

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON MARCH 26, 2009

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, March 26, 2009 at 7:30 p.m.

Roll Call: Present: Barbara Wasinger

Ron Mellick

Allan Lytton

Troy Hickman

Absent: Christopher Channell

Chairperson Wasinger 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 March 12, 2009; the minutes stand approved as presented.

**3. FINANCIAL STATEMENT:** Finance Director Kim Rupp reported that investments on February 28, 2009 totaled \$41,100,000, which is a \$1,700,000 increase when compared to February 2008. The weighted average interest rate on the total investment portfolio as of February 28<sup>th</sup> is 1.705%. In February, the Finance/City Clerk's Office invested \$5,250,000 of maturing certificates of deposit with a weighted average interest rate of .74%. February sales tax collected for the General Fund totaled \$524,074, which was a decrease of \$140,544 when compared to 2008. To date, sales tax collections are down \$59,513, or 4.95% compared to 2008. Mr. Rupp pointed out that there is usually a two month lag in receiving sales tax revenue from the State. He does not feel the data for the first two months of 2009 is indicative of what will be played out in the coming months.

Ron Mellick moved, Allan Lytton seconded, that the Financial Statement for the month of February 2009 be approved.

Vote: Ayes: Barbara Wasinger  
Ron Mellick  
Allan Lytton  
Troy Hickman

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

**5. CONSENT AGENDA:** Troy Hickman moved, Allan Lytton seconded, that the mayoral appointment of Linda Dewey to the CARE Council for a two-year term to expire March 1, 2011, be approved.

Vote: Ayes: Barbara Wasinger  
Ron Mellick  
Allan Lytton  
Troy Hickman

### **UNFINISHED BUSINESS**

**6. HAYS AREA PLANNING COMMISSION RECOMMENDATION – WIND ENERGY CONVERSION SYSTEMS:** In April 2008, the City Commission approved an ordinance which placed a moratorium on the installation of wind turbines in Hays and the three-mile extraterritorial jurisdiction until December 31, 2008. The moratorium was extended to March 31, 2009. For the past several months, the Hays Area Planning Commissioners have been working on regulations for Wind Energy Conversion Systems (WECS). Two public hearings have been held with opportunity for public input on the matter.

Ron Mellick moved, Allan Lytton seconded, that Ordinance No. 3766, being an ordinance amending Chapter 71 of the City of Hays, Kansas, Municipal Code by adding zoning regulations regarding Wind Energy Conversion Systems, be approved.

Dr. Edward Hammond, president of Fort Hays State University (FHSU), stated the University has been interested for some time in developing a wind

project that would help the University save money and provide alternate energy. Due to the sudden availability of federal funds, there are a number of provisions in the American Recovery and Reinvestment Act under which the project could qualify and the University must move quickly to secure funding. The proposed ordinance as it is written would prohibit the University from building the kind of facility the University would need. FHSU supports the intent of the ordinance which is to protect the city and the areas of growth around the city.

Dr. Hammond stated that he does not feel the FHSU wind project would endanger the development of the city and the three-mile extraterritorial area. Development has not occurred to the south of the city; 10,000 acres of land in that area is owned by FHSU and Kansas State University. The University wind project would not limit or prohibit the growth of the city. The University project would meet all of the city requirements except for height. The proposed ordinance limits the total tower height to 125 feet. In order for the University's project to be successful, it would be necessary to have 400 foot towers.

Dr. Hammond requested the ordinance be amended to allow WECS on property owned by FHSU to have a tower height of 400 feet or refer this matter back to the Planning Commission for further discussion.

City Attorney John Bird stated the Commission can amend the ordinance; however, it needs to be done in a non-arbitrary fashion. Since zoning is such a special area of the law that invites public input, it would be arbitrary to shift course now and start changing the intent of the ordinance. Dr. Hammond's request to change the ordinance is not about the use, it is about the ownership. He does not feel the ordinance could be amended to allow larger WECS on FHSU property without being challenged in court. Mr. Bird stated there are other options the University can pursue. The property could be rezoned and they could then request a variance.

Chairperson Wasinger stated that it is difficult to go against the City Attorney's counsel. Additionally, it would be hard to go against the Planning Commission; they have spent many hours coming up with the proposed

regulations. There is a remedy that FHSU can pursue as outlined by the City Attorney.

City Attorney John Bird stated that if the WECS ordinance is passed tonight, staff will do everything possible to expedite the process for FHSU.

Vote: Ayes: Barbara Wasinger

Ron Mellick

Allan Lytton

Troy Hickman

## **NEW BUSINESS**

### **7. ABATEMENT OF INOPERABLE VEHICLES AND GENERAL NUISANCES AT 700 EAST 6<sup>TH</sup> STREET (COTTONWOOD TRAILER PARK):**

Cottonwood Trailer Park changed ownership January 1, 2009, and City staff has been working with the new owners in resolving some long standing issues dealing with nuisance violations. The new owners have been very responsive and have reduced the total number of violations from 50 to 7. The remaining issues have been challenging for the owners to address due to the reluctance of the involved tenants. Staff recommended approving the resolution allowing for the clean-up at the owner's expense.

