

**HAYS AREA PLANNING COMMISSION MEETING AGENDA
CITY COMMISSION CHAMBERS 1507 MAIN, HAYS, KS
DECEMBER 16, 2013
6:30 P.M.**

1. **CALL TO ORDER BY CHAIRMAN:**

2. **MINUTES: Consider approval of the minutes from the November 18, 2013 meeting:**
ACTION: _____

3. **CITIZEN COMMENTS:**
ACTION: _____

4. **CITY/COUNTY COMMISSION ACTION AND PLANNING DEVELOPMENT UPDATES ON PLANNING COMMISSION ISSUES:**
ACTION: _____

5. **CONTINUE TO DISCUSS CHANGES TO THE LANDSCAPING AND IRRIGATION REGULATIONS WITHIN THE ZONING REGULATIONS AND SET A PUBLIC HEARING:**
ACTION: _____

6. **OTHER:**
ACTION: _____

If you will be unable to attend please contact the Planning, Inspection and Enforcement office at 785- 628-7310. Thank you. Any person with a disability and needing special accommodations to attend this meeting should contact the Planning, Inspection and Enforcement office (785-628-7310) 48 hours prior to the scheduled meeting time. Every attempt will be made to accommodate any requests for assistance.

**DRAFT
HAYS AREA PLANNING COMMISSION
CITY HALL IN COMMISSION CHAMBERS
NOVEMBER 18, 2013
MINUTES
6:30 P.M.**

1. CALL TO ORDER: The Hays Area Planning Commission met in regular session Monday, November 18, 2013 at 6:30 p.m. in Commission Chambers at City Hall. Chairman Larry Gould declared that a quorum was present and called the meeting to order.

Roll Call:

Present: Larry Gould Lou Caplan Tom Denning Jim Fouts
 Travis Rickford Paul Phillips Matthew Wheeler Pam Rein

Absent: Jake Glover

City Staff in attendance: Toby Dougherty, City Manager, Bernie Kitten, Director of Utilities, I.D. Creech, Director of Public Works, Jesse Rohr, Superintendent of Planning, Inspection and Enforcement, Nicholas Willis, Stormwater/Water Conservation Superintendent and Jason Riegel, Water Conservation Specialist and Administrative Secretary Linda K. Bixenman.

2. MINUTES: The minutes from the October 21, 2013 meeting were approved by consensus.

3. CITIZEN COMMENTS: - None.

4. CITY/COUNTY COMMISSION ACTION & PLANNING & DEVELOPMENT ISSUE UPDATES: Jesse Rohr presented the following information.

Request for Proposals for the Review and Rewrite of the Zoning Regulations: They have received some proposals from consultants. The deadline is December 2, 2013.

5. DISCUSS CHANGES TO THE LANDSCAPING AND IRRIGATION REGULATIONS WITHIN THE ZONING REGULATIONS: Jesse Rohr set the stage for the presentation to be given by Nick Willis, Stormwater Superintendent, to discuss changes to the landscaping and irrigation regulations; mainly the irrigation systems. This is primarily in response to the ongoing drought and water issues. To change any part of the zoning regulations, it has to go before this commission for a public hearing and ultimately to the governing body for final action. It is hoped that from the discussion there will be the comfort level to set a public hearing. They would like to have something in place by March or April.

He noted that the issue with the lawn irrigation has gone before the Building Trades Board twice. They realize there is a problem and are not opposed to regulation. Their concern was maximum square footage of irrigated turf.

Larry Gould noted that next year will be a review/rewrite of the zoning and subdivision regulations. He voiced concern that this would be out of sequence by adopting an ordinance that may be changed again. Jesse Rohr pointed out, that for the sake of time, this change was important enough to the governing body and the citizens to have in place by the Spring of 2014. The adopted changes of the zoning regulations would not be until early 2015.

Toby Dougherty, City Manager, came before the commission to address the chairman's concern. The current drought is a realization of how fragile the water source is. They are consistently looking for water sources for 20 to 30 years down the road. During the drought crises in 1991, the city was recognized as the leader in wise water usage. The City has offered incentives for low-flow toilets and showerheads and high-efficiency washers. City Staff will be providing the status on the drought to the governing body.

