

MINUTES
OF THE
BOARD OF MAYOR AND ALDERMEN

AUGUST 12, 2010

The Board of Mayor and Aldermen of the City of Henderson, Tennessee met in regular session on Thursday, August 12, 2010 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, Assistant Police Chief Leon Johnson, Public Works Director Jerry King, Building and Zoning Official Brent Beshires, Fire Chief Glenn Bryan and Utility Director Mark Elkins.

Alderman Keith Smith gave the invocation and Alderman Bobby Barnes 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. 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. Ald. Smith questioned the two payments to the TML Risk Management Pool. Recorder Garland stated that the payments were for the workman's compensation insurance and that one payment was from the general account, the other was from the utility account, each paying their share. The total premium for the year would be the two added together. There being no other questions concerning the accounts, the meeting continued.

Delegations were called for by Mayor King. There being none, the meeting continued.

The city had taken bids on the demolition of four structures under the slum clearance ordinance. Title searches were completed by the city attorney and property owners as well as any other parties with an interest in the properties were given notice of this process and they were instructed to appear before the board tonight if they wanted to appeal the structures demolition. The low bidder for the demolition was Howell Construction Company. The structures and the bids received for demolition are as follows:

1. Benjamin Trice ----- 670 Luray Ave ----- \$ 3,000
2. Don Jones ----- 207 North Ave ----- \$ 3,000

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- 3. Cory Chambers ----- 291 Plunk Street ----- \$ 1,200
4. Raymond Goodner Sr ---- 421 Baughn Street ----- \$ 1,200

Mayor King asked if anyone wanted to address the board concerning the remaining three structures.

Terica Smith, Attorney for Mr. and Mrs. Benjamin Trice addressed the board stating that this matter was improperly brought before this board. She claimed that the notice requirements were not followed. She claimed that Mr. and Mrs. Trice and their daughter were all living in the house. She had several pictures of the home. When questioned, Recorder Garland stated that there had not been an active utility account for the city utility department since 2003. Attorney Smith stated that Mr. Trice's home has well water, septic tank and he hauls off his own trash. She stated that the electric service was on. Mayor King stated that this same structure was scheduled for demolition many years ago; this is not this first time Mr. Trice's home had been a problem. Mr. Beshires explained that all notices were mailed to the owner of record on the property tax records. No one could be located at the property and Mr. Beshires tried to locate Mr. Trice by talking to people in the neighborhood as well as the police department. On July 5th Mr. Trice called Mr. Beshires at home about the structure. Mr. Beshires explained the process to Mr. Trice and since that time, work had been performed on the house including painting, new windows and roof work. Ald. Smith stated that people were working on the house today when he drove by. Mayor King recommended that any action on this structure be tabled for one month to give City Attorney Spore an opportunity to review the matter in more detail. He also stated that if he owner is fixing up the home, that is what the city wanted in the first place. Motion by Ald. Farris, duly 2nd by Ald. Barnes to table any action on the demolition of the home at 670 Luray Ave for 30 days. Motion carried.

Mr. Don Jones, owner of the home at 207 North Ave. addressed the board stating that he had no problem tearing the house down but he wanted to have an additional 30 days to take proposals and have the house torn down. He had been taking some items out of the home and the electricity is scheduled to be removed from the house on Monday. After due discussion, motion by Ald. Farris, duly 2nd by Ald. Smith to give Mr. Jones an additional 30 days to have the home demolished and removed. Motion carried.

Building and Zoning Official Brent Beshires advised the board that the Cory Chambers structure at 291 Plunk Street had been demolished by the owner yesterday.

Mr. Beshires stated that he had spoken to Ms. Goodner, owner of 421 Baughn Street and she stated that she and her husband had no interest in the property. She said the city could take any action they felt necessary. She even offered to quick claim the property to the city but due to the fact there was a mortgage lien on the property, that was not recommended. Motion was made by Ald. Farris, duly 2nd by Ald. Faulkner to demolish the structure at 421 Baughn Street. Motion carried.

