

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON NOVEMBER 26, 1996

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays met in regular session, Tuesday, November 26, 1996, at 7:30 p.m.

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

**2. MINUTES:** Sharon Leikam moved, Jayne Clark seconded, that the minutes of the November 14, 1996, regular session, be approved.

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

**3. FINANCIAL STATEMENT:** Jayne Clarke moved, Eber Phelps seconded, that the Financial Statement for October, 1996, be approved.

City Manager Zacharias noted that sales tax collections to date are about \$28,000 below last year's collections for the same time period.

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

**4. CITIZEN COMMENTS:** Jerry Moran was present, and extended appreciation to the Commissioners for the service they have provided to the community. He stated he is proud to be a citizen of Hays, and to have been involved in the successes of

the community. As he embarks on a new phase in his life as U.S. Congressman, he and his family will continue to be actively involved in this community. He thanked the Commission for the positive experience he has had working with them in the past, and hopes to continue a favorable relationship in the future.

**5. COMMISSION INFORMATIONAL MEMORANDUM:** Commissioners Wuertz and Leikam expressed concern over the proposed rate increase for Cable TV services, and the effect it will have on citizens with fixed incomes. Commissioner Wuertz said other cities have a tiered rate with options, and he does not understand why such an option is not available to Hays Cable TV subscribers. City Manager Zacharias said the City has no control over Cable TV's rate structure as long as the rate is below the benchmark established by the Federal Communications Commission. He said he would invite Cable TV manager Pete Collins to the next meeting to answer any questions the Commission may have.

**6. CONSENT ITEMS:** Jayne Clarke moved, Sharon Leikam seconded, that the Mayor's recommended appointments to the Hays Convention and Visitor Bureau Advisory Committee, be approved, as follows:

- Jean Stephenson - Days Inn
  - Sabrina Collins - Best Western Vagabond Motel
  - Julius Legleiter - Midway Motel
  - Dr. Jerry Choate - at large member - Sternberg Museum
- Vote: Aye: Daniel Rupp  
Eber Phelps  
Jayne Clarke  
Errol Wuertz  
Sharon Leikam

**7. 17TH STREET PARKING:** At the September 12, 1996, City Commission meeting, the Commission considered the recommendation of the Traffic Advisory Committee to eliminate parking on the north side of 17th Street between Elm and Hall and between Milner and Allen. Several members of the public were in attendance at this meeting to express opposition concerning the elimination of parking in this area.

As a result of the discussion, the Commission requested

that the Traffic Advisory Committee reconsider their recommendation to eliminate parking in this area. It was suggested that parking be eliminated between the hours of 7:00 a.m. and 6:00 p.m. This would allow for an open roadway during the peak travel hours of the day, yet allow residents to park in this area during the evening hours.

The Traffic Advisory Committee did review the Commission's recommendation to eliminate parking in these areas only between the hours of 7:00 a.m. and 6:00 p.m. daily. It was the unanimous recommendation of the Committee members to **not** recommend this option due to the difficulty in enforcing restrictions, and establishing a time that will not cause undue hardship on residents in the area. Thus, it remains the recommendation of the Traffic Advisory Committee that parking be removed on the north side of 17th Street between Elm and Hall and between Milner and Allen, 24 hours a day, seven days a week.

Elmer Pfeifer, resident, 516 West 17th, said he strongly opposed the elimination of parking along 17th Street. He felt it would be a real inconvenience for the residents along 17th Street.

The Commission chose to take no action on the issue since the Traffic Advisory Committee had no strong feeling about the removal of parking. The Traffic Advisory Committee's only reasoning for removing parking was because it is a collector street, and the street is too narrow to have parking on both sides, and handle two lanes of traffic. The Commission felt there were not enough accidents to merit removal of parking along 17th Street. To do so would be a hardship on the residents who have no choice, but to park in the street.

**8. TRANSFER OF DOLLARS:** Lavern Squier, President of Public Wholesale Water Supply District No. 15 was present with a request to transfer the rental income from the R-9 Ranch to the Water Supply District. This transfer would be in exchange for management of the Ranch and coordination of the legal and administrative processes to allow water from the Ranch to be transferred to Hays and Russell.

