

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON
SEPTEMBER 22, 2005

1. CALL TO ORDER: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, September 22, 2005 at 7:30 p.m.

Roll Call: Present: Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV
Absent: Kent Steward

Vice-chairperson Billinger 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 September 8, 2005; they stand approved as written.

3. FINANCIAL STATEMENT: Finance Director/City Clerk Mark Loughry reported that sales tax collections increased by \$376,414 due to the collection of an additional $\frac{3}{4}\%$ sales tax in 2005 for budget stabilization. Sales tax collections deposited in August 2005 to the General Fund totaled \$215,637, which is an 11.66% increase over sales tax collected for the same period last year. Year-to-date sales tax collections for the General Fund totaled \$1,498,990, which is an increase of 5.33% over the same timeframe in 2004. The City receipted \$329,149 in sales tax to the Budget Stabilization Reserve in August 2005, bringing the total for the year to \$1,629,660.

Troy Hickman moved, Wayne Billinger seconded, that the Financial Statement for the month of August 2005 be approved.

Vote: Ayes: Wayne Billinger
Troy Hickman
Barbara Wasinger

Henry Schwaller IV

4. CITIZEN COMMENTS: Ron Straight, Transportation Manager for Developmental Services of Northwest Kansas (DSNWK), stated that DSNWK was named as the Transit System of the Year. He thanked the Commissioners for the monetary support the City gives to the Access van.

5. CONSENT AGENDA: There were no items on the Consent Agenda.

NEW BUSINESS

6. POWER PLUS FUEL/EASEMENT MATTER: Kyle Bauer, owner of Power Plus Fuel, 3505 Vine, addressed the Commission regarding a fence that has been constructed along his property line by the adjacent property owner, B-P 24/7, at 3601 Vine. As a result of the fence's construction, Mr. Bauer feels the view of his business has been obstructed. He feels the fence violates the Code of Ordinances, Section 17-96-030. Part C of that ordinance provides in part "no person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view".

Mr. Bauer stated that he has appealed to the City Zoning Administrator who has determined that he does not see anything wrong with the fence. He is requesting the City Commissioners review this issue and over-ride the Zoning Administrator's opinion.

City Attorney John Bird stated the fence also obstructs the view of B-P 24/7 if coming from the south. The issue is whether it materially damages the property. The fence is 6 feet high and is tapered at the front. In the City's opinion, this fence is not in violation of the ordinance.

7. GOLDEN BELT ESTATES 2ND ADDITION – ANNEXATION: The owners of the Golden Belt Estates 2nd Addition have requested by petition and consent in writing to have said land annexed into the city limits of Hays. They have platted the tract of land located in the vicinity of 41st and Hall Street for residential development.

Troy Hickman moved, Barbara Wasinger seconded, that Ordinance No. 3690, being an ordinance annexing land to the City of Hays, Kansas, be approved.

Carrol Haggard, 4100 Smoky Hill Drive, expressed concern about the area being developed without the infrastructure to support it. At last week's work session, it was mentioned that 41st Street and Hall Street are under consideration for improvements in 2013 or 2015. Every January, the Commission considers changing the priority level for street improvements. He requested the Commission consider waiting until January to approve this development.

Commissioner Hickman stated that it is planned for 45th Street to be built in the near future. This will connect the 41st Street Plaza Addition, the 46th Street Addition, and Golden Belt Estates 2nd Addition to Hall Street and will relieve some of the traffic congestion on 41st Street.

Vernon Befort, 1404 West 44th Street, agreed with Mr. Haggard's statement about traffic congestion.

The City Manager stated the Commission fully understands their concerns. The Commission has the opportunity to change the priority for capital improvements in January. If the Commission wishes to change the priority, it may still be a number of years before the actual improvement is made.

Alan Leiker, 1311 Washington Circle, asked the Commission to consider improving Madison Avenue as well. He stated he is opposed to duplexes and rentals being built in the area.

The Vice-chairman called for the vote.