He stated that water usage per day for domestic and industrial use is around 1.8 million gallons and 3.4 million gallons of water used on a peak summer day. The lawn irrigation is the biggest user of water and is the most difficult to get a handle on. Communities across the nation are also trying to figure out how to tackle it. There is a gamut of landscaping style programs. There are the Las Vegas and Salt Lake City style programs and programs that offer the incentive to replace irrigated turf with xeriscaping.

He stated that he realizes that the conversation is difficult; it is a contentious issue. They are trying to keep at arms length from a crisis; we cannot wait until our resources run out. Of the 53 counties with population over 25,000, there are only 5 east of Highway 81 with reliable surface water and greater rainfall. Forty-five of the counties lay on the Ogallala Aquifer; although Ellis County does not. Our city does not lie on water resources. We cannot economically irrigate out of it. It is hard to compare our city to any other metropolitan area. We have to start thinking like the Arid West.

Looking at the developments over the past 5 to 15 years of how water is being utilized is not sustainable. They are seeing encroachments in other areas. The presentation will show the difference in water utilization from the older parts of town to the newer parts of town.

The market for lawn irrigation systems has not adapted to the regulatory requirements. He gave an example of a new lawn irrigation system on a newly built commercial site. The landscaping consists of a cool season grass with the installation of an irrigation system not designed to prevent water from escaping from the property.

The issues associated with the current regulations on water usage were taken before the governing body. The reason it would like to be approached from a regulatory standpoint is because it is important that the market and landscapers do business to comply with the ordinance. The governing body gave the green light to start the process to consider the modifications of the subject regulations. This was as good of time as any to change direction. This would begin with the Planning Commission for their recommendation to the governing body after a public hearing.

He explained that the Planning Commission is involved because the discussion is a consideration to change a landscaping ordinance. Currently the water sources are stable and residents have been doing a good job managing the resources and conserving but if the trends continue, it will go downhill. This is what they are trying to avoid. He explained that they can not take care of the infrastructure now; the argument is it would not be sustainable.

Larry Gould noted that the city of Hays is first rate in water conservation. He stated that the regulations would be complimentary to the balance of revenue generation. He cautioned to be careful of their direction because it may look fair across the board to all users; although he expressed the importance to address the abusers of water usage more than anyone else. There are more complexities than just the code.

Matthew Wheeler voiced the importance of incentives as being more palatable as has been done in the past to incentivize residents to do the right thing to be smarter; this direction is through regulatory requirements. He emphasized the importance for targeting those that abuse water usage.

Nick Willis, Stormwater/Water Conservation Superintendent, presented the power point presentation on proposed changes to irrigation systems within the landscape plan regulations in Chapter 71. The proposed additions/changes to the regulations are included in the packet. This is an effort to change how we think about landscaping as a whole.

He explained that because of the water conservation efforts, this is not the climate for cool season irrigated grasses. Cool season grasses have a role for turf.

The City of Hays is in an area with limited water supply. The water supply is stressed due to severe drought. He presented a chart of several streets in Hays to show that the new developments are using more water than older developments driven by irrigation.

There are approximately 30 new home starts each year. If these homes would have the same water usage as the residents in the new developments, the water usage would increase from the 2012 levels by 15% in 20 years.

Tom Denning asked if the comparison of the water usage from the older developments to new developments would be on an equal basis since some would be using a private well instead of metered water. Jim Fouts asked, for clarification, if the intent is to manage the city water or the aquifer. Nick Willis explained that the comparison would reflect the total water usage. Any comparable lot in town would use close to that amount of water whether metered or private well as reflected on the chart.

He presented some aerial pictures of the city to show the comparison of the size of lots being larger in the newer developments and greater irrigated areas than the older developments.

The approach taken for the proposed regulations is limitation of size of irrigated areas. The trigger is the construction of a new irrigation system, connection of existing irrigation to potable water, expansion or replacement of existing system.

The exemptions are the systems under the non-domestic water right (high school, athletic fields, Smoky Hill Country Club, Fort Hays State University).

