORDINANCE REZONING FROM AGRICULTURE (A) TO BUSINESS (B) 3.475 ACRES, MORE OR LESS, LOCATED BETWEEN POWELL DRIVE AND VETERANS DRIVE.**

First Reading

Mr. Kitchen made a motion to adopt the ordinance, seconded by Mr. Elliott. In a voice vote, all members agreed.

Mr. Sheward stated this is the property that was discussed at the zoning meeting and there were no concerns against the change. It is up to council now to approve or disapprove. Mrs. Jones stated everyone was for the change.

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**ORDINANCE NO. 28-15**

**AN ORDINANCE OF THE LEGISLATIVE AUTHORITY OF THE CITY OF JACKSON, OHIO TO ACCEPT THE BID OF SOUTHERN OHIO TRENCHING FOR THE MCCARTY LANE SEWER PROJECT FOR AN AMOUNT NOT TO EXCEED \$1,227,299.00 AS IT WAS THE LOWEST AND BEST RESPONSIVE BID SUBMITTED AND DECLARING AN EMERGENCY.**

First Reading

Mr. Elliott made a motion to adopt the ordinance, seconded by Mr. Kitchen. In a voice vote, all members agreed.

Mr. Sheward stated there was a letter from CT Consultants in the Service Director's report stating after reviewing all of the bids, Southern Ohio Trenching was there recommendation for the project. The amount does not match the bid due to including some additional money for any problems they might incur. They already have approval for the grant part of the project, so this needs to be passed as soon as possible. The loan needs to be applied for quickly. This project will reduce cost in that area. Mayor Heath stated it will help in the marketability of that area with Economic Development.

Mr. Hensler asked if the lift stations will be removed or will they be left in place. Mr. Sheward stated they will be removed and parts can be used for other lift stations in the city. Mr. Hensler asked if the city owns the land these are on. Mr. Sheward said some they own and some they don't. Mr. Hensler asked if they have the legal right to go in and remove it. Mr. Sheward stated the property owner would benefit by it not being on the property. Mr. Hensler asked what happens if the property owner does not grant the city easement to the property. Mr. Sheward stated he wasn't sure other than they wouldn't have sewer when they were done.

Mr. Brown asked what the route of the line would be. Mr. Sheward stated it would start at the entrance of Wal-Mart to the intersection of Veterans Drive and McCarty Lane. It will pick up a line at Carey Montgomery's. It will pick up all sewer along Veterans and behind the movie theater and under Route 32.

Mr. Reed stated there is another funding source they can apply for in June, but this money has to be in place first.

Mr. Kitchen made a motion to suspend the rules, seconded by Mrs. Jones. In a roll vote, council voted as follows:

Mr. Brown-yes  
Mr. Kitchen-yes  
Mrs. Jones-yes  
Mr. Hensler-yes  
Mr. Queen-yes  
Mr. Elliott-yes  
Mr. Foster-yes

In a roll call vote to adopt the ordinance, council voted as follow:

Mr. Brown-yes  
Mr. Kitchen-yes  
Mrs. Jones-yes  
Mr. Hensler-yes  
Mr. Queen-yes  
Mr. Elliott-yes  
Mr. Foster-yes

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**Ordinance No. 28-15 duly adopted.**

Mr. Hensler stated he would like to see the legality resolved of the one pump station that will be removed.  
Mr. Sheward stated he has offered, but they are not willing.

**CORRESPONDENCE- None**

**OLD BUSINESS**

Mr. Queen stated in reference to the letter Mayor Heath put in the paper stating he voted against the Recreation park for the children, the only thing he voted against was the bleachers that were approximately \$5,000.00. He stated he is always for upgrading for the kids.

**NEW BUSINESS**

Mr. Kitchen stated he is happy about the whiskey kegs that are going to be made in Jackson.

Mr. Kitchen stated he would like to see us send a thank you to all of the people who help us get the \$344,000.00.

Mr. Sheward wanted remind everyone again about the Harding Ave. bridge project that will start June 1<sup>st</sup> and go through the middle of September.

Mr. Brown stated they must have found out the problem with the peeling on the of the Apple Tower. Mr. Sheward said after the inspector inspected it, it did not peel.

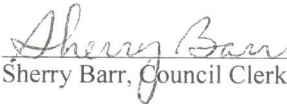
Mr. Brown said there was a letter in the paper that said there is a crack in the stainless steel slide at Manpower Park. Mr. Sheward said they would check it out.

