

MINUTES  
OF THE  
BOARD OF MAYOR AND ALDERMEN

AUGUST 11, 2011  
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The Board of Mayor and Aldermen of the City of Henderson, Tennessee met in regular session on Thursday, August 11, 2011 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, Johnny 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 Carter Scales, Fire Chief Glenn Bryan and Utility Operations Superintendent David Russell. Building and Zoning Official Brent Beshires and UD Mark Elkins were absent.

Alderman Bobby Barnes 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 made note of one error that needed to be corrected in the minutes. There being no other questions or corrections, motion was made by Ald. Barnes, duly 2<sup>nd</sup> by Ald. Faulkner 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.

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

The first item on the agenda for tonight's meeting was a request to rezone property located at 244 Crook Ave from R-1 Single Family Residential to I Institutional. The property was owned by Freed-Hardeman University. 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. The rezoning did receive a favorable recommendation by the Planning Commission. The property was bordered on the rear by Institutional zoned property that is owned by the University but bordered by R-1 Zoned property on the remaining three sides. The request for rezoning stated that the University currently planned on putting students in the existing house. The audience was given an opportunity to ask questions and make comments.

Mr. Roland Pack of 234 Crook Ave addressed the board. His home is immediately south of the subject property. He advised that this request had just been brought to his attention today and he had not seen any notices of this proposal. He was advised that the rezoning had been advertised on

Minutes – August 11, 2011 (Cont'd)

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the agenda for the planning commission as well as this public hearing was advertised approximately 21 days earlier. Mr. Pack asked that the city board postpone any action on this request until the homeowners in the area could investigate the impact such a rezoning might have on their property.

Ald. Barnes who resides at 241 Crook Ave, immediately across the street from the subject property addressed the board stating that he had talked with some of his neighbors today including Ms. Miller that lives just directly north of the subject property. Ms. Miller being elderly was not at the meeting tonight but Ald. Barnes stated that she was not necessarily for the rezoning or against it but her concern was that the driveway to the subject property was located on her property and served both homes. She allowed prior owners to use this driveway but she had concerns that with the number of students in the home, the driveway would become blocked with cars. Ald. Barnes stated he also talked with several other neighbors and none of them stated that they were in favor of the rezoning. He went on further to state that some of them were associated with the University and they felt that they should not comment about the request. Ald. Barnes had concern of the possible increased street parking. He was opposed to the rezoning. He had concern of property values.

Mr. Patrick Malone of 237 Crook Ave agreed with Ald. Barnes that he was against the rezoning. He was unaware of the future plans of FHU for the property and was suspicious of their plans. He restated that he was against the rezoning. His wife, Melanie addressed the board stating that their home had been abandoned for several years and they had been working hard to renovate the structure. They had put a lot of time and money in the project. They do own a separate apartment at 231 Crook but due to the zoning they are unable to rent the structure out. She was opposed to the rezoning request.

Mrs. Rebecca Pack also addressed the board about her concern of this rezoning. They wanted to improve the neighborhood and felt this would be a detriment to the area.

Mr. Dwayne Wilson, the representative of FHU addressed the board. He stated that to the best of his knowledge, the rezoning request had been handled and advertised in the same manner as all other requests. The community planner that reviewed this request at the Planning Commission did not view this as spot zoning due to the lot bordering an Institutional zone and even a portion (about 30%) of the rear of this lot was already zoned Institutional. He stated that all the female housing is booked for the fall semester and they needed this house for that use. Move in date is the weekend so the University could not wait even a month.

There being no other comments on the rezoning request, Mayor King closed the public hearing.

Mayor King addressed the audience stating that he took exception to some of the comments and stated the city does post all the notices required by law. This matter was on the published Planning Commission agenda, this public hearing was advertised and he even put the matter on Facebook. Mayor King went further to address the action by the Planning Commission to recommend the rezoning. The planner did not feel this was spot zoning. When this lot was researched somehow between 1978 and 1979 approximately 30% of the lot got rezoned to Institutional. The map showing this had been approved by the city board on several occasions through the years and whether intended or not, the rear of this lot is now Institutional. With all this taken into account, the Planning Commission felt like it met the legal requirements of rezoning but it is the City Board that takes the final action and they take into account the public comments of the persons affected by the rezoning. He spoke of examples where this city board had not taken the Planning Commission's recommendations.

Mr. Pack was again recognized stating that the urgency stated by the University was not such a problem and that he felt that most of the neighbors would not have a problem with the students being housed there temporarily till this matter could be studied further. He stated that

Minutes – August 11, 2011 (Cont'd)

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the University had done this before at this location and no one complained. He just asked the board to postpone final action.

Ald. Keith Smith addressed the group stating that as most are aware, he was employed by the University and as such he would recuse himself for any discussion or voting on this matter.

Ald. Farris questioned the driveway situation on the house. Mr. Wilson of FHU stated that tonight was the first he had known about a possible problem with the driveway. He thought the driveway was on the FHU property but he would have to investigate further to determine the facts about this matter. Parking was discussed and Mr. Wilson stated that they would prepare necessary parking for the students at the rear of the house.

After due discussion, motion was made by Ald. Farris to pass the ordinance to rezone the property at 244 Crook Ave to I (Institutional) on the first reading. Mayor King repeatedly asked for a second to the motion. There being no second, Mayor King stated the ordinance failed due to the lack of a second.