He pointed out the details to consider for proposed changes to the regulations:

Commercial Properties

- 30% of landscaping must be xeriscaping
- 10,000 sq ft total irrigated area
- 5,000 sq ft of irrigated turf (2,000 sq ft can be cool season or 30% whichever is less)

Residential Properties

- 5,000 sq ft irrigated turf – (2,000 sq ft can be cool season)
- 10,000 sq ft of irrigation total (Balance in irrigated xeriscaping)

Paul Phillips asked if the city still owned the property south of Kinsley. He suggested part of the educational effort be to revisit history why the city cannot use the water rights from that piece of property. Many citizens thought purchasing that property took care of the problem.

He suggested looking back at the information from the year of 1991 how the crisis of the shortage of water was addressed at that time. He also suggested checking with the City of Ellis how they are addressing their water shortage, and if it was positive, to see if we can learn something from them. He pointed out the importance to get the attention of the residents to conserve or they will not have drinking water.

He asked if the water rights from an irrigation system installed before the new regulations would transfer to the new owner. Nick Willis answered "Yes". I.D. Creech answered that they would still be affected by the water rates.

He raised the question for discussion, if the use of irrigated water for beautification needs to be incorporated in the changes. Lou Caplan used the example of 5,000 sq ft of irrigated flowers within the 10,000 sq ft irrigated area.

Jesse Rohr explained that the proposed changes are for irrigated turf. He also noted that watering from a hose is not a permanently installed irrigation system.

Nick Willis stated that they want to prevent another landscaping project as was done most recently for a new commercial project. The landscaping consists of a cool season grass with the installation of an irrigation system not designed to prevent water from escaping from the property.

Nick Willis explained that because of water conservation efforts, this is not the climate for cool season irrigated grasses. Cool season grasses have a role for turf, as used as turf (i.e. ball field, play area).

Larry Gould asked why the percentage for xeriscaping listed for commercial project was not greater than 30%. He would rather see more burden on the back of commercial. Nick Willis answered that it was an arbitrary number that took into account rainfall, climate and water resources. Jesse Rohr explained that the landscaping requirements were based on a 10,000 square foot lot.

Jim Fouts, followed up to the chairman's comments, to point out that an arbitrary number is not a good thing to use for justification for a regulation. He pointed out that with commercial properties they would be coming at them in both directions; regulations for less turf and regulations for less impervious surface.

Nick Willis explained that the State of Kansas designates water rights based on population, industrial uses and geographical area.

Travis Rickford explained it would be too expensive to do the right thing. He asked if there was an economic incentive for residences to do the right thing.

Nick Willis explained that this regulation would apply to lawn irrigation new starts, and changes or additions. This fall the commission did raise water rates for the very high water usage; although it will be unknown until next year what difference it will make.

Matthew Wheeler questioned the landscaping details proposed for commercial properties because it would be the same for all lot sizes. Jesse Rohr explained the amount of water put on a landscaped area is the difference. The size of lot and amount of street frontage applies to how much landscaping is required.

Larry Gould asked about swimming pools and Tom Denning asked how they classify ponds. Nick Willis explained what is allowed. He noted this would be looked at when the consultant is on board.

Nick Willis included the options to consider:

Option 1

- Cease accepting residential lots greater than 7,000 sq feet (setbacks would need to be changed)
- Cap Irrigated area size on commercial properties

Option 2

- Ban Private Wells
- Further change water rate structures & (hopefully) achieve savings through economic incentives

Option 3 (Supply Side)

- Consider steep impact fees for water rights acquisitions
- Consider requiring developers to bring good water rights (or conservation in lieu) before allowing development

He recommended a book to read called "The Big Thirst" by Charles Fishman that tells of what other cities are doing and how the cities are trying to manage water supply. In Las Vegas commercial properties are not allowed to have irrigation systems.

Tom Denning questioned the option to ban water wells. He asked if the regulations would apply to the three mile zone; those in the county rely on water wells for their water source. He voiced concern for the extra cost for a new home if an engineer would be required to draw up plans for the landscape.

Pam Rein asked about the ponds. There are six huge ponds within the 3 mile zone. Nick Willis answered that it would have to be a change at the state level.