Mr. Kitchen stated they have the heavy cover on the sign at Manpower Park.

Mrs. Jones stated someone mentioned the red paint looked messy on the tower and the leaf looked different. Mr. Sheward said it is not done yet.

Mr. Kitchden made a motion to adjourn, seconded by Mr. Elliott. In a voice vote, all members agreed.

Council adjourned at 7:50 p.m.

  
Sherry Barr, Council Clerk

  
~~Ronald Speakman~~, Council President - *Pro tem*  
ERIC BROWN

Date 6-8-15

Date 6-8-15

## SERVICE DIRECTOR REPORT

May 11, 2015

1. Enclosed is a copy of a letter from the Ohio Ethics Commission regarding the City of Jackson doing business with Geiger Brothers Mechanical Contractors (my Son-in-Law is an officer). As you can see, I had requested this in November of 2014. Mr. Queen chose to make a big deal about this when a simple question prior to the final vote could have resolved this. We put a great deal of time and effort into these projects to find funding and the best use of funds, and I would hope that Mr. Queen, or any Council member who has questions, educate themselves in regard to the issues.
2. McCarty Lane Sewer Project: We have been working on this for almost two (2) years. This project is important in that it will remove four (4) sewer lift stations and create a gravity sewer from St. Rt. 93/McCarty Lane to north of St. Rt. 32 on Veterans Drive. An added benefit is that this area is likely to be a major area for future development. This Ordinance needs to be passed on first reading, in order to take maximum advantage of funding cycles.
3. Request for additional funds, Ordinance #26-15; Funds to pay penalties for sewer overflows; part of the Consent Decree. We have expended all available funds – need to pass this appropriation in first reading.
4. Re-zoning property on Powell Drive, from “A” to “B-3”. Planning Commission recommended, and no one opposed at Public Hearing.



Merom Brachman, *Chairman*  
Michael A. Flack, *Vice Chairman*  
Bruce E. Bailey  
James C. Evans  
Elizabeth E. Tracy



OHIO ETHICS COMMISSION  
William Green Building  
30 West Spring Street, L3  
Columbus, Ohio 43215-2256  
Telephone: (614) 466-7090  
Fax: (614) 466-8368

[www.ethics.ohio.gov](http://www.ethics.ohio.gov)

Paul M. Nick  
*Executive Director*

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November 12, 2014

William R. Sheward, Jr.  
Director of Public Service/Safety  
City of Jackson  
Memorial Building  
145 Broadway Street  
Jackson, Ohio 45640

Dear Mr. Sheward:

On November 6, 2014, the Ohio Ethics Commission received your request for an advisory opinion. This opinion is based on the facts you provided in your letter and in a subsequent email.

For purposes of this opinion, Commission staff assumes:

- You are the Director of Public Service/Safety for the City of Jackson.
- Your son-in-law is a partner in a local mechanical contracting firm.
- Your son-in-law does not live with you.
- The city conducted business with your son-in-law's firm prior to you becoming the director of public service/safety.
- Your daughter owns her own marketing consulting business and occasionally does independent contracting for your son-in-law's firm. However, your daughter is not an owner, officer, manager, or employee of the firm.
- You have no interest in your son-in-law's firm.
- The only duties you would have involving your son-in-law's contracts with the city would be general oversight of city employees who are involved in related projects.

### **Question Presented**

Now that you are the Director of Public Service/Safety, can your son-in-law's firm continue to do business with the city?

**Brief Answer**

Yes.

**Authorizing or Securing a Public Contract—R.C. 2921.42(A)(1) and 102.03(D) and (E)**

The Ethics Law does not absolutely prohibit the family member of a public official from selling goods or services to a public agency. Most of the restrictions in the Ethics Law apply to the public official, rather than to his or her family members.<sup>1</sup> Specifically, R.C. 2921.42(A)(1) prohibits a public official from using the authority or influence of his public position, in any way, formally or informally, to secure a public contract for any member of his family.<sup>2</sup> R.C. 102.03(D) and (E) also prohibit a public official from securing and soliciting public contracts for family members.

