

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON JANUARY 11, 1996

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays met in regular session, Thursday, January 11, 1996, at 7:30 p.m.

Roll Call: Present: Sharon Leikam
Daniel Rupp

Eber Phelps

Jayne Clarke

Errol Wuertz

2. MINUTES: Eber Phelps moved, Daniel Rupp seconded, that the minutes of the December 28, 1995, regular session, be approved.

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

3. CITIZEN COMMENTS: There were no comments.

4. COMMISSION INFORMATIONAL MEMORANDUM: There were no comments.

5. CONSENT ITEMS: There were no consent items to be approved.

6. CABLE TV ORDINANCE: City Manager Zacharias said the proposed ordinance increases Cable TV franchise fees that were approved at the last Commission meeting. The base fee will remain at 2 percent, non-basic cable services will increase to 5 percent, and the fee for data transmission services will be 3.7 percent.

Jayne Clarke moved, Daniel Rupp seconded, that Ordinance No. 3358, being an ordinance establishing franchise payments, pursuant to City of Hays Ordinance No. 3103, concerning a community antenna and close circuit electronic system operated by KAYS, Inc., its successors, lessees, and assignments, be approved.

Commissioner Rupp said he understands the Cable Company not wishing to reopen the agreement, based on the fact that they have a long-term agreement in place. He asked that future agreements be written for a shorter time frame to provide more flexibility.

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

7. BOND REFINANCING: City Manager Zacharias said as per the direction of the City Commission, Roger Edgar of George K. Baum & Company, has presented a Marketing Plan for the proposed refinancing of Revenue and Sales Tax Bonds. The object of the marketing plan is to achieve the lowest interest rates possible, while allowing local brokers and investors to participate in the issue.

Mr. Edgar has recommended that a selling group be formed for local distribution to investors in Hays and Ellis County. He proposed the inclusion of the following firms in the selling group:

1. Edward D. Jones and Company
2. Berthel Fisher Company
3. Bank IV
4. Commerce Bank

He proposed that up to 25 percent of each issue would be set aside for the selling group to fulfill orders from investors.

George K. Baum and Company will serve as the sole underwriter with primary responsibility for all aspects of structuring the issue and the disclosure documents. George K. Baum and Company will take all underwriting risk for unsold bonds, but may allow selling group members to take unsold bonds into their inventory, if they so desire.

Jayne Clarke moved, Eber Phelps seconded, that the Marketing Proposal as prepared by George K. Baum and Company,

for refinancing Revenue Bonds, Series 1996, be approved.

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

8. RECREATION COMMISSION CAPITAL IMPROVEMENTS: City Manager Zacharias said the revised Interlocal Agreement between the City and the Hays Recreation Commission requires the Hays Recreation Commission to prepay annual payments on the Lease Purchase Agreement, to finance improvements to various recreation facilities. The Lease Purchase Agreement totals \$250,000; the annual payment will be \$35,000. This will require a monthly prepayment of \$2,917 which the City will hold until the annual payment is due. The reason staff and the City's auditor feel this is necessary is due to budgetary and cash flow problems encountered by the Hays Recreation Commission.

Hays Recreation Director Rick Claiborn and Glenn Staab, Recreation Commission Board member, were present to discuss the proposed agreement. Mr. Claiborn said the cash and budget violation was due to a motion made by the Recreation Commission approving a set dollar amount for facility improvements in 1994. However, the intent was to make payment in 1995. Making the motion in 1994 actually encumbered the funds in 1994 and created a cash and budget violation. Mr. Claiborn said it was a mistake, and no one on the Recreation Board was aware that a violation had occurred until the 1994 audit was completed by Adams, Braun, Beran and Ball. Mr. Claiborn said he had hoped to correct the cash violation in 1995 by gaining additional revenue over and above the 1995 expenditures. Additional revenue was received, but the 1995 expenditures were more than anticipated. Thus, it was not possible to reduce the cash deficit, and the Recreation Commission will end the year with the same cash violation.

Mr. Claiborn presented some budget modifications to eliminate the cash violation in 1996. He feel the modifications

are very realistic, and is confident the cash violation will be eliminated. This plan has been reviewed by Auditor Ken Beran, as well as City staff.

Mr. Claiborn said he hoped this incident would not create a black mark against the Recreation Commission. It was never a matter of not having cash, or paying bills.

