

MINUTES
OF THE
BOARD OF MAYOR AND ALDERMEN
NOVEMBER 10, 2011

The Board of Mayor and Aldermen of the City of Henderson, Tennessee met in regular session on Thursday, November 10, 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, 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 Carter Scales, Fire Chief Glenn Bryan, Utility Director Mark Elkins and Building and Zoning Official Brent Beshires.

Alderman Keith Smith gave the invocation and Alderman Johny Farris 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. Faulkner 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. Faulkner questioned the payment to Mitel. Recorder Garland explained that the city hall phone system was becoming dated and the maintenance costs were growing. Mitel, the phone system supplier, offered to swap out the old system with a new one and due to the high maintenance cost on the old system, the monthly payment on the new system was about the same as the maintenance cost on the old system. The new system also provided more capacity for additional lines. There being no other questions concerning the accounts, the meeting continued.

Delegations were called for by Mayor King:

Ms. Tracey Mullins of AYSO (American Youth Soccer Organization) addressed the board about the youth soccer association. She wanted to give the city board information about AYSO and the benefits of the local soccer organization being associated with AYSO. She understood that Henderson Youth Soccer was planning on leaving AYSO. AYSO charges the local organization \$15.00 per player which covers, (1) Liability Insurance for players, coaches, and the field owners (the city); (2) Background Checks on all volunteers and coaches; (3) Accident Insurance for all players and coaches; (4) Taxpayer ID number and (5) Registration Forms and other paperwork. Mayor King brought the city board up to speed on the situation

surrounding the soccer organization. He stated that there is a group of the local soccer organization that wants to leave AYSO. The group feels that AYSO does not support the local organization. He stated that upon a review of the minutes that the city board back in the 90s approved the soccer organization to use the Gene Record Park for the soccer program as long as the organization provided liability insurance to protect the city and accident insurance to protect the players. The organization was originally formed under AYSO. The members of the local soccer organization board that wanted to leave AYSO were mentioned by name. Ms. Mullins stated that she had a Parents Meeting advertised and scheduled for Monday, November 14th at 7 PM here at City Hall to address the matter. Ald. Farris stated that the city would work with whatever organization the majority of the parents wanted and that Chester County was too small to have two soccer programs. Ms. Mullins agreed the community did not need to have two programs. Ald. Farris asked Recorder Garland if the soccer organization was providing the city with insurance certifications and Garland could not remember ever receiving any for the last several years. The insurance for the players was discussed. Ms. Mullins stated that the players were registered “by name” and had to be listed to be covered by the insurance. Mayor King stated that he had heard through the grapevine that all the players had not been registered by the local organization with AYSO and therefore not covered by insurance. Ms. Mullins stated that she was not sure but that 106 players were registered with AYSO and the organization ordered 366 uniforms and 330 trophies. Ms. Mullins stated that an audit was ongoing on the local organization and that Kim and Tony McNeil had been suspended from any AYSO functions. Several of the board members made comments concerning this matter. Mayor King stated the he hoped the community/parents can solve this matter before the city is put on the spot to decide what soccer organization would be supported. No action was taken at this time.

Recorder Garland presented the following proposed policy concerning Family Medical Leave and the continuation of Health Insurance during that leave to the board. This written policy clarifies the current policy of the board.

Policy on FMLA Leave and the Continuation of Health Insurance while on FMLA Leave

In an effort to assist employees that are suffering from Serious Health Conditions themselves or their families, the City of Henderson Policy on FMLA Leave and the Continuation of Health Insurance while on FMLA Leave is as follows. This policy exceeds the requirements of the Federal Law in some aspects. FMLA leave is for employees who intend on returning to work, not employees that are retiring (service time, age or disability) or planning on terminating employment with the city.

The Family Medical Leave Act (FMLA) is a federal law that requires employers to provide an employee with 12 weeks of paid or unpaid leave during a year’s time for the Serious Health Condition for themselves or immediate family members or the Birth or Adoption of a Child. The employer must allow the employee to return to the same position or a position similar to that held before taking the leave. There are certain exceptions to the FMLA which will not be explained in this document.

