

MINUTES
OF THE
BOARD OF MAYOR AND ALDERMEN
JULY 9 & 16, 2009

The Board of Mayor and Aldermen of the City of Henderson, Tennessee met in regular session on Thursday, July 9, 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: Tim Faulkner, Buel Maness, Michael Phelps and Keith Smith.
Absent: Robert C. (Bobby) Barnes and Johny R. Farris

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

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

The minutes of the previous meeting of the city board were presented for approval. Recorder Garland asked the board to make a correction to the Resolution on Pay Raises before approving the minutes. There being no questions or corrections, motion was made by Ald. Smith, duly 2nd by Ald. Phelps to approve the minutes as prepared. 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.

Delegations were called for by Mayor King.

Mr. Todd Henderson addressed the board on behalf of Dr. Carey Frix and Dr. Nicole Jennings. Mr. Henderson read a prepared statement stating that the three businesses operated by Frix and Jennings including Besso's, Frix Jennings Clinic and Frix Jennings Construction needed additional space for operations. The three businesses employ a total of 53 workers. The Frix Jennings Clinic and Besso's were in the process of opening new locations in Memphis. He stated that Frix Jennings was interested in purchasing the city industrial building at 60 Record Drive (formally Preferred Seating). After evaluating the building and property and in light of the existing economy, they were willing to offer \$204,000 with owner financing, 5% down and 4% interest for 10 years. They did want the entire site of 6.7 acres due to possible expansion in the future. Mr. Henderson stated that they understood that the board members had not had an opportunity to consider this matter and that they had only been able to tour the facility today but they needed the space immediately and wished the board would make a decision as soon as possible. He stated that in the past the city had offered enticements to companies coming to town but in this case Frix Jennings had already made the investment, created the jobs and therefore felt they needed some assistance for their continued growth. Recorder Garland

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reported that the selling price to Preferred Seating was approximately \$450,000. Recorder Garland was asked by Mayor King to retrieve a recent appraisal report completed by for insurance purposes. When he returned, Recorder Garland reported that the insurance appraisal on the building only was: Actual Cash Value \$241,400; Replacement Value \$805,000. The city had discussed in the past, retaining the corner lot at Hwy 45 and Old Jackson Road for a potential retail type lot but with the existing economy there is not much market for this at the present time. This proposal was discussed but the four members present were not comfortable making a decision at this time. The board decided to recess after the completion of other business and reconvene on Thursday, July 16th at 6:00 PM to consider this matter further.

Moving on to the next item on the agenda, Mayor King opened the meeting for the required public hearing on the 2009-2010 City Budget and Tax Rate of \$1.36 per \$100 of assessed value. The hearing was advertised in the “Chester County Independent” newspaper. After a proper amount of time had passed for any public comments and there being none, the public hearing was closed. Ordinance #448 was presented for consideration on the final reading as follows:

- 0% COLA Budget**
- \$1.36 Tax Rate**
- 10 % to 20% Employee Health Insurance**
- \$5.00 monthly Sanitation Increase**

ORDINANCE NO. 448 .

AN ORDINANCE OF THE CITY OF HENDERSON APPROPRIATING FUNDS AND ESTABLISHING A PROPERTY TAX RATE FOR THE FISCAL YEAR, JULY 1, 2009 THROUGH JUNE 30, 2010.

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

SECTION I.

PART A: Total revenues and available funds and expenditures.

GENERAL FUND: REVENUE

New Revenue -----	\$ 2,416,950
Fund Balance (Projected)-----	\$ 675,000
TOTAL GENERAL FUND REVENUE --	\$ 3,091,950

GENERAL FUND: EXPENDITURES:

Financial Administration-----	\$ 264,673
General Government -----	\$ 130,800
Police Department -----	\$1,142,937
Fire Department -----	\$ 436,643
Building Inspection -----	\$ 85,158
Emergency Management -----	\$ 18,500
Streets and Highways -----	\$ 311,515
City Maintenance Shop -----	\$ 130,737
Landfill (Closed) -----	\$ 20,000
Cemetery -----	\$ 21,250
Rabies and Animal Control -----	\$ 34,904
City Park -----	\$ 65,504

CONTRIBUTIONS:

CC Senior Citizens -----	\$ 2,000
CC Dixie Youth -----	\$ 2,000

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CC Library -----\$ 4,000
Exchange Club/Carl Perkins\$ 2,000
Project Graduation -----\$ 500
CC Imagination Library ---\$ 500
AYSO Youth Soccer-----\$ 300
CONTRIBUTION TOTAL-----\$11,300
Undesignated Reserve -----\$ 418,029
TOTAL GENERAL FUND EXPENDITURES-\$ 3,091,950

STREET AID FUND: REVENUE

New Revenue (Gas Taxes)-----\$ 166,000
Fund Balance (Projected)-----\$ 143,000
TOTAL STREET AID FUND REVENUE --\$ 309,000

STREET AID FUND: EXPENDITURES

Expenditures -----\$ 285,000
Undesignated Reserve -----\$ 24,000
TOTAL STREET AID FUND EXPENDITURES --\$ 309,000

SANITATION FUND: REVENUE

New Revenue -----\$ 479,000
Fund Balance (Projected)-----\$ 45,000
TOTAL SANITATION FUND REVENUE --\$ 524,000

SANITATION FUND: EXPENDITURES

Expenditures -----\$ 489,790
Lease/Purchase of San Truck----\$ 28,200
Undesignated Reserve -----\$ 6,010
TOTAL SANITATION FUND EXPENDITURES --\$ 524,000

INDUSTRIAL PARK FUND: REVENUE

New Revenue-----\$ 342,009
Fund Balance (Projected)-----\$ 368,000
TOTAL IND PARK FUND REVENUE --\$ 710,009

INDUSTRIAL PARK FUND: EXPENDITURES

General Expenses -----\$ 135,400
Contribution-CC Chamber of Com\$ 15,000
Undesignated Reserve -----\$ 219,609
Transfer to General Fund -----\$ 40,000
Transfer to Debt Service Fund ----\$ 300,000
TOTAL IND PARK FUND EXPENDITURES --\$ 710,009

DEBT SERVICE FUND: REVENUE

New Revenue -----\$ 86,000
Transfer in from IP Fund -----\$ 300,000
Fund Balance (Projected) -----\$ 270,000
TOTAL DEBT SERVICE FUND REVENUE --\$ 656,000

DEBT SERVICE FUND: EXPENDITURES

Principal and Interest Expense ----\$ 443,189
Reserve Funds -----\$ 152,811
Reserve for Fire Truck Pay-off ----\$ 60,000
TOTAL DEBT SERVICE FUND EXPENDITURES --\$ 656,000

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DRUG FUND: REVENUE

New Revenue -----\$ 9,000
Fund Balance (Projected) -----\$ 63,000
TOTAL DRUG FUND REVENUE -----\$ 72,000

DRUG FUND: EXPENDITURES

TOTAL DRUG FUND EXPENDITURES --\$ 72,000

PART B: Appropriations not to be exceeded. No expenditure listed above may be exceeded without appropriate ordinance action to the budget and shall include the sources of revenue to finance the proposed expenditure.

PART C: Line-item financial plan required. The City Recorder is required to prepare and maintain a detailed financial plan to implement this appropriation ordinance, and to make regular monthly reports to this governing body.

PART D: 2009 Tax Rate. There is hereby levied a property tax of **\$1.36 per \$100.00** assessment for the purpose of funding municipal services for property tax year 2009.

SECTION II. BE IT FURTHER ORDAINED this ordinance shall take effect immediately upon final passage, the public welfare requiring it.

Motion was made by Ald. Smith, duly 2nd by Ald. Phelps to approve the 2009-2010 Budget and Tax Rate Ordinance on the final reading. Upon a roll call vote the following was cast:

Ayes: Tim Faulkner, Buel Maness, Michael Phelps and Keith Smith.
Noes: None.
Absent and Not Voting: Robert C. (Bobby) Barnes and Johny R. Farris

Therefore Mayor King declared Ordinance #448 passed and the budget and tax rate approved.

The next item was to consider action on the proposed rezoning from M-1 (Light Industrial) to B-4 (Highway Business), a tract of land along the east side of the Industrial Drive. The land is located from approximately 1132 Industrial Drive north to and including the water tank at 1150 Industrial Drive. The property is owned by the City of Henderson. Mayor King opened the meeting for a public hearing on the proposed rezoning. The public hearing was duly advertised in the "Chester County Independent" newspaper. This is the property that is being purchased for the clinic and the city has been informed that the clinic has received their grant and was ready to move ahead with the project. There were no public comments either in favor or in opposition to the proposed rezoning and therefore Mayor King closed the hearing.

