

MINUTES OF A MEETING OF THE  
GOVERNING BODY OF THE  
CITY OF HAYS, KANSAS  
HELD ON  
DECEMBER 9, 2004

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, December 9, 2004 at 7:30 p.m.

Roll Call: Present: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

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

**2. MINUTES:** There were no corrections to the minutes of the special meeting held on November 18, 2004, and the regular meeting held on November 23, 2004; they stand approved as written.

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

**4. CONSENT ITEMS:** Henry Schwaller IV moved, Wayne Billinger seconded, that discussion of Mayoral appointments to the Ellis County/City of Hays Transportation Committee be tabled until the December 16, 2004 work session.

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

## **NEW BUSINESS**

### **5. HEART OF AMERICA DEVELOPMENT CORPORATION – N.E.W. CUSTOMER SERVICE COMPANY, INC. PROJECT:**

**A.** Chairperson Koerner opened the public hearing to hear comments regarding the advisability of issuing Industrial Revenue Bonds for the Heart of America Development Corporation.

There were no comments.

Henry Schwaller IV moved, Wayne Billinger seconded, that the public hearing be closed.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Henry Schwaller IV

Troy Hickman

**B.** City Manager Randy Gustafson stated the Heart of America Development Corporation (HOADC) bought the Sykes property at 3000 Sykes Boulevard and is now leasing it to the N.E.W. Corporation. Approval of Ordinance No. 3666 is necessary in order to issue Industrial Revenue Bonds for HOADC.

City Attorney John Bird stated this financing technique is allowed by the State to allow entities to borrow money at a lower interest rate. The City of Hays does not have any direct or indirect obligation financially.

Henry Schwaller IV moved, Troy Hickman seconded, that Ordinance No. 3666, being an ordinance authorizing the City of Hays, Kansas, to issue Industrial Revenue Bonds (Heart of America Development Corporation Project) Series 2004, in a principal amount not to exceed \$3,600,000, for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing, installing and equipping a commercial project, consisting of a commercial building, including land, buildings, structures, improvements, fixtures, machinery, and equipment; authorizing the City to enter into a trust indenture with Sunflower Bank, N.A., Salina, Kansas; authorizing the City to enter into a lease agreement with Heart of America Development Corporation; authorizing the City to enter into

a bond purchase agreement in connection with such bonds, and authorizing and approving the execution of certain documents and the taking of other actions in connection with the issuance of said bonds, be approved.

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

**C.** City Manager Gustafson stated it is necessary to approve a Refunding Agreement to refund personal property taxes of the N.E.W. Customer Service Company. The Agreement is with HOADC because they will be paying the taxes for the N.E.W. Company.

Henry Schwaller IV moved, Wayne Billinger seconded, that the Refunding Agreement to refund personal property taxes of the N.E. W. Customer Service Company, Inc. through the Heart of America Development Corporation, be approved.

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

City Manager Gustafson stated the Agreement covers the City's portion of property tax. The County will have to pass its own Agreement.

**D.** Wayne Billinger moved, Kent Steward seconded, that the \$1,000 application fee for the previously approved Industrial Revenue Bonds be waived and replaced with a \$500 fee.

Commissioner Hickman commented that even though he would like to help the HOADC out as much as possible, the reason for having fees is to set a standard. The City has recently been asked to waive fees for other entities and did not. It is important to remain consistent.

Commissioner Schwaller stated that this matter took place prior to the adoption of the Economic Development Policy. The HOADC is made up of a group of volunteer business people who represent the City. This is not a for profit entity. It is not seeking to waive the fee so that it can bolster its return on the investment. He will be voting no because he thinks the fee should be completely waived.

Commissioner Steward stated he seconded the motion because he appreciated what he took to be the spirit of an attempt to find some middle ground. He does agree with Commissioner Hickman's comments.

Vote: Aye: Wayne Billinger

Nay: Sunell Koerner

Kent Steward

Henry Schwaller IV

Troy Hickman

Henry Schwaller IV moved that the \$1000 application fee be waived entirely.

There was no second to the motion. The motion failed.

