

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF THE  
CITY OF HAYS, KANSAS  
HELD ON DECEMBER 14, 2006

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, December 14, 2006 at 7:30 p.m.

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

Chairperson Billinger 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 21, 2006; the minutes stand approved as written.

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

**4. RECOGNITION OF HAYS FIREFIGHTERS:** Chairperson Billinger presented Certificates of Excellence to Firefighters Justin Choitz, Luke Scoby, and Justin Summers for their work as a team to provide excellent service in an emergency choking situation that saved a human life on October 12, 2006.

**5. CONSENT AGENDA:** Chairperson Billinger proposed that Mike Michaelis and Francis Schippers be appointed to the Sister Cities Advisory Board.

The Commissioners will consider approval of the proposed appointments at the December 28, 2006 Commission meeting.

## **NEW BUSINESS**

**6. “GET THE PICTURE” PROJECT:** Diane Becker, a student in the Leadership Studies class at Fort Hays State University, coordinated the “Get the Picture” project. Disposable cameras were distributed to the local elementary schools, middle schools, high schools, and colleges. The students were asked to take pictures of the areas of the community that they were the most proud of and any areas of the community in need of special attention.

Ms. Becker reported that students took over 2,000 pictures. A power point presentation was given showing some of the pictures taken. Ms. Becker announced the following winners of the “Get the Picture” project:

**Elementary School Community Pride (\$50)**

Allyson Flax – Roosevelt

**Elementary School Community Improvement (\$50)**

Kristina Herl – Lincoln

**Middle School Community Pride (\$50)**

Elizabeth Rupp – Felten

**Middle School Community Improvement (\$50)**

Heather Ruder and Katelyn Schumacher – Kennedy

**High School/College Community Pride (\$50)**

Lucas Vitztum – Thomas More Prep-Marian

**High School/College Community Improvement (\$50)**

Sierra Carrasco – Thomas More Prep-Marian

**Overall Community Pride (\$100)**

Samantha Younie – Holy Family Elementary

**Overall Community Improvement (\$100)**

4<sup>th</sup> and 5<sup>th</sup> Grade After School Program – O’Loughlin Elementary

Chairperson Billinger will present the awards to the schools to use for whatever they desire.

Ms. Becker stated that 300 of these pictures will be on display at the Hays Public Library in the near future.

**7. SISTER CITIES ADVISORY BOARD:** The Sister Cities Advisory Board is requesting the addition of two voting members on the Board. The Board previously consisted of 12 members and currently is made up of 10 voting members. Board members feel it would be beneficial to increase the membership on the Board to allow others interested an opportunity to take part in the discussions and to be allowed to vote.

Chairperson Billinger stated that he spoke with members of the Sister Cities Advisory Board. The Board is restructuring and at this time does not feel the need to add additional members.

No action was taken on this issue.

**8. SUNRISE PARK MASTER PLAN IMPROVEMENTS – AWARD OF BIDS:**

The 2006 Budget contains funding for the installation of interior sidewalks and a shelter house at Sunrise Park. City staff recommended approving both low bids from Waffle-Crete International for an amount not to exceed \$30,335.05.

Troy Hickman moved, Barbara Wasinger seconded, that the bid from Waffle-Crete International in the amount of \$30,335.05 for the installation of sidewalks and a shelter house at Sunrise Park be approved.

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

**9. CONTRACT FIRE RESCUE SERVICES:** City code provides for businesses outside of the city limits to contract with the City for fire rescue services. The City currently has three such contracts. The current fee formula has been in place since 1984 and is defined as “the squared value of the replacement cost of the building per square foot,” with a minimum charge set at \$400. Staff recommended changing the fee formula to establish a fee of one mill (.001) of the total assessed value of the property, including land and

improvements. Staff further recommended that the services be redefined to include rescue and hazardous materials emergency response.

Kent Steward moved, Henry Schwaller IV seconded, that Ordinance No. 3709, being an ordinance amending Title 2, Chapter 2.24 of the City of Hays, Kansas Municipal Code, by modifying Section 2.24.050 regarding contract fire services, be approved.