Mayor Leikam asked Mr. Clairborn what would happen if the money is not available as he predicted. Mr. Claiborn said he feels very confident that the new programs will bring in the additional revenue. There is evidence of that happening in 1995, as revenues were higher than originally budgeted.

Mayor Leikam said this may be the time to explore the idea of the Recreation Commission becoming a department of the City. This has been talked about, and it may be time to seriously look into the matter. She did not want this to appear as a negative against the Recreation Commission. She commended Mr. Claiborn for the outstanding programs which have been initiated since he joined the Recreation Commission.

Commissioner Clarke said she too felt it would be wise to explore the possibility of the Recreation Commission being placed under the jurisdiction of the City or School District. She felt the Recreation Program is doing wonderful, and Mr. Claiborn's strong points are creating and managing programs. She did not want her comments to be a "slap" against the Recreation Commission, but rather a positive which would allow Recreation Commission personnel to focus on programs, which is their strong point.

Commissioner Rupp asked the City Manager if the City would be held responsible if the Recreation Commission should default. Mr. Zacharias said the City would be held responsible. The City is actually holding the note, and would have to make the payments if the Recreation Commission would default. Commissioner Rupp asked how likely is this to happen. The City Manager said it is possible, and that is why we have required the prepayment of the annual loan payment as a safeguard, and to make it less likely to happen.

Mr. Claiborn said the Recreation Commission would like to place each monthly prepayment in a Certificate of Deposit, the CD's would be cashed when the payment is due. Auditor Ken Beran suggested that each monthly payment to the City be placed in a Certificate of Deposit owned by the Recreation Commission, but held by the City.

City Manager Zacharias said if the CD method was used, our Bond Attorney would need to revise the Agreement to reflect the Certificate of Deposit concept.

Eber Phelps moved, Errol Wuertz seconded, that a Resolution authorizing the City to enter into a revised Interlocal Agreement between the City of Hays and the Hays Recreation Commission, be approved, and the Mayor be authorized to sign the Interlocal Agreement, provided the appropriate amendments are made to the agreement to require the Hays Recreation Commission to purchase a monthly Certificate of Deposit in the amount of \$2,917, and said CD's are to be held by the City of Hays.

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

Daniel Rupp moved, Jayne Clarke seconded, that City staff, the Recreation Commission, and the School Board explore the prospect of consolidating the Recreation Commission, Parks Department and Golf Course under one entity.

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

9. REZONING ORDINANCE: Joann Mace appeared before the Commission to request a zoning change from "R-S" Residential Suburban District to "C-2" General Commercial District for property located at 27th and Canterbury. Ms. Mace plans to use

an existing building located on the property as an antique shop. The property has recently been annexed into the City limits. The rezoning request has been approved by the Planning Commission. Prior to this, the Ellis County Commission denied her request for rezoning.

The neighboring property owners have appeared at an earlier meeting, and were present at this meeting to express opposition to the rezoning. Their main fear is if the property should ever be sold, the "C-2" zoning would allow a bar or a drinking establishment to be located on the property.

A lengthy debate took place, Commissioner Rupp said he would like to approve the rezoning, but is also sensitive to the concerns of the property owners. He hoped that some sort of compromise could be reached to appease the concerns of the neighboring property owners.

City Attorney Bird explained the various options available to the Commission according to State Statute as follows:

1. Approve the recommendation made by the Planning Commission by adopting the Rezoning Ordinance.
2. Override the recommendation of the Planning Commission by two-thirds vote.
3. Return to the Planning Commission for further consideration with a statement specifying the basis for failure to approve.
4. If the Planning Commission returns the request with their original recommendation, the City Commission may by simple majority adopt or turn down the request.

City Attorney Bird pointed out that the Planning Commission's recommendation is limited. The "C-2" Zoning is consistent throughout the City. It would be a matter of rewriting the ordinance concerning zoning. Spot zoning is not allowed. The only possible option would be for the land owner to have a restrictive covenant in place.

Commissioner Clarke said she has struggled with this issue, and wished there was a way to satisfy everyone, but that is not possible. Development is a fact of life, and that property will

be sought after for commercial development, and that is the most logical use for it.

