

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON MAY 10, 2012

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, May 10, 2012 at 6:30 p.m.

Roll Call: Present: Troy Hickman

Kent Steward

Ron Mellick

Barbara Wasinger

Absent: Henry Schwaller IV

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

**2. MINUTES:** There were no additions or corrections to the minutes of the regular session held on April 26, 2012; the minutes stand approved as presented.

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

**4. CONSENT AGENDA:** Barbara Wasinger moved, Kent Steward seconded, that the following mayoral appointments be approved:

Fort Hays Municipal Golf Course Advisory Board

Bill Bieker – 3-year term to expire July 1, 2015

Hays Area Board of Zoning Appeals

Jerry Befort – 3-year term to expire May 1, 2015

Jerry Sonntag – 3-year term to expire May 1, 2015

Hays Area Planning Commission

Paul Phillips – 3-year term to expire April 30, 2015

Pam Rein – 3-year term to expire April 30, 2015

Vote: Ayes: Troy Hickman  
Kent Steward  
Ron Mellick  
Barbara Wasinger

Chairperson Hickman presented the following proposed mayoral appointments to be considered for approval at the May 24, 2012 Commission meeting:

Airport Advisory Committee

Don Benjamin – 3-year term to expire April 30, 2015

Building Trades Board

Dave Schoendaller – 4-year term to expire August 27, 2016

Arlen Flax – 4-year term to expire August 27, 2016

Hays Public Library Board

Marcia Dinkel – 4-year term to expire April 30, 2016

Hays Recreation Commission

Mark Junk – 4-year term to expire August 1, 2016

Neighborhood Revitalization/Downtown Development Review Board

Elodie Jones – unexpired term to expire January 1, 2013

**NEW BUSINESS**

**5. SINGERS' ROOF:** In 2011, the downtown business venue known as Singers, a live music venue, opened to the public at 116 East 12<sup>th</sup> Street. In order to provide more space for the business, the owners have purchased the vacant building immediately east of the Singers building with the thought of removing the roof and creating an outdoor area for patrons. Since this property is a part of the Chestnut Street Historic District, the State Historic Preservation Office (SHPO) had to approve the planned renovations. After review, the SHPO determined that removing the roof will alter the historic character of the building. State law allows the local governing body to determine otherwise and approve the proposal, if, based on a consideration of all relevant factors, there is no

feasible and prudent alternative to the proposal and that the project includes all possible planning to minimize harm to the historic property. The owner of the property has asked the Commission to rule against the SHPO.

Prior to receiving the determination from the SHPO, the owner hired a contractor to remove the roof covering from the building. The roof covering was in a state of disrepair and needed to be replaced one way or another, even if the roof structure was not going to be removed. However, while removing the roof covering, the roof's trusses allegedly collapsed since they too were in disrepair and were apparently being held in place by the roof covering. If the Commission agrees with the SHPO determination, the owner will be required to restore the roof to its original condition.

Ron Mellick moved that this item be tabled to a later date; however, he still requested discussion on the issue.

City Attorney John Bird stated that a motion to table is not a debatable motion. If the motion is voted "yes" to table, it is taken off the table and there is no discussion.

Ron Mellick withdrew his motion.

Kent Steward moved, Barbara Wasinger seconded, that a determination be made that there is no feasible prudent alternative to what has been proposed and that the project includes all possible planning to minimize harm to the historic property and its environs.

Commissioner Mellick stated that this project has not been handled correctly by the parties involved in the roof's removal. The timeline of events and the conflicting stories cause him great concern. He does not think the Commission should make a decision on this because due diligence has not been done by the property owner in working with the SHPO. The property owner should go back to the SHPO, provide all of their documentation and make their case for the roof removal once again before the Commissioners are asked to make a ruling on this.

City Attorney John Bird stated that if the Commissioners should find in favor of the applicant, notice would have to be given to SHPO. The permit

cannot be issued until they or a private citizen has the opportunity to file suit if they should choose to do so. If no one files suit, the Commission's action stands.

Commissioner Mellick stated the property owner needs to work with the SHPO to find a way to get the project approved.

Mr. Bird stated it disturbs him, as City Attorney, and also disturbs City staff to be faced with this situation. This was not properly handled by the applicant; they got ahead of themselves by starting demolition on the roof before they had followed proper procedures.

Adam Comeau, general contractor for the project, stated it was not his intention for the roof to be removed in as fast of a manner as it was. He was not on-site the day the roofing contractor was there. He should have been there and should have made more of an effort to communicate clearly with the roofer what was to be done. Regardless if the roof was there today or not, he would still be appearing before the Commission to try to get this decision made by the SHPO overturned.

Ron Mellick made a motion to table this item. A motion to table does not need a second.

Vote: Ayes: Troy Hickman

Kent Steward

Ron Mellick

Barbara Wasinger

**6. HAYS SHOOTING RANGE REMEDIATION PROJECT:** The old Hays Shooting Range, located at 1116 Vineyard Road, has been inactive since 1998. In 2005, the site was referred to KDHE and a site investigation was completed, which determined that lead contamination above acceptable levels exists and remediation is required. In 2010, the City, County, and KDHE entered into an agreement detailing a plan of action to clean up the site. In September 2011, the City entered into an agreement with Geotechnical Services, Inc. (GSI) for professional services related to the mediation of lead on the site.

GSI has completed the Remediation Action Plan and KDHE has approved it. Staff requested authorization for GSI to proceed with the actual remediation in the amount of \$74,839.60. Ellis County is participating in the clean-up by hiring the excavation and transport of contaminated soils along with the site restoration.

Barbara Wasinger moved, Ron Mellick seconded, that Geotechnical Service, Inc. be authorized to proceed with Tasks 2 and 3 for services related to the remediation of the old Hays Shooting Range at 1116 Vineyard Road, in the amount of \$74,839.60, to be funded from the City Commission Financial Policy Projects Fund.

Vote: Ayes: Troy Hickman

Kent Steward

Ron Mellick

Barbara Wasinger

**7. JOINT RESOLUTION WITH KDHE:** State law requires the State of Kansas and cities to make certain findings about the water and sewer systems of a municipality in order for the municipality to exercise the powers granted in the Kansas Water Pollution Act. The KDHE has, over the years, asserted the need for Hays to implement various changes and improvements to its infrastructure. In order to formalize those findings and to make sure that there can be no question of technical compliance with state law, the Commissioners were requested to approve a joint resolution between the City and KDHE.

Ron Mellick moved, Barbara Wasinger seconded, that Resolution No. 2012-005, being a joint resolution confirming findings made by the City of Hays, Kansas, and the Kansas Department of Health and Environment as contemplated by Section 12-3103 of Kansas Statutes Annotated, be approved.

Vote: Ayes: Troy Hickman

Kent Steward

Ron Mellick

Barbara Wasinger

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

**9. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Wasinger stated she has been contacted by a constituent about debris flying out of the back of roofing trucks going down either Hall Street or the Interstate to get to the landfill. She questioned if trucks had to be covered.

City Attorney Bird stated that Ellis County has an ordinance that requires tarps on trucks hauling debris to the landfill.

Commissioner Wasinger requested that the law be enforced.

The meeting was adjourned at 7:07 p.m.

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

Doris Wing – City Clerk