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

**10. ABATEMENT OF DANGEROUS STRUCTURE AT 611 EAST 7<sup>TH</sup>**

**STREET:** Planning, Inspection, and Enforcement is requesting that Commissioners consider approving a resolution to abate a dangerous structure located at 611 East 7<sup>th</sup> Street, which is owned by James Unrein. Mr. Unrein's first notification was delivered to him by the Hays Police Department on September 5, 2006. He was given 60 days to rehabilitate or demolish the structure. To date, the structure remains in violation with little effort from the owner to repair the unoccupied structure.

Troy Hickman moved, Kent Steward seconded, that Resolution No. 2006-021, being a resolution authorizing the City of Hays or its designated agent to abate the dangerous structure located on the property at 611 East 7<sup>th</sup> Street, Hays, Kansas, be approved.

Jim Unrein told the Commissioners that he is using the building for storage until the property is sold; there are several prospective buyers that are interested in purchasing the property. He stated that he has done some repairs to the building; he does not want to do a lot of work to the building because the property is for sale. If he does not sell it by the first of year, he plans to re-open the building for business.

Jesse Rohr, Planning, Inspection, and Enforcement Superintendent, stated staff checked the building this week. The condition of the outside of the

building has not changed dramatically and is still in violation of City codes. Staff requested an inspection of the inside of the structure and was denied by Mr. Unrein on November 6, 2006 and another request was made this week and denied.

Mr. Unrein requested that City inspectors inspect his building and tell him what repair work needs to be done and he will gladly get it done. He felt that the minor repairs that he initially made were enough to satisfy City codes. If more repairs need to be made, he would like an additional 30 days to do the work.

Commissioner Steward stated that he feels the resolution to abate should be approved; he is not in favor of an extension. Mr. Unrein did not respond to earlier warnings that started in September 2006. If he is serious about repairing the building, he needs to make extensive repairs over the next 10 days.

Commissioner Schwaller stated that he would not have a problem with giving Mr. Unrein additional time to make the repairs.

Henry Schwaller IV moved to table the vote on Resolution 2006-021 until the December 28, 2006 Commission meeting.

Vote: Ayes: Wayne Billinger  
Barbara Wasinger  
Henry Schwaller IV  
No: Troy Hickman  
Kent Steward

**11. FINAL PLAT OF BAINTER & WARREN ADDITION:** The owners of a tract of land located along West 12<sup>th</sup> Street are wishing to plat the property. The developer is planning to develop the property for single-family housing. The plat has been reviewed and approved by the Utility Advisory Committee and the Planning Commission. As part of the plat, the developer is requesting to vacate 25 feet of right-of-way along 12<sup>th</sup> Street. The 25 foot area will remain a utility easement for existing utilities (electric, gas, cable, phone). City utilities are not affected by the vacate request.

Barbara Wasinger moved, Henry Schwaller IV seconded, that Resolution No. 2006-022, being a resolution accepting the Final Plat of the Bainter & Warren Addition to the City of Hays, be approved.

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

**12. SOLID WASTE PROPOSAL:** The 2007 Budget was accepted with accommodations in the Solid Waste Budget for automated collection of refuse. In order to make the change to automated collection, the current Solid Waste Ordinance needs amending. The City Commission was asked to consider approval of the amended ordinance and decide upon the provisions of the ordinance; and whether to require mandatory collection effective upon adoption of the ordinance or to utilize a phased approach to mandatory collection.

Three alternate ordinances were presented for the Commissioner's review. Initially, the Commissioners favored the phased-in approach whereby City residents not utilizing city refuse collection at the time of the adoption of the ordinance shall not be required to subscribe to city refuse collection until such time as a change in occupancy, classification of service, or reconnection of city service occurs.

Henry Schwaller IV moved, Barbara Wasinger seconded, that Ordinance No. 3710, being an ordinance amending Title 8, Chapter 8.12 of the City of Hays, Kansas, Municipal Code regarding garbage collection and disposal, be approved.