Vote: Ayes: Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

8. GOLDEN BELT ESTATES 2ND ADDITION – FINAL PLAT: The Golden Belt Estates 2nd Addition is adjacent to previously platted property and is a continuation of a large residential development. The plat has been approved by the Utility Advisory Committee, and the Planning Commission has recommended

approval of the plat as well. The only issue could be the open area (green space) which is being dedicated as open space. The area needs to remain open for drainage, however, cannot count towards required green space reservation or dedication.

The City Manager recommended that the Final Plat be approved with the condition that the drainage area be dedicated as drainage area and not as open space. He would like to discuss further the possible provision of a park in this development or expanding the nearby existing park. That will be brought forth for the Commission's consideration at a future date.

Jim Desbien, representing Western Plains Service Corporation, stated he agreed with the condition that the drainage area be dedicated as drainage area and not as open space. If it is the City's wish to have a park in the area, Western Plains will do their best to find a spot for a neighborhood park.

Troy Hickman moved, Barbara Wasinger seconded, that Resolution No. 2005-017, being a resolution approving the Final Plat of Golden Belt Estates 2nd Addition, be approved with the condition that the area listed as open space be dedicated as drainage area.

Vote: Ayes: Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

9. GOLDEN BELT ESTATES 2ND ADDITION – CHANGE OF ZONING

CLASSIFICATION TO "R-2": Western Plains Service Corporation has requested a zoning change for Golden Belt Estates 2nd Addition, Blocks 1 and 2, from "A-L" (Agricultural District) to "R-2" (Single Family Dwelling District). The Planning Commission has recommended the City Commission approve the zoning request.

Troy Hickman moved, Barbara Wasinger seconded, that Ordinance No. 3690, being an ordinance rezoning a tract or land situated on a part of the southeast quarter of Section 20, Township 13 S, Range 18 W of the 6th P.M. in

Ellis County, Kansas from “A-L” Agricultural District to “R-2” Single-Family Dwelling District, be approved.

Vote: Ayes: Wayne Billinger
Troy Hickman
Barbara Wasinger
Henry Schwaller IV

10. GOLDEN BELT ESTATES 2ND ADDITION – CHANGE OF ZONING

CLASSIFICATION TO “R-3”: Western Plains Service Corporation has requested a zoning change for Golden Belt Estates 2nd Addition, Block 3 from “A-L” (Agricultural District) to “R-3” (Two-Family Dwelling District). The Planning Commission has recommended the City Commission approve the zoning request.

Troy Hickman moved, Wayne Billinger seconded, that Ordinance No. 3691, being an ordinance rezoning a tract of land situated on a part of the southeast quarter of Section 20, Township 13 S, Range 18 W of the 6th P.M. in Ellis County, Kansas, from “A-L” Agricultural District to “R-3” Two-Family Dwelling District, be approved.

Commissioner Wasinger stated she spoke to the developer about the concerns of some of the people living near this development in regards to building duplexes on Block 3. She asked if it would be possible to landscape the area in such a manner in order to segregate the area somewhat.

Commissioner Schwaller stated he would vote against this zoning change. He does not think rezoning to two-family would be a wise decision. If the developer wants this to be “R-3”, he would ask that the Special Use provision be eliminated in the 46th Street Addition “R-3” zoning for that area.

Jim Desbien, representing Western Plains Service Corporation, commented that Western Plains has the most at risk. If the lots aren’t sold because of the “R-3” Two-Family Dwelling District designation, he has quite a few lots with special assessments assessed against them.

Mr. Desbien stated he is willing to do some type of landscaping in the area. Western Plains has already planted some trees as a buffer. They will try

to make the area attractive. Western Plains has the most to lose; they won't build something that is not appealing for resale.

Vice-chairman Wayne Billinger stated the Planning Commission reviewed and approved of this zoning change. They look at land values and if there was something that would deter or inhibit the land value, he feels they would not recommend approval of the "R-3" zoning change.

Commissioner Hickman stated that overall this area has been developing nicely; a lot of homes have been built and there is still a demand for more homes to be built in that area. The "R-3" area is seven or eight blocks away from Smoky Hill Drive, so given that, he does not have any problem voting for the zoning change.

The Vice-chairman called for the vote.

