

MINUTES OF A MEETING
OF THE GOVERNING BODY OF THE
CITY OF HAYS, KANSAS
HELD ON JANUARY 12, 2006

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, January 12, 2006 at 7:30 p.m.

Roll Call: Present: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

Chairperson Steward declared that a quorum was present and called the meeting to order.

2. MINUTES: Chairperson Steward corrected the minutes of the December 22, 2005 meeting, Agenda Items 6 and 9, to change the wording on the vote for the Cooperation Agreement with Fort Hays State University and the Larks Park Lease Agreement with Fort Hays State University from "Abstain" to "Not Voting" and remove the line referencing that they were abstaining.

The minutes stand approved as corrected.

3. CITIZEN COMMENTS: There were no comments.

4. CONSENT AGENDA: Troy Hickman moved, Wayne Billinger seconded, that a Cereal Malt Beverage License be issued for Red Sun Buffet at 4325 Vine Street.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

UNFINISHED BUSINESS

5. INDUSTRIAL REVENUE BONDS FOR UNIPLACE, LLC: Henry Schwaller IV moved, Barbara Wasinger seconded, that a Letter of Engagement with Gilmore and Bell, bond counsel for the Uniplace, LLC Industrial Revenue Bonds, be approved.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

Uniplace, LLC has asked the City to issue taxable variable rate Industrial Revenue Bonds, in an amount not to exceed \$5,500,000, for the construction of student housing at Fort Hays State University. The project has been completed and this issuance will allow the developer the opportunity to recoup expenses associated with the development and take advantage of a lower interest rate.

City Manager Gustafson noted that these bonds would not have a tax abatement component.

Henry Schwaller IV moved, Barbara Wasinger seconded, that Resolution No. 2006-001, being a resolution determining the advisability of issuing the City's taxable variable rate demand Industrial Revenue Bonds to pay the costs of acquiring, constructing, furnishing and equipping a student housing complex facility located in the City of Hays, be approved.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

NEW BUSINESS

6. ORDINANCE REGULATING SMOKING IN RESTAURANTS: Members of the Leadership Class at Fort Hays State have put together an ordinance regulating smoking in restaurants and have requested that the City Commission consider passing a similar ordinance. A petition with the signatures of 576 Hays residents supporting the ordinance has also been submitted to the Director of Finance/City Clerk.

Wayne Billinger moved, Barbara Wasinger seconded, that the ordinance not be approved.

Commissioner Billinger stated that he appreciated all the work that the students did and their interest in community affairs. The ordinance submitted by the students bans smoking during certain hours of the day; he does not think a partial ban would be beneficial due to the lingering effects of smoking. Also, many businesses have taken it upon themselves to become non-smoking establishments.

Commissioner Wasinger stated that she feels it is important that business owners make that decision themselves based on the market.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

7. NATURAL GAS HEATING ASSISTANCE PROGRAM: A request has been made by First Call for Help for the City of Hays to provide natural gas emergency assistance to low-income families and individuals in Hays. They are requesting \$80,000 from the City to provide assistance for this program. City staff has determined that the increase in franchise fees that the City will realize as a result of higher natural gas costs, minus the projected increase in heating costs for City

buildings, will result in an increase of franchise fees of approximately \$45,860 over the budgeted amount.

Wayne Billinger moved, Kent Steward seconded, that a natural gas emergency assistance program be approved for the winter of 2005-06.

Commissioner Billinger asked if there would be any administrative fees added onto whatever amount was approved. He stated that when the City requests an agency to administer a program the City should be prepared to compensate the agency for administrative duties.

Commissioners Schwaller and Wasinger stated they would support a motion that limited the amount of assistance to \$45,000 totally.

Wayne Billinger added an amendment to his motion to state that the request from First Call for Help in the amount of \$80,000, plus administrative fees for three months in the amount of \$3,600, for a total of \$83,600, for an energy assistance program be approved. Kent Steward seconded the amendment to the motion.

Commissioner Schwaller stated that First Call for Help does an excellent job assisting people with a variety of challenges. However, the City's role is to do what is adequate but austere. The real problem is that homes need to be more energy efficient. Until that happens, it is just like throwing money away; therefore, he will be voting no to approve the \$83,600 amount. This is an unbudgeted request; how will the taxpayers pay for it? There are not enough resources to cover that amount.