Pam Rein asked if there would be an uprising of the suggested lot size. She, Jim Fouts and Tom Denning asked that the builders, developers and those associated with the real estate market and residents in the 3 mile zone be made aware of the options to be considered at the public hearing.

Jesse Rohr pointed out that lots in a recent development along 46th street are 7,000 sq foot lots. Nick Willis stated that Denver's long term conservation plan is to increase density. With a smaller lot, there is less incentive to drill a private well.

Nick Willis explained that actions that have been taken for water conservation and changes to the building landscaping codes:

- Aggressive conservation items in 2014 budget
- Discussion before the Building Trades Board
- Water Rate Increases
- Increased Patrol for water runoff in 2013 irrigation season

He explained there is \$335,000.00 budgeted for the conservation program in 2014. They have also hired a water conservation specialist.

I.D. Creech pointed out that part of the education is the fact that there is a finite water source. The more people that have a straw in it, the less there is to share.

Matthew Wheeler emphasized that if the turf irrigation sprinkler systems are the biggest problem, why address all the other and why not focus on irrigation. It is better than telling citizens the limitation on lot size is 7,000 square feet. A detached garage could not be built on that size of lot.

In the past, there has been discussion of how to redevelop downtown where there is already infrastructure. He suggested redevelopment of downtown, education, incentives to plant buffalo grass and limiting lawn irrigation to one day a week.

Jim Fouts added that some systems cannot run the sprinkler systems all in one day. Half is done in one day and half is done on another day.

Larry Gould read from the booklet called "Common Ground" given to the commission by the National Association of Realtors about city being shaped for the future constraints.

Pam Rein asked about the desalination of the Dakota Aquifer. Nick Willis stated that reverse osmosis is expensive and it is unknown if it would be a sustainable water supply. The water quality is treated by the State of Kansas as a higher risk than water from an oil well disposal well. Toby Dougherty added that there are other minerals not desirable.

Travis Rickford asked if what we are talking about is water use or zoning. He asked if it needed to be looked at in a larger package. He used a personal example to point out the importance of the way the issue is framed to the citizens. It should not characterize specific streets and not characterize water rates to different citizens. They may not mean to do it and it could be upsetting. He suggested framing the issue from a zoning angle with water usage being a part of that. He voiced the importance of the education component. He asked that there be more options to consider.

Lou Caplan asked if this change in regulations applies only to new construction because this would change the whole argument. Jim Fouts stated that there would not be near the flack if abandoning private water wells applies only for new construction.

Larry Gould suggested considering option 1 with the second part of option 2 to "Further change water rate structures to achieve savings through economic incentives". He noted that the landscapers would be required to adhere to the rules and regulations.

Paul Phillips pointed out the importance of education and the importance on how the proposed changes are framed to be presented to the public.

Jim Fouts noted that the information provided by the city manager was justification to address these regulations.

Tom Denning pointed out that that we have the same water supply as we did 20 years ago and no additional water source has been seen. He understands we have to conserve; although we can only conserve to a point. We need to take it by the horns to be sure Hays is here 100 years from now.

Nick Willis stated that they can improve education; although some things have to be regulated. He asked if the proposed options should be considered or a combination thereof.

The commission asked for further discussion of the options and/or combination thereof and additional options to be presented at the next meeting.

Jesse Rohr stated that staff would prepare a framework of options to discuss at the next meeting to be considered for the public hearing.

6. OTHER: 32nd and 33rd Vine Intersection Paul Phillips noted that Montana Mikes Steak House at 33rd and Vine had moved out. He thought this would be a good opportunity to consider reconfiguring the above intersection as recommended in the Comprehensive Plan.

Tom Denning noted that there is a proposed new restaurant that will be constructed next to Long John Silvers. He stated that change could present an opportunity to consider a reverse access road. He stated that when there are changes is the opportunity to talk to people to see if there is a way to benefit from it.

Adjournment: Chairman Larry Gould adjourned the meeting at 8:45 p.m.

