

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON SEPTEMBER 13, 2012

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, September 13, 2012 at 6:30 p.m.

Roll Call: Present: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick
Barbara Wasinger

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

2. MINUTES: Commissioner Steward corrected a spelling error in the minutes of the regular session held on August 23, 2012; the minutes stand approved as corrected.

3. CITIZEN COMMENTS: There were no comments.

4. CONSENT AGENDA: There were no items on the consent agenda for approval or consideration.

NEW BUSINESS

5. ORDINANCE AUTHORIZING ISSUANCE OF HEALTH CARE FACILITY REVENUE BONDS, SERIES 2012-A: On February 24, 2011, Resolution No. 2011-003 was approved indicating the intent of the Governing Body to issue tax-exempt Industrial Revenue Bonds (IRBs) for the purpose of financing construction of a skilled care nursing facility and renovations to the existing St. John's Assisted Living facility both located at 2525 Canterbury. IRBs require the

City to be the issuer of the bonds. The City is in no way obligated for the payment of the bonds nor do they lend credit to the transaction; the bonds are issued and sold purely on the credit of the company. The City, as issuer, is required to hold an ownership interest in the property and is deeded the property for the length of the bond term. Title to the property will be transferred to the firm by the City when the IRBs are retired.

Ron Mellick moved, Barbara Wasinger seconded, that Ordinance 3852, being an ordinance authorizing the City of Hays, Kansas to issue its Health Care Facility Revenue Bonds, Series 2012-A (St. John's, Inc.) in the aggregate principal amount of \$13,000,000 for the purpose of providing funds to (1) purchase, acquire, construct, equip, install, and furnish a skilled nursing facility, (2) construct, equip, install, and furnish certain improvements to an existing assisted living facility, and (3) pay certain costs of issuance; prescribing the form and authorizing execution of a trust indenture between the City and the Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri, as trustee, prescribing the form and authorizing the execution of a lease agreement between the City and St. John's, Inc.; prescribing the form and authorizing the execution of a bond purchase agreement between the City, St. John's, Inc., Via Christi Health, Inc., and Central States Capital Markets, LLC, as purchaser of the bonds; prescribing the form and authorizing the execution of a tax compliance agreement between the City, St. John's, Inc., and the trustee, and approving the use of a preliminary official statement in connection with the offering of said bonds, be approved.

Vote: Ayes: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick
Barbara Wasinger

6. RESOLUTION APPROVING TAX AND SECURITIES COMPLIANCE

PROCEDURES: In August 2011, the IRS announced that all issuers of tax-exempt bonds should have a set of written procedures for monitoring compliance

with rules related to tax-exempt bonds. IRS forms that are required to be filed with tax-exempt bonds have also been recently revised to ask whether the City has written policies in place to monitor post-issuance compliance. Upon advice of and consultation with bond counsel, staff has prepared Tax and Securities Compliance Procedures so that the City can comply with the IRS directive to have written procedures. Bond counsel has further advised that the procedures should be approved by the Commission to evidence the City's commitment to post-issuance compliance.

Gary Anderson, representing Gilmore and Bell, the City bond counsel, discussed with the Commissioners the procedures for monitoring compliance.

Kent Steward moved, Barbara Wasinger seconded, that Resolution No. 2012-012, being a resolution establishing a tax and securities compliance procedure for the City of Hays, Kansas, be approved.

Vote: Ayes: Troy Hickman

Kent Steward

Henry Schwaller IV

Ron Mellick

Barbara Wasinger

7. 2012 UNIFORM PUBLIC OFFENSE CODE: The League of Kansas Municipalities publishes a revised Uniform Public Offense Code (UPOC) on a yearly basis. The majority of the UPOC remains the same from year to year, with only a few changes made.

Barbara Wasinger moved, Ron Mellick seconded, that Ordinance No. 3853, being an ordinance regulating public offenses within the corporate limits of the city of Hays, Kansas, incorporating by reference "The Uniform Public Offense Code for Kansas Cities," Edition of 2012, and repealing Ordinance No. 3840, Section 1, 2, of the Code of Ordinances of the City of Hays, Kansas, as passed on September 8, 2011, and as published on September 13, 2011, be approved.