The R-9 Ranch is currently leased to BET Farms on an annual cash rent basis of \$90,000 per year with the renters also being responsible for the payment of all property taxes. This income is then shared with the City of Russell on an 82 percent Hays/18 percent Russell basis. These funds have been used to pay for ranch management services including water quantity and quality studies, field tests, travel, legal fees, and expenses associated with the Water Supply District. As of October 31, 1996, a total of approximately \$84,400 was available to be transferred to the District, if the Commission approves this request. Since the District was created to manage the R-9 Ranch for both communities, it is appropriate that the income from the ranch be allocated to the District for their careful review and management.

City Manager Zacharias said the \$84,400 cash is the amount remaining from the annual payment of \$90,000 for 1995 and 1996. This does not include the anticipated payment of \$90,000 for 1997. The action would be to transfer the remaining \$84,400 less any expenses incurred since October 31, 1996, and the anticipated 1997 rental fee of \$90,000 to the District. It could very well be that the \$84,400 and the anticipated \$90,000 may not be enough depending upon the cost of legal fees. It may be necessary for both the City of Hays and the City of Russell to contribute additional dollars. Hays is fortunate to have the one-half cent sales tax dedicated to water exploration available for use if necessary.

Mr. Squier gave a slide presentation of data collected regarding water quality, quantity, and soil tests.

Mayor Rupp asked if this money is turned over to the District, will it be invested? City Manager Zacharias said the money will be placed in an interest bearing account, but it will not be invested long term. Large legal expenses associated with the Water Transfer Act are anticipated.

Mayor Rupp said he trusts the Water District, but questioned what advantage there would be to turning the money over to the District. He pointed out that the annual \$90,000

rental income and the one-half cent sales tax income will be needed for the pipe line. If the money is earning three to four percent interest, and the inflation rate is equal, what will we be gaining, and will the money be there when we need it for the long term water supply?

Mayor Rupp said past experience has shown that engineers and attorneys tend to recognize situations like this as a "fish on the line" and take advantage of it. Commissioner Clarke said she did not understand the point, the fees will have to be paid, regardless of whether the City or the District is paying. Mayor Rupp said the City Commission is ultimate responsibility for management of the money.

Mr. Squier said he has been involved in past city projects with engineers and feels the District will recognize if they are being preyed upon. He noted that the District is made up of representatives from both the City of Hays and City of Russell.

City Manager Zacharias said currently, the entire rental income is being managed by the City of Hays; this is not fair to the City of Russell. The Water District has representation from both cities.

Commissioner Leikam said it would be beneficial for the Water District to manage the rental income, but agrees with Mayor Rupp. The one-half cent sales tax needs to be dedicated to a long term water supply. She would like accountability reports from the District. City Manager Zacharias said there will certainly be reports of expenditures on a monthly basis if so desired. Any amount of money transferred to the District beyond the annual \$90,000 rental income would require Commission action.

Sharon Leikam moved, Eber Phelps seconded, that all residual rental income from the R-9 Ranch for 1995 and 1996, less expenses, and future income for 1997 be transferred to Public Wholesale Water District No. 15 in exchange for ranch management and legal services.

Mayor Rupp said he will support the issue, but at the same time, he expects the Water District to be good stewards of the

dollars, and to recognize the money will be needed in the future.

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

**9. WATER TOWER PAINTING:** Bids were opened on November 5, 1996 to paint the one-million gallon water tower. There was a base bid to paint the water tower with water in the tank under normal operating conditions and several alternates. Two bids were received. The base bids are as follows:

J. R. Stelzer & Co. Lincoln, NE	\$ 75,789
PAT Painting Odessa, MO	\$294,000
Engineer's Estimate	\$300,000

Brenda Cary, Assistant Public Works Director, said City staff recommends the bid of J. R. Stelzer & Company , Lincoln, NE, be accepted as follows:

Base Bid	\$ 75,789
Alternate No. 2 (paid by FHSU) (Paint Sternberg Museum - 2 sides)	\$ 15,150
Alternate No. 6	\$ 9,000
(Paint All-America City Logo - 1 side)	
Alternate No. 7	\$ 3,500
(Paint All-America City Logo - east side of north tower	
Total	\$103,439

Ms. Cary said City staff had reservations about accepting

the low bid since it was considerably less than the other bid and the engineer's estimate. Bucher, Willis and Ratliff engineer John Youll investigated the low bidder. He determined that they are reputable company, and have painted towers, one being the McPherson's water tower which contains a logo.

