

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON AUGUST 22, 1996

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays met in regular session, Thursday, August 22, 1996, at 7:30 p.m.

Roll Call: Present: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

Mayor Rupp declared that a quorum was present and called the meeting to order.

2. MINUTES: Sharon Leikam moved, Errol Wuertz seconded, that the minutes of the August 8, 1996, regular session, be approved with one correction. The motion made by Jayne Clarke and seconded by Errol Wuertz to approve the 1995 Audit was not recorded in the minutes.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

3. FINANCIAL STATEMENT: Jayne Clarke moved, Errol Wuertz seconded, that the Financial Statement for the month of July, 1996, be approved.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

4. CITIZEN COMMENTS: There were no comments.

5. COMMISSION INFORMATIONAL MEMORANDUM: Commissioner Wuertz and City Manager Hannes Zacharias both commended Allied Construction for their cooperation in opening Canterbury Drive

in time for the first day of school.

6. CONSENT ITEMS: City Manager Zacharias advised the City Commission to accept the recommendations from the Traffic Advisory Committee August 13, 1996, meeting with one exception. The recommendations are to place flashing lights on Oak Street between 27th Street and 29th Street, stripping a left turn lane on 12th Street exiting Hays High School, increase the speed limit on 8th Street east of Vine Street from 30 to 40 mph, and to move the thru traffic lane from the outside lane to the inside lane on 27th Street at Canterbury Drive.

The Planning Commission decided that 17th Street should be kept as a collector street and recommends that parking on the north side of 17th Street between Elm Street and Hall Street, and Allen Street and Milner Street, be removed to be consistent with all other blocks. Mr. Zacharias suggested that approval of the Planning Commission's recommendation for 17th Street be postponed until the September 12, 1996, Commission meeting to allow for public comment.

Jayne Clarke moved, Sharon Leikam seconded, that the recommendations from the Traffic Advisory Committee August 13, 1996, meeting be approved, with the exception of parking on the north side of 17th Street.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

7. AmeriCorp PRESENTATION: Ken Urban, representing the AmeriCorp, presented the City Commission with the "AmeriCorps Community Award" in appreciation for its support and leadership in carrying out the Big Creek Stream Restoration AmeriCorp Project. Mr. Urban presented a slide presentation showing the improvements made along Big Creek.

8. ANNEXATION: City Manager Zacharias stated Yuasa-Exide is requesting annexation of approximately 130 acres located south of Interstate 70 and west of Highway 183 Alternate. Yuasa-Exide

is also requesting a ten year tax abatement on personal property. This abatement, if granted, would be for machinery the company acquired between 1992 and 1996. A performance agreement has been agreed upon between the City of Hays and Yuasa-Exide. This agreement states there will be 300 average full-time equivalent (FTE) jobs maintained per year for the ten year abatement period. Yuasa-Exide will also guarantee a minimum investment of \$1,000,000 in capital expenditures per year for five years with a maximum of \$7,500,000. If employment levels fall below 300 FTE's or investments fall below \$1,000,000, a penalty structure will apply, and taxes will be due and payable for that year unless previously earned performance credits or other offsets apply. Performance credits can be earned by either employing more than 300 employees or investing more than \$1,000,000 per year.

Yuasa-Exide shall be allowed to apply for this tax abatement utilizing an inventory of items purchased back to and including 1992. No property, real or personal, contained in the original abatement will be eligible for this abatement, and no previously paid taxes will be refunded. The ultimate decision on retroactive allowability rests with the State of Kansas Board of Tax Appeals. Even with this abatement and the existing abatement, Yuasa-Exide would still pay \$5.5 million in taxes over the next 13 years. City Manager Zacharias stated the City of Hays will gain revenue in the General Fund by virtue of annexation. This will be offset somewhat by the lower inside city limit water and sewer rates that will apply when they are annexed.

The policy regarding tax abatements written in 1988 is geared toward the creation of new jobs and says nothing about providing incentives for additional capital investments. However, the Commission is able to provide an abatement outside the existing policy so long as the decision is found to be in the public interest. Mr. Zacharias recommends the 1988 policy be updated to reflect current practices.

Commissioner Leikam stated she does not like tax

abatements, however, she realizes they are necessary to keep existing businesses in our community and also to attract new businesses.

Commissioner Wuertz stated he feels the economic impact that Yuasa-Exide has on our community offsets any tax abatements granted.

Commissioner Phelps stated many people have mistakenly assumed Yuasa-Exide does not pay any taxes, and he has been able to clarify and help citizens understand more about the tax abatement process.