Jesse Rohr, Planning, Inspection, and Enforcement Superintendent reported that as of today, there are two inoperable vehicles, one small area of junk/debris, and one trailer that needs skirting. The owners of the trailer are working on the skirting.

Ron Mellick moved, Barbara Wasinger seconded, that Resolution No. 2009-007, being a resolution authorizing the City of Hays or its designated agent to abate nuisances located on the property at 700 East 6<sup>th</sup> Street, Hays, Kansas be approved.

Ron Mellick amended his motion to state "an inspection of the property done on March 26, 2009 revealed the inoperable vehicles and the cited general

nuisances still remained on the property". Barbara Wasinger seconded the amended motion.

Vote: Ayes: Barbara Wasinger  
Ron Mellick  
Allan Lytton  
Troy Hickman

**8. INSURANCE BROKERAGE AND RISK MANAGEMENT SERVICES FOR**

**CITY OF HAYS:** Allan Lytton moved, Troy Hickman seconded, that the low bid submitted by Insurance Planning Inc. of Hays in the amount of \$21,600 be approved and that the City of Hays enter into a one-year contract for insurance brokerage and risk management services with Insurance Planning.

Vote: Ayes: Barbara Wasinger  
Ron Mellick  
Allan Lytton  
Troy Hickman

**9. ANNEXATION OF GLASSMAN CORPORATION PROPERTY LOCATED**

**ON COMMERCE PARKWAY:** Owners of property located on Commerce Parkway have requested by petition and consent to have the land annexed into the city limits. The land is contiguous with the present city limits and water and sewer services currently exist to service the property.

Ron Mellick moved, Barbara Wasinger seconded, that Ordinance No. 3767, being an ordinance annexing land to the City of Hays, Kansas be approved.

Vote: Ayes: Barbara Wasinger  
Ron Mellick  
Allan Lytton  
Troy Hickman

**10. ASSISTANCE FOR GLASSMAN CORPORATION DRIVEWAY**

**ENTRANCE:** On January 8, 2009, Joe Glassman, president of Glassman Corporation, requested assistance to construct a driveway entrance to their new facility located on Commerce Parkway. After working with Heart of America

Development, a preliminary plat was submitted that would provide for one entrance, platted as a City street, that would serve as an entrance to Glassman Corporation's new facility as well as providing the main entrance to any further development for this parcel.

Ruder Engineering submitted an estimate of \$521,730.00 to construct the street, install water lines and sanitary sewer for the full 820 feet from the existing Commerce Parkway pavement to the east side of the proposed addition. The share of the cost for the west 140 feet, which is the entrance, is \$141,881.88.

Ron Mellick moved, Allan Lytton seconded, that the request for assistance by Glassman Corporation for the driveway entrance into their new facility on Commerce Parkway be approved.

Joe Glassman stated that Ellis County has agreed to do the dirt work on this project at no charge to either the City or to Glassman Corporation.

Harvey Ruder stated that the cost of earth work is included in his estimate and would bring down the City's share of the project.

Ron Mellick amended his motion to include a "not to exceed" cost of \$141,881.88 minus the Ellis County share for dirt construction. Allan Lytton seconded the amended motion.

Vote: Ayes: Barbara Wasinger

Ron Mellick

Allan Lytton

Troy Hickman

**11. RESOLUTION AUTHORIZING IMPROVEMENTS – VARIOUS WATER AND SEWER PROJECTS:** The City's Five Year Capital Improvement Plan (CIP) included various water/sewer projects for 2009 and 2010 to be funded by a revenue bond. Those projects include waterline upgrades and extensions throughout the City, replacing the launders at the Water Treatment Plant, SCADA improvements at the Wastewater Treatment Plant, and a sanitary sewer extension along Commerce Parkway. In order to issue revenue bonds to fund these projects, it is necessary to pass a resolution authorizing the projects and

the financing of the same. The estimated cost to complete these projects is \$2.9 million.

Troy Hickman moved, Barbara Wasinger seconded, that Resolution No. 2009-008, being a resolution declaring it necessary to repair, alter, extend, reconstruct, enlarge or improve the water and sewage system of the city of Hays, Kansas; to issue Water and Sewage System Revenue Bonds in an amount not to exceed \$3,480,000, for the purpose of paying the costs thereof and related bond reserves and financing costs; and providing for the giving of notice of said intention, be approved.

