

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON OCTOBER 10, 1996

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays met in regular session, Thursday, October 10, 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: Jayne Clarke moved, Sharon Leikam seconded, that the minutes of the September 26, 1996, regular session, be approved.

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

3. CITIZEN COMMENTS: There were no comments.

4. COMMISSION INFORMATIONAL MEMORANDUM: There were no questions or comments.

5. CONSENT ITEMS: There were no consent items.

6. ORDINANCE DISSOLVING HAYS BUSINESS IMPROVEMENT DISTRICT:

City Attorney John Bird reviewed the recent developments that have occurred regarding opposition to the Hays Downtown Business Improvement District. Kansas statute states that every time there is a change in the amount of fees levied, there is to be an ordinance passed adopting those changes. In years passed, the Commission did not pass a separate ordinance, however, those

changes were incorporated into the Budget Ordinance. That procedure was challenged in Small Claims Court by some business owners who did not pay their assessment fees. The litigation was put on hold at the request of the attorneys until the necessary ordinance was passed. As a result, the City Attorney recommended a separate ordinance be passed establishing the levied fees. The statute that governs Business Improvement Districts also allows for a petition dissolving the Improvement District to be filed with the governing body within 45 days following publication of the Ordinance. If a petition signed by over 50 percent of the businesses in the district is submitted, the City Commission must by State Statute approve an ordinance disbanding the district. A petition was filed with the City Clerk on September 27, 1996, within the 45 day time limit. This petition contains signatures of 118 business owners desiring to have the BID dissolved. This number exceeds 50 percent of the businesses within the District. The petition and the signatures have been verified by the City Attorney, who has found them to be sufficient in form and substance. Mr. Bird recommends the City Commission pass Ordinance No. 3388 to dissolve the BID at the end of this year. The litigation that was put on hold in Small Claims Court would then be moot, and there would not be any further legal fees for either the City or the opponents. Any unencumbered funds left over after the BID is dissolved would be returned to the businesses on a prorated basis.

Sharon Leikam asked if this would have any effect on the improvements along the railroad corridor in downtown Hays. City Manager Zacharias stated the project will proceed as planned. The BID has pledged \$10,000, and it will be their decision to disburse those funds to the City for the project. Mrs. Leikam also questioned why, if the businesses were so unhappy, has it taken ten years for this to surface.

Don Staab, attorney for the opponents of the BID, stated many people have been unhappy since the commencement of the BID. They do not feel the BID has benefitted them in any way, and are tired of taxes and bureaucracy. Mr. Staab stated he felt this

organization should be a voluntary group of individuals wishing to join together to promote the downtown.

Mayor Rupp said he felt the majority of people opposing the BID were upset not with the actual taxes, but how the money was spent.

Nicole Hendrix and Stephanie Schumacher, representing the BID, appeared before the Commission. Mrs. Schumacher expressed her surprise at the quick action taken by the City Attorney in verifying the signatures and preparing the dissolution ordinance. She felt the BID did not receive solid support from the Commission during the last ten years, both verbally and financially. Mrs. Schumacher stated she and her fellow board members are proud of the BID and all that has been accomplished.

Mayor Rupp responded by saying the City Commission has supported the BID by repairing and improving the parking in downtown Hays, rebricking Main Street, installing pedestrian lighting, and contributing to the construction of the Union Pacific Park.

The Mayor and the Commission commended the group for their efforts and encouraged the BID to continue pursuing cooperation among the downtown merchants on a voluntary basis.

Eber Phelps moved, Jayne Clarke seconded, that Ordinance No. 3388, being an ordinance repealing Ordinance No. 3124 and Ordinance No. 3174 and dissolving the Greater Downtown Business Improvement District of Hays, Kansas, and ordering the affairs of the District wound up as provided for in K.S.A. 12-1789, be approved.

