

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON MAY 14, 2009

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, May 14, 2009 at 7:30 p.m.

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

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 April 23, 2009; the minutes stand approved as presented.

3. CITIZEN COMMENTS: Bob Wilhelm, director of Historic Fort Hays Museum, updated the Commissioners on the historical signage project at the Fort Hays Municipal Golf Course. The project has been a cooperative effort between the Kansas State Historical Society, the Society of Friends of Historic Fort Hays, the City of Hays, and the Golf Course Advisory Board. It is hoped that all of the signage will be installed in the next few weeks.

4. CONSENT AGENDA: A. Mayoral Appointments (recommendations):
Chairperson Mellick presented the following appointments for consideration:

Airport Advisory Committee

Weeden Nichols – 3-year term to expire April 30, 2012

Mark Schroeder – 3-year term to expire April 30, 2012

Daniel Stecklein – 3-year term to expire April 30, 2012

Building Trades Board

Arlen Flax – term to expire August 27, 2012

Hays Area Board of Zoning Appeals

Jerry Befort – 3-year term to expire May 1, 2012

Jerry Sonntag – 3-year term to expire May 1, 2012

Hays Area Planning Commission

Dr. Paul Phillips – 3-year term to expire April 30, 2012

Pam Rein – 3-year term to expire April 30, 2012

Hays Public Library Board

Ann Crowley – 4-year term to expire April 30, 2013

Jenifer Riat – 4-year term to expire April 30, 2013

The appointments will be presented for approval at the May 28, 2009 Commission meeting.

B. City Commission Rules of Procedure (Resolution No. 2009-011): Barbara Wasinger moved, Christopher Channell seconded, that Resolution No. 2009-011, being a resolution adopting by reference the City of Hays City Commission Rules of Procedure and repealing all previous resolutions, motions or actions in conflict therewith, be approved.

Vote: Ayes: Ron Mellick

Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

UNFINISHED BUSINESS

5. RESOLUTION SETTING PLACE/TIME OF REGULAR CITY COMMISSION

MEETINGS: It was discussed at the May 7, 2009 work session to change the start time of Commission meetings from 7:30 p.m. to 6:30 p.m. The City Attorney was requested to draft an ordinance reflecting that change.

Christopher Channell moved, Barbara Wasinger seconded, that Resolution No. 2009-012, being a resolution setting the place and time of the

regular meetings of the Board of Commissioners, pursuant to Section 2-27 of the Code of Ordinances of the City of Hays, Kansas, and repealing all previous resolutions, motions or actions in conflict therewith, be approved.

Vote: Ayes: Ron Mellick

Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

The consensus of the Commissioners was to have work sessions start at 6:30 p.m. Work sessions are held on the 1st and 3rd Thursday of each month.

NEW BUSINESS

6. LEASE AGREEMENT AND MEMORANDUM OF AGREEMENT FOR NORTH CENTRAL KANSAS TECHNICAL COLLEGE: The City of Hays recently solicited proposals for the use of the former Army Reserve Center. Several proposals were presented and evaluated by the City Commission over a series of work sessions. At the February 19, 2009 work session, the Commissioners directed City staff to initiate discussions with the North Central Kansas Technical College to draft a Lease Agreement as well as a Memorandum of Agreement for use of the property located at 101 Main Street.

City Manager Toby Dougherty stated the lease is for five years with a provision for five year renewals thereafter. The City Manager reviewed the terms of the lease and the Memorandum of Agreement.

Ron Mellick moved, Henry Schwaller IV seconded, that the Lease Agreement and Memorandum of Agreement with North Central Kansas Technical College in regard to the lease of property located at 101 Main Street be approved.

Commissioner Schwaller stated that he understands the will of the Commission to not allow any other entity to operate an incubator or some other for-profit business on the site for a temporary period of time; however he feels

there is need for another facility for the Parks Departments and other not-for-profits that the City supports.