The Commission has defined the term “member of his family” to include, regardless of where they live, the official’s spouse, children (whether dependent or not), brothers and sisters, parents, grandparents, and grandchildren.<sup>3</sup>

The Commission has stated that the definition of family member also includes, but is not limited to, any other person related to the official by blood or by marriage and living in the same household with the official, including the official’s in-laws, uncles and aunts, nephews and nieces, and cousins.<sup>4</sup>

If your son-in-law lived with you or your daughter had an interest, as an owner, officer, or management employee, in your son-in-law’s firm, R.C. 2921.42(A)(1) and R.C. 102.03(D) and (E) would prohibit you from soliciting or using your position as the director of public service/safety, formally or informally, to secure city contracts for the firm or payments to the firm.

You stated that your son-in-law does not live with you and your daughter does not have any interest in your son-in-law’s firm. Because your son-in-law does not live in your household with you and your daughter does not have an interest in your son-in-law’s firm, neither R.C. 2921.42(A)(1) nor R.C. 102.03(D) and (E) prohibit your son-in-law from contracting with the city or you from participating in matters that involve your son-in-law’s contracts. However, it may be the best practice for you to abstain from any formal or informal participation in the city’s consideration or award of contracts, or payments, to your son-in-law’s company.

This staff advisory opinion represents the views of the undersigned, based on the facts presented and the precedent of the Commission. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules. If you have any further questions or desire additional information, please contact this Office again.

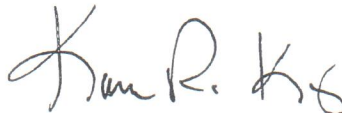
William R. Sheward, Jr.

November 12, 2014

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This staff advisory opinion represents the views of the undersigned, based on the facts presented and the precedent of the Commission. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules. If you have any questions or need additional information, please do not hesitate to contact this office again.

Sincerely,



Karen R. King  
Staff Advisory Attorney

Enclosure: Ohio Ethics Commission Advisory Opinion No. 2009-02

The Ohio Ethics Commission Advisory Opinions referenced in this opinion are available on the Commission's Web site: [www.ethics.ohio.gov](http://www.ethics.ohio.gov).

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<sup>1</sup> There are Ethics Law prohibitions that apply to all private individuals, including a public official's family members. See R.C. 102.03(F) and 2921.43(A).

<sup>2</sup> R.C. 2921.42(A)(4) would prohibit you from having any financial or fiduciary interest in the city's contracts with your son-in-law's firm. If you had an interest in your son-in-law's company, any sales from the firm to the city could result in a violation of R.C. 2921.42(A)(4). Because you stated that you do not have any interest in your son-in-law's firm, this restriction will not be discussed further.

<sup>3</sup> Ohio Ethics Commission Advisory Opinion No. 80-001.

<sup>4</sup> *Id.* See also *Walsh v. Bollas* (1992), 82 Ohio App. 3d 588.



**CT Consultants**  
engineers | architects | planners

May 8, 2015

Mr. William Sheward  
Service Director/Safety Director  
City of Jackson  
145 Broadway Street  
Jackson, Ohio 45640

Re: McCarty Lane Sanitary Sewer Improvements  
Bid Results

Dear Mr. Sheward:

Bids were received for the above referenced project on April 30, 2015 and attached you will find a copy of the Bid Tabulation outlining each bid for your review. The bids ranged from a low bid of \$1,115,727.00 to a high bid of \$1,490,325.00 as compared to the Opinion of Probable Construction Cost of \$1,150,000.00.

The low bidder for this improvement is Southern Ohio Trenching and Excavating, Inc. of Ironton, Ohio, whose bid has been reviewed and found to be in conformance with all contract requirements. It is our opinion that they are experienced and qualified to perform the work within the contract.

Should you have any questions or require additional information, please feel free to contact our office.

Respectfully,

CT CONSULTANTS, INC.

Timothy Clapper, P.E.

TDC/saa

Enclosures

I:\2014\14205\SPEC\Bid Results Letter.Docx

McCarty Lane Sanitary Sewer Improvements  
City of Jackson  
Bid Opening Date: April 30, 2015  
Bid Tabulation Summary

Project No. 14205

LIST OF TOTALS

NOTE: Bidders Informal Totals appear if different than bid tab calculated total.

	<u>Name</u>	<u>Calculated Total</u>	<u>Bidder's Informal Totals</u>
1.	Southern Ohio Trenching and Excavating, Inc.	\$1,115,727.00	
2.	Fields Excavating, Inc.	\$1,246,126.80	\$1,248,786.00
3.	Allard Excavating, LLC	\$1,264,222.17	\$1,264,221.20
4.	C. J. Hughes Construction Co., Inc.	\$1,389,675.00	
5.	B. P. Pipeline, LLC	\$1,490,325.00	