

MINUTES OF A MEETING OF  
THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON  
NOVEMBER 9, 2004

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Tuesday, November 9, 2004 at 7:30 p.m.

Roll Call: Present: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

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

**2. MINUTES:** There were no corrections to the minutes of the regular meeting held on October 28, 2004; they stand approved as written.

**3. CITIZEN COMMENTS:** There were no comments.

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

**NEW BUSINESS**

**5. HRC 2004 POOL SEASON REPORT:** In accordance with the November 25, 2003 Pool Services Agreement, the City of Hays and the Hays Recreation Commission (HRC) agree to share, on a 50% City – 50% HRC basis, any operating loss or surplus incurred. For the 2004 pool season, the total cost not covered by revenue is \$31,403.93, with the City's portion being \$15,701.97.

HRC Director Rick Claiborn reported on the 2004 season. Both the overall participation and the overall financial picture were significantly affected by weather. He stated the pool was completely closed 14 days and closed most of an additional 14 days due to weather conditions. The total participation was

down by 16,964. Revenue for the 2004 season was down 20% from last year; expenses were down 18%.

Mr. Claiborn stated that HRC will be facilitating a focus group to gather ideas and feedback for improving the pool for the 2005 season. Once that has been done, he will present the Commission with information and ideas for their consideration.

**6. 2005 EMPLOYEE HEALTH INSURANCE RENEWAL:** Preferred Health Services has presented the City with a contract for 2005 which reflects a 1.5% increase in premiums. This increase is based on an 8.06% increase in the medical portion of the plan, and self-insuring the prescription drugs thereby reducing the overall cost of the program. This proposal is within projected trends for health insurance costs in 2005, and is also within the amount budgeted for health insurance expenditures in 2005 by the City of Hays.

Troy Hickman moved, Wayne Billinger seconded, that the contract with Preferred Health Services to provide health insurance benefits for City of Hays employees in 2005, be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**7. PLAYGROUND EQUIPMENT BIDS FOR SUNRISE PARK:** An amount of \$27,000 is budgeted in 2004 for the purchase and installation of a new playground unit at Sunrise Park per the Park Master Plan. Twenty-five units were submitted from various vendors. After carefully examining each unit, staff recommended that the City purchase the unit submitted by Miracle Recreation. This unit is not the lowest priced unit, but appears to be the best in terms of appeal, diversity and cost.

Henry Schwaller IV moved, Troy Hickman seconded, that the purchase of a playground unit for Sunrise Park from Miracle Recreation Equipment Company for a cost of \$26,198 be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**8. CONTRACT WITH BG CONSULTANTS FOR THE REVERSE ACCESS**

**ROAD PROJECT:** The City entered into an agreement with BG Consultants in April 2003 for the engineering services related to the construction of reverse access roads north of I-70 from 45<sup>th</sup> to 55<sup>th</sup> Street. Since the contract was signed, several unforeseen events have occurred which changed the scope of services for design. The consultant has requested an adjustment in design fee for additional work via Addendum #3-A to the existing contract. Addendum #3-A is for \$12,963.73.

Troy Hickman moved, Wayne Billinger seconded, that Addendum #3-A to the Engineering Services Contract with BG Consultants for the Reverse Access Road Project in the amount of \$12,963.73 be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**9. RESOLUTION FOR WATERLINE IMPROVEMENTS:**

Developers Vernon and Carol Kinderknecht have petitioned the City for waterline improvements to Lots 4-9 of Block 1 of the Hays Plaza Seventh Addition. The six lots along Sherman Avenue do not currently have water service available. Establishing the benefit district and authorizing the improvements will allow the developer to special assess 70% of the cost of the project.