Commissioner Channell agreed with Commissioner Schwaller's comments and felt that in five years this could be reviewed when the lease comes up for renewal.

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

7. HAYS RECREATION COMMISSION EXPANSION OF FACILITY: The Hays Recreation Commission (HRC) wishes to expand the facility located at 1105 Canterbury. The facility 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 that are levied through the school district (3 mills) 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.

Troy Hickman moved, Christopher Channell seconded, that approval be given to the Hays Recreation Commission to allow for expansion of its current facility located at 1105 Canterbury Drive.

Commissioner Wasinger expressed concern that the feasibility study for this expansion was done two years ago; the complexion of our economy has changed since that time. She is concerned that the HRC will not have the results that they had hoped for and questioned whether the HRC has prepared for that monetarily.

Roger Bixenman, Superintendent of the HRC, stated the project has been scaled down from what originally was planned. The expansion will provide for

services that are not being provided at this time. The Board would not be considering this expansion if they did not feel the project was feasible.

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

8. SMOKY WELLFIELD EXPANSION PROJECT - BIDS: The City's current Capital Improvement Program (CIP) includes the Smoky Wellfield Expansion. \$3,500,000 has been placed in the CIP with Water Sales Tax Revenue funds to complete the project. Key Construction, Wichita, KS has submitted the low bid in the amount of \$2,288,967 for work on the expansion project.

Barbara Wasinger moved, Henry Schwaller IV seconded, that the bid for the Smoky Wellfield Expansion Project in the amount of \$2,288,967 submitted by Key Construction be accepted and that the City Manager be authorized to execute a contract related to the project.

The engineering firm of Burns and McDonnell was hired in 2002 to develop and design the improvements to the Smoky Wellfield. Brian Meier, Burns and McDonnell engineer, reviewed the study data and planned improvements. Construction is expected to start mid June with completion in February 2010.

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

9. SMOKY WELLFIELD EXPANSION PROJECT – AMENDMENT #4 FOR DESIGN SERVICES: In 2002, the City entered into an agreement with Burns & McDonnell for professional engineering services related to the development and design of improvements to the Smoky Wellfield. Since the original agreement,

three amendments have been executed with the latest being in July of 2004. 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, easements and property. Burns and McDonnell performed services beyond those originally detailed in the project's Scope of Services, and they documented expenses in excess of the maximum not-to-exceed amount. They are requesting additional payment in the amount of \$84,801 for these services.

Christopher Channell moved, Troy Hickman seconded, that Amendment #4 for Design Services on the Smoky Wellfield Expansion Project, which addresses additional costs not included in the original design project in the amount of \$84,801, be approved.

Chairperson Mellick stated that City staff has verified that all of the expenses are documented and have been approved to be paid.

Vote: Ayes: Ron Mellick

Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

10. SMOKY WELLFIELD EXPANSION PROJECT – AMENDMENT #5 FOR CONSTRUCTION PHASE SERVICES:

The City of Hays has entered into an Agreement for Professional Engineering Services with Burns and McDonnell related to the Smoky Wellfield Project. Neither the initial agreement, nor any of the subsequent amendments address construction phase services. Now that the scope of the project has been defined and approved, and the project has been let for bid, Burns and McDonnell have prepared Amendment #5 to the Agreement for Professional Engineering Services addressing construction phase services in the amount of \$296,290.

Troy Hickman moved, Barbara Wasinger seconded, that Amendment #5 to the Agreement for Professional Services with Burns and McDonnell for construction phase services in the amount of \$296,290 be approved.

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

11. 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.

Troy Hickman moved, Barbara Wasinger seconded, that Ordinance No. 3769, being an ordinance annexing land to the City of Hays, Kansas be approved.

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

12. FINAL PLAT OF THE HEART OF AMERICA FIRST ADDITION:

The owners of a tract of land 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.

Troy Hickman moved, Christopher Channell seconded, that Resolution 2009-013, being a resolution accepting the Final Plat of the Heart of America First Addition, be approved.