Vote: Ayes: Barbara Wasinger  
Ron Mellick  
Allan Lytton  
Troy Hickman

**12. COMMERCE PARKWAY SANITARY SEWER – AWARD OF BID:** Allan Lytton moved, Ron Mellick seconded, that the bid submitted by APAC in the amount of \$45,754.36 for construction of a sanitary sewer main extension along Commerce Parkway be approved.

Vote: Ayes: Barbara Wasinger  
Ron Mellick  
Allan Lytton  
Troy Hickman

**13. SPEED LIMITS ON VINE STREET, 22<sup>ND</sup> STREET, GENERAL HAYS ROAD AND ROTH AVENUE:** The proposed ordinance sets the following speed limits:

- Vine Street from 48<sup>th</sup> Street to the north city limit – 45 mph
- 22<sup>nd</sup> Street from Canterbury to Commerce Parkway – 40 mph
- General Hays Road from 45<sup>th</sup> to 55<sup>th</sup> Street – 40 mph
- Roth Avenue from 45<sup>th</sup> to 55<sup>th</sup> Street – 40 mph

Troy Hickman moved, Allan Lytton seconded, that Ordinance No. 3768, being an ordinance amending Chapter 62 of the City of Hays, Kansas Municipal

Code by modifying Article III., Division 3, Section 62-108, Subsection (B)(3) regarding speed restrictions, be approved.

Commissioner Mellick stated he thought the speed limit on 22<sup>nd</sup> Street from Canterbury to Commerce Parkway should be 45 mph. He feels that one-mile stretch with no development warrants a higher speed limit until development occurs in that area.

Public Works Director Brenda Herrman commented that 45 mph would be an acceptable speed limit on that street.

City Manager Toby Dougherty stated that the Police Chief also felt that 45 mph would be acceptable.

Commissioner Hickman stated that from a safety perspective, he would prefer the speed limit remain at 40 mph.

Commissioner Lytton stated he was comfortable with setting the speed limit at 45 mph. Once development occurs, it may be necessary to lower the speed limit.

Chairperson Wasinger concurred.

Vote: Ayes: Troy Hickman

No: Barbara Wasinger

Ron Mellick

Allan Lytton

Ron Mellick moved, Allan Lytton seconded, that Ordinance No. 3768, being an ordinance amending Chapter 62 of the City of Hays, Kansas, Municipal Code, by modifying Article III., Division 3, Section 62-108, Subsection (B)(3) regarding the following speed limits be approved:

Vine Street from 48<sup>th</sup> Street to the north city limit – 45 mph

22<sup>nd</sup> Street from Canterbury to Commerce Parkway – 45 mph

General Hays Road from 45<sup>th</sup> to 55<sup>th</sup> Street – 40 mph

Roth Avenue from 45<sup>th</sup> to 55<sup>th</sup> Street – 40 mph

Vote: Ayes: Barbara Wasinger

Ron Mellick

Allan Lytton

No: Troy Hickman

**14. UPDATE ON AMERICAN RECOVERY AND REINVESTMENT ACT**

**PROJECTS:** Public Works Director Brenda Herrman reported that the Vine Street reconstruction project from 22<sup>nd</sup> to 27<sup>th</sup> Street that was submitted to KDOT for American Recovery and Reinvestment Act project funds was not selected. Ellis County did get chosen for a bridge replacement project south of Walker.

Commissioner Mellick asked if the City will still have the engineering services for the Vine Street reconstruction completed.

Ms. Herrman stated the engineering contract will be discussed at a future work session.

**15. IMPROVEMENT OF HIGHWAY 40 EAST OF HAYS:**

Public Works Director Brenda Herrman stated the reconstruction and improvement of Highway 40 east of Hays between 280<sup>th</sup> Avenue and the Canterbury intersection is scheduled to start on March 30, 2009 and is expected to be completed in late June or early July. An eastbound lane will be open during the project, however; westbound traffic will be detoured around the area. Commerce Parkway will remain open for the majority of the time as well as 280<sup>th</sup> Avenue.

**16. REPORT OF THE CITY MANAGER:**

Assistant City Manager Mark Loughry gave a monthly update on recent projects and activities going on in various City departments.

**17. COMMISSION INQUIRIES AND COMMENTS:**

There were no comments or inquiries relating to City issues.

**18. EXECUTIVE SESSION:**

Barbara Wasinger moved, Ron Mellick seconded, that the Governing Body recess to executive session at 9:00 p.m. for 20 minutes to discuss property acquisition and attorney-client privileged information. The executive session included the City Commissioners, the City Manager, the Assistant City Manager, and the City Attorney. K.S.A. 25-4319 authorizes the use of executive session to discuss the topics stated in the motion.

Vote: Ayes: Barbara Wasinger

Ron Mellick

Allan Lytton

Troy Hickman

Chairperson Wasinger called the meeting back to order at 9:20 p.m. She stated no action was taken during executive session.

The meeting was adjourned.

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

City Clerk