Wayne Billinger moved, Kent Steward seconded, that Resolution No. 2004-489, being a resolution determining the advisability of the making of certain internal improvements in the City of Hays, Kansas, making certain findings with respect thereto; and authorizing and providing for the making of the

improvements in accordance with such findings (water improvements/Hays Plaza, Seventh Addition), be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**10. ENGINEERING SERVICE AGREEMENT FOR WATERLINE IMPROVEMENTS – SHERMAN LOTS:**

Vernon and Carol Kinderknecht have petitioned the City for waterline improvements to Lots 4-9 of Block 1 of the Hays Plaza Seventh Addition. The six lots along Sherman Avenue do not currently have water service available. Bucher, Willis and Ratliff have submitted an Engineering Service Agreement in an amount not to exceed \$4,100 for the design of the waterline improvements. This amount will be paid by the developers.

Wayne Billinger moved, Kent Steward seconded, that an Engineering Agreement with Bucher, Willis and Ratliff for waterline improvements along Sherman Avenue for an amount not to exceed \$4,100 be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**11. ROTH 4<sup>TH</sup> ADDITION CHANGE OF ZONING CLASSIFICATION:**

This agenda item, as well **Agenda Item Nos. 12 and 13**, relate to the Lowe's Development. The City has spend the last month discussing the Memorandum of Understanding (MOU), the Funding Agreement and other issues with the developers and engineers who work for the Lowe's Corporation. At the last work session, an MOU was approved which was sent electronically to Lowe's on Friday.

City Manager Randy Gustafson stated that a signed MOU was received from Lowe's today, November 9<sup>th</sup>. Lowe's has a real estate committee that makes the decision on whether or not to locate in a city. Notwithstanding the fact that the City received a signed MOU this morning, this afternoon notification was received from Lowe's that the real estate committee had met and had disapproved the location. Lowe's requested that the zoning change (Agenda Item #11), approval of the MOU (Agenda Item #12), and the Funding Agreement (Agenda Item #13) all be withdrawn from the agenda. What this means is that Lowe's had decided not to come to Hays.

City Manager Gustafson stated staff immediately called Lowe's. Lowe's stated that the real estate committee did not feel the incentives were sufficient to provide them an appropriate return on their investment. The City Manager pointed out to them that the incentives that were agreed to in the MOU were exactly the incentives that they had requested. He also commented that Lowe's would be billed for attorney fees associated with this proposed development.

City Attorney John Bird recommended that approval of the ordinance rezoning the Roth 4<sup>th</sup> Addition be tabled because the Planning Commission had recommended approval of the change of zoning classification. He would like to research state statutes on the proper procedure to follow.

Wayne Billinger moved, Henry Schwaller IV seconded, that the change of zoning classification for the Roth 4<sup>th</sup> Addition be tabled.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**12. and 13. LOWE'S MEMORANDUM OF UNDERSTANDING AND LOWE'S FUNDING AGREEMENT:** Both items were withdrawn from the agenda as requested by Lowe's.

**14. SALE OF GENERAL OBLIGATION BONDS – HOME DEPOT:** It is required for the Commission to approve a resolution authorizing the offer for sale of

General Obligation Bonds. The taxable General Obligation Economic Development Bonds, Series 2004-A, of the City of Hays, Kansas, in the approximate principal amount of \$2,455,000 shall be offered at competitive public sale.

Troy Hickman moved, Wayne Billinger seconded, that Resolution No. 2004-490, being a resolution authorizing the offer for sale of approximately \$2,455,000 of taxable General Obligation Economic Development Bonds, Series 2004-A, of the City of Hays, Kansas, be approved.

Vote: Ayes: Wayne Billinger

Henry Schwaller IV

Troy Hickman

No: Sunell Koerner

Kent Steward

**15. REPORT OF THE CITY MANAGER:** City Manager Gustafson noted that the airport report shows continued increases in enplanement; that is a very positive indicator.

**16. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Schwaller commented on the recent Board of Zoning Appeals' approval of the installation of a trailer in the Centennial Center parking lot. The trailer is being used for business purposes. He feels a dangerous precedent is being set by allowing temporary structures to be used to conduct business. There should be an outright ban on structures of this kind and allow for no zoning appeals whatsoever.

The City Manager stated staff would look into the matter.

**17. EXECUTIVE SESSION:** There was no executive session.

Thereupon the Governing Body adjourned.

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

Acting City Clerk