Submitted by: Linda K. Bixenman, Administrative Secretary,
Planning, Inspection and Enforcement

Memo

To: Members of the Hays Area Planning Commission

From: Jesse Rohr, Planning, Inspection and Enforcement Superintendent
Nick Willis, Stormwater/Water Conservation Superintendent

CC: City Manager's Office
Utility Department Directors

Date: December 11, 2013

Re: Recommendation for Regulation of Irrigation Systems

As requested, city staff has looked into the options presented to you during the November 18th meeting. After further review, staff is keeping its original recommendation, as presented on the 18th. It appears that some Planning Commissioners sought more restrictive limits on commercial properties, an idea which staff is open to (i.e., no cool season or no turf at all). These should be easily workable and we can mark-up as needed during the December meeting. At the December meeting, staff will be requesting you to set a public hearing on the proposed regulations for your regularly scheduled meeting in January.

Option 1:

This option proposed to cease accepting lots greater than 7,000 square feet in size and cap amount of irrigated area on commercial properties.

Staff believes this would be effective as part of a long-term strategy. However, there are approximately 200 platted residential lots which could be developed at any time. Very few of these lots are this small, and many of them are quite large. Staff does not believe that not regulating these properties as to irrigated area is prudent or wise.

Staff does believe, that as part of a comprehensive zoning and subdivision overhaul, it is a good idea to look at such a size limitation for residential problems, as many significant long-term financial burdens would be decreased with a decrease in average lot size (i.e. utility and road maintenance, delaying the need for a new fire station(s), etc.). As part of

the comprehensive overhaul, residential properties with small footprints could even be exempted from irrigation requirements, if so desired.

Option 2:

Option 2 sought to ban private wells with a subsequent increase in rates for potable water being used on landscaping. It did not appear that any Planning Commissioners sought to ban existing private wells, but may be interested in banning future construction of private wells.

The City Attorney is exploring this option and staff will be presenting this opinion once it is formed. The State of Kansas has broad powers over water usage and there is no known precedent for such an action. Price generally is a pretty good regulator of behavior, but some people do have enough financial resources that they will water regardless of price. Is this something the community is willing to accept for a publicly-owned resource?

Option 3:

This option explores supply side water development to offset the water used by new residents and businesses. Administratively, this could be quite complex, but municipalities and water districts in other states use some manner of impact fees to obtain new water supplies.

Staff is not necessarily opposed to this idea and is seeking guidance as to what may be an appropriate fee. Do the fees apply equally or is there a sliding scale? How does water conservation come into the picture?

For discussion purposes, a fee of \$30,000 per new home would generate \$18,000,000 over 20 years at 30 homes per year. Development of the R9 Ranch near Kinsley is estimated to cost about \$66 million in today's dollars.

It should be noted that a fee does not bring new water supplies online over night nor would it make the City of Hays invulnerable to future droughts. Depending upon water usage from new properties, new supplies may not make the City any less vulnerable than it is today.

Option 4:

This option was brought up by Matthew Wheeler. Basically, all outdoor watering would be banned except for one day per week. The working theory here is that most cool season turfs, the type of turfgrass needing the most supplemental irrigation, would struggle to survive under such a watering regime.

This option has a lot of merit, as most cool season grasses could not survive (or at least not look very good) under such watering. While this option was not explored in much detail, staff is assuming that hand watering for things like vegetable gardens and new trees would be allowed on a daily basis. Three large issues exist. These are:

1. Impact on water infrastructure. Cities have had terrible distribution system problems with these types of regulations. Typically one area of town is allowed to water on a certain day (i.e., the normal trash day). This can lead to tremendously high demand in limited areas, causing much higher flow rates in pipelines (similar to the stress placed on the system by a large fire). Water quality and water pressure can both be negatively impacted, and things such as water main breaks can be caused with this type of management. Hays' water system was not designed for this kind of localized peaking in flows and we are unsure as to whether it could handle it well. Water modeling and other engineering work would need to be completed to reasonably estimate if the system can handle such an operational change.

2. Legal ability to regulate water wells in this manner. The State of Kansas has broad powers over water usage. Staff believes that at this time, the State of Kansas would have to modify the local Intensive Groundwater Use Control Area (Hays IGUCA) to allow such a change to be in effect in a permanent manner.

3. Enforcement. This potentially creates another action which is a crime and would create additional enforcement costs for the police department.