

MINUTES  
OF THE  
BOARD OF MAYOR AND ALDERMEN

JANUARY 8, 2009  
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The Board of Mayor and Aldermen of the City of Henderson, Tennessee met in regular session on Thursday, January 8, 2009 at 7:00 P.M. in the Council Chamber of the City of Henderson City Hall. Present and presiding was Mayor Robert W. (Bobby) King and the following:

Aldermen: Robert C. (Bobby) Barnes, Johny R. Farris, Tim Faulkner,  
Buel Maness, Michael Phelps and Keith Smith.

Absent: None

There also present were: City Attorney Jerry Spore, City Recorder Jim E. Garland, Police Chief Tommy Davis, Public Works Director Jerry King, Fire Chief Glenn Bryan, Building and Zoning Official Brent Beshires and Utility Director Mark Elkins.

Alderman Keith Smith gave the invocation and Alderman Faulkner led the Pledge to the Flag. The following proceedings were entered here-to-wit:

The minutes of the previous meeting were presented for approval. Recorder Garland stated that it had been brought to his attention that Ald. Smith voted "NO" on the ordinance amending the purchasing policy. This correction was made and there being no other questions or corrections, motion was made by Ald. Smith, duly 2<sup>nd</sup> by Ald. Barnes to approve the minutes as corrected. Motion carried.

The accumulated accounts were presented for informational purposes and the board was asked if they had any questions concerning the accounts. There being no questions concerning the accounts, the meeting continued.

Mayor King asked for delegations to address the board.

Mr. Tommy Prince addressed the board asking for them to consider leasing him the Firing Range in Magic Valley. The range had been operated by the FOP but was recently taken back by the city because the local FOP organization ceased to exist. Mr. Prince had been using the range for years to hold his handgun permit class required shooting and paying the FOP a small fee. Mr. Prince was a certified handgun instructor, a former police officer for the city and he stated that he would carry sufficient liability insurance to hold the city harmless. As part of the agreement, he would allow the police and sheriff's officers to use the range at any time needed at no cost. His future plans include erecting a small building on the site, making some improvements and then allowing the public to use the range for a fee. Mr. Prince would maintain the range, mow it, and improve the fence, etc. Police Chief Davis stated this would keep the city from having to budget the funds to maintain the range. After due discussion, motion by Ald. Farris, duly 2<sup>nd</sup> by Ald. Faulkner for Attorney Spore to draft a lease of the firing range to Mr.

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Prince for a \$1.00 per year and to ensure the city is properly protected from liability and that law enforcement still be allowed to use the range at no charge. The lease would be returned to the city board for final approval. Motion carried.

An ordinance amending the city's Purchasing Policy (Title 5, Chapter 5 of the Municipal Code) was presented to the board for consideration on the second/final reading. Ald. Smith expressed his reason for voting no on the proposed ordinance at the last meeting stating that he wanted to change the policy to require two (2) competitive quotes on purchases between \$2,000 and \$4,000 instead of them being "encouraged". This is in section 5-503. Ald. Smith's concerns had been expressed to Recorder Garland prior to the meeting and Recorder Garland passed out a document showing the wording in the existing ordinance as well as the wording being proposed by Ald. Smith. Ald. Smith made a motion make this amendment to the ordinance before the final passage of the ordinance. Motion was duly 2<sup>nd</sup> by Ald. Barnes. Motion carried.

The amended Ordinance was presented as follows for consideration.

**Ordinance No. 438**

AN ORDINANCE TO AMEND TITLE 5, CHAPTER 5 "PURCHASING" OF THE HENDERSON MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY OF HENDERSON, BOARD OF MAYOR AND ALDERMEN THAT:

**Section 1:** Title 5, Chapter 5 is hereby amended to read as follows:

**TITLE 5**

**CHAPTER 5**

**PURCHASING**

SECTION

- 5-501. Official assigned as Purchasing Agent.
- 5-502. Rules for Purchases up to \$4,000.00.
- 5-503. Rules for Purchases between \$4,000.00 and \$10,000.00.
- 5-504. Advertising and Bidding Rules for Purchases greater than \$10,000.00.
- 5-505. Rules for Purchases of Fixed Assets or Equipment.
- 5-506. Department Head Responsibilities.
- 5-507. Purchasing Agents Responsibilities.

5-501. Official assigned as Purchasing Agent.

The Mayor or City Recorder shall act as the Purchasing Agent for the City of Henderson. Purchasing procedures, the powers of the Purchasing Agent and the responsibilities of the Department Heads concerning purchasing will be outlined in the following sections.