Commissioner Clarke stated she appreciates the guarantees agreed upon with this abatement. The community will be getting 300 jobs and a \$7.5 million investment in exchange for this abatement. She sees this as a benefit to the whole community.

Mayor Rupp concurred with the other Commissioner's remarks. He said he remembered when the Travenol Plant closed in 1984 and the drastic effect their closing had on our community. He feels it is crucial the City of Hays continue to provide job opportunities.

Ray Winters, citizen, spoke against the tax abatement. Mr. Winters feels this is a form of corporate welfare.

Don Bickle Jr, member of the Ellis County Economic Development Corporation, stated he does not like tax abatements either, but believes they are a way of life. We have a fine commission who has done their homework, and he realizes they have a difficult decision to make.

Jayne Clarke moved, Errol Wuertz seconded, that Ordinance No. 3380, being an ordinance annexing land to the City of Hays, Kansas, be approved.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

9. TAX ABATEMENT: Eber Phelps moved, Sharon Leikam seconded, that an ordinance be prepared providing Yuasa-Exide with a ten

year personal property tax abatement, a side agreement be developed, and a public hearing date be held on September 12, 1996 to hear comments regarding the tax abatement.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

10. WATER AUTHORITY REPORT: Joe Glassman, a member of the Kansas Water Authority, updated the City Commission on recent activities. Mr. Glassman stated there will be a meeting in September concerning the Water Transfer Act, and he feels the City should be aware of this and stay actively involved. The water situation in the state of Kansas is at the critical level. Water will be a very important issue in this decade and into the next century. Water equality is necessary for all of Kansas, for agriculture, commercial, and residential needs. Mr. Glassman announced his term on the Water Authority will expire August 31, 1996, however, he plans to stay active in water management on the local level.

11. LAND TRANSFER: Fort Hays State University has requested that a small triangular parcel of land located at 8th and Elm Street, be transferred from the City of Hays to the University. This parcel was obtained by the City many years ago to provide a roadway connecting 8th Street to the roadway north of the University. A statue marking the Fort Hays University campus is currently located on the land, and the University would like to place a more permanent structure marking the entrance to the University. The City will retain a 50' right-of-way from the center line of 8th Street to provide ample room in the future should the City choose to widen 8th Street for a full four lane trafficway.

Errol Wuertz moved, Jayne Clarke seconded, that the Mayor be authorized to sign a general warranty deed transferring ownership of .152 acres of property located at 8th and Elm Street to Fort Hays State University.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

12. ENGINEERING CONTRACT AMENDMENT: In April of 1995, the City Commission signed a contract for engineering services with Bucher, Willis and Ratliff. This contract contained five separate projects, one of which involved the design, inspection, and warranty of 12th Street reconstruction west of Elm Street. This agreement was anticipated to dovetail into any improvements to the 12th, Elm, and Hall Street intersection. Now that the City Commission has decided that no improvements will be made at this intersection, the existing contract must be amended to accommodate storm drainage needs associated with the reconstruction of 12th Street west of Elm. City Manager Zacharias recommends the Commission authorize the Mayor to sign an addendum to the existing agreement to design stormwater improvements in conjunction with street reconstruction of 12th Street west of Elm, for a total modification price of \$10,900.

Sharon Leikam moved, Jayne Clarke seconded, that the Mayor be authorized to sign an addendum to the existing agreement for a total cost of \$10,900, for engineering services with Bucher, Willis and Ratliff to provide engineering for stormwater improvements on 12th Street between Elm Street and the west city limits.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

13. ADD-ON ITEMS: City Attorney John Bird stated Ordinance No. 3381 is an ordinance outlining the fees levied to businesses located within the Business Improvement District. Due to litigation with some businesses located in the District, one of the issues raised is that the District is not constitutional,

and also the District is levying fees that have not been approved by ordinance by the City. There is a statute that states the City may, by ordinance, approve the new fees as they change them. In the past, those changes have been incorporated into the budget ordinance. The statute also says that any time there is an amendment of fees, opponents have the ability to try to dissolve the BID, by submitting a signed petition of not less than a majority of the number of businesses located within the District to the City Clerk within 45 days of the publication notice. The time period begins running with the passage of the ordinance. Mr. Bird feels the time period begins when the budget ordinance is passed, however, he has agreed with the court to prepare a separate ordinance which establishes the fees applicable to the businesses. Mr. Bird stated he would not like to spend City monies to defend the method by which we have been authorizing the District to collect their fees. By passing Ordinance No. 3381, there will not be any question as to when the time limit starts running or the current fee schedule. The budget ordinance does not set out a specific schedule, whereas, this ordinance does.

