

City of Hays
City Commission
Work Session Notes
December 15, 2011

Present: Troy Hickman, Kent Steward, Henry Schwaller IV, Ron Mellick, John Bird, Toby Dougherty

Absent: Barbara Wasinger

I-70 and Vine Street Interchange Lighting Improvements

KDOT is proposing replacement of the lighting at the interchange of I-70 and US 183 (Vine Street). Since the Vine Street exit is within the city limits of Hays and part of a designated City Connecting Link Agreement, KDOT is requesting the City to enter into an agreement with KDOT that seeks concurrence from the City for the project and allows KDOT to accomplish the improvements at no cost to the City.

The Commissioners will be requested to authorize the Mayor to enter into an agreement with KDOT for these improvements at the December 22, 2011 Commission meeting.

Rezoning of 3301 U.S. Highway 183 Alternate

This item was tabled at the November 17, 2011 work session.

Commissioner Schwaller left the Commission chambers during the discussion because of a conflict of interest. Commissioner Steward abstained from the discussion because of a conflict of interest.

The owners of the property formerly known as the Bahl Mobile Park and the perspective buyer of the property made a request to rezone the property from Agriculture to Commercial. At the October 17, 2011 public hearing before the Planning Commission, nearby property owners were in attendance and were opposed to the rezoning request. After discussion and hearing comments from

the audience, the Planning Commission considered the Staff Findings of Fact. The one item that stood out above the rest was the fact that this rezoning request is not in conformance with the current adopted Comprehensive Plan and Future Land Use map. The current plan identifies this property as residential, not commercial. Taking this and other factors such as flood plain issues into consideration, there was a recommendation by the Planning Commission (5-0 vote) to not recommend rezoning the property from Agriculture to Commercial.

This item will be on the December 22, 2011 Commission meeting agenda for further discussion and vote.

Viaero Wireless Cell Tower – 2703 Vine

The Hays Area Board of Zoning Appeals (BZA), on November 10, 2010, approved the exception for a special use permit to allow an 80 foot self-support lattice tower at 2703 Vine for Viaero Wireless, per Section 71-727 (5) of the Zoning and Subdivision regulations with the stipulation it be approved by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), and Environmental Protection Agency (EPA). The BZA also required that a heating element be installed on the tower to prevent ice build-up and proof of liability insurance for any potential damage that could be caused by the tower to surrounding property. During the public hearing on November 10, 2010, there were many comments from the audience concerning traffic access, aesthetics and safety of the tower and ice build-up on the tower.

City Attorney John Bird stated that the federal government has final say on the regulations pertaining to the placement and construction of towers that are used for wireless services. If the City had not approved the tower, it may have found itself in court defending its decision to not approve the special use permit.

2011 Boundary Resolution

At the December 22, 2011 Commission meeting, the Commissioners will be requested to approve a resolution re-defining the city limits of Hays.

Whenever property is annexed into the city limits during a calendar year, Kansas statutes require cities to pass a resolution re-defining the entire boundary line.

City Commission Policy Regarding Special Funding Requests

At the September 15, 2011 work session, the City Commission entertained a mid-year funding request by the Hays Arts Council. In discussing the request further, it was felt there is a need for a policy that would govern special funding requests. At the October 20, 2011 work session, Commissioner Steward submitted a draft policy for consideration and requested that discussion about a policy be brought back for consideration at a later date.

Several changes to the draft policy were suggested. The Commissioners will consider approval of the policy at the December 22, 2011 Commission meeting.

Peddlers and Solicitors

After being informed by the City Attorney that the current City ordinance regarding the regulation of peddlers and solicitors had been deemed invalid, the Commission repealed the ordinance in December of 2009. A possible replacement ordinance was discussed; however, the Commission could not reach a consensus on what type of ordinance to put in place. Therefore, no replacement ordinance was adopted. Commissioner Schwaller requested that this issue be discussed again.

The main reason no consensus was reached was the issue of treating all peddlers/solicitors equally. By imposing certain regulations on peddlers/solicitors, it would be necessary to impose the same regulations on all parties engaging in door-to-door sales including non-profits and fundraising groups, such as Girl Scouts, Boy Scouts, or the school district. There was no public outcry for strict regulations of peddlers/solicitors. There is common law in Kansas that allows property owners to post "No Soliciting" signs which can be enforced by the Police Department. When the ordinance was repealed, the City

Attorney advised that this would be the best way for citizens to prohibit anyone from soliciting on their property.

Hays resident Daniel Green urged the Commissioners to implement some kind of license/registration for peddlers/solicitors. He understands the reasoning behind the repeal of the original ordinance; however, he feels it is not safe to have peddlers/solicitors roaming around neighborhoods. He is aware of several unpleasant and frightening incidents that have occurred in the last few years.

Police Chief Don Scheibler commented that most of these types of incidents come in as suspicious person. He has not noticed an increase or decrease in these types of calls since the ordinance was repealed. His concern is that only honest people would register; a criminal would not.

City Attorney John Bird stated that the City cannot outlaw people from going to residential neighborhoods. If someone comes on your property and you ask them to leave and they don't, they could be arrested for trespassing. The City Attorney advised Mr. Green to get a "No Solicitation" or "No Trespassing" sign. If someone violates that, he should call the Police Department; they will investigate and prosecute the offender.

League of Kansas Municipalities Membership

The City Commission held a lengthy discussion in late 2010 regarding the value of the City's membership in the League of Kansas Municipalities. The League did not support the City's request for legislation that would define conservation as a beneficial use of water. It is also perceived that the League has an image problem in Topeka, more specifically; the League is not viewed in a positive manner by many state legislators and state officials. During that discussion, the Commissioners requested that prior to paying 2012 membership dues, the matter be brought back for discussion in December 2011.

As part of that 2010 discussion, the City Manager wrote in a memo that, in his opinion, while the League may have failed the City in the legislative request and may have a significant image problem to overcome in Topeka, the League still serves a valuable function especially for many of the smaller communities

that rely on the resources it provides. If the City were to drop out of the League, the City could not be a member of KMIT, which is a worker's comp organization the City purchases insurance from. Within one years time it would be necessary to find a new workers compensation insurance company.

The City Manager stated that if the Commissioners feel the same way this year as they did last year, then maybe that is what needs to happen to send a message to the League staff and the rest of the League members; that basically we are not happy with their legislative advocacy.

Further discussion will take place at the December 22, 2011 Commission meeting.

Scheduling Conflict – Work Session/Chamber Banquet Scheduled for February 2, 2012

It is necessary to move the February 2, 2012 work session to Tuesday, January 31, 2012 to accommodate the Commissioners' attendance at the Chamber Banquet on February 2nd.

Other Items for Discussion

Commissioner Steward stated that he is an employee of Fort Hays State University; therefore, he did not participate in the rezoning issue of 3301 U.S. Highway 183 Alternate. He requested the Commissioners study and determine how this area should be zoned, in light of the construction of the nearby Sports Complex facility.

Executive Session

Henry Schwaller IV moved, Ron Mellick seconded, that the Governing Body recess to executive session at 7:40 p.m. for 5 minutes to discuss attorney-client privileged information and personnel matters. The executive session included the Commissioners, the City Manager, the Assistant City Manager, and the City Attorney. K. S. A. 75-4319 authorizes the use of executive session to discuss the topics stated in the motion.

Vote: Ayes: Troy Hickman
Kent Steward
Henry Schwaller IV
Ron Mellick

Vice-chairperson Hickman called the meeting back to order at 7:45 p.m.
He stated no action was taken during executive session.

The work session adjourned at 7:45 p.m.

Submitted by: _____

City Clerk