

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on September 27, 2016

A regular meeting of the Board of Commissioners of the City of Henderson, Kentucky, was held on Tuesday, September 27, 2016, at 5:30 p.m., prevailing time, in the third floor Assembly Room located in the Municipal Center Building at 222 First Street, Henderson, Kentucky.

INVOCATION was given by Father Rich Martindale, St. Paul's Episcopal Church followed by recitation of the Pledge of Allegiance to our American Flag.

There were present Mayor Steve Austin presiding:

PRESENT:

Commissioner Jan Hite (arrived at approximately 6:50 p.m.)
 Commissioner Jesse Johnston, IV
 Commissioner Robert M. (Robby) Mills
 Commissioner X R. Royster, III

ALSO PRESENT:

Mr. Russell R. Sights, City Manager
 Mrs. Dawn Kelsey, City Attorney
 Ms. Maree Collins, City Clerk
 Mrs. Donna Stinnett, Public Information Officer
 Mr. Robert Gunter, Finance Director
 Mr. Charles Stauffer, Police Chief
 Mr. Scott Foreman, Fire Chief
 Mr. Brian Bishop, City-County Planning Executive Director
 Mrs. Sarah Stewart, Downtown Henderson Partnership
 Ms. Wanda Sauer, Just Plus/Just Chic and Little Britches
 Mr. Curt Hamilton, Attorney
 Mr. Tom Davis, City Commissioner Candidate
 Mr. Ron Jenkins
 Ms. Jessica Gavin, 14 News
 Ms. Brittany Ross, SurfKy Reporter
 Ms. Laura Acchiardo, the Gleaner
 Mr. Jacob Klotzback, Police Officer

APPROVAL OF CONSENT AGENDA:

MAYOR AUSTIN asked the City Clerk to read the Consent Agenda.

Minutes: September 13, 2016, Regular Meeting
 September 20, 2016, Special Called Work Session

Motion by Commissioner Robert M. Mills, seconded by Commissioner Jesse Johnston, to approve the items on the Consent Agenda as presented.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Absent:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the consent agenda items approved.

/s/ Steve Austin
 Steve Austin, Mayor
 September 27, 2016

ATTEST:

Maree Collins, City Clerk _____

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on September 27, 2016

ORDINANCE NO. 29-16: SECOND READ
ORDINANCE REGARDING ANNEXATION

AN ORDINANCE ANNEXING CERTAIN UNINCORPORATED TERRITORY TO THE CITY OF HENDERSON, KENTUCKY, BEING LOCATED ON US HIGHWAY 41-A IN HENDERSON COUNTY, CONTAINING SECTION #1, PARCELS #46C-15, #46-97, #46-98, AND #46-99; SECTION #2, PARCEL #46-100; SECTION #3, PARCEL #46-100.1; SECTION #4-A, PARCELS #46B-15 AND #46B-60; SECTION #4-B, PARCELS #46B-54 AND #46B-78; SECTION #5, PARCEL #46-131; SECTION #6, PARCELS #46F-1 THRU 46F-6 AND PARCELS #46F-8 THRU #46F-30; AND SECTION #7, PARCEL #46-134

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Absent:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date thereto and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 September 27, 2016

ATTEST:
 Maree Collins, City Clerk _____

ORDINANCE NO. 31-16: SECOND READ
ORDINANCE RELATING TO MOBILE FOOD UNITS

ORDINANCE ESTABLISHING ARTICLE IV, *MOBILE FOOD UNITS*, SECTIONS 17-63 THRU 17-71, OF CHAPTER 17, *PARKS AND RECREATION*, OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

MOTION by Commissioner Robert M. Mills, seconded by Commissioner Jesse Johnston, that the ordinance be adopted.

MRS. SARAH STEWART, Downtown Henderson Partnership Assistant Director, thanked the Board for the progressive steps that have been taken thus far on the food truck ordinance but requested that the locations and times of service especially during summer hours be revised before the ordinance passes on second reading. She indicated that she had met with a prospective food truck vendor and the ordinance as written is of concern to him.

After a great deal of discussion a consensus was reached to deny the ordinance as presented and conduct another work session to review the concerns raised relating to the hours of operation and permissible locations.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Nay:
 Commissioner Johnston --- Nay:
 Commissioner Hite ----- Absent:
 Commissioner Royster ---- Nay:
 Mayor Austin ----- Nay:

WHEREUPON, the motion failed and was scheduled for the November Work Session

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on September 27, 2016

ORDINANCE NO. 32-16: FIRST READ

RUSSELL R. SIGHTS, City Manager, reported that a previous ordinance relating to this matter was tabled at the last meeting and that this new ordinance reflects the requested changes that were discussed at that time.