If an employee is unable to work due to an item covered by FMLA that affects the employee, he or she may use any and all paid leave he or she has accrued with the city. This includes sick leave, vacation, unpaid holidays, etc. After exhausting all leave, he or she is eligible for up to an additional 12 weeks of unpaid FMLA Leave.

If an employee wishes to take FMLA leave for an item covered by FMLA for an immediate family member, he or she may use his/her vacation and unpaid holidays and possibly up to 40 hours sick leave as allowed by the city’s sick leave policy. After exhausting all this type of leave, he or she is eligible for up to an additional 12 weeks of unpaid FMLA Leave.

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Anyone wishing to claim FMLA leave must have their health care provider complete the US Department of Labor's "Certification of Health Care Provider for Employee's Serious Health Condition" for themselves or the immediate family member they are taking the leave for and return the completed form to the city for approval. FMLA leave may be taken all at one time or intermediately as the condition requires. Employees that are on FMLA leave cannot be employed at any other job (part time or full time) without receiving special approval with the proper medical reasons why he or she is able to work one job and not his regular city job.

Any employee that is on unpaid FMLA Leave must pay to the city any health, dental or optional coverage premiums that would normally be deducted from their paychecks for any pay period that they do not receive a check.

Continuation of Health Insurance while on FMLA Leave:

The City of Henderson will continue Health and Life Insurance Coverage for employees on FMLA Leave for up to three months (12 weeks). The employee will still be responsible for his or her part of the premium that normally is withheld from his/her paycheck. If while on unpaid FMLA leave an employee takes any action that would be assumed by the city that he or she is not returning to work, the city will terminate health coverage immediately. This includes but not limited to filing an application for retirement, applying for social security disability or taking a job or employment with another employer.

The proposed amended policy was discussed by the board. Motion was then made by Ald. Farris, duly 2nd by Ald. Phelps to approve the policy as presented. Motion carried.

The next item to be discussed was Credit Cards Processing Fees. This matter had been discussed a couple of months earlier. Recorder Garland had provided a detailed report of the credit card fees paid by the utility department since January that showed the fees had cost an average of \$594 per month with the last three months being the highest exceeding \$800 per month. The percent of fees range from a low of 1.98% to a high of 2.82%. The utility department was having one customer with a monthly bill amount exceeding \$12,000 to use a credit card for payment. The total yearly credit cards processing fees based on the current trend could exceed \$15,000 annually. Due to customer demands, the city recorder's office was planning on starting to take credit card payments for fines, taxes etc. by the first of the year. The city had two choices; 1) consider these processing fees a cost of doing business (overhead) and adjust rates to cover the cost at some point or 2) pass the fees on to the customers that are using the credit cards. Recorder Garland did state that the existing software could be set to handle a credit card fee added to the transaction. When researching other organizations that charge a credit card fee, it varies greatly from a flat dollar amount of \$3 to \$5 to a percentage from about 2.5% to 3%. Some companies limit the minimum and maximum amount a customer can use a credit card for. Mayor King recommended a 2.75% fee just to cover our expense. Recorder Garland and Utility Office Manager Alicia Holder recommended that if the city did choose to charge a fee to not make it apply till January 1st in order that we can notify existing users on the utility bills that the change is taking place. Recorder Garland reminded the board that all utility customers can still sign up for ACH payments with no fees that will automatically debit their checking accounts for their utility bill.

After due discussion, motion was made by Ald. Barnes, duly 2nd by Ald. Phelps to begin charging Credit Card users 3.0% processing fee effective January 1st. Also included in the motion was to upgrade or buy equipment in the recorder's office to take credit card payments. Motion carried.

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An ordinance was presented on the first reading that would amend Section 11-311 of the Henderson Municipal Zoning Ordinance concerning Accessory Buildings and Uses. A Public Hearing and the final reading would be considered at the December meeting. Building and Zoning Official Brent Beshires explained the proposed ordinance. This is a result of several months of discussion about the use of Shipping Containers/Pods as accessory buildings. A request for an amendment to the policy to allow this use was sent to the planning commission for their consideration but they chose to take no action on the matter. A committee of the board had been appointed to study this matter and upon their recommendation, the proposed ordinance was drafted. The proposal would allow shipping containers/pods to be used on a temporary basis for up to 120 days. It would also allow them (not exceed a 20' x 8' x 8' in size) to be used on a permanent basis as long as they are located in a location that was approved for a standard accessory building and painted a solid color with no advertising.

