

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON FEBRUARY 11, 2010

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, February 11, 2010 at 6:30 p.m.

Roll Call: Present: Ron Mellick
Christopher Channell
Troy Hickman
Henry Schwaller IV
Absent: Barbara Wasinger

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

2. MINUTES: There were no corrections or additions to the minutes of the regular session held on January 28, 2010; the minutes stand approved as presented.

3. CITIZEN COMMENTS: There were no comments.

4. CONSENT AGENDA: Mayor Mellick presented the following proposed appointments:

CARE Council

Dar Hickert – open term to expire March 1, 2011

Mark St. Peter – 2-year term to expire March 1, 2012

Kay Unruh – 2-year term to expire March 1, 2012

Fort Hays Municipal Golf Course Advisory Board

Norman Ricke – open term to expire July 1, 2011

Hays Housing Authority Board

Gloria Funk – 4-year term to expire February 14, 2014

Sue Rouse – 4-year term to expire February 14, 2014

The Commissioners will be requested to approve the proposed appointments at the February 25, 2010 Commission meeting.

NEW BUSINESS

5. PUBLIC HEARING FOR THE CREATION OF THE 48TH & ROTH AVENUE

COMMUNITY IMPROVEMENT DISTRICT (CID): Hays Hotel Partners II, LP and 48th & Roth Street, LLC have filed a petition asking for the creation of a Community Improvement District (CID) on north Vine for the imposition of a CID sales tax in that district. The total project cost is estimated to be \$8,345,755, of which the CID sales tax proposed would reimburse the entities on a pay-as-you-go basis for up to \$3,000,000. This reimbursement is for costs related to the construction of a 55,000 square foot, 91 room motel, along with a 6,000 square foot restaurant to include parking spaces and site improvements related to the property, as well as legal and administrative fees in connection with creating the CID.

Chairperson Mellick declared that the public hearing was open to hear comments about the creation of the CID.

Aaron March, attorney with the White Goss Law Firm, representing the petitioners Hays Hotel Partners II, LP and 48th & Roth Street, LLC, along with Mike Reilly, part of the petitioner's development team, reviewed the legal process leading up to this evening's public hearing along with the plans for development.

Mr. March commented that even though the proposed Holiday Inn Express will compete with other motels in the community, the additional sales tax might cause the motel to be at a competitive price disadvantage; however, the petitioners are willing to take that chance. It is projected, during the 20-year life of the CID, that \$7.2 million will be generated in new taxes for the city, over \$1.4 million for the school district, and \$1 million for the county. There is no abatement or diversion of taxes either existing or to be generated.

Chirag Patel, director of operations for Shiva Hotels, and his business partner Ishwar Patel, voiced their opposition to the creation of the CID. They feel that their two motels would be at a disadvantage if the CID was approved. Let the petitioners compete in a free market. Hotel rates do not figure in taxes; the CID would allow them to make up development costs with a sales tax, which might allow them to advertise lower room rates.

Jane Matlock, associated with America's Best Value Vagabond Inn and the Best Western Butterfield Inn, agreed with Mr. Patel's statements and voiced her concern with granting the CID designation.

Christopher Channell moved, Henry Schwaller IV seconded, that the public hearing be closed.

Vote: Ayes: Ron Mellick

Christopher Channell

Troy Hickman

Henry Schwaller

6. ORDINANCE AUTHORIZING CREATION OF 48TH AND ROTH AVENUE

COMMUNITY IMPROVEMENT DISTRICT (CID): The proposed ordinance is the legal document authorizing the creation of the CID, as well as the making of economic development improvements in the project district. The ordinance is more general in nature, not a detail listing of improvements eligible for reimbursements with CID sales tax collections. Those items are defined in the development agreement.

Ron Mellick moved, Christopher Channell seconded, that Ordinance No. 3805, being an ordinance authorizing the creation of the 48th and Roth Avenue Community Improvement District in the city of Hays, Kansas; authorizing the making of certain economic development project improvements relating thereto; approving the estimated costs of such economic developments project improvements; and providing for the method of financing the same, be approved.

Commissioner Hickman stated the developer has met all of the requirements as spelled out in the City's Economic Development Policy, and he

feels that since those requirements have been met, he does not have any reason to not approve the request.

Commissioner Schwaller stated he will be voting no. He appreciates their investment in the community; however he is opposed to creating the CID. He does not think their projections are accurate in order to reimburse them \$3 million over 20 years. He is not comfortable passing an ordinance to that effect. Furthermore, he feels the CID sale tax monies should be used for items the developer should not have to make such as water/sewer lines or access roads. He feels their development costs are not extraordinary or out of line with what other developers have invested in their properties.