ORDINANCE NO. 32-16: ORDINANCE RELATING TO MERCHANTS USE OF SIDEWALK IN CENTRAL BUSINESS DISTRICT

ORDINANCE ESTABLISHING SECTION 20-11, *SALE OF MERCHANDISE ON SIDEWALK IN CENTRAL BUSINESS DISTRICT*, OF ARTICLE I, *IN GENERAL OF CHAPTER 20, STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES*, OF THE CODE OF ORDINANCE OF THE CITY OF HENDERSON PERMITTED TO BUSINESSES LOCATED IN THE CENTRAL BUSINESS DISTRICT

MOTION by Commissioner X R. Royster, seconded by Commissioner Jesse Johnston, that the ordinance be adopted.

MRS. SARAH STEWART, Downtown Henderson Partnership Assistant Director, reported that she had been in contact with several business owners and they expressed their concern about the revised ordinance.

MS. WANDA SAUER, Just Plus/Just Chic and Little Britches Embroidery, indicated that she and several other business owners preferred to allow the three feet for the merchandising displays. Mrs. Kelsey explained that the four and one-half feet of unobstructed sidewalk was a federal Americans with Disabilities Act requirement and must be maintained no matter how much sidewalk is available for merchandise display.

MR. CURT HAMILTON, Curt Hamilton Law, applauded the commission for considering this ordinance and requested that the insurance and indemnity clause provisions be revised. Mr. Hamilton indicated that in his opinion the city was requiring the merchant an extra step and expense in naming the city as an additional insured and were also requiring the merchants to insure the city for the city's own negligence with the indemnification clause language.

After a great deal of discussion a consensus was reached to deny the ordinance as presented. Staff was asked to review the insurance requirement with the city's insurance company and redraft the ordinance to reflect any change they recommend and that merchandise will be allowed on up to three feet from the building with a minimum of four and one-half feet of unobstructed sidewalk, not including the pavers, for pedestrian use.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Nay:
 Commissioner Johnston --- Nay:
 Commissioner Hite ----- Absent:
 Commissioner Royster ---- Nay:
 Mayor Austin ----- Nay:

WHEREUPON, the motion failed and staff was instructed to draft a revised ordinance.

MAYOR AUSTIN congratulated Mrs. Stewart on the DHP sponsored event held in the park this past Saturday. He indicated that there seemed to have been a very nice crowd and that things went well. Mrs. Stewart responded that it was a wonderful evening with over 300 people in Audubon Mill Park, live music at three other locations in the downtown area and a lot of people that came to Henderson from out of town. Mrs. Stewart thanked the commission for work on the special events ordinance change that allowed the collaboration with Peerless for that event.

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular *Meeting on* September 27, 2016

ORDINANCE NO. 33-16: FIRST READ

ORDINANCE AMENDING BUDGET AND APPROPRIATION ORDINANCE

AN ORDINANCE AMENDING BUDGET AND APPROPRIATION ORDINANCE FOR THE FISCAL YEAR COMMENCING JULY 1, 2016 AND ENDING JUNE 30, 2017 FOR THE CITY OF HENDERSON, KENTUCKY

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, that the ordinance be adopted.

ROBERT GUNTER, Finance Director, gave a brief outline of the amendments as presented to the General, Construction, Public Way Improvements, and Emergency Communication Funds. Mr. Gunter indicated that many of these expenses were from projects that started in the prior fiscal year and will be completed this fiscal year.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Absent:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the Ordinance adopted on its first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

MUNICIPAL ORDER NO. 47-16:

RUSSELL R. SIGHTS, City Manager, indicated that the city had been contacted to participate in a joint city/county/school board auction to dispose of surplus property. These two vehicles were identified as surplus and this municipal order authorizes their disposal.

ROBERT GUNTER, Finance Director, indicated that both of the vehicles are in the Finance department. A 2001 Malibu in HART that is in the process of being replaced will be transferred to Finance to replace a like 2001 Chevrolet Malibu that is in poor condition. The 1999 Ford Taurus has been replaced with the recent delivery of a new Ford Fusion.