Vote: Ayes: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick
Barbara Wasinger

8. 2012 STANDARD TRAFFIC ORDINANCE: The League of Kansas Municipalities publishes a revised Standard Traffic Ordinance (STO) on a yearly basis. The majority of the STO remains the same from year to year, with only a few changes made.

Kent Steward moved, Ron Mellick seconded, that Ordinance No. 3854, being an ordinance regulating traffic within the corporate limits of the city of Hays, Kansas, incorporating by reference "The Standard Traffic Ordinance for Kansas Cities," Edition of 2012, providing certain penalties and repealing Ordinance No. 3841, of the Code of Ordinances of the City of Hays, Kansas, as passed on September 8, 2011, and as published on September 13, 2011, be approved.

Vote: Ayes: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick
Barbara Wasinger

9. VIETNAM VETERANS' MEMORIAL HELICOPTER DISPLAY AT THE HAYS REGIONAL AIRPORT: The Vietnam Veterans of America (VVA) Chapter 939 is requesting permanent space at the Hays Regional Airport for a static display of Vietnam era helicopters. This item was reviewed by the Airport Advisory Board and recommended for approval by the City Commission. If approved, annual expected costs incurred by the City will be \$428 and a one-time expense for necessary parking and landscaping of approximately \$9,000. The helicopters would remain the property of the Department of Defense with an annual inspection provided. The City would not be responsible for annual maintenance to the displays.

Public Works Director I. D. Creech stated that at this time, the VVA is looking for support for putting up this memorial somewhere on the airport property. Exactly where it will go and exactly how it would stand will be determined by the type and number of helicopters. The agreement will state that if the FAA/City needs the property for airport facilities, the display will be moved.

Henry Schwaller IV moved, Barbara Wasinger seconded, that Hays Chapter 939, Vietnam Veterans of America, be allowed to use land at the Hays Regional Airport for a static Vietnam Veteran's memorial helicopter display and provide maintenance as requested.

Vote: Ayes: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick
Barbara Wasinger

10. CONCRETE CRUSHING: The 2012 Budget allocates \$24,000 for the purpose of crushing concrete rubble stored on City property. The crushed concrete is used during alley and other maintenance activities throughout the year. Request for bids were received; the lowest bid received would produce 3,429 tons of material. City staff proposed renting an impact crusher from GW Van Keppel for \$21,500 and use in-house personnel and equipment which would produce 16,000 tons of material. It is estimated that fuel costs will be \$2,500. Other costs would be opportunity costs in that the manpower and equipment could not be used for other activities during this time.

Ron Mellick moved, Henry Schwaller IV seconded, that the City Manager be directed to accept the bid from GW Van Keppel Company for \$21,500 for the rental of the KPI 4240 Crusher.

Vote: Ayes: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick
Barbara Wasinger

11. 22nd AND WHEATLAND LOTS – REQUEST FOR REZONING: The owners of the property located near the intersection of 22nd and Wheatland (Lots 1-3, Block D, Tallgrass 2nd Addition) have submitted a request to rezone these 3 lots from R-1 (Single-Family Dwelling District) to R-3 (Two-Family Dwelling District). The proposed rezoning request meets all City of Hays Subdivision and Zoning Regulations. A public hearing was conducted on August 20, 2012 at the regular meeting of the Planning Commission, and by vote of 6-0, a recommendation was made by the Planning Commission to the City Commission to approve the rezoning as requested. Staff also recommended this rezoning request be approved.

Planning, Inspection, and Enforcement Superintendent Jesse Rohr presented a map that showed the surrounding areas that are zoned for single-family dwelling, two-family dwelling, multi-family dwelling and commercial districts. When studying this issue, the Planning Commission considered the Comprehensive Plan that shows the area as medium density residential. Within the Comprehensive Plan is a compatibility matrix which rates districts as to compatibility to each other. For these three lots, R-3 is rated 4 out of 5 as for compatibility to R-1.

Commissioner Schwaller commented that the owner of the three lots is a businessman and most likely does not want to build something that is abhorrent to the neighborhood. The City likes to encourage a mix of housing, but once multi-family housing creeps into an area it does have an effect that is not positive. When you own your home, you are proud of it and take care of it. When people rent, that may not be the case. There will be additional traffic on that street as well.