Commissioner Wuertz pointed out that the property across the street from the property in question is already zoned "C-2". The present property owner has given a verbal guarantee that he would never allow a bar on his property. However, there is nothing to keep future owners from establishing a bar on the property.

Jayne Clarke moved, Eber Phelps seconded, that Ordinance No. 3359, being an ordinance rezoning a tract of land situated in the Northwest Quarter (N/W/4) of Section 35, Township 13 South, Range 18 West of the 6th P.M., more generally located at 2010 East 27th Street, City of Hays, Ellis County, Kansas from "R-S" Residential Suburban District to "C-2" General Commercial District, be approved.

Vote: Ayes: Sharon Leikam
Eber Phelps
Jayne Clarke
Errol Wuertz
No: Daniel Rupp

10. SPECIAL ASSESSMENT DISTRICT: Commissioner Wuertz said he would be abstaining from discussion and voting on this issue since he has the property in question listed for sale.

City Manager Zacharias said the City has received a petition signed by PTK General Partnership requesting the City to create a special assessment district to fund the paving of Columbine Drive and a portion of West 30th Street in the Country Club Estates Sixth Addition. As owners of 63.10 percent of the property within the proposed assessment district, the petition meets the statutory criteria of at least 51 percent for the formation of a special assessment district without notice and public hearing. The Commission needs to find the petition to be sufficient and then pass resolutions to create the district. The district has been developed in the same manner as other districts have been in the past. The estimated construction and engineering cost for the project is \$226,100 plus approximately

4 percent or \$8,900, for legal and issuance fees for a total estimated cost of \$235,000.

Attorney Ken Havner was present on behalf of PTK General Partnership. He said a half street will be constructed along the east side of Columbine. Assessments will be based on total square footage.

The proposed assessment was met with great opposition from property owners living on Oakmont Drive. They too will be assessed for the paving of Columbine Drive. They did not feel it was fair that side street residents are to be assessed under the same square footage formula as the property owners who front the road to be developed. Attorney Havner pointed out that this method of assessment is historically the same method used for past development projects.

Part of the debate comes from the different method of paying for the development of the street. The developer of the lots located on Oakmont paid for the street upfront and recouped the cost when the lot was sold.

One area resident pointed out that unless storm sewers are installed, paving the street could cause major drainage problems.

The Commission ended the debate by directing the City Attorney and Ken Havner, Attorney for the developer, to meet and further discuss the issue and report back to the Commission.

11. GOLF COURSE LEASE AGREEMENT: Errol Wuertz moved, Jayne Clarke seconded, that an agreement between the City of Hays and the State of Kansas for a 15 year lease of the front nine of the Fort Hays Golf Course, and a contract between the City of Hays and Neil DeWerff for mowing services for 1996, be approved.

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

12. PUBLIC WATER SUPPLY DISTRICT: City Manager Zacharias presented a draft agreement and bylaws between the City of Hays

and the City of Russell to create a Public Wholesale Water Supply District for review. This Water District would have a seven member body with four members appointed by the City of Hays and three members appointed by the City of Russell. The intent is that once the Board is established, the cities would then lease the water rights and all the assets of the R-9 Ranch to the Public Water Supply District. Thereafter, all activities relating to the R-9 Ranch would be managed by the Water Supply District.

13. CHANGE ORDER: Daniel Rupp moved, Jayne Clarke seconded, that Change Order No. 2 for Vine Street Improvement Project which reflects an additional deduct of \$1,175.50, be approved.

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

14. ADD-ON ITEMS: Park Director John Shaver presented a model of a wood carving done by local artist Lawrence Reynolds. Mr. Reynolds plans to do wood carvings of historic figures out of the dead tree stumps in Frontier Park. City Manager Zacharias said he has given Mr. Reynolds the go-a-head for this project.

The City Manager reported that he and Assistant City Manager Linton Bartlett, Commissioners Wuertz and Phelps attended a League of Kansas Municipalities legislative priority meeting in Topeka. Some of the legislature issues will be juvenile crime, spending lid and tax lid, State tax reform, and tax increment financing.

City Manager Zacharias said the City has the opportunity to submit a joint application with A-1 Plank for CDBG Funds. The grant proceeds of approximately \$360,000 would go toward paving Commerce Parkway. The remaining \$135,000 would be used by A-1 Plank to expand their operations. The Commission authorized City staff to proceed with the Grant Application.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board