

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON OCTOBER 14, 2010

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, October 14, 2010 at 6:30 p.m.

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

Chairperson Channell 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 23, 2010; the minutes stand approved as presented.

**3. CITIZEN COMMENTS:** Jeff Boyle, Director of Parks, announced that the Ross and Marianna Beach Foundation has donated \$30,000 to the Heartland Community Foundation for a program called Trees for a Beautiful Hays. The City will receive a check each year for the interest earned that will go towards trees in public greenspaces and/or children's programs.

**4. CONSENT AGENDA:** Henry Schwaller IV moved, Barbara Wasinger seconded, that the following resolution be approved:

A. Resolution No. AR-10, being a resolution expressing appreciation to Dr. Brandon Johnson for establishing a new business, Cornerstone Orthodontics, in the City of Hays.

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

B. Chairperson Channell presented the following mayoral appointments for approval at the October 28, 2010 Commission meeting:

Hays Beautification Committee

Mary Hart-Detrixhe – 3-year term to expire August 1, 2013

Carol Heiman – 3-year term to expire August 1, 2013

**NEW BUSINESS**

**5. SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) – RECEIPT OF**

**FINDINGS OF FACT:** City staff and SEIU have met and conferred various times throughout the year to discuss the 2011 contract openers consisting of wages and benefits. June 8, 2010 impasse was declared and in July an unsuccessful mediation took place. A fact finding was conducted September 2, 2010. According to state statute, the City Commission must hold a hearing and make public the findings of fact and recommendation.

Barbara Wasinger moved, Henry Schwaller IV seconded, that the hearing be opened.

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

Harold Schlechtweg, SEIU Business Representative, and Assistant City Manager Paul Briseno presented the findings and recommendations of the fact finding report. Each explained their recommendations for settling the dispute.

Both sides are in agreement that wages be frozen with no merit or cost of living increase for 2011. The issue of health insurance was the reason for the impasse. The City has proposed that a high deductible health insurance plan be considered along with a traditional health insurance plan for all City employees. The Fraternal Order of Police and the International Association of Firefighters union membership have reached agreement concerning health insurance and wages for 2011.

Henry Schwaller IV moved, Ron Mellick seconded, that the hearing be closed.

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

**6. CITY COMMISSION RESOLUTION FOR SEIU AND CITY IMPASSE:**

Barbara Wasinger moved, Troy Hickman seconded, the SEIU membership be provided the same health insurance plan that is provided by the City to the rest of the City employees, union and non-union, for 2011, which includes the option of a high deductible health insurance plan and that wages be frozen for SEIU membership, as they are for other City employees, union and non-union, for 2011.

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

**7. CITY ZONING APPROVAL AND RATIFICATION:**

Prior to 2007, there was a city/county joint planning commission that dealt with zoning and subdivision regulations within Hays and the 3-mile extraterritorial jurisdiction area. In 2007, county-wide zoning was established, which included the formation of the Ellis County Planning Commission. The former joint city/county planning commission

then became the Hays Area Planning Commission. The City Commission was given full jurisdiction regarding zoning and subdivision matters within the 3-mile area. Not realizing this, staff continued with business as usual and continued to take rezoning matters to the Ellis County Commission for final approval, rather than the City Commission. In all, six rezoning requests within the 3-mile area occurred from that time to the present and were all approved by the Ellis County Commission. To ensure proper procedure has been followed per state statute, it is now necessary to ratify the six rezoning actions that were previously approved by the Ellis County Commission.

Commissioner Wasinger recused herself from voting due to a business conflict.

Commissioner Hickman left the room.

**A.** Henry Schwaller IV moved, Ron Mellick seconded, that Ordinance No. 3815, being an ordinance rezoning a tract of land in the Northwest Quarter of Section Twenty Seven (27), Township Thirteen (13) South, Range Eighteen (18) West of the Sixth Principal Meridian, Ellis County, Kansas, (tract east of Home Depot, owned by Bruce and Leatte Bandy Trust, from “A-L” Agricultural District to “C-2” General Commercial and Service District) be approved.

Vote: Ayes: Christopher Channell

Henry Schwaller IV

Ron Mellick

Not Voting: Barbara Wasinger

Troy Hickman

**B.** Ron Mellick moved, Henry Schwaller IV seconded, that Ordinance No. 3816, being an ordinance rezoning a tract of land in the Northeast Quarter (NE/4) of Section Thirty-Five (35), Township Thirteen (13) South, Range Eighteen (18) West of the Sixth Principal Meridian, Ellis County, Kansas, (property located at 3340 East 27<sup>th</sup> Street, owned by Curt and Jessica Braun, from “A-L” Agricultural District to “C-2” General Commercial and Service District) be approved.