Les and Karen Wilson, 1718 Wheatland, Sammy Lippoldt, 2513 East 20th, and Roy Hustead, 1703 Cooper Creek, spoke in opposition of the rezoning request. They feel that allowing duplexes to be built in their neighborhood will cause the valuation of their homes to go down and that rental property will not be taken care of as well as a homeowner would take care of his property. Additionally, there will be more traffic. Right now the neighborhood is safe.

There are three more vacant lots to the south of the three lots in question; will those lots also be rezoned to allow two-family dwelling?

Commissioner Mellick and Wasinger both felt that the property owners are expecting the worst when that may not be the case. There are other areas of town where two-family housing is mixed in with single-family housing and the property is well maintained. Someone could build a single-family home and not take care of it.

Commissioner Schwaller stated that this issue is what the Commissioners hear the most complaints about regardless of which part of town is being rezoned. The people who were there first don't want something else built in the neighborhood that they feel is inappropriate.

Kent Steward moved, Ron Mellick seconded, that Ordinance No. 3855, being an ordinance rezoning a tract of land situated on a part of the southeast quarter (SE/4) and the northeast quarter (NE/4) of Section Thirty-Five (35), Township Thirteen (13) South, Range Eighteen (18) West of the 6th P.M. in Ellis County, Kansas, be approved.

Vote: Ayes: Troy Hickman

Kent Steward

Ron Mellick

Barbara Wasinger

Abstain: Henry Schwaller IV

12. LOWHEAD DAM STUDY IN SMOKY WELL FIELD – CITY SHARE: The Corp of Engineers has offered to partner in a study to determine the feasibility of lowhead dams in the City of Hays Smoky Well Field. The study will be performed by Burns and McDonnell and is projected to cost \$80,000. The Corp will pay one-half (\$40,000) of the cost utilizing Planning Assistance to States money. The Kansas Water Office will pay \$20,000 and the City of Hays is being asked to pay \$20,000. The study is estimated to take one year to complete.

Henry Schwaller IV moved, Barbara Wasinger seconded, that a cost share arrangement among the City of Hays, Kansas Water Office, and the Army Corp of Engineers for a Lowhead Dam Study in the Smoky Well Field, in an amount

not to exceed \$20,000 to be funded from the Water Sales Tax Reserve, be approved.

City Manager Toby Dougherty explained a lowhead dam is a very shallow dam which would impede water flow during no-flow or low-flow periods which would increase the amount of storage within the Hays Well Field. The additional storage will serve to reduce drought impacts and extend the viability of the well field under extended drought conditions. The study will determine how much that storage can be increased by the utilization of a lowhead dam. There is still a certain amount of water that will be going downstream. Additionally, the dam would have to be designed in such a capacity so that the water could be by-passed with zero resistance if Russell calls for a release of water from Cedar Bluff.

Vote: Ayes: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick
Barbara Wasinger

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

14. COMMISSION INQUIRIES AND COMMENTS: Commissioner Wasinger thanked the City of Hays for allowing her to represent them in the Leadership Class of 2012, which is hosted by the Kansas Chamber of Commerce. She is one of 40 people that meet April through October in various cities throughout the state to exchange ideas and discuss similar problems.

Commissioner Schwaller commented about the long-time partnership between Hays and Russell to solve the water challenges that affect both communities. For 20 years the two cities have worked together; he is saddened to hear that Russell does not want to work with Hays any longer. He believes the only way rural communities will survive is by working together, not by fighting each other. He requested the City Manager and City Attorney advise the

Commission about the possibility of terminating the relationship and pulling out of the Public Wholesale Water Supply District #15 (PWWSD#15).

The City Manager stated the formal relationship the two cities share is ownership of the R-9 Ranch and the joint creation of PWWSD#15, which was created to bring water from the R-9 Ranch.

City Attorney John Bird stated there is a procedure to formally withdraw; he will provide that information at a future work session.

The City Manager stated that when the partnership was formed, both cities had a very clear and pressing need for an alternate and immediate water source. The City of Hays, with its conservation measures, no longer has an immediate need, but a long-term need. Russell still has that immediate need.

The meeting was adjourned at 8:19 p.m.

Submitted by: _____

Doris Wing – City Clerk