Motion was then made by Ald. Smith, duly 2nd by Ald. Barnes to approve the low bidder of Howell Construction for the demolishing of 421 Baughn Street. Motion carried.

Bids were received on July 29th for the Wilson School Road water line which was to improve water pressures to the Dry Creek Road area. They are as follows:

1. R. Jones Underground ----- \$ 84,589.38
2. Marbury Construction Co. ----- \$ 86,116.00
3. Natural Gas Pipeline Co. ----- \$ 102,925.08
4. B & C Construction Co. ----- \$ 107,300.00
5. Revell Construction Co. ----- \$ 207,100.00

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The bids had been reviewed by Jim Hillborn of GRW Engineering and he recommended the low bidder of R. Jones Underground. UD Elkins stated that he felt like he could make some small changes in the location of the line (swapping sides of the road, etc) which would result in some cost savings. Ald. Faulkner expressed his concern about the bid being based on quantities and possible change orders instead of a lump sum bid. Recorder Garland stated that almost all utility contracts of any size are bid this way. Ald. Faulkner just wanted to make sure that change orders would not make the bid come in for more than the bid amount. Recorder Garland stated that any change order would have to be approved by the mayor before the change is made. UD Elkins explained the need for a SCADA monitoring point in order to be better informed on the operating pressure of the system and if any failure of the pressure reducing valve would be caught more quickly. After due discussion, motion was made by Ald. Barnes, duly 2nd by Ald. Smith to award the contract to low bidder, R. Jones Underground and to get the funds to complete the project from the TML Loan that had already been issued. Motion carried.

The next matter to be discussed by the board was the application process for selecting a new Public Works Director. Longtime PWD Jerry King will be leaving the city effective September 1st to take the position of Chester County Road Superintendent in which he was duly elected. Ald. Smith asked if it was standard practice to advertise department head positions both internally and externally. Recorder Garland stated that the last two department head vacancies (utility director and fire chief), applications were taken both internally from within the city and externally by public advertisement. He stated that the city board normally met first to formalize a job description which would include the requirements for the position. This needed to be completed for the Public Works Directors position as well and then make the decision on how long and where to advertise the position. The board would then review the applications received and make a decision on whom to interview. After interviews, the board would hire a new director. Carter Scales is the Assistant PWD and Ald. Barnes felt like the city board needed to appoint Mr. Scales tonight to serve as Interim PWD until a final decision could be made on the position. Mr. Scales stated he was interested in serving as the PWD not only on an interim basis but permanently. Recorder Garland reminded the board of the city ordinance concerning temporary promotions in which, in this case, Mr. Scales could serve in the position of interim PWD for up to 90 days while still at his current salary and still keeping his overtime status. Beginning on the 91st day, his salary would increase to that of the PWD salary and he would lose his overtime status. If he was not appointed permanently to the position and someone else was hired, he would revert back to his old salary and begin receiving overtime again. After due discussion, motion was made by Ald. Barnes, duly 2nd by Ald. Farris to appoint Mr. Carter Scales as Interim Public Works Director to serve until he or another person was appointed permanently as PWD. His pay would adjust if he remains in this position more than 90 days. Motion carried.

A meeting was scheduled for Tuesday, August 17th at 6:00 PM to formalize the job description, determine advertising venues and to set application deadlines.

Mayor King advised the board that the Storm water and Drainage meeting with the Planning Commission which is being instructed by a MTAS representative had been rescheduled for August 31st at 6:00 PM.

Recorder Garland presented a report on the changes to State Local Government Health Insurance. Several major changes had taken place that will be effective January 1st. The report included the new rates of the plans as well as the benefits provided by each. The new plan offers

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more options being a 4 tier plan (employee, employee + children, employee + spouse and family) instead of the old two tier (employee only, family) plans. In order to give the employees more options, the administration was proposing to the board for the city to fund 80% of the Standard PPO plan or \$450.00 and then let the employee choose the best plan for their situation. This figure is within the budgeted figures for the new year. This could allow an employee to choose a cheaper plan, thereby reducing his premium cost or in some cases, he might be able fund part of his cost of coverage for his kids. The administration was not asking for a decision from the board tonight but would need it by the September meeting.

