

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON JANUARY 14, 2016

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, January 14, 2016 at 6:30 p.m.

Roll Call: Present: Eber Phelps  
Shaun Musil  
James Meier  
Henry Schwaller IV  
Lance Jones

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

Chairperson Phelps gave a special welcome to members of Boy Scout Troup 101 who are working on their communications badge.

**2. MINUTES:** There were no corrections or additions to the minutes of the regular session held on December 22, 2015; the minutes stand approved as presented.

**3. REORGANIZATION OF GOVERNING BODY:** The City Commission recently adopted several ordinances that brought us into compliance with the recently-passed state laws regarding municipal elections. Most notably, the next municipal election will now take place in November of 2017 with the new Commission taking seat in January of 2018. In adopting the ordinances, the City Commission changed the reorganization meeting from April to January of each year. City staff suggests the Commission modify the Rules of Procedure to reflect the January reorganization. Also, moving the reorganization to January is going to create a situation where a commissioner will serve a long or short term as mayor. The current mayor was elected in April of 2015. Reorganization at the January 28<sup>th</sup> regular meeting would result in a nine month term.

A. Lance Jones moved, James Meier seconded, that Commissioner Phelps serve as Mayor through the first work session in September, 2016 and Commissioner Musil serve as Mayor from the first regular meeting in September to the reorganization meeting in January, 2017.

Vote: Ayes: Eber Phelps  
Shaun Musil  
James Meier  
Henry Schwaller IV  
Lance Jones

B. Lance Jones moved, Shaun Musil seconded, that Commissioner Musil serve as Vice-Mayor through the first work session in September, 2016 and Commissioner Meier serve as Vice-Mayor from the first regular meeting in September to the reorganization meeting in January 2017.

Vote: Ayes: Eber Phelps  
Shaun Musil  
James Meier  
Henry Schwaller IV  
Lance Jones

**4. CITIZEN COMMENTS:** There were no comments.

**5. CONSENT AGENDA:** A. Approve Resolution No. 2016-001 adopting the revised City Commission Rules of Procedure to reflect the November elections and January reorganization.

B. The following proposed appointments will be presented for approval at the next City Commission meeting:

**CARE Council**

Heather Musil – two-year term to expire March 1, 2018 (1st term)

**Fort Hays Municipal Golf Course Advisory Board**

Sean Dreiling – unexpired term to expire July 1, 2016 (1st term)

Henry Schwaller IV moved, James Meier seconded, to approve the consent agenda as presented.

Vote: Ayes: Eber Phelps  
Shaun Musil  
James Meier  
Henry Schwaller IV  
Lance Jones

### **UNFINISHED BUSINESS**

#### **6. REZONING OF PROPOSED BLUE SKY ACRES ADDITION FROM AGRICULTURAL (A-L) TO RESIDENTIAL SUBURBAN DISTRICT (R-S):** Greg

Sund, Director of Public Works, explained that over the last six months, staff has been working with Mary Alice Unrein regarding her proposed development located on 250<sup>th</sup> Avenue (US-183) about two miles south of Hays. In the interim between when the City Commission last took up this issue on November 19, 2015 and when the Planning Commission reconsidered it on December 21, 2015, staff realized that they have confused the process regarding consideration of a new development by including the particular concerns regarding the proposed development along with the rezoning issue. Based on this realization, when the issue was reintroduced to the Planning Commission, on December 21, 2015, they were asked to concentrate only on the rezoning request. During their meeting, the Planning Commission approved a recommendation to the City Commission that the change in zoning from agriculture to suburban residential be denied.

Mr. Sund said the Comprehensive Plan passed in 2012 states that this land should generally be preserved for agriculture and that the extension of urban services in the future is unlikely. It also states new development should generally be contiguous to existing development or take advantage of under-utilized infill areas to produce a unified, economically efficient, and attractive city. He also stated the Comprehensive Plan identifies three growth zones; northwest, north central, and eastern. There is no mention of growth to the south most likely because the Kansas State University land makes contiguous growth unlikely.

Staff, as well as the Planning Commission, recommends denying this rezoning request from A-L to R-S due to the request not being in line with the established policy, the Comprehensive Plan.

Henry Schwaller IV moved, Lance Jones seconded, to approve the request for rezoning the proposed Blue Sky Acres Addition legally described as a tract of land in the SE ¼ of Section 16, Township 14 South, Range 18 West, 6<sup>th</sup> Prime Meridian, more commonly described as a tract of land located adjacent and to the west of the VonFeldt Addition located on 250<sup>th</sup> Avenue (US-183) about two miles south of Hays from Agricultural to Residential Suburban.

John Bird, City Attorney, stated that in order to comply with state law, at this point, any other evidence that any interested party wants to present including the applicant and any opponents, should be heard.

Mary Alice Unrein, the owner of the proposed development, stated water is available for the development and she feels she has met all the requirements to approve this zoning change.

Matthew Wheeler, who serves on the Planning Commission, stated he voted against this request and wanted to make the point that the City has spent a great deal of money developing the Comprehensive Plan and Zoning Regulations and time educating the Planning Commission on how to move forward for the best interest of the entire city. He stated this development does not fit into our Zoning Regulations or Comprehensive Plan and if we say yes to this we would have a hard time saying no to any future proposed development.

Errol Wuertz, stated he worked on developing the Comprehensive Plan and said the Comprehensive Plan states that you should be flexible and he thinks this is a situation that you should be flexible. He stated the City can't do anything south of town due to the University ground and he thinks this should be approved.

