

City of Hays
City Commission
Work Session Notes
May 7, 2009

Present: Ron Mellick, Christopher Channell, Barbara Wasinger, Troy Hickman, Henry Schwaller IV, John Bird, Toby Dougherty

Hays Recreation Commission Expansion of Current Facility

Roger Bixenman, Superintendent of the Hays Recreation Commission (HRC), reviewed plans for expansion of the facility located at 1105 Canterbury. The building sets on city-owned property and is a city-owned building. Recreation Commissions, by law, are not allowed to own property. In order to expand, the HRC needs City approval. The City acts as a conduit to pay for the building through a lease-purchase process which is handled by Golden Belt Bank. Taxes which are levied through the school district and program fees are used to pay expenses associated with the HRC. It will not be necessary to borrow any money; the project will be funded through the HRC's capital improvement fund. Golden Belt Bank does not have any objections to the expansion.

The Commissioners will be requested to formally approve this request at the May 14, 2009 Commission meeting.

Discussion of Pit Bulls in City Limits

Due to an incident that occurred April 29, 2009, Commissioner Schwaller requested the Commissioners revisit the ordinance relating to dangerous dogs kept within the city limits.

Police Chief Jim Braun presented information from other towns regarding breed specific bans or bans on vicious animals. He stated the Police Department responds to an average of two complaints of dog bites a month, with about seven dangerous dog investigations a year.

Pam Binder, 309 West 17th Street, made a plea to not ban specific breeds of dogs. The pit bull is not recognized by the American Kennel Club; the pit bull is a mix breed dog. There are many dogs other than pit bulls that can be considered dangerous. She feels that alternate means, such as neutering or spaying, and higher registration fees can be used. Ms. Binder did concede that when pit bulls attack, they do attack to kill; they have the most powerful jaws in the dog world. If a ban is applied to pit bulls, it also needs to be applied to pit bull mixes.

Lindsey Miller, 314 West 16th Street, the owner of the pit bull mastiff mix involved in the incident, stated she adopted the 95 pound 5-year old pit bull mix through a web-site and was assured the dog was evaluated for signs of aggression. The dog was adopted in July 2008 and after the adoption she noticed the dog did not like cats, rabbits, and smaller dogs. When walking the dog, it was muzzled and had two leashes plus a choke chain. Her dog pushed a window screen out and grabbed a dog out of a little girl's arms and killed it. She did not think her dog was capable of killing another dog. The dog has since been euthanized. She does not feel every dog in Hays should have to pay for what her dog did.

Amanda Hughes, a Hays resident, stated that her family has a pit bull that they have raised since it was a puppy. She understands that a dog that attacks should be put down; however, she does not feel it is fair to punish a certain breed.

Russ Pfannenstiel, 316 West 17th Street, requested that pit bulls be banned from the city limits. His family pet was attacked and killed by a pit bull while his daughter was walking the family pet around the block. His daughter is lucky that she was not attacked. Mr. Pfannenstiel read information regarding the traits of pit bulls from the same website that Lindsey Miller used to adopt her pit bull mix.

Commissioner Schwaller stated that when the animal control ordinance was passed in 2004 there was very limited discussion about banning specific breeds. It was felt that banning specific breeds would be difficult to enforce.

City Attorney John Bird stated that part of the problem with being breed specific is that you have to have a foundation to work from; you cannot be breed specific unless you have data to prove a rational connection. When looking at data, it is not the pit bull mix breed that is the problem. Statistically, Labradors are the most dangerous breed. It would probably require an additional employee to fully enforce a breed specific ordinance, not only to fine them, but also to prove the case in court. It would also be difficult to define a pit bull mix breed in an ordinance. The current ordinance looks at the behavior of the dog, defined as dangerous or vicious, rather than the breed.

Commissioner Channell feels the Commissioners need to study this issue further before any decision can be made.

The other Commissioners were in agreement with Commissioner Channell. This will be discussed at a future work session.

Lease/MOA for North Central Kansas Technical College

At a previous work session, the City Manager was requested to draft a lease for the property known as the old Army Reserve Center, 101 Main Street, with North Central Kansas Technical College (NCKTC).

City Manager Toby Dougherty reviewed the lease and a Memorandum of Agreement with the Commissioners. There is no monetary consideration in the five-year lease itself, but is addressed in the Memorandum of Agreement. The City will benefit from having an educational institution in the downtown area and from free labor provided by NCKTC students and faculty assisting with various City projects.

Clark Coco, president of NCKTC and Don Benjamin, dean of the Hays campus, updated the Commissioners on the programs that will be conducted in the downtown facility which they have named the Big Creek Campus.