City Manager Randy Gustafson commented that even if the City did not go to automated collection, it would be necessary to increase collection fees. Over a period of time, the automated system will provide greater savings to the City and its customers and provide less rate increases on a yearly basis than would be necessary under the present system in place.

Kent Steward suggested that anyone who has private service be allowed to continue to do that as long as they want. The resident would need to show proof annually of collection by a licensed commercial refuse collector and would not be required to subscribe to city refuse collection until such time as there is a change in occupancy or classification of service, or reconnection of service occurs.

Kent Steward moved, Troy Hickman seconded, that the motion be amended to include "City residences not utilizing city refuse collection at the time of the adoption of this ordinance who provide proof annually that refuse collection has and will continue to be done by a licensed commercial refuse collector shall not be required to subscribe to city refuse collection until such time as a change in occupancy, change in classification of service, or reconnection of service occurs. Two-family dwellings, to qualify hereunder, shall demonstrate proof that both dwelling units meet the above criteria. The utilization of city refuse collection shall be required for all residential customers not otherwise exempted per the foregoing upon implementation of the automated refuse collection system by the City.

Commissioner Schwaller stated he will vote yes on this amendment because he feels it is important to support private businesses that provide this service. However, he feels that business people who can prove that they have trash collection at their place of business should be exempt from being required to have City collection at their homes. He realizes that there is a state ban on hauling trash in vehicles.

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

Chairperson Billinger called for the vote on the original motion as amended.

Vote: Ayes: Wayne Billinger

Troy Hickman  
Barbara Wasinger  
Kent Steward

No: Henry Schwaller IV

**13. INTERNATIONAL BUILDING CODE:** Barbara Wasinger moved, Kent Steward seconded, that Ordinance No. 3711, being an ordinance amending Title 15, Chapter 15.04 of the City of Hays, Kansas Municipal Code, by modifying Section 15.04.010 regarding the International Building Code, be approved.

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

**14. INTERNATIONAL PROPERTY MAINTENANCE CODE:** Barbara Wasinger moved, Kent Steward seconded, that Ordinance No. 3712, being an ordinance amending Title 15, Chapter 15.08 of the City of Hays, Kansas Municipal Code, by modifying Section 15.08.010 regarding the International Property Maintenance Code, be approved.

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

**15. PLUMBING, MECHANICAL AND GAS CODE:** Barbara Wasinger moved, Troy Hickman seconded, that Ordinance No. 3713, being an ordinance amending Title 15, Chapter 15.12 of the City of Hays, Kansas Municipal Code, by modifying Section 15.12.030 regarding the International Plumbing, Mechanical and Fuel Gas Codes, be approved.

Vote: Ayes: Wayne Billinger  
Troy Hickman

Barbara Wasinger  
Henry Schwaller IV  
Kent Steward

**16. ELECTRICAL CODE:** Barbara Wasinger moved, Kent Steward seconded, that Ordinance No. 3714, being an ordinance amending Title 15, Chapter 15.16 of the City of Hays, Kansas Municipal Code, by modifying Section 15.16.030 regarding the National Electrical Code, be approved.

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

**17. FIRE CODE ADOPTED – INTERNATIONAL FIRE CODE:** Barbara Wasinger moved, Kent Steward seconded, that Ordinance No. 3715, being an ordinance amending Title 8, Chapter 8.08 of the City of Hays, Kansas Municipal Code, by modifying Section 8.08.010 regarding the International Fire Code, be approved.

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

**18. FIRE CODE ADOPTED – HAZARDOUS MATERIALS:** Barbara Wasinger moved, Kent Steward seconded, that Ordinance No. 3716, being an ordinance amending Title 8, Chapter 8.08 of the City of Hays, Kansas Municipal Code, by modifying Sections 8.08.060, Subsection D, regarding hazardous materials, be approved.