Motion was made by Ald. Faulkner, duly 2nd by Ald. Smith to pass the ordinance to rezone the property on the first reading. Upon a roll call vote the following was cast:

Ayes: Tim Faulkner, Buel Maness, Michael Phelps and Keith Smith.
Noes: None.
Absent and Not Voting: Robert C. (Bobby) Barnes and Johny R. Farris

Therefore Mayor King advised the board that the final reading would have to take place at the August meeting since all members did not vote in favor of the rezoning.

The bids for materials to be used during the fiscal year (till 6/30/10 except for asphalt in which was bid only till 12/31/2009) for the public works department were presented in a lengthy

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report. PWD Jerry King recommended the low bidders. The low bidders and their bids are listed below:

33C Rock Gravel -----	BJ Harris -----	\$ 12.00 per ton
Red Chert Gravel -----	Shaw Sand and Gravel -----	\$ 10.50 per ton
Gabion Rip Rap -----	Rocky Point -----	\$ 17.49 per ton
Machine Rip Rap -----	Rocky Point -----	\$ 17.49 per ton
Red Fill Sand -----	Shaw Sand and Gravel -----	\$ 5.50 per ton
Concrete 5 ½ bag mix ----	Southern Concrete -----	\$ 82.00 per yard
Concrete 6 bag mix -----	Southern Concrete -----	\$ 84.00 per yard
Flowable Fill -----	Southern Concrete -----	\$ 60.00 per yard
Hot Mix Asphalt -----	Arrow Paving -----	\$ 56.75 per ton
Asphalt Binder -----	Arrow Paving -----	\$ 56.75 per ton
Cold Mix Asphalt -----	B J Harris -----	\$ 70.00 per ton
Poly Culverts -----	**** -----	\$ low bidder and price varies with size
Metal Culverts -----	**** -----	\$ low bidder and price varies with size

PWD King recommended the low bidder on each item. He did state that by waiting on paving projects till after this new bid, the city saved \$16.57 per ton on paving. Motion by Ald. Smith, duly 2nd by Ald. Phelps to accept the low bidder on each material as recommended by PWD King. Motion carried.

Recorder Garland explained that it was time again to apply for the TML Safety Partners Grant. This was a 50%/50% grant in which allows the city to purchase employee safety. The maximum amount of the application was \$4,000. The city was asking to apply for more safety barricades and equipment. A resolution would have to be passed authorizing the application. PWD King was uncertain about having the matching funds in his budget and UD Elkins volunteered to fund ½ the local amount. The equipment would be used in any department that was in need of the barricades. Motion was made by Ald. Smith, duly 2nd by Ald. Phelps to adopt the resolution on the TML Safety Partners Grant. Upon a roll call vote the following was cast:

Ayes: Tim Faulkner, Buel Maness, Michael Phelps and Keith Smith.

Noes: None.

Absent and Not Voting: Robert C. (Bobby) Barnes and Johny R. Farris

Therefore Mayor King declared TML Grant Resolution #2009-006 duly passed.

Ald. Smith stated that things were looking good at the city park but asked if the parking area was going to be extending into the area at the end of the park where the city was removing the dirt. No plans had been made but Mayor King stated that if the city could ever pave the existing area and the area marked off for parking, many more cars could be parked on the existing area.

Ald. Smith also asked about the estimate to widen the end of North Ave where it meets Main Street. PWD King stated that a quick estimate was about \$4,200 in materials. No other action was taken.

Ald. Maness asked what was known about Walgreens coming to town. Mayor King reported that Walgreens had gathered information about some potential sites in town but after the

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economic downturn, no other contact had been made. Mayor King did report that Decatur County Bank was constructing a new branch in town on Hwy 45 North.

Mayor King stated that the city was looking at a short sewer line extension to serve two or more sites on Industrial Drive. The two customers were interested in sharing in the cost of the extension in order to keep them from having to install an extra long service. The customers would be out about \$4,000 each (including the tap fee), with city providing the balance. The total project would cost between \$10,000 to \$13,000. After due discussion, motion by Ald. Faulkner, duly 2nd by Ald. Phelps to allow Mayor King to proceed with the project if the customers agree to the funding. Motion carried.

