

September 8, 1994

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays met in regular session, Thursday, September 8, 1994, at 7:30 p.m.

Roll Call: Present: Robert Albers
Sharon Leikam
Daniel Rupp
Joseph Glassman
Eber Phelps

2. MINUTES: Joseph Glassman moved, Eber Phelps seconded, that the minutes of the August 25, 1994, regular session, be approved.

Vote: Ayes: Robert Albers
Sharon Leikam
Daniel Rupp
Joseph Glassman
Eber Phelps

3. CITIZEN COMMENTS: There were no comments.

4. COMMISSION INFORMATIONAL MEMORANDUM: There were no comments.

5. WATER SUPPLY TASK FORCE REPORT: Marjory Scheufler, Edwards County Commissioner and irrigator, asked the Commission to delay their decision to purchase the Circle K Ranch. She pointed out that water was the basis of the economy in Edwards County.

Ms. Scheufler said the City of Hays is already \$16,000,000 in debt, and it would be to the City's advantage to postpone their decision. She said City Manager Zacharias and Coalition Director Lavern Squier were hired to do a job. They are not natives of Hays, and could be long gone before this project is finished or even started. The Commission will be left to face the citizens of Hays with a \$25,000,000 "pig-in-a-poke".

She advised the City to plan on additional attorney fees, because Edwards County residents are not apathetic about the City's decision to buy the ranch.

Richard Froetschner, Edwards County Commission chairman, read the following statement signed by the Edwards County Board

of Commissioners on September 2, 1994:

We, the Edwards County Board of Commissioners, acknowledge our County as an agricultural dependent county. Along with other rural areas, we believe that the availability of water is of vital importance to our citizens and their quality of life. We believe the transfer of water rights from R-9 Ranch, aka Circle K Ranch, to the City of Hays will have a negative impact on our local economy. The sale of this property poses a loss of tax valuation. This valuation is important to us and our taxpayers because it continues to provide tax supported services such as education, health care and public safety.

The removal of water without recharging the local water supply will affect the entire county as well as other counties which share this water basin. We fear that a precedent will be set of allowing water to be mined from one basin to another and possibly even to surrounding states. We anticipate additional environmental restrictions will be placed on private landowners, if this basin becomes a municipal water source for another region.

As a commission, we strongly support an individual's right to own land and their ability to sell and acquire land. We do not want to interfere with the transfer of private property. We are aware that the State claims ownership to water under the land across Kansas and they regulate the use of this water. However, we stand opposed to the plan of mining water into a pipeline with an unknown destination.

We oppose Edwards County sacrificing its local resources for another area's economic gain. The quality and quantity of water in our county is important to us and our future generations.

Mr. Froetschner said he personally did not believe that the quantity of water stated to be available is actually available. The water table in the whole area is dropping. Commissioner Albers said if that is the case, everyone in the area must be mining water.

Commissioner Rupp said the City of Hays will be using less water than the current users, and would be a much better steward of the water.

Mr. Froetschner said the main concern is not water, but the economic loss to Edwards County. City Attorney John Bird said

he foresees a economic gain for the County. He anticipates property taxes to increase. He found it hard to understand why Edwards County was so concerned about someone 70 miles away owning the property and paying the taxes, when the previous owner was from Canada, and did not pay the property taxes for quite a period of time. The City of Hays was waiting for Edwards County to initiate a foreclosure sale. The City of Hays will be a more palatable owner and a quicker taxpayer.

City Attorney Bird said he found it difficult to understand how the Edwards County Commissioners can separate their roles as Commissioners and as irrigators. This sale could bring about unpleasant circumstances for the irrigators, but be beneficial to the general taxpayers. Tax money is being spent fighting something which might not be beneficial to irrigators, but not necessarily bad for taxpayers in general. Commissioner Froetschner said he has been very careful not to take the position of irrigators. His concern is the economic loss to Edwards County.

Leroy Wetzel, irrigator west of the Circle K Ranch, addressed the quality issue of the water. He indicated that the water in Ford and Edwards County contains a large amount of nitrates. He attributed the nitrates to fertilization. City Manager Zacharias questioned whether the Kansas Department of Health and Environment should be called to investigate the nitrate problem. No one should be allowed to pollute the State's water supply. Mr. Wetzel said he was not certain what was causing the nitrates in the water supply. He personally monitored the nitrate content of his land very carefully.