A total of \$400,000 has been budgeted for painting the water tower. The remaining funds will be used to finance the Water/Sewer Master Plan and an 800 radio system.

Jayne Clarke moved, Errol Wuertz, seconded, that the bid from J.R. Stelzer Company totaling \$103,439, which includes the base bid, Alternate No. 2, 6, and 7, for painting the one million gallon water tower, be accepted.

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

**10. BRIDGE PAINTING:** Public Works Director Elden Hammerschmidt said the City is in partnership with the Kansas Department of Transportation in their Bridge Rehabilitation Program to repair the Main Street Bridge. The Kansas Department of Transportation will pay 80 percent of the project, and the City will be responsible for remaining 20 percent.

This project has been planned for several years with \$15,000 allotted in the Special Highway budget. Due to the additional time and the expansion of the project, the City's share now is \$38,550. There are sufficient funds available in the Special Highway Fund to cover the additional costs.

Eber Phelps moved, Sharon Leikam seconded, that the Mayor be authorized to sign a resolution, and execute a contract with the Kansas Department of Transportation to paint the Main Street Bridge.

Vote: Aye: Daniel Rupp  
Eber Phelps  
Jayne Clarke  
Errol Wuertz

Sharon Leikam

**11. CHANGE ORDERS:** Sharon Leikam moved, Jayne Clarke seconded, that the following change orders be approved:

- A. Change Order No. 2 - Final for 41st Street Plaza First Addition, Phase 2, for a total deduct of \$2,158.98.
- B. Change Order No. 1 - Final for Canterbury Drive and Ash Street Railroad Crossing for a total deduct of \$14,833.38.
- C. Change Order No. 1 - Final for Sykes Boulevard for a total addition of \$3,442.50.
- D. Change Order No. 2 - Final for Columbine Drive Improvements for a total addition of \$2,934.50.

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

**12. 12TH STREET IMPROVEMENTS:** This project will be bid in December, 1996, with construction scheduled for 1997. Also included in the bids will be the Railroad Crossing at Fort Street.

The 12th Street Project will include replacing the pavement from the west edge of the 12th, Elm, and Hall intersections west to the 12th Street bridge over Big Creek. Storm sewer work will be included to improve the drainage in the 12th, Elm, and Hall Intersection. An alternate will involve the replacement of valley gutter between Hall and 12th Streets.

The estimated cost of the 12th Street portion is \$313,900 including engineering. The 12th Street cost will be financed with general obligation bonds.

The Fort Street Railroad crossing will be paid out of the Special Highway budget. The estimated cost is \$45,000.

**13. PAY PLAN:** City Manager Zacharias presented a Resolution which reflects the recommended job classification and salary

schedule for 1997. The 1997 payroll year begins December 15, 1996.

Errol Wuertz moved, Jayne Clarke seconded, that Resolution No. 225, being a Resolution establishing job classifications and pay plan for the payroll year 1997, be approved.

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

**14. FLEXIBLE BENEFIT PLAN:** City Manager Zacharias presented a Resolution which gives the City Manager the authority to sign two amendments, one being an amendment to the actual Flexible Benefit Plan, and the other to the City's Medical Reimbursement Plan. The amendments address the following issues:

1. the legalities involved when an employee that participates in our Flex Plan applies for, and is granted leave under the Family Medical Leave Act; and
2. an employee that resigns from employment, and has been a member of our Flex Plan can apply for reimbursements that he/she has paid into the plan, but the reimbursements must be for bills incurred prior to his/her termination date.