Vote: Ayes: Ron Mellick

Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

13. GLASSMAN PETITION TO CREATE BENEFIT DISTRICT: The property owner of Lot 1, Block 1, of the Heart of America First Addition to the City of Hays has petitioned the City for street, storm sewer, sanitary sewer, and water improvements along 9th Street on the east side of Commerce Parkway. The City's bond counsel has prepared a resolution providing for the construction and financing of said improvements through the establishment of a special benefit district. The proposed development is unique in that the benefit district only includes the Glassman lot on the north side of the proposed 9th Street and the improvements extend only half way to the rear of the Glassman lot.

The City Manager stated that the City's development policy requires a 30% up front payment when a developer improves the property and wishes to extend the special assessment payments over a 15 year period. The Glassman Corporation has requested the City waive the 30% requirement.

Henry Schwaller IV moved, Christopher Channell seconded, that Resolution No. 2009-014, being a resolution setting forth findings and determinations of the Governing Body of the City of Hays, Kansas on the advisability of and authorizing the construction of certain improvements pursuant to K.S.A. 12-6a01 et seq., be approved.

Commissioner Schwaller stated that he is not opposed to spreading the payments over a 15-year period without the developer paying the 30% up front even though this runs contrary to our development policy. If this were a big box store coming to town and made such a request, most likely it would be granted.

Commissioner Wasinger stated she felt that allowing the exemption to the development policy would be a good investment in the City's best interests.

Commissioner Hickman stated there have been other cases where the City has taken care of the street because the development of certain property has enhanced the job market and sales tax base.

Chairperson Mellick stated the City is paying for the 140 foot entrance to the property; at that time Mr. Glassman stated he would not be requesting any more assistance. Down the road, there is the possibility that Mr. Glassman could request tax abatements. Chairperson Mellick stated he does not want to set a precedent and does not want to waive the 30% up front payment.

Commissioner Channell felt the development policy should be reviewed to see if there should be changes or updates that address situations such as this one.

Commissioner Schwaller commented that he is supportive of this because of the problems Mr. Glassman has had in attaining a piece of land in Hays. It has taken him many years to get to this point. This is a locally owned firm that pays excellent wages and creates good jobs.

The vote on Resolution No. 2009-014:

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

Chairperson Mellick moved that the 30% up front payment that is required if special assessments are spread over a 15-year period not be waived for the Heart of America First Addition Benefit District.

The motion died for lack of a second.

Henry Schwaller IV moved, Barbara Wasinger seconded, that a waiver of the 30% up front payment that is required if special assessments are spread over a 15-year period be granted.

Commissioner Channell stated he has no doubt that Mr. Glassman will make the payments. The main reason for the 30% up front is to insure that if something happens, the City is not left with paying for the improvements. Hopefully, this will encourage other development in the area.

Commissioner Hickman stated that the improvements may spur development; however, he feels the City should help local employers expand

their facilities. The City has made other investments in water and sewer in that area, therefore he supports the waiver.

Vote: Ayes: Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

No: Ron Mellick

14. PROFESSIONAL ENGINEERING SERVICES FOR VINE STREET (22ND TO 27TH STREET):

City staff applied for Economic Stimulus funding for the reconstruction of Vine Street from 22nd to 27th Street. Staff then solicited proposals from engineering firms for professional services related to the design of the project. Six firms submitted proposals on March 18th, and Cook, Flatt and Strobel (CFS) Engineers of Topeka provided the lowest cost proposal for a fee of \$21,500. CFS has provided quality engineering services to the City since 2000 on various projects like Hall Street and several water and sewer projects.

The project request was submitted to KDOT for stimulus package consideration; however, the City did not receive stimulus funding for this project. Even though KDOT did not award stimulus funds for this project, the City already has \$400,000 in KLINK grant funds for this project, and the Capital Improvement Program (CIP) has scheduled this project for construction in 2011. Staff recommended proceeding with the design of the project.