**6. 2004 AUDITING SERVICES AGREEMENT:** Henry Schwaller IV moved, Wayne Billinger seconded, that an agreement with Adams, Brown, Beran & Ball Chartered Certified Public Accountants for auditing services for the year ending December 31, 2004 be approved.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Henry Schwaller IV

Troy Hickman

Kent Steward moved, Henry Schwaller IV seconded, that the City Manager notify the Hays Public Library and the Hays Housing Authority personnel explaining the City's need for a deadline for receiving their audits. Their audits must meet generally accepted accounting principals and be GASB-34 compliant.

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

**7. REGENERATIVE AIR STREET SWEEPER BID:** Three bids were received for the purchase of a regenerative air street sweeper. The low bid did not meet specifications; therefore staff recommended accepting the bid from Key Equipment in the amount of \$141,250. The purchase of the sweeper will be paid out of the 2005 Budget.

Troy Hickman moved, Kent Steward seconded, that the bid from Key Equipment in the amount of \$141,250 for a regenerative air street sweeper be accepted.

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

**8. AERIAL TOWER TRUCK BID:** Two bids were received for the purchase of an aerial tower truck. The low bid did not meet specification; therefore staff recommended accepting the bid from O. J. Watson Equipment in the amount of \$88,600. The purchase of the truck will be paid out of the 2004 Budget.

Troy Hickman moved, Wayne Billinger seconded, that the bid from O. J. Watson Equipment in the amount of \$88,600 for an aerial tower truck be accepted.

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

**9. ENGINEERING SERVICES – BARTLETT & WEST ENGINEERS, INC.:**

These engineering services are based on a Wastewater Study conducted by Bartlett & West Engineers at the end of 2000 calendar year. These upgrades will aid Wastewater staff to stay in compliance with Environmental Protection Agency and Kansas Department of Health and Environment requirements (present and upcoming) and also aid in treatment requirements for reuse of effluent water. The proposed improvements are identified in the 2005 Capital Improvement Program.

Kent Steward moved, Wayne Billinger seconded, that the Agreement for Professional Services with Bartlett & West Engineers for improvements to the Hays Wastewater Treatment Plant facility in an amount not to exceed \$35,000 be approved.

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

**10. BOUNDARY RESOLUTION:** Annually, the State of Kansas requires cities to pass a resolution that identifies all the property that has been annexed into the city limits during the current year.

Henry Schwaller IV moved, Wayne Billinger seconded, that Resolution No. 2004-493, being a resolution re-defining the boundaries or corporate limits of the city of Hays, Kansas, as required by Section 12-517 of Kansas Statutes Annotated, be approved.

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

**11. TRANSIENT MERCHANT ORDINANCE:** Approval of Ordinance No. 3667 amends the definition of the transient merchant by adding the word “services” in

two instances to make it clear that the ordinance applies to the sale of goods and services.

Wayne Billinger moved, Kent Steward seconded, that Ordinance No. 3667, being an ordinance amending Title 5, Chapter 5.16 of the City of Hays, Kansas, Municipal Code, by modifying Section 5.16.010 regarding peddlers, solicitors and canvassers be approved.

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

**12. REPORT OF THE CITY MANAGER:** City Manager Gustafson reported that City crews would start demolishing the building located on the property at 27<sup>th</sup> and Vine Street. A new Convention and Visitors Bureau office building will be built on the site.

City Manager Gustafson reported that the annual certification inspection of the Hays Regional Airport has been completed. There were no deficiencies noted. Airport Manager Terry Urban was commended for the procedures, day to day operation and the appearance of the Airport.

**13. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Schwaller requested that the “No Parking” along 43<sup>rd</sup> and 45<sup>th</sup> Streets that border the Wal-Mart store be enforced. If it is not enforced, it should be repealed along those two streets.

Commissioner Schwaller also requested the City policy regarding the use of emergency vehicles be reviewed with employees driving emergency vehicles.

Chairperson Koerner requested the Commission discuss at a future work session the ordinance that relates to signs on sidewalks.

**14. EXECUTIVE SESSION:** There was no executive session.

Thereupon the Governing Body adjourned.

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

City Clerk