

MINUTES OF A MEETING
OF THE GOVERNING BODY OF THE
CITY OF HAYS, KANSAS
HELD ON DECEMBER 8, 2005

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, December 8, 2005 at 7:30 p.m.

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

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

2. MINUTES: There were no corrections or additions to the minutes of the regular session held on November 22, 2005; the minutes stand approved as written.

3. CITIZEN COMMENTS: There were no comments.

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

UNFINISHED BUSINESS

5. SALES TAX REFUND TO HEART OF AMERICA DEVELOPMENT CORPORATION: At the November 22, 2005 Commission meeting, Troy Hickman made a motion, seconded by Kent Steward, 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 to First Call for Help for an energy assistance program for low-income citizens, and further, that the City apply for a sales tax exemption from the State, and if the exemption is approved, the refunded money be reimbursed to the contingency fund.

After some discussion at the November 22, 2005 meeting, it was moved and seconded to table any action on the motion until the December 8, 2005 Commission meeting.

Henry Schwaller IV moved, Wayne Billinger seconded, that the City refund \$5,963.22 to the Heart of America Development Corporation for the parking lot expansion project at NEW Corporation and that the City apply for the exemption from sales tax, and if the exemption is approved, the refunded money be reimbursed to the contingency fund.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Henry Schwaller IV

NEW BUSINESS

Agenda Item #16 was discussed next.

16. CABLE TELEVISION FRANCHISE: The cable franchise agreement with Eagle Communications expires on December 12, 2005. For the past 10 months, City staff has been negotiating with Eagle for the renewal of the franchise agreement. The language has been agreed to, and it is necessary to establish a franchise fee.

Henry Schwaller IV moved, Troy Hickman seconded, that the Cable Television Franchise Agreement with Eagle Communication be approved.

City Manager Gustafson stated the term of the contract is for ten years and the franchise fee needs to be determined this evening.

Kent Steward amended Commissioner Schwaller's motion to reflect a franchise fee of 3%. His amendment died for lack of a second.

Henry Schwaller IV moved that the franchise fee be set at 4%. Troy Hickman seconded the motion.

Commissioner Schwaller stated that the 4% fee is a compromise between the 3% that Chairperson Steward would like and the 5% that is charged to other franchise holders, such as telephone companies.

Chairperson Steward stated he cannot support 4%. He is concerned about how the City treats the citizens of Hays, not how the City treats other franchise holders. There is no reason to impose this kind of an increase when the City does not need the money.

Commissioner Schwaller stated that even though the fee for basic service will go from 2% to 4%, the fee will actually be lower for customers who have the premium channels, from 5% to 4%. He does not feel the windfall from the increase will be that great, and he does not see this as an outrageous fee. He thinks 4% is a fair fee.

Chairperson Steward called for a vote on the motion to set the franchise fee at 4%.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

No: Kent Steward

Chairperson Steward called for a vote on the motion to approve the franchise agreement with Eagle Communications for a ten-year period.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Henry Schwaller IV

6. ARTWORK FOR THE INTERSECTION OF 13TH & HALL: The Sculpture Selection Committee has selected Conrad Snider's rendition of a "Petrified Prairie" as the recommended sculpture for the area at 13th and Hall. The estimated cost for the sculpture and footings is \$20,000. The additional sidewalks and lighting needed would have to be paid for and completed by the City.

Henry Schwaller IV moved, Troy Hickman seconded, that the Commission decline the recommendation of the Sculpture Committee.

Commissioner Billinger stated that even though he was willing to support the decision of the Sculpture Committee, he has received a lot of negative input about the selection. He is not in favor of scrapping the project totally; however, he cannot support this recommendation.

Commissioner Schwaller stated that Mr. Snider is an excellent artist and he is unhappy that the Commission will not be able to accept the Sculpture Committee's recommendation. However, the response he has received about the selection is overwhelmingly negative.

Chairperson Steward agreed with the comments of Commissioner Billinger and Commissioner Schwaller. He also received many negative responses.

Vote: Ayes: Kent Steward
Wayne Billinger
Troy Hickman
Henry Schwaller

Chairperson Steward moved, Troy Hickman seconded, that the motion made by Commissioner Hickman at the November 22, 2005 meeting and tabled, be brought back onto the table for discussion. The motion was as follows:

“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 Schwaller stated that the last time the City offered an energy assistance program, the City spent \$80,000. There will be \$14,036.78

left over after the City refunds the Heart of America \$5,963.22 out of the \$20,000.00 contingency. He feels the Commission should discuss energy assistance at a future work session.

Vote: Ayes: Troy Hickman

No: Kent Steward

Wayne Billinger

Henry Schwaller IV

The motion remains tabled.

The Commissioners, by consensus, agreed to pursue other options for beautification of the greenspace at 13th and Hall Street.

7. JOB BOUNTY APPLICATION: Shiva Restaurants, Inc. / Shiva Hotels, Inc. has submitted a Job Bounty Application. The Job Bounty Program was created to encourage new and/or existing businesses to hire at least 10 employees and meet certain criteria set out in the application before the City will pay to the employer \$1,000 per job.

Wayne Billinger moved, Troy Hickman seconded, that the Job Bounty Application for Shiva Restaurants, Inc. /Shiva Hotels, Inc. be approved.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Henry Schwaller IV

8. BIDS FOR GOLF CART SHEDS: Bids were solicited for the construction of 96 new cart sheds at the Fort Hays Municipal Golf Course. The 2005 Budget allocated \$140,000 for this project. The lowest bid received, from Haselhorst Construction, was \$185,695. The price for metal and wood has increased by approximately 40% since the 2005 Budget was prepared in May 2004, explaining why the bids for this project came in so high.