5-502. Rules for purchases up to \$ 4,000.00.

Department Heads are allowed to make purchases of up to \$4,000.00 without prior board approval. For purchases in an amount of up to \$500.00, the department head can make the purchase without receiving a purchase order unless he/she is purchasing an item that would be defined as a fixed asset (equipment with a life span of more than one (1) year.) The rules that apply to the purchase of fixed assets or equipment are covered in Section 5-505. For all purchases over \$500.00 the department head shall receive a signed purchase order from the purchasing agent before ordering the said item(s). The one exception to this rule is for purchases between \$500.00 and \$1,500.00 related to the

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maintenance of existing equipment or vehicles where the exact amount of the repairs can not be determined. In these cases, the purchase order may be obtained after the purchase and/or repair is completed. Only the Department Head, his/her designee, Recorder, or the Mayor can make a request for a purchase order.

### 5-503. Rules for purchases between \$ 4,000.00 and \$ 10,000.00.

All purchases, leases or lease-purchase arrangements with expenditures of more than four thousand dollars (\$4,000.00) but less than ten thousand (\$10,000.00) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive quotes. All purchases, leases or lease-purchase arrangements with expenditures of more than two thousand dollars (\$2,000.00) but less than four thousand dollars (\$4,000.00) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least two (2) competitive quotes.

All purchases, leases or lease-purchase arrangements with expenditures of more than four thousand dollars (\$4,000.00) but less than ten thousand (\$10,000.00) shall receive prior approval by the Board of Aldermen. The description of the item(s) shall be prepared by the Department Head and submitted along with the quotes received to the Board of Aldermen for approval of purchase. The Board of Aldermen shall not approve a purchase until they determine that adequate funds are budgeted and available for the purchase. The Board of Aldermen may require the department head to accept bids or proposals on such items if they deem it is in the best interest of the city to do so. A purchase order shall be issued by the purchasing agent after the purchase is approved by the Board.

If a purchase is over \$4,000 and it is necessary due to an actual emergency, equipment breakdown or unforeseeable circumstances and the replacement or repair is required prior to the next city board meeting in order for the department to conform to state or federal regulations, prevent possible fines/citations or maintain essential services to the community, the Mayor may approve the purchase. The purchase shall be reviewed and approved by the Board of Aldermen at its next meeting.

### 5-504. Advertising and Bidding Rules for purchases greater than \$10,000.00

For all purchases of equipment or material of \$10,000.00 or more, a detailed description of the item(s) shall be prepared by the Department Head and submitted to the Mayor for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the Mayor may authorize the Department Head to advertise for bids or proposals. The Mayor shall reserve the right to refer the decision to bid any purchase to the Board of Aldermen.

For all major public works or utility construction projects of \$10,000.00 or more where costs may be incurred for engineering design and plans, a detailed description of the project shall be prepared by the Department Head and submitted to the Board of Aldermen for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the Board of Aldermen may authorize the Department Head to perform the necessary design work and to advertise for bids or proposals.

The award of purchases, leases, or lease purchases of \$10,000.00 or more shall be made by the Board of Aldermen to the lowest responsible bidder. The purchasing agent shall issue a purchase order to the lowest responsible bidder selected by the Board of Aldermen.

Purchases amounting to \$10,000.00 or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the Board of Aldermen:

1. Sole source of supply or proprietary products as determined after complete search by the respective Department Head, with approval of the Board of Aldermen.
2. Emergency expenditures with subsequent approval of the Board of Aldermen.
3. Investments in or purchases from the pooled investment fund established pursuant to TCA (State Investment Pool).
4. Purchases from instrumentalities created by two (2) or more cooperating governments.
5. Purchases from non-profit corporations whose purpose or one of whose purpose is to provide goods and services to municipalities.
6. Purchases, leases, or lease-purchases of real property.
7. Purchases, leases, or lease-purchases, from any federal, state, or local government unit or agency, of second-hand articles or equipment or other materials, supplies, commodities,

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and equipment.

8. Purchases of used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any private individual or entity as provided in TCA.
9. Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
10. Purchases directed through or in conjunction with the State Department of General Services.
11. Purchases from Tennessee State Industries.
12. Professional Service Contracts as provided in TCA.
13. Tort Liability Insurance as provided in TCA.
14. Purchases of fuels, fuel products, or perishable commodities.

### 5-505. Rules for purchases of Fixed Assets or Equipment.

Department Heads are required to have a purchase order prior to the purchase of any equipment that is deemed to be a fixed asset according to generally accepted accounting principles regardless of the cost of the item.