Vote: Ayes: Kent Steward

Wayne Billinger

No: Troy Hickman

Barbara Wasinger

Henry Schwaller IV

The amendment to the motion failed.

Chairperson Steward called for the vote on the motion to approve an energy assistance program.

Vote: Ayes: Kent Steward

Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

Troy Hickman moved, Henry Schwaller IV seconded, that First Call for Help be given \$45,000 for an energy assistance program.

Vote: Ayes: Kent Steward

Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

8. TURF LOAN FOR LARKS PARK: All capital improvement items for Larks Park must be requested by Fort Hays State University (FHSU) via the City of Hays budgeting process. FHSU has an outstanding loan for the placement of new turf at Larks Park in 2003. The loan balance as of January 1, 2006 is \$39,887.63. FHSU is requesting that the City pay off this loan or assist with the annual payment. At this time, an amount of \$7,000.00 would be required each year to partially fund the annual payment. The other portion of the payment is being paid for by Wendy's Restaurant.

The City Manager stated that, if the Commission decides to grant the request, assistance be given in the amount of \$7,000. There are no budgeted funds to pay off the entire loan. When the turf was installed in 2003, it was specifically stated that FHSU and Wendy's would be paying for the cost of the turf.

There was no motion to approve the request from FHSU to pay off the loan or assist with the annual payment.

9. MATCHING FUND REQUEST FOR NEW SHELTER HOUSE AT MUNICIPAL PARK: The Wild West Festival Committee and the Kiwanis Club are requesting \$7,500 in matching funds for the construction of a shelter house at Municipal Park. The City budgets \$10,000 annually for the purpose of matching local civic group donations for park improvements.

Wayne Billinger moved, Barbara Wasinger seconded, that the request from the Wild West Festival Committee and the Kiwanis Club for \$7,500 in matching funds to assist in the construction of a shelter house at Municipal Park be approved.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

10. FOX THEATRE AUCTIONING: Staff has explored a number of options available to the City in the divestiture of the Fox Theatre. The goal was to employ a process that would maximize the exposure of the Fox locally, regionally, and nationally.

Roger Kisner of Golden Edge Realty, in conjunction with Purple Wave Auctions, has submitted a proposal to auction the Fox Theatre. Golden Edge Realty is based in Hays. Purple Wave Auctions is based in Manhattan, Kansas, and is the official on-call auction for the State of Kansas.

The proposal is for a no-reserve auction with a 60-day marketing period as well as a 45-day closing period. The proposal includes a live auction at the theatre itself in conjunction with an electronic online auction. Local realtors will be encouraged to participate and will be compensated if necessary. The cost to the City is \$2,500 at the time of the approval of the auction agreement. Buyers will be charged a buyers fee of 10% of the final sale price.

Troy Hickman moved, Wayne Billinger seconded, that the proposal submitted by Golden Edge Realty for auction of the Fox Theatre be accepted.

City Attorney John Bird stated that the Fox property is considered a contributing property within a pending National Register Historic District. Once the area is declared a National Register Historic District, it would become subject to State Law Review, which means the property will be reviewed to determine how future work on the building will affect the historic status of the property and the district. It would be up to the City Commission to approve any improvements

to the property. He recommended that this information be included in the sales documents.

Commissioner Schwaller stated that he would not participate in this discussion and will not be voting. In the event that the Fox Theatre is auctioned, he intends to participate in that process to purchase the property.

Chairperson Steward stated the City has been approached by a person requesting that the building be given to him. That person has not submitted a plan for the use of the building.

Commissioner Billinger stated he would feel more comfortable waiting for this person to come forward with a plan for the Commissioner's review before voting on the motion to approve the proposal submitted by Golden Edge Realty.

Chairperson Steward suggested tabling this issue to allow time for a plan to be submitted. If the plan is not acceptable, then the Commission could move forward on the auction.

Commissioner Hickman stated he would like to keep the motion on the table; it has been known for several years that the City would donate this facility to any person or organization that would use the building for non-profit purposes.