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

7. ZONING & SUBDIVISION REGULATION MODIFICATION: Jason Bell and Mike Akers have initiated a request to modify item No. 7 in the "A-L" Agricultural Zoning District Use Regulations to clarify verbiage as to what is allowed on agricultural zoned

land. They are in the process of establishing a driving range initially (which is presently allowed under the current interpretation of the regulations) and may plan to establish a putt-putt facility in the future. After a public hearing was held on September 16, 1996, the vote to allow driving ranges without exception was passed by a vote of 5-1.

The Planning Commission voted 3-3 on the item which would allow putt-putt and pitch and putt under a Special Use Permit, through the Board of Zoning Appeals. This vote equates to a vote not to recommend approval. There were three members of the Planning Commission not present at that meeting. If this were sent back to the Planning Commission, and a vote is taken when all of the members were present, the outcome could be different.

Eber Phelps moved, Jayne Clarke seconded, that the Planning Commission's recommendation to clarify existing zoning and subdivision regulations to allow driving ranges in the "A-L" Agricultural Zoning District Use Regulations, item No. 7, be approved.

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

Errol Wuertz moved, Jayne Clarke seconded, that the issue of allowing putt putt and pitch and putt under a Special Use Permit through the Board of Zoning Appeals, be sent back to the Planning Commission for reconsideration since not all Planning Commission members were present when the vote was taken.

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

8. STREET VACATION: Fort Hays Auto Sales, Inc. has requested a vacation of a portion of 9th Street that is bound on the west by the Montgomery Street Ditch and on the east by railroad right-

of-way. The vacation will allow a future structure to be placed on the north property line of the lots without regard to current setback requirements. All utility companies have approved this request, with the exception of Midwest Energy, which requires that an easement be retained for a existing high pressure gas line within the street right-of-way.

Jayne Clarke moved, Eber Phelps seconded, that Ordinance No. 3389, being an ordinance vacating all of Ninth Street lying east of the Montgomery Street ditch and west of Riley Street extended north in the City of Hays, Kansas, be approved.

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

9. ANNEXATION: Earlier this year, the City agreed to annex the area replatted as Frontier City Subdivision Second Addition, owned by Randy Schlitter. A correction to that annexation is needed to incorporate all property owned by Mr. Schlitter. City Manager Zacharias recommends the City Commission adopt Resolution No. 224 concerning the annexation of an additional 2.131 acres of property into the City of Hays. Following acceptance of this resolution, it will be forwarded to the County Commission for their review and acceptance. Following County Commission action, an ordinance will be drafted for City Commission approval.

Sharon Leikam moved, Errol Wuertz seconded, that Resolution No. 224, being a resolution regarding annexing land to the City of Hays, Kansas, be approved.

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

10. TEMPORARY NOTES: Bids were received for the purchase of \$710,000 in Temporary Notes to finance the construction of Sykes

Boulevard, 41st Street Plaza First Addition - 2nd Phase, and Columbine Drive, as follows:

<u>INTEREST RATE</u>		
Commerce Bank		
Kansas City, MO		4.210 %
United Missouri Bank		
Kansas City, MO	4.133 %	
Emprise Bank		
Hays, KS	4.19 %	
Sunflower Bank		
Hays, KS	4.41 %	
Boatman's Bank		
St. Louis, MO	4.12 %	
Golden Belt Bank		
Hays, KS	4.45 %	

Eber Phelps moved, Sharon Leikam seconded, that Resolution No. 223, being a resolution authorizing the purchase of \$710,000 in temporary notes to finance the construction of Sykes Boulevard, 41st Street Plaza First Addition - 2nd Phase, and Columbine Drive, be approved, and further that the low bid from Boatman's Bank, St. Louis, MO, at an interest rate of 4.12 percent, be accepted.

Commissioner Clarke noted that she would abstain from voting since her husband, as financial officer of Emprise Bank, participated in the bid process.

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

Abstain : Jayne Clarke

11. ADD-ON ITEMS: The Commission commended Airport Manager Joe Englert and Gary Sechrist for their efforts during the recent performance by the Canadian Snow Birds.

Sharon Leikam and Eber Phelps also passed on congratulations they received at the League of Municipality meeting concerning Hays being chosen an All America City.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board