The Commissioners will be requested to formally approve the lease and Memorandum of Agreement at the May 14, 2009 Commission meeting.

Commissioner Hickman left the work session.

Smoky Well Field Expansion Project - Bids

The first study of the Smoky Well Field expansion was conducted by Black & Veatch and Groundwater Associates in 1994-95, but was mothballed for the South Russell Project. After that project was determined to not be feasible, the Smoky Expansion was once again looked at. In 2000, a committee was formed to look at the best scenario and solicited professional engineering services with Burns and McDonnell in 2002 related to the development and design of improvements to the Smoky Well Field.

Acting Director of Utilities Joe Obholz summarized the work that will be done. Five wells will be eliminated as well as two chlorine stations. Five new wells will be drilled and three chlorine stations will be added to the system.

Brian Meier, Burns and McDonnell engineer, reviewed the phases of the project, river flow and recharge levels, as well as the design of the project. The project is expected to commence mid-June with completion in February 2010.

The Commissioners will be requested to approve the low bid in the amount of \$2,288,967 submitted by Key Construction for work on the project at the May 14, 2009 Commission meeting.

Smoky Well Field Expansion Project – Addendum #4 for Design Phase Services

In 2002, the City entered into an agreement with Burns and McDonnell for professional engineering services related to the development and design of improvements to the Smoky Well Field. Since the original agreement, three amendments have been executed; the latest being July 2004 where the bulk of the design fees were set at a maximum not-to-exceed cost of \$379,094. Since that time, difficulties have been experienced in acquiring the permits from the Division of Water Resources and in acquiring the proper rights of way and easements.

Burns and McConnell performed services beyond those originally detailed in the project scope of services, and they documented expenses in excess of the

maximum not-to-exceed amount. The firm has requested additional payment in the amount of \$84,801 for additional services related to assistance with land acquisition, additional civil work based on final well sites, and additional meetings and coordination.

The Commissioners will be requested to approve Addendum #4 for Design Services at the May 14, 2009 Commission meeting.

Smoky Well Field Expansion Project – Addendum #5 for Construction Phase Services

Burns and McDonnell have prepared Addendum #5 to the Agreement for Professional Services addressing construction phase services in the amount of \$296,290. While City staff will provide observation of the construction, professional services are required to assure that construction is completed in compliance with the plans and specifications.

The Commissioners will be requested to approve Addendum #5 at the May 14, 2009 Commission meeting.

Annexation of Heart of America Property along Commerce Parkway

There has been a request by the owners of land located along Commerce Parkway to have the land annexed. The land is contiguous with the present city limits. This tract is being annexed entirely as right-of-way (known on the plat as Ninth Street) and is adjacent to the plat known as Heart of America First Addition. Approval of the annexation will allow for improvements to this portion of Ninth Street to be special assessed if so petitioned by the developer.

The Commissioners will be requested to approve the annexation at the May 14, 2009 Commission meeting.

Final Plat of the Heart of America First Addition

The owners of property of a tract located along Commerce Parkway are wishing to plat the property. One lot is proposed along with approximately 750 feet of right-of-way. The subject lot is a portion of a larger area owned by Heart

of America Development Corporation, which has been preliminary platted in anticipation of future growth.

The Commissioners will be requested to approve a resolution approving the Final Plat at the May 14, 2009 Commission meeting.

Heart of America/Glassman Petition to Create Benefit District

At the March 26, 2009 Commission meeting, the City Commission approved a request from Joe Glassman to fund a portion of the proposed 9th Street east of Commerce Parkway including the first 140 feet of pavement, reinforced concrete storm sewer box, and water and sewer improvements. The estimated cost for this portion is \$141,882.

It is expected that the annexation of 9th Street along with the Final Plat of the Heart of America Addition will be approved at the May 14, 2009 Commission meeting.

The Heart of America (HOA) Corporation is requesting the establishment of a benefit district for the construction of 9th Street along with water and sanitary sewer improvements to the east end of the Glassman lot. The request calls for the Glassman lot and the property just south of 9th Street (owned by HOA) to be assessed equally the cost of the improvements; however, HOA is requesting the City to finance their share of the assessment until such time that annexation/development of the property south of 9th Street occurs. Their request also asks the City to waive the current policy of requiring the developer to pay 30% of the assessment prior to construction. The estimated cost of their share is \$189,924.