Jeff Boyle, Park Director, recommended accepting the low bid from Haselhorst Construction and using Special Park and Recreation funds to cover the \$45,695.00 to pay for the amount exceeding the \$140,000.00 budgeted amount.

Troy Hickman moved, Henry Schwaller IV seconded, that the bid from Haselhorst Construction in the amount of \$185,695.00 for golf cart sheds at the Fort Hays Municipal Golf Course be approved, and further that, \$45,695.00 be taken out of the Special Park and Recreation funds to cover the amount over the budgeted amount.

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

9. 8th STREET CONSTRUCTION – AUTHORITY TO AWARD CONTRACT:

KDOT has prepared and submitted to the City a resolution which authorizes KDOT to award the reconstruction of 8th Street from Elm to Milner Street to APAC-Kansas, Inc. in the amount of \$3,018,811.74. The City's share of construction and inspection in the amount of \$849,300.00 is due to KDOT by January 6, 2006. Construction is scheduled to start January 30, 2006 and be completed within 200 working days.

Henry Schwaller IV moved, Wayne Billinger seconded, that KDOT be authorized to award the contract for reconstruction of 8th Street to APAC-Kansas, Inc. in the amount of \$3,018,811.74.

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

10. RE-CODIFICATION OF CITY ORDINANCES: Wayne Billinger moved, Troy Hickman seconded, that the quote from Municipal Code Corporation for re-codification of the Code of Ordinances, in the amount of \$13,945.00 be approved.

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

11. AUDIT PROPOSALS: Two proposals were received for City auditing services. Adams, Brown, Beran & Ball submitted the lowest proposal. City staff recommended that the City continue to utilize this firm for auditing services.

Henry Schwaller IV moved, Wayne Billinger seconded, that the proposal submitted by Adams, Brown, Beran & Ball in the amount of \$27,900.00 be accepted.

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

12. REIMBURSEMENT AUTHORIZATION FOR 22ND AND 41ST STREETS: It is necessary for the Commissioners to approve a resolution authorizing the City to reimburse itself for expenses related to work done on 22nd and 41st Street. Both of these projects have gone before the Commission and project authorization was given. This resolution allows the City to issue debt at a later date to reimburse itself for expenses related to these two projects.

Wayne Billinger moved, Troy Hickman seconded, that Resolution No. 2005-029, being a resolution initiating proceedings by the Governing Body for the design and construction of portions of 22nd Street and 41st Street by the City of Hays, Kansas, be approved.

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

13. TRANSFER RESOLUTION – POOL SALES TAX: As required by state law, at the end of any sales tax initiative, any remaining excess funds are to be transferred to the City General Fund. The original resolution authorizing the sales of bonds for the Aquatic Park did not outline this process, and in an abundance of caution, the City Attorney and City Bond Counsel feel it would be prudent to adopt a resolution amending Resolution 306.

City Manager Gustafson stated the money will go into the Budget Stabilization Reserve and could be used, with authorization from the Commission, for pool construction repairs and capital improvements.

Troy Hickman moved, Wayne Billinger seconded, that Resolution No. 2005-030, being a resolution amending Resolution 306 of the City of Hays, Kansas, providing for transfer of remaining surplus proceeds in revenues from the sale tax pertaining to the construction of the Hays Aquatic Park, be approved.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Henry Schwaller IV

14. JANUARY MEETING SCHEDULE: Due to the 2nd Commission meeting in January falling on the same evening as the annual Chamber banquet, the Commissioners considered changing the date of the Commission meeting.

Wayne Billinger moved, Troy Hickman seconded, that the meeting date be changed to Tuesday, January 24, 2006 at 7:30 p.m.

Commissioner Schwaller was out of the room during the vote.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

15. WATER BANKING CONSULTANT AGREEMENT: In the early 1990's, a water banking proposal was made with regard to the effluent from the Wastewater Treatment Plant that discharges into Big Creek. A contract with Bartlett & West Engineers, if approved, would commission a study to determine all of the variables that would be involved in changing the point of discharge from its present location into Big Creek to a discharge point west of the community. If feasible and done, it would be possible for the effluent to assist in the recharging of the aquifer from which the City's Big Creek wells draw water.

Troy Hickman moved, Wayne Billinger seconded, that an Agreement for Professional Services with Bartlett & West Engineers, Inc. for engineering

services for the completion of the 2005 Wastewater Reuse Study and for the design of the recommended improvements, be approved.

Vote: Ayes: Kent Steward

Wayne Billinger

Troy Hickman

Henry Schwaller IV

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

18. COMMISSION INQUIRIES AND COMMENTS: Commissioner Billinger reminded the Commissioners of the video conference with our China sister city to be held on Tuesday evening, December 13, 2005 at 7:00 p.m. at Fort Hays State University.

Commissioner Hickman requested that Public Works staff provide reports to the Commission on snow emergency situations.

Commissioner Schwaller requested an update on the alley and sidewalk obstruction program that is being conducted by the Public Works staff.

Commissioner Schwaller would like to revisit the Water Conservation Program concerning rebates for the installation of low water usage appliances.

The City Manager stated both items will be on future work session agendas.

19. EXECUTIVE SESSION: There was no executive session.

Thereupon the Governing Body adjourned.

Submitted by: _____

City Clerk