Vote: Ayes: Wayne Billinger

Troy Hickman

Barbara Wasinger

No: Henry Schwaller IV

11. SALE OF GENERAL OBLIGATION BONDS: Approximately \$1,500,000 principal amount of General Obligation Bonds and approximately \$2,000,000 principal amount of General Obligation Temporary Notes shall be offered at competitive public sale on Thursday, October 13, 2005. The projects to be financed by the Bonds are the four special assessment districts: Golden Belt Estates 1st Addition, Tallgrass 1st Addition Phase 3, 41st Street Plaza 5th Addition, and the Tebo Benefit District, and Airport improvements. The Temporary Notes will finance the Vine Street Project (13th to 27th), Hall Street Reconstruction, General Hays Road (Cody to 22nd Street), and Reverse Access Road Projects.

Troy Hickman moved, Wayne Billinger seconded, that Resolution No. 2005-018, being a resolution authorizing the offering for public sale of General Obligation Bonds, Series 2005-A and General Obligation Temporary Notes Series 2005-1 of the City of Hays, Kansas, be approved.

Vote: Ayes: Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

12. SUNDAY LIQUOR SALES ORDINANCE: The City received notification from Ellis County Clerk Alberta Klaus stating that a petition for a referendum election on Sunday Alcohol Sales in the city of Hays (Ordinance No. 3685) was presented to the Ellis County Clerk/Election Officer on September 7, 2005. Ms. Klaus determined that there were a sufficient number of qualified signatures on the petition to call for a special election. She recommended that, if the Governing Body decides to call for a special election, it be held on Tuesday, October 18, 2005.

City Attorney John Bird recommended that, should the Commissioners choose to call for a special election, mail ballots be used. Kansas has a provision that states a special question can be submitted to the voters by mail ballot for non-candidate or non-partisan issues. It would cost about the same as voters going to the polls. It also promotes greater participation.

The City Attorney stated the Commissioners have another option. They could repeal Ordinance No. 3685. That would eliminate the election. He is not suggesting that; he is merely letting the Commissioners know they have another option.

Henry Schwaller IV moved, Barbara Wasinger seconded, that Resolution 2005-019, being a resolution authorizing and providing for the calling of a special election in the City of Hays, Kansas, for the purpose of submitting to the electors of the City the question of allowing Sunday sales at retail of cereal malt beverage in the original package and alcoholic liquor in the original package, be approved.

Vote: Ayes: Wayne Billinger

Troy Hickman

Barbara Wasinger

Henry Schwaller IV

13. REPORT OF THE CITY MANAGER: The City Manager reported that enplanements at the Hays Regional Airport continue to increase. The

enplanements for August 2005 are 17% higher than for the same timeframe in 2004.

The City Manager also reported that the City has received a quote on the City's health insurance coverage. Premiums will increase 4.59% compared to an overall increase of 11-13% throughout the country. He will be presenting a contract for the Commissioner's approval at a future Commission meeting.

14. COMMISSION INQUIRIES AND COMMENTS: Commissioner Schwaller asked how the City's health care coverage compares to other governmental entities in the county.

City Manager Gustafson stated that the City's budget is considerably less. It would be unfair of him to comment on the various entities because he has not looked at their plans. However, on a per employee basis, the City is probably the lowest.

Commissioner Schwaller asked the City Attorney if advisory committees are allowed to enter into executive session.

City Attorney John Bird stated that advisory committees can enter into executive session for specific items/issues. The most common are personnel, negotiations, and real estate acquisition.

The City Manager stated they have no personnel authority, no budget authority, no policy authority, and no negotiating authority.

Commissioner Wasinger requested that the Commissioners think ahead to January when the Commission will re-evaluate the Capital Improvement Program projects. The Commissioners needs to seriously think about improving 41st Street and the safety of the people who live there.

Commissioner Hickman requested that City staff meet with parade organizers and discuss with them the throwing of candy during parades.

City Manager Gustafson stated the Police Department has sent letters to parade organizers and requested they notify their parade entrants to not throw candy from moving vehicles.

Vice-chairman Billinger commended the citizens for exercising their right to a referendum on Sunday liquor sales.

15. EXECUTIVE SESSION: There was no executive session.

Thereupon the Governing Body adjourned.

Submitted by: _____

City Clerk