

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

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

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

2. MINUTES: There were no corrections or additions to the minutes of the regular session held on November 10, 2005; the minutes stand approved as written.

3. FINANCIAL STATEMENT: Deputy City Clerk Doris Wing reported that sales tax collections increased by \$330,030, due in large part to the collection of an additional 3/4% sales tax in 2005 for budget stabilization. Sales tax collections deposited in October 2005 to the General Fund totaled \$195,744, which is a 4.62% increase over sales tax collected last year for the same period. Year-to-date sales tax collections for the General Fund totaled \$1,893,961, which is an increase of 5.61% over the same timeframe in 2004.

The City receipted \$301,817 to the Budget Stabilization Fund in October 2005, bringing the total year-to-date deposits to \$2,230,316. The Transportation Development District (TDD) received \$8,452 in October 2005, bringing the year-to-date receipts for the TDD to \$32,985.

Chairperson Steward noted that the Fleet Maintenance line item had increased expenditures of \$12,697, due in large part to increased fuel prices in October 2005.

Troy Hickman moved, Barbara Wasinger seconded, that the Financial Statement for October 2005 be approved.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger

4. CITIZEN COMMENTS: There were no comments.

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

NEW BUSINESS

6. SHORT TERM DISABILITY COVERAGE FOR CITY EMPLOYEES: City staff recommended that employees covered by the new paid-time-off system be provided short term disability insurance equal to their monthly base salary after they are off work two weeks, for up to a total of 24 weeks.

Troy Hickman moved, Wayne Billinger seconded, that a proposal to enter into a contract with Freedom Claims Management, Inc. to serve as the City's agent for short term disability insurance be approved and an application be completed applying for short term disability insurance with Standard Insurance Company.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger

7. SUPPLEMENTAL CONSTRUCTION ENGINEERING AGREEMENT FOR HALL STREET: KDOT has submitted a Supplemental Agreement for Construction Engineering Inspection with Cook, Flatt, and Strobel Engineers of Topeka for the Hall Street Project. This supplement to the original agreement dated February 9, 2004 is a result of additional inspection due to additional working days and change orders during the course of constructing Hall Street. The new upper limit of compensation to be paid to the consultant would be

\$374,868.00, which is \$39,723.00 over the original \$335,145.00. The City's share (20%) of the additional \$39,723.00 is \$7,944.60.

Troy Hickman moved, Barbara Wasinger seconded, that a Supplemental Construction Engineering Agreement with Cook, Flatt, and Strobel Engineers of Topeka for the Hall Street Project be approved.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger

8. CONSTRUCTION ENGINEERING AGREEMENT FOR 8TH STREET: KDOT has submitted an Agreement for Construction Engineering Inspection with BG Consultants of Manhattan for the reconstruction of 8th Street. The project was bid on November 16, 2005, with construction to begin in the spring of 2006. The amount to be paid to the consultant would be \$270,686.00. The City's share (20%) is \$54,137.20.

Troy Hickman moved, Wayne Billinger seconded, that an Agreement for Construction Engineering Inspection with BG Consultants of Manhattan for the reconstruction of 8th Street be approved.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Barbara Wasinger

9. SALES TAX REFUND TO HEART OF AMERICA DEVELOPMENT CORPORATION: On July 8, 2004, representatives from the Heart of America Development Corporation appeared before the City Commission to ask for financial incentives and assistance in applying for loans and grants as well as property tax relief for a period of 10 years. They did note that they had asked Ellis County for assistance in expanding the existing parking lot. The Heart of America Development Corporation contracted with APAC to make improvements to the former Sykes location, now known as NEW Corp, in early October of 2004. After contracting with APAC and after work had begun, the Heart of America

Development Corporation came to the City to ask the City to apply for a project tax exemption certificate on December 10, 2004. According to state regulations, any work completed before the application for project exemption has been completed does not qualify for exemption and is therefore taxed. According to the City development policy, no project qualifies for refunds or rebates unless application is made before the project begins. APAC charged Heart of America Development Corporation \$5,963.22 of sales tax for work completed before the exemption request was made and now Heart of America has asked the City to refund this amount.