Mayor King reported to the board about a situation and he wanted the board to give him some guidance on how to handle the situation. It came to the Mayor's attention last week through rumors that UD Elkins had run some gas lines at his residence. The rumors alluded to the fact that it was not done properly. Upon investigation, it was found that UD Elkins had brought a crew out to his residence on Glendale Road to lay a gas line around to an addition to the house or an apartment area. Also while the crew was there, they cut a trench out to a future barn site. Mayor King stated that based on city policy that an application for such service extensions should be on file. He found no application on file for this work at that time. After finding no application on file, Mayor King talked to some of the crew as well as UD Elkins. His questions pertained whether we would do this for any customer or was this something special. Upon further research of city policies, Mayor King found and read from the city's ethics policy which states: "In any situation other than at a publicly advertised meeting, if an official or employee must exercise discretion relative to any matter, who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion, shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself/herself from the exercise of discretion in the matter." Mayor King explained this policy in layman's terms to the board and audience. The action of UD Elkins appears to be in violation of this policy and therefore under the ethics policy, the board may want the city attorney, who serves as the ethics officer, to investigate the matter in more detail and report his findings back to the board for action.

UD Elkins addressed the board stating that a week ago last Friday and on the spur of the moment, he did have a crew of two men install a gas line at his home and that he did fail to file the application for service. He stated he should have swung by City Hall and completed the application and also notified the mayor of the work he was doing. He stated he did not know about the ethics code but he did fail to follow this policy. He apologized for his actions. He stated that he had no malice intended and that he did not do it to circumvent the city policy. He explained that the line to the maintenance shop/barn was in order to get under a low lying area where a drive was going to be constructed to keep the department from having to bore the driveway. This is a standard practice of the department. He again apologized and stated he had no excuse for not following policy. When questioned, UD Elkins stated that he had two employees on the initial day and then the following Wednesday, he had three or four. The project is still not complete. The cost for gas services to the customer was discussed and it was explained that depending on length and the appliances installed, UD Elkins or any other customer may not owe for the service line. Ald. Faulkner had been to the site and wondered why all the trenches had been left open with no gas lines being installed in them. Ald. Phelps stated that department heads should know and definitely follow the city policies and procedures. He

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expressed his disappointment in UD Elkins for this situation and stated that UD Elkins knew better.

After due discussion, motion was made by Ald. Barnes, duly 2nd by Ald. Phelps to suspend UD Elkins for three days, place a written reprimand in his file and have the project completed, measured and make sure UD Elkins pays any and all fees due (if any). Upon a roll call vote, the following was cast:

Ayes: Robert C. (Bobby) Barnes, Tim Faulkner and Michael Phelps.

Noes: Keith Smith, Johny R. Farris and Buel Maness.

The vote being a tie, Mayor King voted in favor of the motion therefore suspending UD Elkins duly passed.

UD Elkins reported to the board that the DitchWitch 4010 trencher requires repairs due to a broken hydraulic jack shaft and front steering mechanism. This machine was much needed to continue the Mifflin area project. Ald. Faulkner stated that he called DitchWitch directly and the maintenance man stated this repair estimate might be high because they did not break the machine apart. He wondered why the trencher was brought back if it could not be used. He said it should have been left there till it could be determined if the repairs were to be made. This seems like a waste of time now to have to carry it back again. UD Elkins also stated that the DW 5110 may also need a new motor at a cost of approximately \$10,000. After due discussion, motion was made by Ald. Faulkner, duly 2nd by Ald. Smith to fix the DW 4010 as long as the repair does not exceed \$5,620.35. Motion carried.

All the aldermen expressed their appreciation to PWD Jerry King for his many years of dedicated service to the city.

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

Signed: Robert W. King

APPROVED: _____

MAYOR

Signed: Jim E. Garland

ATTEST: _____

CITY RECORDER