Chris Dreiling, president of the HOA Corporation, discussed two proposals for improvements to 9th Street. One of the proposals would be to extend the improvements beyond the first 140 feet to approximately 375 feet east on the south side of the Glassman property. Mr. Glassman has agreed to be special assessed for those improvements. The 2nd proposal would be to extend 9th Street all the way to the east end of the Glassman property; Mr. Glassman would

not be responsible for any assessments beyond the west 375 feet of Lot 1, Block 1.

Mr. Dreiling stated that when any of the property is sold and annexed into the city limits, HOA would then pay back to the City their share of the assessments that had been funded by the City and would agree to start paying those assessments from that point forward.

Chairman Mellick stated he does not want to set a precedent whereby other developers may feel they should be allowed to do what HOA is asking the City to do. Also, there is no guarantee or incentive that the land will be sold. He does not want the City to be stuck with paying for the cost of the street. He does not want City money tied up for what could be a long time.

Mr. Dreiling stated HOA is not in the business of making money; they plan to sell the land for what they paid for it ten years ago, that is the incentive – it is cheap land. The purpose of HOA is to provide economic development; it is basically a development arm for the City and the County to do things they could not do. If the first option is selected, the City will not be out any money, and Mr. Glassman will be special assessed for the west 375 feet of Lot 1.

The Commissioners will be requested to approve a resolution authorizing the first option at the May 14, 2009 Commission meeting.

Professional Engineering Services for Vine Street (22nd to 27th Street)

At the May 14, 2009 Commission meeting, the Commissioners will be requested to approve a bid in the amount of \$21,500 submitted by Cook, Flatt, and Strobel for design services for Phase I (22nd to 27th Street). After receiving their bid, staff requested a price from Cook, Flatt, and Strobel for preliminary design services for Phase II (13th to 22nd Street). The price offered for Phase II is \$13,500.

City Manager Toby Dougherty stated the offer received from Cook, Flatt, and Strobel was a very good bid. Phase II preliminary design services would have been bid out next year, but due to receiving such a good bid, the City Manager requested the Commissioners approve the preliminary designs for

Phase II along with Phase I. It was not part of the bid, but was negotiated after receiving their low bid for Phase I.

ARFF Facility - Resolution Authorizing Issuance of GO Bond Funding

The Aircraft Rescue and Fire Fighting (ARFF) facility will be funded by a Federal Aviation Administration grant that will cover 95% of the eligible items. The City's share of the project is \$140,895, which will be funded through the issuance of Airport General Obligation Bonds.

The Commissioners will be requested to approve the resolution which authorizes the construction of the ARFF facility and funding at the May 14, 2009 Commission meeting.

ARFF Facility – Award of Bid

At the May 14, 2009 Commission meeting, the Commissioners will be requested to approve the low bid in the amount of \$1,253,825 submitted by Paul-Wertenberger for the construction of the Aircraft Rescue and Fire Fighting facility at the Hays Regional Airport.

AARF Facility – Professional Services Agreement – Inspection

At the May 14, 2009 Commission meeting, the Commissioners will be requested to approve Authorization No. 8 under the Agreement for Professional Engineering Services with Burns and McDonnell. This authorization for construction services of the Aircraft Rescue and Fire Fighting facility at the Hays Regional Airport defines a scope of services and sets a fee for said services at \$229,950. A Federal Aviation Administration grant will pay 95% of the cost; the City's share will be \$11,497.

City Commission Rules of Procedure/Meeting Time

The Commissioners will be requested to approve a resolution adopting the City Commission Rules of Procedure at the May 14, 2009 Commission meeting.

City Manager Toby Dougherty reviewed several changes to the document.

Discussion was held about changing the start time of meetings and work sessions. The consensus of the Commissioners was to have both meetings and work sessions start at 6:30 p.m.

Other Items for Discussion

The City Manager announced that Hays will be the host city for the Kansas-Nebraska All Star High School Football Game in June.

Executive Session

Henry Schwaller IV moved, Barbara Wasinger seconded, that the Governing Body recess to executive session at 7:45 p.m. for 15 minutes to discuss union negotiations and property acquisition. The executive session included the 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: Ron Mellick

Christopher Channell

Barbara Wasinger

Henry Schwaller IV

Chairperson Mellick called the work session back to order at 8:00 p.m.

Barbara Wasinger moved, Henry Schwaller IV seconded, that the Governing Body recess to executive session at 8:00 p.m. for an additional 5 minutes to further discuss union negotiations and property acquisition. The same parties were included in the 2nd executive session.

Vote: Ayes: Ron Mellick

Christopher Channell

Barbara Wasinger

Henry Schwaller IV

Chairperson Mellick called the work session back to order at 8:05 p.m. He stated no action was taken in either executive session.

The work session was adjourned.

Submitted by: _____