MUNICIPAL ORDER NO. 47-16: MUNICIPAL ORDER AUTHORIZING SALE OF TWO CITY VEHICLES AS SURPLUS PROPERTY AT AUCTION; AND AUTHORIZING FINANCE DIRECTOR OR HIS DESIGNEE TO EXECUTE DOCUMENTS NECESSARY TO COMPLETE SALE

MOTION by Commissioner Robert M. Mills, seconded by Commissioner Jesse Johnston, to adopt the municipal order declaring two city owned vehicles as surplus and authorizing their sale at a live auction to be conducted in October 2016.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Absent:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on September 27, 2016

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
September 27, 2016

ATTEST:
Maree Collins, City Clerk _____

MUNICIPAL ORDER NO. 48-16: MUNICIPAL ORDER AUTHORIZING AWARD OF BID FOR CURBSIDE RECYCLING SERVICES TO ENTERPRISE ZONE & TRAINING CENTER, CORP., (TRI-STATE RESOURCE RECOVERY OF EVANSVILLE, INDIANA)

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, to adopt the municipal order awarding the bid to Enterprise Zone & Training Center, Corp., (Tri-State Resource Recovery of Evansville, Indiana) for recycling service that include: receiving, sorting and marketing of recyclable materials in the amount of \$70.00 per ton.

MAYOR AUSTIN indicated that in the past the bid for sorting, bundling/repackaging, and marketing of recyclable materials was done through Tri-County recycling; however with the dissolution of Henderson Recycling the continuation of recycling services for our citizens once again became the responsibility of the city. There continues to be little to no market for these recyclable products so we must pay for these services. The bid came in at the same price that is currently being paid.

The vote was called. On roll call, the vote stood:

- Commissioner Mills ----- Aye:
- Commissioner Johnston --- Aye:
- Commissioner Hite ----- Absent:
- Commissioner Royster ---- Aye:
- Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
September 27, 2016

ATTEST:
Maree Collins, City Clerk _____

MUNICIPAL ORDER NO. 49-16: MUNICIPAL ORDER APPROVING RECYCLING THROUGH SEPTEMBER 30, 2017 FOR COMMERCIAL BUSINESSES THAT WERE SERVED BY HENDERSON RECYCLING FOR \$5.00 PER MONTH FOR MATERIAL HANDLING FEE

MOTION by Commissioner Robert M. Mills, seconded by Commissioner X R. Royster, to adopt the municipal order approving recycling services through September 30, 2017 for commercial businesses that were served by Henderson Recycling. Each participating business will be charged a \$5.00 per month material handling fee.

DAWN KELSEY, City Attorney, reported that when Henderson Recycling changed its operations the city passed a municipal order to start picking up commercial recycling for \$5.00 per month on a trial basis and that the charge was added to the utility bill. After reviewing the operations from July to this point in September it is the recommendation of the Assistant City Manager to continue providing the service.

The vote was called. On roll call, the vote stood:

- Commissioner Mills ----- Aye:
- Commissioner Johnston --- Aye:

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on September 27, 2016

Commissioner Hite ----- Absent:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
September 27, 2016

ATTEST:

Maree Collins, City Clerk _____

RESOLUTION 54-16:

RESOLUTION APPROVING PURCHASE BY CITY OF REAL ESTATE FROM GRACE POINT CHURCH, INC. f/k/a IMMANUEL BAPTIST TEMPLE FOR PROPERTY LOCATED AT 111 NORTH ADAMS STREET, 0000 FIRST STREET, 521 FIRST STREET, 510 FIRST STREET, 516 SECOND STREET AND 540 SECOND STREET, FOR THE SUM OF \$625,000.00 AND A FIVE (5) YEAR LEASE ON PROPERTY LOCATED AT 510 SECOND STREET; TO BE USED FOR THE FUTURE FIRE STATION AND AUTHORIZING EXECUTION OF CONTRACT AND OTHER DOCUMENTS

MOTION by Commissioner Robert M. Mills, seconded by Commissioner Jesse Johnston, to adopt the resolution approving the purchase of real property from Grace Point Church, Inc., f/k/a Immanuel Baptist Temple, located between North Adams, First and Second Streets; and authorizing a five (5) year lease on the property located at 510 Second Street.

RUSSELL R. SIGHTS, City Manager, explained that Chief Foreman has been asked to discuss the reasons for this purchase and the advantages that it could provide the city. Mr. Sights indicated that the intent is to merge station two and station one into a new facility; however, that is not set in stone and the plan could change when future comments from the Insurance Services Office are received. He further indicated that even if the two stations were not combined, we still have the need for a new facility.