These amendments to the plan are in accordance with recent changes made by the Federal Government in relation to Flexible Benefit Programs. The City has no option but to adopt them if the City wishes to continue to provide a Flex Plan for employees.

Errol Wuertz moved, Eber Phelps seconded, that Resolution No. 226, being a Resolution amending the City's Flexible Benefit Plan to be in line with new Federal regulations, be approved.

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

**15. COMMISSION SELECTION PROCESS:** City Manager Zacharias said Commissioner Phelps has indicated he plans to resign his position effective January 13, 1996, to fulfill a term as State Representative. Commissioner Phelps' term as City Commissioner will expire in April, 1999. According to State Statute, the remaining City Commission must select a replacement to fill the balance of the unexpired term within ten (10) days of the expected effective date, or January 13, 1997. Fortunately, January 23, 1997 is a regularly scheduled Commission meeting.

The City Manager presented the following options for selecting a replacement to fill Commissioner Phelps' unexpired term:

- A. Appoint the fourth vote getter in the last City Election.

This option is particularly appealing in those instances when a vacancy occurs relatively short following the election.

- B. Independent City Commission discussions in open session.

This option has typically been used in cases where Commissioners feel strongly about a potential replacement, or in cases where a limited set of qualified replacement candidates is easily derived by the existing remaining Commissioners.

- C. Selecting the person receiving the fourth highest number of votes in the upcoming April Election.

This option is rarely used to fill a Commission vacancy. In order to make this option successful the Commission must first find an appropriate replacement who would agree to resign the office following the April election.

- D. Request and review of qualified replacements.

If this option is used, it has been suggested that a letter of interest along with a resume be submitted by potential replacements to the City Commission by

December 9, 1996. The potential replacements could be reviewed by the City Commission at the December 12, 1996, Commission meeting, and paired down to a manageable number that could then be asked to a public forum to be scheduled later in December or early January. The Commission could then allow a time for public comment on the various possible replacements.

Commissioner Wuertz stated he liked option D. Commissioner Clarke said she leans toward Option A or D. Commissioner Leikam said she preferred Option A or C. Commissioner Phelps said he liked Option D. Mayor Rupp said he also liked Option D.

Commissioner Leikam said she believes the people should speak, and the person should be someone who has had to campaign and worked, and not simply handed the position. She spoke with former Commissioner Robert Albers, and he has agreed to fill the position from January to April. He stated very adamantly that he would resign the position in April, 1997.

Commissioner Leikam felt Option D would be a very lengthy process, with the ultimate decision resting on the Commission.

Commissioner Clark said the only drawback to Option C would be the new Commission elected in April 1997 would not be bound by a decision made by the present Commission. The various options were debated at length by the Commission.

Error Wuertz moved, Daniel Rupp seconded, for purposes of discussion that Option D be used for selecting a replacement for Commissioner Phelps.

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

Jayne Clarke moved, Sharon Leikam seconded, that the fourth vote getter in the previous election be appointed to fill the unexpired term of Commissioner Phelps.

Vote: Aye: Jayne Clarke  
                    Sharon Leikam

Nay: Daniel Rupp  
Eber Phelps  
Errol Wuertz

Errol Wuertz moved, Eber Phelps seconded, that Option C which designates the fourth vote getter in the April 1997 election, be appointed to fill the unexpired term of Commissioner Phelps.

Vote: Aye: Daniel Rupp  
Eber Phelps  
Errol Wuertz  
Sharon Leikam

Nay: Jayne Clarke

Jayne Clarke moved, Sharon Leikam seconded, that the City Manager visit with former Commissioner Robert Albers, and tender an offer to him to fill the unexpired term of Commissioner Phelps until April, 1997, at which time the fourth vote getter will replace Robert Albers.

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

**16. ADD-ON ITEMS:** Commissioner Leikam said she has received a number of calls regarding cars in the parking lot of the new dry cleaners located at 24th and Vine Streets blocking the view of motorists pulling onto Vine from 24th Street. She personally witnessed an accident at that particular intersection.

She asked the City Manager to investigate the issue.

Thereupon the Governing Body adjourned.

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

Clerk of the Board