City Manager Randy Gustafson stated there are three ways to proceed. The Commission could deny the request, the City could petition the State for a refund, or a grant could be awarded to Heart of America from the City and be considered an economic development activity. He does not think the State would grant the refund due to legal constraints.

Troy Hickman moved, Kent Steward seconded, that the \$20,000 dedicated to the art project at 13th & Hall be applied to a grant to Heart of America Development Corporation in the amount of \$5,963.22, and the balance go to First Call for Help for an energy assistance program for low-income citizens, and further, that the City apply for the exemption from the State for the sales tax, and if the exemption is approved, the refunded money be reimbursed to the contingency fund.

Commissioner Hickman stated the reason for his motion is because he does not feel that there is overwhelming enthusiasm for the Hall Street art project and at the same time felt like the Commission wanted to do something for energy assistance to low-income citizens.

Commissioner Billinger stated he would not vote for the motion. He is in favor of keeping the art work. He would like to offer some form of energy assistance, but he is hopeful that can be achieved from revenue gained from excess franchise fees. He is in favor of treating the request from Heart of America as a special case under the category of economic development. He is

not in favor of wavering from the economic development policy; if the policy needs changing in the future, he can support that.

Chairperson Steward stated he is wary of voting on the motion this evening. Many citizens put a lot of effort into the art project; he would like to wait on voting on the motion.

Mike Michaelis, representing Heart of America Development Corporation, stated he did not have a problem with waiting until the next Commission meeting on December 8, 2005 for the Commission to decide on the matter.

Troy Hickman moved, Kent Steward seconded, that the motion be tabled until the December 8, 2005 Commission meeting.

Vote: Ayes: Kent Steward

Troy Hickman

Barbara Wasinger

No: Wayne Billinger

10. POWER OF EMINENT DOMAIN ORDINANCE: At the request of Mayor Steward, City Attorney John Bird did extensive research in reference to the recent Supreme Court decision pertaining to the use of eminent domain by state and local government to acquire property for the purpose of economic development and the City's options in regard to restricting the use of eminent domain. The City Attorney has prepared an ordinance for the Commissioners' consideration that addresses the use of the power of eminent domain by the City of Hays.

Chairperson Steward stated that this is a rare opportunity for a City Commission to take a stand and protect people's most fundamental right, which is the right to own their home and business and not have them taken away from them.

Kent Steward moved, Wayne Billinger seconded, that Ordinance No. 3696, being an ordinance providing for restrictions on the use of the power of eminent domain by the City of Hays, Kansas, be approved.

Commissioner Wasinger stated that earlier she thought a resolution would be more appropriate to address eminent domain because other governmental

entities may be addressing this same issue in the future. After giving this issue more thought, she now agrees that an ordinance would be better. If a future Commission wishes to change the ordinance, each Commissioner will have to step forward individually and vote to repeal or not repeal the ordinance.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Barbara Wasinger

11. TRIP TO CHINA – SISTER CITIES MEMORANDUM OF

UNDERSTANDING: The City of Hays received an invitation to send a delegation to its Sister City, Xinzheng/Zhengzhou, China. Xinzheng/Zhengzhou is home to SIAS International University, which has approximately 400 students enrolled at Fort Hays State University. A year ago, the city of Xinzheng/Zhengzhou sent a delegation to Hays to commemorate its new Sister City relationship with the Hays community. They have since welcomed a return visit. Mayor Steward and Commissioner Billinger accepted the invitation on behalf of the City of Hays. Commissioner Billinger presented a power point presentation of their trip.

Troy Hickman moved, Barbara Wasinger seconded, that the Memorandum of Understanding between the Sister Cities of Xinzheng, Henan, China, and Hays, Kansas, United States of America, be approved.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Barbara Wasinger

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

13. COMMISSION INQUIRIES AND COMMENTS: The Commissioners had no inquiries or comments.

14. EXECUTIVE SESSION: There was no executive session.

Thereupon the Governing Body adjourned.

Submitted by: _____

City Clerk