Vote: Ayes: Christopher Channell

Henry Schwaller IV

Ron Mellick

Not Voting: Barbara Wasinger

Troy Hickman

Commissioner Hickman rejoined the meeting.

**C.** Henry Schwaller IV moved, Ron Mellick seconded, that Ordinance No. 3817, being an ordinance rezoning the W/2 of the N/2 of the S/2 of the NW/4 and the W/2 of the S/2 of the N/2 of the NW/4, all in Section 17, Township 13 South, Range 18 West of the Sixth P.M., Ellis County, Kansas, (property located at 1678 230<sup>th</sup> Avenue, owned by Martha Culbreath Living Trust, from “A-L” Agricultural to “I-1” Light Industrial) be approved.

Vote: Ayes: Christopher Channell

Troy Hickman

Henry Schwaller IV

Ron Mellick

Not Voting: Barbara Wasinger

**D.** Ron Mellick moved, Henry Schwaller IV seconded, that Ordinance No. 3818, being an ordinance rezoning the Northeast Quarter (NE/4) of Section Seven (7), Township Thirteen (13) South, Range Eighteen (18) West of the Sixth Principal Meridian, Ellis County, Kansas, (property located at 1789 230<sup>th</sup> Avenue, owned by Dan and Lisa Hess, from “A-L” Agricultural District to “I-2” Heavy Industrial District) be approved.

Vote: Ayes: Christopher Channell

Troy Hickman

Henry Schwaller IV

Ron Mellick

Not Voting: Barbara Wasinger

**E.** Henry Schwaller IV moved, Ron Mellick seconded, that Ordinance No. 3819, being an ordinance rezoning the East Half (E/2) of the South Half (S/2) of the Southwest Quarter (SW/4) and the North Half (N/2) of the Southwest Quarter

(SW/4), all in Section Eight (8), Township Thirteen (13) South, Range Eighteen (18) West of the 6<sup>th</sup> P.M., Ellis County, Kansas, (tract on 230<sup>th</sup> Avenue south of Feedlot Road, owned by D & M Investments, from “A-L” Agricultural District to “I-2” Heavy Industrial District) be approved.

Vote: Ayes: Christopher Channell

Troy Hickman

Henry Schwaller IV

Ron Mellick

Not Voting: Barbara Wasinger

F. Ron Mellick moved, Henry Schwaller IV seconded, that Ordinance No. 3820, being an ordinance rezoning the East 70.5 Feet of Lot Three (3) and all of Lots Four (4) and Five (5) of the A & R Subdivision to Ellis County, Kansas, (property located at 2615 East 7<sup>th</sup> Street, owned by Ellis County Abstract and Title Co., from “C-2” General Commercial and Service District to “I-1” Light Industrial District) be approved.

Vote: Ayes: Christopher Channell

Troy Hickman

Henry Schwaller IV

Ron Mellick

Not Voting: Barbara Wasinger

**8. L. KUHN ADDITION REZONING FROM “A-L” AGRICULTURAL TO “I-1”**

**LIGHT INDUSTRIAL DISTRICT:** Louis Kuhn has requested that the zoning of his property east of Hays (east of 280<sup>th</sup> Avenue and south of Highway 40) be rezoned from agricultural (A-L) to light industrial (I-1). At the June 21, 2010 public hearing, many nearby property owners were in attendance and most were opposed to the rezoning. The biggest issue seems to be aesthetics, noise, and lighting. The rezoning request is actually an extension of the I-1 zoning district already in existence. The Planning Commission felt that with proper enforcement of the zoning regulations that are already in place, the concerns of the nearby property owners could be addressed, therefore, the Planning Commission

approved the rezoning request by a vote of 5-4 and made a recommendation that the City Commission approve the rezoning request.

Commissioners Wasinger and Schwaller recused themselves from the discussion and vote due to business conflicts. They left the Commission chambers during this time period.

Galen Romme, Romme Real Estate, representing the owner of the property, addressed the Commissioners regarding stormwater issues in the Kuhn Addition. The owner of the property is willing to include language in the plat and dedication that whoever purchases and develops the property will have to implement stormwater retention per requirements of existing City stormwater regulations at that time.

Darren Stieben, 1168 280<sup>th</sup> Avenue, voiced his opposition to approval of the rezoning request because he thinks commercial building and paving in the area will increase the possibility of flooding in the residential area bordering the property being rezoned. He also feels the property owner needs to be held to the standards and agreements with which he sold the lots. The lots were marketed as residential, not industrial.

Randy Wolf, 1152 280<sup>th</sup> Avenue, voiced his concern about the possibility of chemicals and industrial liquids being discharged and what effect that would have on the residential septic systems and water wells in the neighborhood.