The Department Head shall report to the City Recorder or his designee any time a piece of equipment or fixed asset is delivered. The City Recorder or his designee is to affix upon the asset an identification tag when necessary and collect information to enter the asset in the city's fixed asset record keeping system. The Department Head will be responsible for ensuring that all city equipment and property in his department is accounted for and in its proper place. The City Recorder or his designee will perform an inventory of any or all city equipment at times when he deems it feasible to do so but said inventory will be performed at least once every 24 months.

### 5-506. Department Head Responsibilities:

The Department Head or his/her designee shall perform the following tasks before any purchase order is requested:

1. Obtain prices on comparable materials, supplies, equipment or services to be purchased from a group of vendors.
2. Determine the best possible product using objective analysis of price, quality, and vendor reputation, etc.
3. Provide complete information to the purchasing agent including:
  - a. a complete and accurate description of item(s) to be purchased.
  - b. the vendor recommended by the Department Head, including name and mailing address or other information needed.
  - c. Price and number of item(s) needed.
  - d. Date item(s) are needed.
  - e. Reason the item(s) are needed and for whom it is needed.

**The Department Head shall not split orders to circumvent any provision of the Municipal Code, Charter or any policy established by the city, nor shall purchases be made for the sole purpose of using up budgetary balances.** No Department Head shall make any purchase that would overdraw the money appropriated in any line item in the budget without first receiving approval from the Board to amend the said budget line item.

### 5-507. Purchasing Agent Responsibilities.

Purchase orders are to be issued only after the requesting Department Head provides the information outlined in Section 5-506 above to the Purchasing Agent. The Purchasing Agent shall be the only person eligible to issue a purchase order. Purchase orders shall be written so that they are clear, concise and complete.

Before issuing a purchase order, the purchasing agent must ensure that sufficient funds are available in the budget line item to purchase said item(s). The City Recorder has the authority to determine the appropriate budget line item a purchase is charged to, not the department head. If there is insufficient funds in the line item, the purchase is to be delayed until the Board of Aldermen makes a decision as to whether or not to amend the budget line item to cover the cost of the purchase.

The purchasing agent shall aid and cooperate with all departments in meeting their needs for operating supplies, equipment, and services. The purchasing agent shall process all purchase orders with the least possible delay. **The**

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**Purchasing Agent has the authority to refer any purchase to the City Board of Aldermen for a decision if he feels that the purchase of the item(s) is not in the best interest of the city or if he feels the Board should be aware of purchase before it is made. The decision to refer a purchase to the Board is final and a purchase order will not be issued until after board action.**

Purchase orders are to be prepared on forms that contain at least four (4) copies:

1. White (original) copy is filed with the City Recorder or his designee and is the city's permanent record that is to be kept in numerical order for audit purposes. The permanent record may be in digital format.
2. A copy is mailed or faxed to the vendor to be used as authority to furnish the city the materials or services indicated.
3. A copy is to be sent to the requesting Department Head for his files.
4. A copy shall be attached to and filed with the paid invoice.

The Purchasing Agent shall be responsible for compliance with these procedures and the Municipal Purchasing Law of 1983, as amended, including required records and reports, as if they were set out herein and made part hereof and within definitions of words and phrases from the law as herein defined.

**Section 2:** Be It Further Ordained that this Ordinance shall take effect from and after its passage, the public welfare of the City of Henderson, Tennessee requiring it.

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Motion was then made by Ald. Smith, duly 2<sup>nd</sup> by Ald. Barnes to pass the above ordinance amending the Purchasing Policy on the first reading. Upon a roll call vote the following was cast:

Ayes: Robert C. (Bobby) Barnes, Johny R. Farris, Tim Faulkner, Buel Maness,  
Michael Phelps and Keith Smith  
Noes: None.

With the vote being unanimous, motion was made by Ald. Farris, duly 2<sup>nd</sup> by Ald. Phelps to pass the ordinance (Ordinance #438) on the second/final reading. Upon a roll call vote the following was cast:

Ayes: Robert C. (Bobby) Barnes, Johny R. Farris, Tim Faulkner, Buel Maness,  
Michael Phelps and Keith Smith  
Noes: None.

Therefore Mayor King declared the ordinance passed and the purchasing policy amended.

An ordinance amending Title 1, Chapter 1, Section 1-101 concerning the meeting time for city board meeting was presented for consideration. The ordinance also amended Section 1-104 concerning the passage of ordinances to make it conform to the requirements of the City Charter. The city board meeting time would be a 7:00 PM all year instead of changing to 7:30 PM during daylight savings time. The ordinance reads as follows:

**ORDINANCE NO. 439.**

AN ORDINANCE TO AMEND TITLE 1, CHAPTER 1 OF THE HENDERSON MUNICIPAL CODE.