Vote: Ayes: Ron Mellick

Christopher Channell

Troy Hickman

No: Henry Schwaller IV

7. RESOLUTION ADOPTING THE DEVELOPMENT AGREEMENT FOR THE IMPLEMENTATION OF 48TH AND ROTH AVENUE COMMUNITY

IMPROVEMENT DISTRICT: As part of the process in creating a Community Improvement District, it is necessary to utilize and review a CID Development Agreement. This agreement is at the core of a CID, in that it defines the rights and responsibilities of each party. It also directs the collection of the CID sales tax, as well as the disbursement of it for eligible costs of the project back to the developer.

The Development Agreement was reviewed.

Commissioner Channell expressed concern about opening expenses and contingency expenses being included in the reimbursable costs.

Mike Reilly stated opening expenses referred to getting the motel stocked, staffed and ready to go, opening expenses are not for advertising.

Aaron March stated that opening expenses could be stricken from the list of reimbursable expenses. The contingency is for other items on the list that may come in over the estimated cost or for change orders.

Christopher Channell moved, Troy Hickman seconded, that Resolution No. 2010-003, being a resolution authorizing a development agreement between the City of Hays, Kansas and Hays Hotel Partners II, LP, related to the construction of certain improvements within the 48th and Roth Avenue Community Improvement District and reimbursement of certain costs thereof, be approved, with the exception that opening expenses will not be eligible as one of the reimbursable expenses.

Vote: Ayes: Ron Mellick

Christopher Channell

Troy Hickman

No: Henry Schwaller IV

8. KING'S GATE ADDITION ANNEXATION: The owners of the proposed King's Gate Addition have requested annexation of the subdivision into the city limits of Hays to facilitate the development of residential lots. The area proposed to be annexed is located along the north side of 41st Street west of Madison Drive and is contiguous with the present city limits.

Christopher Channell moved, Ron Mellick seconded, that Ordinance No. 3806, being an ordinance annexing land to the City of Hays, be approved.

Vote: Ayes: Ron Mellick

Christopher Channell

Troy Hickman

No: Henry Schwaller IV

9. TALLGRASS PHASE IV RESOLUTION FOR IMPROVEMENTS – WATER & SANITARY SEWER: Tallgrass at Hays, Inc. has submitted a petition to the City for improvements to a portion of the Tallgrass Addition. Improvements would include the development of infrastructure including water and sanitary sewer necessary to service 19 new residential lots. 30% of the costs will be paid up front by the developer. The remainder will be assessed to the benefit district over a 15-year period.

Henry Schwaller IV moved, Troy Hickman seconded, that Resolution No. 2010-004, being a resolution determining the advisability of the making of certain

internal improvements in the city of Hays, Kansas, making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (Water, Sewer, Storm Sewer and Street Improvements/Tallgrass Addition), be approved.

Vote: Ayes: Ron Mellick

Christopher Channell

Troy Hickman

Henry Schwaller IV

10. TALLGRASS PHASE IV RESOLUTION FOR IMPROVEMENTS – STREET & STORM SEWER:

Tallgrass at Hays, Inc. has submitted a petition for improvements to a portion of the Tallgrass Addition. Improvements would include the development of infrastructure including streets and storm sewer necessary to service 19 new residential lots. 100% of the cost will be paid by the improvement district over a period of 10 years.

Henry Schwaller IV moved, Troy Hickman seconded, that Resolution No. 2010-005, being a resolution determining the advisability of the making of certain internal improvements in the city of Hays, Kansas, making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (Water, Sewer, Storm Sewer and Street Improvements/Tallgrass Addition), be approved.

Vote: Ayes: Ron Mellick

Christopher Channell

Troy Hickman

Henry Schwaller IV

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

12. COMMISSION INQUIRIES AND COMMENTS: There were no comments or inquiries.

13. EXECUTIVE SESSION: Henry Schwaller IV moved, Troy Hickman seconded, that the Governing Body recess to executive session at 7:27 p.m. for 15 minutes to discuss personnel matters. The executive session included the

City Commissioners, the City Manager, and the City Attorney. K.S.A. 25-4319 authorizes the use of executive session to discuss personnel matters.

Chairperson Mellick called the meeting back to order at 7:42 p.m. He stated no action was taken during executive session.

The meeting was adjourned.

Submitted by: _____

City Clerk