Ron Mellick moved, Christopher Channell seconded, that Ordinance No. 3821, being an ordinance rezoning that part of the Northwest Quarter of Section 7, Township 14 South, Range 17 West, of the 6<sup>th</sup> Principal Meridian, Ellis County, Kansas, conditional upon the owner(s) of the property above-described satisfactorily complying with all City of Hays stormwater retention and quality regulations by including all necessary covenants in the Plat and Dedication and submitting same to the Hays Area Planning Commission and City Commission for approval, be approved.

Commissioner Mellick stated he has looked extensively at the property in question. The Commission is not in a position to decide what was promised and

what was not promised; that is a matter for a court of law. The rezoning request meets all of the regulations and he cannot see any reason to reject the request.

Vote: Ayes: Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

Ron Mellick

**9. REZONING OF 3335 EAST 13<sup>TH</sup> STREET FROM “A-L” AGRICULTURAL TO “B-P” BUSINESS PARK:**

The property owner at 3335 East 13<sup>th</sup> Street (NW corner of 13<sup>th</sup> and Commerce Parkway) has requested that the zoning of the property be changed from Agricultural (A-L) to Business Park (B-P). This will be the first “B-P” zoning district within the City or three-mile area. At the public hearing on September 20, 2010, there was no one present who spoke either in opposition or support of the requested zoning. Rezoning was approved by the Planning Commission and a recommendation was made to the City Commission to approve the rezoning request.

Henry Schwaller IV moved, Barbara Wasinger seconded, that Ordinance No. 3822, being an ordinance rezoning a tract of land situated in the Southeast Quarter of Section 35, Township 13 South, Range 18 West of the Sixth Principal Meridian in Ellis County, Kansas, be approved.

Vote: Ayes: Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

Ron Mellick

**10. HAYS SHOOTING RANGE REMEDIATION AGREEMENT:** This item was pulled from the agenda.

**11. BIDS FOR 33<sup>RD</sup> & SHERMAN AVENUE PROPERTY:** In 2007, the City of Hays purchased two lots at the corner of 33<sup>rd</sup> and Sherman with the hopes of locating a fire station at that location. Through further discussion and planning with regard to the matter, it was determined that this is not a suitable location for

a second fire station; therefore, the City Commission asked that City staff advertise this property and accept sealed bids. The highest bid was submitted by Brad Klaus in the amount of \$80,500.

Ron Mellick moved, Henry Schwaller IV seconded, that the bid submitted by Brad Klaus for the 33<sup>rd</sup> and Sherman Avenue property, in the amount of \$80,500 be accepted, and further, that the City Manager be authorized to enter into a contract for sale of real estate with said buyer, with said monies being set aside and earmarked for future fire station acquisitions.

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

**12. MORATORIUM ON CID PETITIONS:** Commissioner Schwaller stated that the Community Improvement District (CID) policy has been in place for one year. Minor changes have been made, but he feels it is time to review the policy again. There are no CID petitions before the Commission right now, so this will give staff time to review the policy.

Henry Schwaller IV moved, Ron Mellick seconded, that a moratorium for an indefinite period of time be placed on accepting Community Improvement Development petitions.

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

City staff has assembled information and prepared a work session agenda item that will be presented at the October 21, 2010 work session.

**13. ORDINANCE GOVERNING CONTRACTURAL ARRANGEMENTS WITH THE CITY OF HAYS:** The City of Hays enters into numerous contracts with dozens of contractors and vendors each year. Many of the entities with which

the City contracts attempt to present contracts with unacceptable provisions which expose the City to less-than-complete protection from breach. City Attorney John Bird has developed a list of unacceptable contractual provisions and proposed that the City adopt those provisions in an ordinance which would govern all contracts by and with the City of Hays. The ordinance would also require every contract to contain protection for the City from suit by disgruntled bidders.

Christopher Channell moved, Henry Schwaller IV seconded, that Ordinance No. 3823, being an ordinance governing contractual arrangements with the City of Hays, Kansas, and providing penalties for omission of required provisions or inclusion of barred provisions in proposed city contracts, be approved.

Vote: Ayes: Christopher Channell

Barbara Wasinger

Troy Hickman

Henry Schwaller IV

Ron Mellick

**14. REPORT OF THE CITY MANAGER:** The Assistant City Manager, in the absence of the City Manager, had no additional items to report on.

**15. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Schwaller requested that staff look into and discuss at a future work session placing signage directing folks to Boot Hill.

Commissioner Wasinger presented Chairperson Channell with two plaques and thanked him for all of his hard work and dedication to the citizens of Hays during his tenure as a City Commissioner and Mayor. The Chairperson has accepted a job as City Administrator at Valley Falls, Kansas.

Chairperson Channell presented his official letter of resignation, which is to be effective 8:00 p.m. on October 22, 2010.

The Commissioners wished the Chairperson good luck in his new job.

The meeting was adjourned at 8:01 p.m.

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

City Clerk