SCOTT FOREMAN, Fire Chief, reported that even though property on Second Street had been purchased for a possible fire station location this property is actually better suited to the city's needs. The property is centrally located within the ISO recommended area, has three road accesses from a main thoroughfare and not far off another thoroughfare and has a large building that could be converted for a facility large enough to house all our equipment for distribution which would increase our ISO distribution rating. We have outgrown the current space and there are issues with the building itself and it doesn't fit modern fire apparatus.

MAYOR AUSTIN expressed his appreciation for all the research and hard work on this project and indicated that it will save the city money in the long run on construction and renovation of the existing 36,000 square foot building instead of starting from scratch.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the resolution adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
September 27, 2016

ATTEST:

Maree Collins, City Clerk _____

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on September 27, 2016

MUNICIPAL ORDER NO. 50-16: MUNICIPAL ORDER ACCEPTING AGREEMENT BETWEEN H PROPERTIES, LLC AND THE CITY OF HENDERSON, AND AUTHORIZING MAYOR TO EXECUTE THE AGREEMENT ON CITY’S BEHALF

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, to adopt the municipal order approving execution of an agreement with H Properties, LLC for cost sharing in the expense of the installation of a road for Lot #65 in Braxton Park Subdivision.

RUSSELL R. SIGHTS, City Manager, explained that Braxton Park Drive was incorrectly built approximately 81 lineal feet short and accepted by both the Planning Commission and the City in 2006. The error was not caught until a building permit was requested for the lot. The agreement states that H Properties, LLC will share fifty percent of the estimated \$13,000.00, up to a maximum of \$6,500.00, to build the roadway for the lot.

The vote was called. On roll call, the vote stood:

- Commissioner Mills ----- Aye:
- Commissioner Johnston --- Aye:
- Commissioner Hite ----- Absent:
- Commissioner Royster ---- Nay:
- Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
September 27, 2016

ATTEST:
Maree Collins, City Clerk _____

CITY ATTORNEY REPORT:

DAWN KELSEY, City Attorney, indicated that the Planning Commission has received two requests that the Board of Commissioners make a final determination on Rezoning #1059 with a Narrative Development Plan, 800 Wolf Hills Boulevard, (a/k/a Player’s Club Golf Course Clubhouse) Rezoning from Agricultural-Golf Course Restricted Use to General Use with a narrative development plan for 5.688 acres. Mrs. Kelsey further indicated that she was in the process of preparing a memo detailing options and would have that ready for distribution to the Board within the next day or two and that under state statute 100.211(8) the Board has 90 days from the date that the planning commission took action (September 6th) to take final action upon a proposed zoning map amendment. Mr. Sights requested that the discussion of those options be held for the October 25th meeting as the City Attorney would not be at the October 11th meeting. There were no objections to the request.

CITY MANAGER’S REPORT:

RUSSELL R. SIGHTS, City Manager, reported that Hays Boat Ramp was closed due to a mound of rock and debris that has drifted in approximately three feet under the water about 60 feet into the river from the ramp. The dive team was sent out earlier today after a report that debris may have washed in again was received. He indicated that due to the location it might be an Army Corp of Engineers issue and not the city’s responsibility. The boat ramp will remain closed until the problem can be addressed with the Corp.

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on September 27, 2016

COMMISSIONER’S REPORT:

COMMISSIONER MILLS indicated that he was in favor of the three station concept for the fire department when it was brought up years ago and hopes that is the direction the city will move in to better serve the community. He further indicated that he felt that the City was trying to dispel the ‘not business friendly’ image with the attempts tonight to be merchant and business friendly which are the two downtown issues that were ultimately voted down to relook at and then also the road issue for the new Braxton Park developer, Mr. Hodge.

MAYOR AUSTIN reminded everyone of the East End Park dedication at noon Wednesday, September 28, 2016 at the corner of Letcher and Helm Streets and announced that the Canoe Creek Nature Trail dedication ceremony will be held on Tuesday, October 11th at 4:00 p.m. at the trail head on the south side of Newman Park at the end of the road by the soccer field concession stand.

EXECUTIVE SESSION: Litigation

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills to go into Executive Session pursuant to the provisions of KRS 61.810 (1) (c) for the discussion of pending litigation on behalf of the city.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

MEETING RECONVENED:

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, the Board of Commissioners reconvened in regular session.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

MEETING ADJOURN:

MOTION by Commissioner Jan Hite, seconded by Commissioner Robert M. Mills, to adjourn the meeting.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular *Meeting on* September 27, 2016

WITHOUT OBJECTION, Mayor Austin declared the Meeting adjourned at approximately 7:35 p.m.

ATTEST:

Steve Austin, Mayor
September 27, 2016

Maree Collins, City Clerk