Motion by Ald. Phelps, duly 2nd by Ald. Smith to recess the meeting until Thursday, July 16th at 6:00 PM. Motion carried.

The Board of Mayor and Aldermen of the City of Henderson, Tennessee reconvened on Thursday, July 16, 2009 at 6:00 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, Johnny R. Farris, Tim Faulkner,
Buel Maness, Michael Phelps and Keith Smith.

Absent: None

There also present were: City Recorder Jim E. Garland, Police Chief Tommy Davis, Public Works Director Jerry King and Utility Director Mark Elkins

Mayor King gave a brief update on the progress made on the storm damage from the Wednesday Night storm that was responsible for a large number of downed trees and power outages around town. He complemented all the departments and the department heads. All the department heads were out working during the aftermath of the storm.

Mayor King reported that city auditor Mike Hewitt of Alexander, Thompson and Arnold contacted the city after seeing the story in the local paper about the city considering owner financing of the industrial building. Mr. Hewitt suspected that this may be a violation of the state constitution. Back when the Preferred Seating agreement was met, this was also questioned and Attorney Spore asked for an opinion from the State Comptroller on the matter. They did not respond to the request at that time. After Mr. Hewitt called today, MTAS was contacted for an opinion and were in agreement with Mr. Hewitt that the city could not finance the building. Mr. Hewitt did contact the Comptroller's Office and got a reply from Dennis Dycus, Director of Municipal Audit who stated it violated Article II, Section 29 of the State Constitution states is part that: *But the credit of no county, city or town shall be given or loaned to or in aid of any person, company, association or corporation, except upon the assent of three-fourths of the votes cast at said election.* The board members wanted to err on the safe side and follow the recommendation of the auditor and the Comptroller's Office.

Dr. Carey Frix addressed the board about the proposal that Frix/Jennings had made to purchase the city building at 60 Record Drive. He stated that after last night's storm the building has at least 15 separate leaks. Dr. Frix made his case why he thought the city treats out of town investors/businesses different than they treat local people who have proved they are providing

jobs and investment in the community. Dr. Frix did state that the immediate use of the building would be for storage. He stated that he was offering the market value for the property. He stated that since he is going to have to go to a bank to finance it, the only thing that matters is the appraisal based on the comparable sales.

Ald. Farris stated that in order for it not to appear that the city is favoring a single person or company, he recommended that the city set a minimum bid for the building and then take sealed bids.

There was a lengthy discussion about the value of the building and the lot in front of the building. Dr. Frix asked about a first right of refusal on the lot in front if the property was split. The first right of refusal was discussed and the city did not feel this was in the best interest of the city. Ald. Barnes stated that the entire board appreciated what Dr. Frix had done for this town and the investments he had made.

Motion was made by Ald. Smith to sell both the lot and the building either separate or together at a price set by the board. This motion being somewhat unclear, the motion was withdrawn.

The option of selling the property either with sealed bids vs. an auction was discussed and they both have pros and cons.

Motion was made by Ald. Barnes, duly 2nd by Ald. Maness to take sealed bids on the property and building (total property) with the minimum bid amount being \$350,000. Upon a roll call vote the following was cast:

Ayes: Robert C. (Bobby) Barnes and Buel Maness.

Noes: Johny R. Farris, Tim Faulkner, Michael Phelps and Keith Smith.

Therefore Mayor King declared the motion failed.

The city did plan on repairing the roof prior to the sell but no guarantee was made as to repairing all the leaks.

Motion was made by Ald. Farris, duly 2nd by Ald. Phelps to take sealed bids on the building and approximately 1/2 of the property with the minimum bid amount being \$225,000. Dr. Frix asked about the first right of refusal on the lot in front. No first right of refusal was being offered. All voted in favor of the motion, therefore Mayor King declared the motion carried.

The remaining lot of approximately 3.5 acres was discussed. Motion was made by Ald. Faulkner, duly 2nd by Ald. Farris to not sell the remaining lot at this time. Motion carried.

Motion was made by Ald. Farris, duly 2nd by Ald. Smith to have the sealed bids due in August 4th at 2:00 PM with 5% down within 24 hours and balance at closing within 30 days. Motion carried.

There being no other business, motion by Ald. Barnes, duly 2nd by Ald. Faulkner to adjourn. Motion carried.

Signed: Robert W. King

APPROVED: _____

MAYOR

Signed: Jim E. Garland

ATTEST: _____

CITY RECORDER