Vote: Ayes: Wayne Billinger  
Troy Hickman  
Barbara Wasinger  
Henry Schwaller IV

Kent Steward

**19. PANIC AND FIRE EXIT HARDWARE CODE:** Barbara Wasinger moved, Kent Steward seconded, that Ordinance No. 3717, being an ordinance repealing certain provisions of the Code of Ordinances of the City of Hays, Kansas regarding Panic and Fire Exit Hardware, be approved.

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

**20. NORTH HAYS ADDITION SANITARY SEWER – AWARD OF BIDS:** The City received bids for the extension of sanitary sewer along General Hays Road north of 48<sup>th</sup> Street. APAC, Kansas, Inc. was the low bidder with a base bid of \$53,546.75. The proposed contract includes a non-participating option for private service taps to be installed with the project in the amount of \$15,119, bringing the total cost for construction to \$68,665.75.

Troy Hickman moved, Kent Steward seconded, that the bids received from APAC, Kansas, Inc. in the total amount of \$68,665.75, for the construction of sanitary sewer improvements in a portion of the North Hays Addition, be approved.

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

**21. KANSAS DEPARTMENT OF TRANSPORTATION (KDOT) CITY/STATE AGREEMENT – 22<sup>ND</sup> STREET:** The KDOT 5-year plan includes the construction of 22<sup>nd</sup> Street from Canterbury to Commerce Parkway. Carlson-Baughman Engineering was hired to prepare the plans, and the design is currently underway. Acquisition of right-of-way will begin shortly. The

City/State Agreement with KDOT details the terms of the grant, which includes KDOT paying 80% of the actual construction and inspection costs. The project is scheduled to go out for bids in February 2008 with construction to follow shortly thereafter. It is required that a resolution be approved authorizing the execution of the agreement.

Kent Steward moved, Troy Hickman seconded, that Resolution No. 2006-023, being a resolution relating to federal aid benefits obtainable by cities for highway construction, be approved.

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

**22. ASH STREET WATERLINE CONTRACT:** Bids for the Ash Street Waterline project were opened on September 13, 2006 and on September 28, 2006, the City Commission approved the award of a contract to J Corp in the amount of \$381,634. Construction was planned to start November 27<sup>th</sup>; however, J Corp has been unable to produce valid Contract and Payment Bonds as required by the Contract. Due to the absence of valid bonds, the contract with J Corp was never fully executed.

City Manager Gustafson stated that J Corp delivered a letter to his office just before 5:00 today requesting an extension of time in order provide the required bonds for the project before a decision is made to re-bid. Along with the letter, J Corp submitted a letter to the City of Hays from ACSTAR Insurance Company confirming that ACSTAR will provide the Contract and Performance bond for J Corp if J Corp is in compliance with their underwriting requirements and the time of the issuance of the bonds. They have no reason to believe that J Corp will not be in compliance.

City Attorney John Bird stated that state laws dictate that before a public improvement project begins, the contractor must provide a bid bond and

a performance bond. Those bonds protect all the people that deal with the contractor during the construction phase and also protect the City's interest if the contractor does not perform up to certain standards. The bonds have to be executed by a commercial surety bond company. The bonds that were presented by J Corp on the Ash Street Waterline project were issued by an individual, therefore, they were rejected.

The City Attorney recommended that the Commissioners reject the J Corp bid if within 10 days they have not submitted a sufficient corporate surety bond. There were two bidders on the project; the Commissioners could ask the other bidder if they would honor J Corp's bid.

Chairperson Billinger stated he is not in favor of granting the extension; he feels a precedent may be set.

Kent Steward moved, Henry Schwaller IV seconded, that the bid from J Corp be rejected if J Corp has not provided a Contract and Performance bond within 10 days, and further that if the bid is rejected, that staff be directed to re-let the bid.

Vote: Ayes: Barbara Wasinger  
Henry Schwaller IV  
Kent Steward

No: Wayne Billinger  
Troy Hickman

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

**24. COMMISSION INQUIRIES AND REPORTS:** Commissioner Schwaller asked about water conservation plans for summer 2007.

The City Manager stated a report will be ready in January for the Commissioners' review.

The meeting was adjourned.

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

City Clerk