In addition, CFS has offered a price of \$13,500 to perform the preliminary design services for the section of Vine Street from 13th to 22nd Street. The CIP identifies this section of Vine Street for reconstruction in 2013. It is economical to perform preliminary design (surveying and geotechnical study) for both sections at one time.

Christopher Channell moved, Troy Hickman seconded, that the City Manager be authorized to enter into an agreement with Cook, Flatt and Strobel for Engineering Services regarding the construction of Vine Street from 13th Street to 27th Street for an amount not to exceed \$35,000.

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

15. ARFF FACILITY – RESOLUTION PROVIDING FOR CONSTRUCTION AND PAYMENT OF COSTS:

Contingent upon Federal Aviation Administration grant funding, a new Aircraft Rescue and Fire Fighting (ARFF) Facility is planned for construction at the Hays Regional Airport. A resolution is required to formally authorize its construction, and allow for the reimbursement of the City's share of construction costs through the issuance of General Obligation Bonds in an amount not to exceed \$150,000.

Barbara Wasinger moved, Troy Hickman seconded, that Resolution No. 2009-015, being a resolution authorizing and providing for the construction of a new fire station at the Hays Municipal Airport; and providing for the payment of the costs thereof, be approved.

Vote: Ayes: Ron Mellick
Christopher Channell
Barbara Wasinger
Troy Hickman
Henry Schwaller IV

16. ARFF FACILITY – AWARD OF BID: Five bids were received for the construction of an Aircraft Rescue and Fire Fighting (ARFF) Facility at the Hays Regional Airport. The low bidder was Paul-Wertenberger Construction with a base bid of \$953,640. Various alternates, including a brick veneer for \$56,000, brought the total price to \$1,253,825. Pending Commission approval, City staff will submit an updated grant application to the Federal Aviation Administration (FAA). Pending FAA approval of the grant, the City Manger will enter into a contract with Paul-Wertenberger for construction.

Christopher Channell moved, Troy Hickman seconded, that the base bid and all alternates for construction of a new fire station at the Hays Regional

Airport received from Paul-Wertenberger Construction in the amount of \$1,253,825, contingent upon FAA grant funding, be approved.

Vote: Ayes: Ron Mellick

Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

17. ARFF FACILITY – PROFESSIONAL SERVICES AGREEMENT: Burns and McDonnell has submitted Authorization No. 8 to the Agreement for Professional Services dated June 16, 2006. This authorization provides for the construction phase engineering services related to the inspection of the construction of an Aircraft Rescue and Fire Fighting (ARFF) Facility at the Hays Regional Airport. The cost for the professional services is \$229,950, of which 95% is to be covered by an FAA grant; the City's share is \$11,497.50.

Barbara Wasinger moved, Troy Hickman seconded, that the City Manager be authorized to enter into an agreement with Burns and McDonnell for professional services related to the inspection of the new fire station at the Hays Regional Airport, contingent upon FAA grant approval.

Vote: Ayes: Ron Mellick

Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

18. REPORT OF THE CITY MANAGER: The City Manager reviewed the State Budget which was recently passed by the legislature. From a budget standpoint for this year and next year, the City will be affected by a small hit to the Special Highway Fund.

City Manager Dougherty reviewed items out of the Kansas Tax Rate and Fiscal Data Book, which is a publication put out by the League of Kansas Municipalities. He pointed out that Hays ranks 20th in population but has the 15th highest assessed valuation in Kansas. Hays has the 11th lowest mill levy in the

state among cities of the 1st and 2nd class; the 2nd lowest outside of Johnson County.

Commissioner Hickman stated that he is concerned about the low number of enplanements at the Hays Regional Airport.

The City Manager stated that Brenda Herrman, Director the Public Works, will be presenting information at the next work session.

The meeting was adjourned.

Submitted by: _____

City Clerk