Motion was made by Ald. Barnes, duly 2nd by Ald. Smith to pass the Ordinance as amended 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.

Therefore Mayor King declared the ordinance passed on the first reading and the public hearing and the final reading was scheduled for the December meeting.

The next item was for the city board to consider tentative approval of the proposed review fees for Sub-divisions, Rezoning Requests, Annexation Requests and Variance Requests. Due to the fees being part of the Sub-division regulations, state law requires that a public hearing and final action take place before the Planning Commission before the fees become effective. The proposed fee schedule is as follows:

Henderson Municipal/Regional Subdivision Regulations

APPENDIX IV
SCHEDULE OF FEES

1. Plan Review

Simple split 2 lots	\$ 50.00
0 to 4 Lots	\$ 100.00
5 to 25 Lots	\$ 150.00
26 to 50 Lots	\$ 250.00
51 to 100 Lots	\$ 400.00
101 to 250 Lots	\$ 500.00
251 to 500 Lots	\$ 1000.00
Over 500 Lots	Fee be negotiated but not less Than \$1200.00

Planning Commission or Board of Zoning Appeals
Rezoning, Annexation or Variances \$ 100.00 Fee
to be paid with request prior to review

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Building Official Beshires advised the board that the only amendments were to the lowest two categories on the Plan Review and the Fees for Rezoning, Annexation and Variances. The increase in fees was to help recover a portion of the cost of the advertising and meeting fees.

Ald. Barnes brought the matter of providing notice for rezoning, etc. to the board and he wanted to see the city to take steps to provide different ways to provide notice in the future. Reluctantly residents don't read the newspaper or go online to find out. He spoke of locating a sign on the property where changes were being considered. This was discussed in depth by the board and several of the members seem to agree with this plan. The city does comply with notice requirements contained in state law. The possibility of using signs to notify the neighborhood was discussed and the board asked that they be brought examples of a sign that could be used. A generic sign would be considered to lower the cost because it would be reusable.

Back to the matter on the proposed fees, after this discussion, motion was made by Ald. Barnes, duly 2nd by Ald. Faulkner to approve the proposed fees as presented above. Motion carried.

Mayor King advised the board that he had been contacted by Mayor Robinson of Selmer who was asking that the City consider providing dog pound services for Selmer. Selmer would bring their dogs to our pound for care and feed. They would consider a fee on a per dog basis. Mayor King advised Mayor Robinson that he really didn't think the city board would consider this proposal due to lack of pound space but Mayor Robinson asked that it be presented. Without much discussion, motion by Ald. Faulkner, duly 2nd by Ald. Barnes to deny the request from Selmer's Mayor Robinson. Motion carried.

Mayor King advised that he had been contacted by Dr. Campbell/Dr. Rogers about the trees at the rear of City Hall next to their office. The Bradford Pear trees are getting large and getting close to the building. Dr. Campbell wants them to all cut down but Dr. Rogers would settle for every other one being cut down and the rest being trimmed. The board advised Mayor King to handle the problem as he saw fit.

The board received updates on ongoing city projects including the water main on North Ave, Old Jacks Creek sewer project, city park parking lot and the traffic signal project.

Mayor King reminded the board of the Veterans' Day Program on Friday and the Christmas Parade on the 1st.

Mayor King advised the board that concerning the Downtown Enhancement Grant (TEA-21) for downtown that the rules changed after the city applied. The city will now be required to pay 100% of the "soft cost" including project design, project administration and right of way acquisition (if any is required). The grant will only cover 80% of the construction cost only. The city is still trying to determine exactly what the local cost will be and Mayor King has asked TLM Engineers for revised numbers. This would be discussed at the December meeting in more detail.

PWD Carter Scales reported that Mifflin Ave had been paved.

The mayor and board commended the Chester County Football, Girls Soccer and Girls Volleyball teams for their excellent seasons.

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

APPROVED: _____
Signed: Robert W. King
MAYOR

ATTEST:

Signed: Jim E. Garland

CITY RECORDER