

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON DECEMBER 12, 2013

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, December 12, 2013 at 6:30 p.m.

Roll Call: Present: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Ron Mellick

Absent: Shaun Musil

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 26, 2013; the minutes stand approved as presented.

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

**4. CONSENT AGENDA:**

A. Henry Schwaller IV moved, Eber Phelps seconded, that Cereal Malt Beverage License renewals for 2014 for 24 establishments in the City of Hays be approved as presented.

Vote: Ayes: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Ron Mellick

B. The following proposed mayoral appointments were presented and are scheduled to be approved at the December 26, 2013 City Commission meeting.

Sister Cities Advisory Board

Dawne Leiker – unexpired term to expire January 1, 2016

Patricia Levy – three year term to expire January 1, 2017

## **NEW BUSINESS**

### **5. HAYS RECREATION COMMISSION POOL REIMBURSEMENT FOR 2013:**

A reimbursement has been requested by the Hays Recreation Commission for an amount of \$20,451.72 which is one-half of the total loss for pool operations (\$40,903.43) for the 2013 season. The current contract states that after financial reports are compiled as described in the agreement, any operating loss or surplus incurred by the contractor will be shared on a 50% City - 50% Contractor basis as long as the Contractor's portion of the loss does not exceed \$26,000. The attendance at the Hays Aquatic Park was down significantly due to weather conditions in 2013 with 46,270 patrons visiting the pool when compared to 58,999 in 2012.

Ron Mellick moved, Henry Schwaller IV seconded, to approve the pool reimbursement request from the Hays Recreation Commission for one-half of the total contractual revenue loss for an amount of \$20,451.72 with funding from the 2013 Pool Budget Other Contractual Services Line Item.

Vote: Ayes: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Ron Mellick

**6. CONCEALED CARRY IN MUNICIPAL BUILDINGS:** The Kansas Legislature passed House Bill (HB) 2052 and made it legal to carry concealed weapons within public buildings. The general rule of HB 2052 says that any state or municipal building must have "adequate security measures" in place to prevent any weapon from entering the building and properly post Attorney General-approved signage if that state or municipal building desires to restrict the licensed concealed carry of handguns within its walls. HB 2052 does allow for a four year exemption from these requirements. This exemption would require the City of Hays to have a security plan for each building and provide "adequate

security” for the occupants. City staff is recommending the four year exemption for 12 City-owned buildings.

Eber Phelps moved, Ron Mellick seconded, to approve Resolution No. 2013-024 to allow for a four-year exemption as required by House Bill 2052.

Commissioner Schwaller stated he opposed the law because it was not written well. He also stated it would be better for employee safety to lock the buildings the public doesn’t have to go in & consider what security measures we could use at the other buildings if necessary.

Commissioner Steward stated he does not feel that the four year exemption is the answer to the problem and that the City’s buildings are just as safe with concealed carry as they are under the current rules. The decals on the doors that show guns are prohibited would not protect anyone from a real threat.

Commissioner Mellick and Commissioner Phelps were in favor of applying for the exemption to delay the decision because the State Legislature may revisit the law to clarify their intentions.

City Attorney John Bird stated we can revisit this at any time.

Vote: Ayes: Eber Phelps

Ron Mellick

No: Kent Steward

Henry Schwaller IV

Chairperson Steward stated the Resolution does not pass because it did not get a majority vote.

## **7. 41<sup>ST</sup> STREET CONSTRUCTION – AWARD OF BID AND CONSTRUCTION**

**ENGINEERING AGREEMENT:** Since 2008, City staff has been working with the Kansas Department of Transportation (KDOT) on a project to reconstruct 41<sup>st</sup> Street from the US-183 By-pass to Hall Street. The project is being funded in part through the Federal Highway Administration Surface Transportation Program. The old roadway will be removed and replaced with three lanes of eight inch concrete pavement complete with curb and gutter on both sides, new storm sewer pipe and inlets, a ten foot wide concrete multi-use path along the north

side, no sidewalk on the south side, and stormwater Best Management Practices improvements in two places.

Bids were recently opened at KDOT and APAC-Kansas, Inc. of Hays is the low bidder. KDOT has asked for a resolution committing the City's share of the funding in the amount of \$798,000 and authority to award the bid to APAC-Kansas, Inc.

Henry Schwaller IV moved, Ron Mellick seconded, to authorize the Mayor to sign a resolution from KDOT authorizing the commitment of City funds and awarding a contract to APAC-Kansas, Inc. for the reconstruction of 41<sup>st</sup> Street. The City's share to be paid to KDOT is \$798,000 from the Capital Projects Fund.

Vote: Ayes: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Ron Mellick

Henry Schwaller IV moved, Eber Phelps seconded, to authorize the three party agreement with KDOT and Alfred Benesch & Company for Construction Engineering Inspection for the reconstruction of 41<sup>st</sup> Street.

Vote: Ayes: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Ron Mellick

**8. 2014 STATEMENT OF LEGISLATIVE PRIORITIES:** Annually, the City Commission solidifies its priorities in order to communicate issues and goals with its elected legislators. Noted changes this year include an emphasis on water conservation planning and long-term source preservation as well as Fair Fares funding.

Eber Phelps moved, Ron Mellick seconded, to approve the 2014 Statement of Legislative Priorities in preparation for the upcoming Legislative session.

Vote: Ayes: Kent Steward  
Henry Schwaller IV

Eber Phelps

Ron Mellick

**9. ADDENDUM TO THE MEMORANDUM OF AGREEMENT WITH THE HAYS**

**FIREFIGHTERS LOCAL 2119 FOR 2014:** Hays Firefighters Local 2119 contract contains annual openers for Section 10, Health Insurance, if conditions are met, and Section 15, Wages and Administration of the Pay Plan. The City of Hays and the Hays Firefighters Local 2119 have an agreement for fiscal year 2014, Wages and Administration of the Pay Plan. The agreement states the City will provide members of the Hays Firefighters Local 2119 with a 1% merit increase starting the first payroll in 2014, and the City will continue the current pay ranges.

Henry Schwaller IV moved, Eber Phelps seconded, to authorize the Mayor, City Manager, and Fire Chief to sign the 2014 Addendum to the 2013 thru 2015 Hays Firefighters Local 2119 Memorandum of Agreement.

Vote: Ayes: Kent Steward

Henry Schwaller IV

Eber Phelps

Ron Mellick

**10. REPORT OF THE CITY MANAGER:** City Manager Toby Dougherty

updated the Commissioners on the recent proposals on the Essential Air Service (EAS) program. The Kansas Department of Transportation received three bids; two from the incumbent Great Lakes and the third from Sky West, which is a regional jet.

**11. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Phelps has

received inquiries regarding the 13<sup>th</sup> Street bike path and wanted to let everyone know that it is not officially a bike path yet, and it is all part of a bigger project. He also mentioned that the bike path plan is available on the City website in the 2012 Comprehensive Plan.

Commissioner Steward stated that he had the honor of representing the City Commission for the grand opening of the annual Battle of the Badges blood drive.

**12. EXECUTIVE SESSION:** Ron Mellick moved, Eber Phelps seconded, that the Governing Body recess to executive session at 7:43 p.m. for 25 minutes to discuss pending litigation and attorney-client privilege information. The executive session included the Commissioners, the City Manager, the Assistant City Manager, the City Attorney, and the Public Works Director. K.S.A. 75-4319 authorizes the use of executive session to discuss the topics stated in the motion.

Vote: Ayes: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Ron Mellick

No action was taken during executive session.

The meeting was adjourned at 8:08 p.m.

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

Brenda Kitchen – City Clerk