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Section 1. BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF HENDERSON, TENNESSEE, that Title 1, Chapter 1, Section 1-101 and Section 1-104 be hereby amended to read as follows:

**1-101. Time and place of regular meetings.** The Board of Mayor and Aldermen shall meet for regular monthly meetings on the second Thursday of each month at 7:00 o'clock PM at Henderson City Hall. Special meetings may be called and held from time to time at any time, at any location specified in the call of such meeting, pursuant to the present provisions concerning the same.

**1-104. Passage or amendment of a city ordinance.** No ordinance shall become a law at any meeting at which it originated unless it is passed by a unanimous vote upon two readings. All ordinances shall be read two times before becoming law.

Section 2. BE IT FURTHER ORDAINED that this amendment take effect immediately, the public safety and welfare requiring it.

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There being no concerns over this change, motion was then made by Ald. Farris, duly 2<sup>nd</sup> by Ald. Maness to pass the above ordinance (Ordinance #439) on the first reading. Upon a roll call vote the following was cast:

Ayes: Robert C. (Bobby) Barnes, Johny R. Farris, Tim Faulkner, Buel Maness,  
Michael Phelps and Keith Smith

Noes: None.

With the vote being unanimous, motion was made by Ald. Smith, duly 2<sup>nd</sup> by Ald. Barnes to pass the ordinance (Ordinance #439) on the second/final reading. Upon a roll call vote the following was cast:

Ayes: Robert C. (Bobby) Barnes, Johny R. Farris, Tim Faulkner, Buel Maness,  
Michael Phelps and Keith Smith

Noes: None.

Therefore Mayor King declared the ordinance passed and the municipal code amended.

Recorder Garland explained to the board members that several sections of the municipal code needed to be updated and instead of presenting them all as one large document, they were going to be presented in small sections. This will allow the board members to better understand the proposed changes and have input on the amendments but it will require the passage of more ordinances than what they have been accustomed to in the past.

Fire Chief Bryan addressed the board asking permission to transfer \$2,000 from Volunteer Training Salaries to Turn Out Gear. Turn out gear is presently over budget by approximately \$1100. Volunteer Training Salaries will have approximately \$9,000 remaining after the transfer. Motion by Ald. Faulkner, duly 2<sup>nd</sup> by Ald. Farris to approve the line item budget amendment. Motion carried.

UD Elkins addressed the board concerning the north lagoon and the zinc that has been deposited there. The city had been working with TDEC and GRW Engineers to come up with possible solutions to the problem. The city had been able to stop the influent of zinc into the

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lagoon but now has to deal with the zinc effluent going out of the lagoon. The plan was to encapsulate the zinc in additional sludge over time. UD Elkins explained that there is no guarantee that this will protect the city from having to deal with this matter in the future. The city will not be able to install aerators in the lagoon as this will increase the zinc output. As part of this process, the city had reviewed its Pretreatment Program and protection criteria or limits on influent and effluent. These limits were set by an engineering firm some twenty years earlier and the documentation to justify these limits could not be located. After a lengthy discussion, UD Elkins asked for the funds to hire GRW Engineers to make revisions to the existing North Lagoon Pretreatment Program and to establish a program for the South Lagoon. The new program would be in accordance to the guidelines of EPA and TDEC. Mr. Jim Hilborn of GRW was present at the meeting and explained the process. The cost of the program development was not to exceed \$30,000 but may be as low as \$15,000. Ald. Smith questioned the legal requirement needing to bid this type of work. It was explained that engineering services are professional services under state law and as such, no bidding has to take place. After due discussion, motion was made by Ald. Farris, duly 2<sup>nd</sup> by Ald. Phelps to approve the work on the Pretreatment Program by GRW at a cost not to exceed \$30,000. Motion carried.

The Farmer's Market Pavilion had been completed and Mayor King asked for Ald. Smith, Farris and Maness to serve on a committee to develop the rules and regulations for the Farmers Market.

UD Elkins provided the board members with a report on the cost of gas to the customers of area cities. Henderson's rates were 5<sup>th</sup> from the lowest out of 17 area cities. Ald. Farris commended the department on their ability to keep the rate low during this volatile time for energy rates.

There being no other business, motion by Ald. Farris, duly 2<sup>nd</sup> by Ald. Faulkner to adjourn. Motion carried.

Signed: Robert W. King

APPROVED: \_\_\_\_\_

MAYOR

Signed: Jim E. Garland

ATTEST: \_\_\_\_\_

CITY RECORDER