Commissioner Jones commented that he appreciates staff's recommendation and the work done by the Planning Commission and he feels they did their due diligence, but the Comprehensive Plan needs to be a flexible document. He stated if this development was in an area that Hays was growing

he would be against rezoning this, but the way it is now he does not think it will affect the City's growth.

Commissioner Schwaller stated he attended the Ellis County Commission meeting in an unofficial capacity and the consensus of the County Commissioners was that they would like to see the development go forward at least to the point that they could consider it. He also commented that this is not going to be part of the City and is not even adjacent to the City and we have no obligation to it; therefore, he has no concerns approving the rezoning request.

Commissioner Meier stated he has been disappointed with the proponents of this proposed development. He felt that some of the things that were said were unnecessary and unprofessional. He stated that the Planning Commission and City staff are working within the guidelines that have been set down by the City Commission. With that being said, he stated he does not see a problem with this rezoning because he does not think Hays is ever going to grow south. He asked that it be noted that if this type of development were in an area that may be developed, he does not think that this type of development would be appropriate.

Commissioner Musil commented that the Comprehensive Plan is a working document and feels it can be adjusted. He stated he does not think it would be a mistake if this were approved.

Chairperson Phelps stated he would be voting against this motion because a number of sets of eyes have looked at this and he believes they followed the letter of the law and all the criteria that is set forth in the Comprehensive Plan. He will support staff and the Planning Commission's recommendation to deny this rezoning request.

Vote: Ayes: Shaun Musil

James Meier

Henry Schwaller IV

Lance Jones

No: Eber Phelps

City Attorney John Bird stated he anticipated this was a possibility and prepared a standard ordinance approving the rezoning request. Statute states if you approve a rezoning request it must be done by Ordinance.

Henry Schwaller IV moved, Lance Jones seconded, to approve Ordinance No. 3917, or the next sequential ordinance, to read as follows: Now therefore, be it ordained by the governing body of the City of Hays, Kansas that the following-described real estate:

THAT PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 14 SOUTH, RANGE 18 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, ELLIS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE ON AN ASSUMED BEARING OF NORTH 89 DEGREES 01 MINUTES 19 SECOND WEST, ALONG THE NORTH LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER, A DISTANCE 548.90 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED, SAID POINT ALSO BEING THE NORTHWEST CORNER OF VONFELDT'S SUBDIVISION TO ELLIS COUNTY, KANSAS; THENCE SOUTH 01 DEGREES 48 MINUTES 57 SECONDS WEST, ALONG THE WEST LINE OF SAID VONFELDT'S SUBDIVISION, A DISTANCE OF 1,348.48 FEET TO THE SOUTHWEST CORNER OF SAID VONFELDT'S SUBDIVISION, SAID POINT BEING ON THE SOUTH LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE NORTH 89 DEGREES 05 MINUTES 49 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 644.02 FEET; THENCE NORTH 01 DEGREES 48 MINUTES 57 SECONDS EAST A DISTANCE OF 1,349.32 FEET TO A POINT ON THE NORTH LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE SOUTH 89 DEGREES 01 MINUTES 19 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 644.01 FEET TO THE POINT OF BEGINNING, also commonly known as Blue Sky Acres Subdivision be rezoned from "A-L" Agricultural District to "R-S" Residential Suburban District.

Vote: Ayes: Shaun Musil

James Meier

Henry Schwaller IV

Lance Jones

No: Eber Phelps

## NEW BUSINESS

**7. RELEASE OF 2016 FUNDS FOR ELLIS COUNTY COALITION FOR ECONOMIC DEVELOPMENT:** City Manager, Toby Dougherty, explained that the 2016 Budget for the City of Hays did not contain a direct allocation for the Ellis County Coalition for Economic Development (ECC). The allocation was for “Economic Development Activities”. The Commission was asked to consider approving the release of \$87,550 to the ECC for the 2016 fiscal year.

Henry Schwaller IV moved, James Meier seconded, to release one-half of the funds for 2016 pending another report from the ECC by no later than May of 2016.

Commissioner Schwaller stated their funding was contingent on them establishing a plan and presenting it to the Commission by the end of December. He does not feel they have a plan and pointed out that none of the ECC board members were at this meeting to represent themselves and they have failed to meet with all the Commissioners.

Commissioner Jones stated the communication over the last few weeks with Aaron White, Director of the ECC, and other members of the Board has improved, but he would like more regular updates than what they have had.

Chairperson Phelps stated holding onto the funds breeds uncertainty and the ECC Board needs to know their funding is in place so they can proceed with the economic development efforts.

Vote: Ayes: Henry Schwaller IV

Lance Jones

No: Eber Phelps

Shaun Musil

James Meier

Shaun Musil moved, James Meier seconded, to approve the release of \$87,550 to the Ellis County Coalition for Economic Development for the 2016 fiscal year.

Commissioner Meier stated he wants the ECC to take note of the comments that are being made if they want their funding next year. He commented that with the oil price as it is we need the Coalition to do their job and do it well; the future of the community is relying on them.

Vote: Ayes: Eber Phelps

Shaun Musil

James Meier

Lance Jones

No: Henry Schwaller IV

**8. REPORT OF THE CITY MANAGER:** The City Manager had no additional items to report on.

**9. COMMISSION INQUIRIES AND COMMENTS:** Chairperson Phelps commented that he did some research and the property tax the Blue Sky Acres Addition development would generate is \$6,000 a year and over a 20 year period would generate \$120,000 and on the other hand the development for the proposed truck plaza with all of the economic development incentives over a 20 year period would have been a property tax abatement of \$7,393,042 which translates into about \$369,652 a year.

The meeting was adjourned at 7:33 p.m.

Submitted by: \_\_\_\_\_

Brenda Kitchen – City Clerk