Vote: Ayes: Kent Steward

Troy Hickman

No: Wayne Billinger

Barbara Wasinger

Not Voting: Henry Schwaller IV

The Commissioners requested that this be placed on the January 24, 2006 agenda and further discussion take place at the January 19, 2006 work session.

11. AWARD OF BIDS FOR 2006 STREET MAINTENANCE PROGRAM: Henry Schwaller IV moved, Barbara Wasinger seconded, that the following bids be accepted on a unit price basis:

High Plains Sand - 2" Mill and Overlay - \$8.28/SY for a total cost of \$135,535.32

Proseal, Inc – Seal Coat - \$.046/SY for a total cost of \$22,338.06

Stripe and Seal – Poly Patch - \$1.60/LB for a total cost of \$134,400.00

APAC, Kansas – Chip Seal - \$2.68/SY for a total cost of \$179,324.16

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

12. AWARD OF BID FOR 2006 CURB REPAIRS: Troy Hickman moved, Henry Schwaller IV seconded, that the City award a contract to Bryant and Bryant Construction, for the base bid of \$47,242.10 for the curb repairs in various areas throughout the City.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

13. JOB BOUNTY PROGRAM: There has been a question with regard to the Job Bounty Program and full-time employees. Staff recommended that the term “full-time employees” be added to the Job Bounty Program in the Economic Development Policy. The revision also notes that the qualifying wage would not include benefits, tips, commissions or other incentives.

Wayne Billinger moved, Troy Hickman seconded, that the revisions to the Job Bounty Program as described in the Economic Development Policy be approved.

Chairperson Steward stated that he has been contacted by a person who has an existing retail business who has concerns about the Job Bounty Program. He felt that it disadvantaged his business. It is felt that this is not fair to jobs that have straight salaries. Additionally, it is unfair to existing businesses that did not have access to the Job Bounty Program and forces them to charge higher prices to their consumers. It also creates more job competition.

Commissioner Schwaller stated the Program is not just for new businesses. If the business creates a certain number of new jobs, they would be eligible for assistance.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

14. CITY-OWNED PROPERTY: At the January 5, 2006 work session, the Commissioners discussed the possibility of selling the following properties:

107 East 4 th Street	111 East 4 th Street
403 Oak Street	17 th & Allen Street

Bill Ring, president of Habitat for Humanity of Ellis County, suggested the City donate the lot at 17th and Allen to Habitat for Humanity. They would build their first home in Hays on the lot. It is hopeful they could start constructing a home this summer.

The City Manager stated the property was appraised at \$20,000. The City needs to remove a vault and water lines left over from the old water tower that was previously on the property.

Commissioner Billinger stated he is not in favor of selling the lots on 4th Street. He would like to keep those two lots for parking for special events at the Hays Aquatic Park and Larks Park.

Troy Hickman moved, Wayne Billinger seconded, that this agenda item be tabled until the January 24, 2006 Commission meeting and further discussion take place at the January 19, 2006 work session.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman

Barbara Wasinger

Henry Schwaller IV

15. KANSAS STATE UNIVERSITY AGRICULTURAL RESEARCH CENTER

FEEDLOT PERMIT: The Kansas State University Agricultural Research Center Feedlot permit is coming up for renewal. Given the concerns of the Commission and many citizens with regard to the odor coming from the feedlot facility, staff requested direction from the Commission in regard to possibly opposing the renewing of the permit.

Troy Hickman moved, Wayne Billinger seconded, that staff be directed to draft a letter opposing the granting of the permit for the feedlot and take any other administrative or legal action that may be deemed necessary.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

16. COMMISSION INQUIRIES AND COMMENTS:

Commissioner Schwaller stated that he is hopeful that next month the City Commission can resume the planning meetings with the Ellis County Commission. He would like to establish a Memorandum of Understanding on economic development, establish a body of members to assist, analyze, and provide advice on outside agency funding requests, and work jointly to address space needs in law enforcement, fire protection, and life services.

Commissioner Hickman stated that he would like the Commission to consider sometime this year turning ownership of Larks Park over to Fort Hays State University.

Commissioner Billinger requested permission to proceed with the organizational process of hosting the China delegation in September 2006.

The Commissioners agreed to Commissioner Billinger's request.

Thereupon the Governing Body adjourned.

Submitted by: _____

City Clerk