Eber Phelps moved, Jayne Clarke seconded, that Ordinance No. 3381, being an ordinance establishing the levy of business improvement services fees applicable to businesses located within the downtown business district of Hays, Kansas, be approved.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Errol Wuertz
Sharon Leikam

City Manager Zacharias stated Commissioner Wuertz has requested, as an add-on, the approval of the preliminary plat, the final plat, and the site plan of the Juenemann First Addition. The Planning Commission approved both the preliminary and final plats for this addition on Monday evening, and they authorized Building Inspector Kent Laas to review the site plan.

Mr. Zacharias stated Mr. Laas has some concerns about elevation, and he has some questions about the access to Highway 183 as well as drainage and the grading of the frontage road.

Commissioner Wuertz stated the people involved in the start up of a new business to be located on this property are eager to start construction. Construction cannot be started until they purchase the land, which they cannot do until the final plat is approved. Mr. Wuertz also stated he would be abstaining from the vote because, as a realtor, he is involved in the land deal.

City Attorney Bird stated he has reviewed the plat and dedication, and they contain the provision that property owners waive the right of protest on any future special assessments.

Eber Phelps moved, Jayne Clarke seconded, that Resolution No. 220, being a resolution approving the plat and dedication of Juenemann First Addition to the City of Hays, Kansas, be approved.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Sharon Leikam

Abstain: Errol Wuertz

City Manager Zacharias stated the site plan has not been reviewed by the Planning Commission. However, they have authorized Building Inspector Kent Laas to review the site plan, and then pass his recommendations onto the City Commission, bypassing the Planning Commission. Mr. Zacharias stated there are some concerns about the frontage road, the entrance onto Highway 183, and who is going to pay for the engineering. The City Commission can approve the site plan if they so choose, however, these concerns will need to be addressed sometime in the future.

Mr. Laas stated the elevation of the lot in relation to the frontage road, and water drainage are the most critical issues to be resolved. With adequate engineering, this should not be a problem.

Mayor Rupp stated that all parties, the State, the City, the developers, and the future property owners, should be involved in the process of solving these problems. Mayor Rupp stated he would not like to see the same mistakes made that were made on Vine Street years earlier. Mayor Rupp stated he would prefer to look over the site plan and get a recommendation from the Planning Commission before he makes a decision.

Mr. Laas stated he had been given the authority by the Planning Commission to check over these concerns in order to accommodate the development and planning. He is recommending the site plan be approved, except for the elevation issue.

City Manager Zacharias stated the Commission can approve the site plan subject to approval by the Building Inspector and himself. However, he would like to underscore that he hopes approval of plats and site plans as "add-ons" not become a common practice.

Commissioner Leikam stated the Commission has not had enough time to view the plat. She told the City Manager she was not happy about difficult issues being presented as add-on items. It is not fair to expect the Commission to make hasty decisions. Commissioner Wuertz acknowledged that it was his idea to present the issue as a add-on item. She said she realizes these things can drag on. She would favor approving the site plan with the stipulation that it be reviewed and approved by the City Manager and the Building Inspector.

Commissioner Phelps stated he would like the motion to include the approval of the chairman of the Planning Commission.

Sharon Leikam moved, Jayne Clarke seconded, that the Commission approve the site plan, subject to approval by the City Manager, the Building Inspector, and the chairman of the Planning Commission.

Vote: Ayes: Daniel Rupp
Eber Phelps
Jayne Clarke
Sharon Leikam
Abstain: Errol Wuertz

City Manager Zacharias also noted this is the last Commission meeting for Assistant City Manager Linton Bartlett. Mr. Bartlett has accepted the City Administrator's position at Mt. Pleasant, Iowa. Mr. Zacharias thanked Mr. Bartlett for his service to the City of Hays and the excellent job he has done. The Commissioners concurred with his statement.

Assistant Manager Bartlett thanked the Commission, the City Manager, and the staff for providing him a great place to work. He is excited about moving, however, he will miss Hays and all of the people he has met.

Commissioner Leikam also commended the Hays Police Department, the Fire Department, and the Emergency Medical Technicians for their efforts during the recent visit by Bob Dole. She was very impressed by the services they provided.

Commissioner Phelps mentioned another group of Army reservist rotated out for overseas duty in support of the Bosnia mission. Another group will be coming home at the end of August.

Thereupon the Governing Body adjourned.

Submitted by _____

Clerk of the Board