Commissioner Glassman said he has a suspicion that there is an underlying concern here that has not been mentioned, and that being a fear of a "run". If Hays gets this water, someone else is going to attempt to do the same thing. Your neighbors could sell off their land for an attractive price. City Attorney Bird said he sensed the same fear. This is an isolated situation. No other city has the same water problem, and the chances of another city doing the same thing are highly

unlikely.

City Attorney Bird pointed out that the City could have used the power of eminent domain to acquire this property as long as the City gave justification and fair compensation for the property. The Commission decided early on not to use that method. Instead, the City acquired the land through the fair market value system, and it appears they are being criticized for using this method.

Richard Wenstrom, Edwards County irrigator, and irrigation engineer, encouraged the City to check all the available data on the water quality/quantity on the Circle K. After listening to the City's presentation in Kinsley, it appeared that the only information regarding the wells on the Circle K was obtained from a consultant and Kansas Geological Survey reports. Further data will reveal that there is a definite difference in the quality of water on the Circle K, compared to water in other areas of Edwards County.

City Manager Zacharias said we have all the information on the wells and we are doing additional testing. If the water quality does not meet KDHE standards, we can back out of the deal, with our \$50,000 in escrow being returned.

City Attorney Bird reiterated that point, stating he did not want the public left with the impression that the City was going to spend 4.3 million dollars and then find out that the water quality and quantity are not sufficient.

Joseph Glassman moved, Daniel Rupp seconded, that the Mayor be authorized to sign an agreement for the purchase of the Circle K Ranch, which initially calls for an escrow account payment of \$50,000.

Commissioner Leikam said she was offended by Ms. Scheufler's insinuation that if you were not a native of Hays, you would be long gone before this project is completed. Commissioner Leikam said she was not a native, but she had no intention of leaving, and did not think Mr. Zacharias or Mr. Squier has any plans of leaving Hays. This venture will benefit future generations. Hays is the hub of northwest Kansas.

Edwards County residents come to Hays for business, medical treatment and some of their children attend Fort Hays State University. Commissioner Leikam said she did appreciate Edwards County residents attending this meeting and voicing their concerns.

Vote: Ayes: Robert Albers
Sharon Leikam
Daniel Rupp
Joseph Glassman
Eber Phelps

The Commission held a formal signing ceremony. Mayor Albers asked the Commissioners to also sign the Lease Agreement.

6. RECREATION COMPLEX: This item was postponed to a future meeting.

7. BEER SALES ORDINANCE: Eber Phelps moved, Sharon Leikam seconded, that Ordinance No. 3321, being an ordinance amending Sub-section 6 of Section 3-15 of Article I, Chapter 3, of the Code of Ordinances of the City of Hays, Kansas, and repealing Section 3-33 of Article II, Chapter 3 and Sub-section 1 of Section 3-62 of Article III, Chapter 3, of the Code of Ordinances of the City of Hays, Kansas, pertaining to the sale of Alcoholic Liquor and Cereal Malt Beverages on Election Days.

City Manager Zacharias said this Ordinance will place the City in compliance with State Statute regarding alcohol sales on Election Day.

Mayor Albers said he was opposed to the State imposing a mandate to cities regarding alcohol sales.

Vote: Ayes: Sharon Leikam
Daniel Rupp
Joseph Glassman
Eber Phelps
No: Robert Albers

8. EDA APPLICATION: Scott Barrett, Vice President of Institutional Development, Fort Hays State University, reviewed a grant application for the construction of a four lane

boulevard from 27th Street to Sternberg Museum.

Mr. Barrett said the grant request totals \$562,500. The estimated cost of the Project is \$570,000. The cost to the City of Hays should be minimal, however, the City would be responsible only for maintenance of the street, once constructed to City standards.

Eber Phelps, Joseph Glassman seconded, that a joint Grant Application be submitted to the Economic Development Administration for the construction of Sternberg Drive.

Vote: Ayes: Robert Albers
Sharon Leikam
Daniel Rupp
Joseph Glassman
Eber Phelps

9. ADD-ON ITEMS: There were no add-on items.

Thereupon the Governing Body adjourned.

Submitted by: _____
Clerk of the Board