The city was contacted by Chester County Highway Superintendent Jerry King who stated that his department was replacing some tractors with boom type mowers on them. He was offering to sell the city one of the old units at the same price as he was offered for the trade value. The price would be \$9,000. PWD Scales inspected the tractor and mower and stated it was a 1999 model tractor and mower. The tractor had approximately 10,000 hours on it and was still being used daily. The city had never had this type of equipment before but it would be used in many locations around town to clear ditch banks and roadways that the existing street mowers could not reach. Recorder Garland recommended transferring the necessary funds from Street Maintenance in State Street Aid to Equipment Purchase. After due discussion, motion was made by Ald. Farris, duly 2<sup>nd</sup> by Ald. Smith to transfer the necessary funds and to purchase the used tractor/mower. Motion carried.

The next item of business was to consider an extension of the lease on the city building at 60 Record Drive. The original lease expired three month earlier and the lease was continuing on a month to month basis with Eagle Logistics LLC. The present lease amount was \$2,000 per month. The six month extension would increase the rent by 10% (to \$2,200 per month) and would still include all the original wording including the option to purchase the building for \$225,000. Eagle Logistics had agreed with the proposed extension.

Motion was made by Ald. Smith, duly 2<sup>nd</sup> by Ald. Barnes to approve the lease extension. Motion carried.

Mayor King advised the board that the 911 Dispatchers had sent over an amendment to the city police's "General Order" on Wrecker Services. They had typed the amendment as a "Standard Operating Procedure". All SOPs had to be approved by the board. General Orders are issued by the police chief. Mayor King explained the clarification made in the policy. The Police Chief explained the situation and the reason for the clarification. Chief Davis stated that both wrecker services that operate in the county have worked well with the city but with that being said, he can't let a wrecker service dictate the way the police department operates. The department will continue to strive to take whatever action is necessary to get the street cleared and to ensure the safety of the officers and the public. After due discussion, the board felt that this is a matter that can be handled by the police chief's General Order and as such they left the matter to his discretion.

Minutes – August 11, 2011 (Cont'd)

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Mayor King advised the board of a situation that is taking place with the Chester County Senior Citizens. He explained that they are having financial problems and yet they are very frugal with their funds. They have two certificates of deposits; one is for approximately \$25,000 in which they can only use the interest. At current rates of approximately 1% that is not much money. The other CD, they are dipping into about \$5,000 to \$8,000 annually just to cover operating expenses. The Senior Citizens had been making some money on their trips but due to the economy, they had not taken any trips in the last few years. The city currently funds \$2,000 per year to the Senior Citizens but they were asking for more help to cover the cost of their bi-annual audit which will cost of \$1,100. They were asking for \$500.00. After due discussion, motion was made by Ald. Faulkner, duly 2<sup>nd</sup> by Ald. Farris to make a onetime donation of \$1,000.00 to help cover the cost of the audit. Motion carried.

Mayor King advised the board that the recycling pickup program will start on Friday, September 9<sup>th</sup>.

Concerning the Traffic Signal Project, the contractor is still waiting on poles and supplies. The project will proceed as soon as they are received.

The Old Jacks Creek Road Sewer Project will be bid on September 6<sup>th</sup>. The results will be presented at the next meeting to the board.

The plans on the water main project on North Ave between Third and Fourth Street are at TDEC awaiting approval.

The gas main project on Hwy 197 just west of Mifflin was delayed a week or so due to a delay in getting the Vermeer plow.

Mayor King advised the board that a matter was tabled at the last meeting. The item was the selling of fireworks inside the city. According to Roberts Rules of Order, a majority vote of the board would be needed before the matter could be brought back up for discussion. Motion was made by Ald. Phelps, duly 2<sup>nd</sup> by Ald. Barnes to take the matter of Fireworks off the table for discussion. Motion carried.

Ald. Maness addressed the board stating that he had talked with a mayor from another town that had made fireworks legal and that mayor stated that they had less problems since making fireworks legal than they did before. This town did regulate what hours they could be shot and only allowed them to be discharged late on the actual holiday. He did want to put the matter to a vote.

Ald. Maness made a motion to amend the city policy to allow the sale and discharge (use) of fireworks inside the city. Mayor King asked for a second to the motion. There being none, the motion failed due to the lack of a second.

Utility Operations Superintendent David Russell advised the board of the problem with the department's extension policy. The current policy allows people to call in for an additional seven day extension before being cut off. The same customers are using this every month to keep from being cut off. Office Manager Alicia Holder addressed the board concerning this matter. The policy was discussed and the board instructed the Utility Department to come back with a written policy that could be fair to all customers at the next meeting.

Minutes – August 11, 2011 (Cont'd)

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Fire Chief Glenn Bryan addressed the board stating that he wished to apply for the FEMA Grants for both a truck and equipment. The matching for both grants is 5%. He requested permission to apply for the grants and the matching funds. The city had applied for these grants for the last three to four years and had not received one during that time. Motion by Ald. Barnes to approve the applications. Motion was 2<sup>nd</sup> by Ald. Faulkner. Motion carried.

Ald. Farris mentioned the storage containers being used as an accessory building. With Building Official Beshires out of town and committee of the board had not met to discuss this matter, this matter was postponed till next month.

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

APPROVED: \_\_\_\_\_  
Signed: Robert W. King  
MAYOR

ATTEST:

Signed: Jim E. Garland

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CITY RECORDER