

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON SEPTEMBER 12, 1996

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays met in regular session, Thursday, September 12, 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:** Eber Phelps moved, Sharon Leikam seconded, that the minutes of the August 22, 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:** Commissioner Leikam extended appreciation to Public Works Director Elden Hammerschmidt and Public Works Superintendent Don Larson for obtaining a crack sealer for street repairs. It was a good buy, and will save the taxpayers a great deal of money.

City Manager Zacharias announced that L & R Recycling will no longer accept recyclables. The City's Recycling Program will continue as usual with no change in fees or method of collection.

**5. CONSENT ITEMS:** Sharon Leikam moved, Jayne Clarke seconded, that a Lease Agreement between the City of Hays and the Volga German Society for the use of Frontier Park for the annual

Oktoberfest to be held, Friday, October 4, 1996, be approved, and a Cereal Malt Beverage License be issued to the Volga German Society for the Oktoberfest Celebration.

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

**6. TAX ABATEMENT:** Mayor Rupp opened a public hearing to receive comments regarding a ten year personal property tax abatement for Yuasa Exide, Inc.

There being no comments, Jayne Clarke moved, Eber Phelps seconded, that the public hearing be closed.

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

Jayne Clarke moved, Sharon Leikam seconded, that Ordinance No. 3382, being an ordinance exempting certain property from Ad Valorem Taxation for economic development purposes, be approved.

Commissioner Leikam said this has been a difficult issue. People have called and said they feel that people who have been in business for years are being ignored. She said the loss of 400 jobs by not approving the tax abatement would be detrimental to all businesses in Hays.

Commissioner Clarke said she too felt this was a difficult decision. She does not like giving second tax abatements. However, she felt that the benefits of the annexation could not be overlooked. In the year 2000, the City will gain an additional \$90,000 in property tax revenue. That amount represents approximately one mill.

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

Sharon Leikam

City Manager Zacharias noted that Attachment A which is the employment investment and payment in lieu of taxes agreement prepared by the Ellis County Coalition for Economic Development, Yuasa Exide, and the City Attorney is in final form and should be signed by the Mayor following approval of the Ordinance.

**7. REMOVAL OF PARKING:** City Manager Zacharias said this issue involves the removal of parking on the north side of Seventeenth Street between Elm and Hall, and between Allen and Milner. Seventeenth Street has been listed in the Comprehensive Plan as a "collector" Street. The majority of this roadway between Vine and Hall has parking removed from the north side except the areas between Allen and Milner, and between Elm and Hall. Parking has been removed to allow two-way traffic that would otherwise be impeded on this narrow street. This issue was reviewed by the Traffic Advisory Committee over several meetings. Additionally, the policy of establishing Seventeenth Street from Vine to Hall as a collector street was recently reconfirmed by the Planning Commission.

In order to provide unimpeded traffic flow for this collector street, it is recommended that parking be removed on the north side of Seventeenth Street between Allen and Milner and between Elm and Hall Street.

A petition signed by property owners residing in the 400 and 500 blocks of East Seventeenth Street protesting the removal of parking on the north side of the street was presented to the Commission. Several citizens residing on Seventeenth Street who would be affected by the no parking spoke to the issue. They felt parking would be a real problem. Some houses are multifamily and have more than one car per family. The residents also fear that the street will become a speedway.

A lengthy discussion took place regarding the parking issue. One citizen favored widening the street rather than removing parking on the north side.

Mayor Rupp felt the present situation is discriminatory. Parking restrictions should be consistent along the entire

street.

Commissioner Phelps said Seventeenth Street is the only collector street between Thirteenth Street and Twenty-seventh Street. Returning Seventeenth Street to a residential street is sure to impede traffic flow.

One citizen suggested placing a time limitation on parking along 17th Street, such as no parking during times of peak traffic (7:00 a.m. to 6:00 p.m.)

Planning Commission members Jolene Niernberger and Dr. Larry Gould both spoke on behalf of the Planning Commission. Dr. Gould said the Planning Commission's perspective was the street was designated as a collector street for efficiency of traffic flow. The opening of O'Loughlin School has created an increase of east/west traffic. Ms. Niernberger felt Seventeenth Street was needed as a fire truck route.

The City Commission sent the parking issue back to the Traffic Advisory Committee for an opinion as to whether timed parking on Seventeenth Street would be a viable option.

**8. ANNEXATION:** City Manager Zacharias said the proposed ordinance authorizes the annexation of 1.375 acres of property located east of Highway 183, north of Interstate-70. This property is currently owned by Michael Gaughan and James Rohleder who have successfully obtained permission from the County to have the City annex this property. Annexation will allow the veterinary clinic to be connected to City water at the reduced in-town rate. In exchange for this connection, Mr. Gaughan and Mr. Rohleder have been asked to sign an agreement which will assure that neither they, nor future property owners, will be able to protest the creation of a special assessment district to place water lines (on the east side of Highway 183) and sewer lines to service their area. Previous efforts were made to create such a special assessment district, but was not viewed with favor by the property owners in the area.

Errol Wuertz moved, Jayne Clarke seconded, that Ordinance No. 3383, being an ordinance annexing property located east of Highway 183 and north of Interstate-70 owned by Michael Gaughan

and James Rohleder, be approved.

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

**9. PLANNING COMMISSION ISSUES:**

**A. Rezoning:** Building Inspector Kent Laas said due to an oversight, 41st Plaza First Addition was never rezoned to accommodate the development. Single family homes are currently being built within the First Addition. The processing of the rezoning request for the Second Addition revealed this oversight, so the two requests have been processed together.

Jayne Clarke moved, Eber Phelps seconded, that Ordinance No. 3384, being an ordinance rezoning a tract of land situated in Lots One (1) through Fifteen (15), Block One (1), Lots One (1) through Fifteen (15) Block Two (2), Lots One (1) through Ten (10), Block Three (3), 41st Street Plaza First Addition, and Lots One (1) through Ten (10), Block One (1), and Lots One (1) through Seventeen (17), Block Two (2), 41st Street Plaza Second Addition, from "A-L" Agricultural to "R-2" Single Family Dwelling District, more generally located north of 41st Street and West of Hall Street, City of Hays, Ellis County, Kansas, be approved.

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

**B. Preliminary Plat:** A preliminary plat for Arbor Valley Estates was presented for consideration. Building Inspector Laas said this plat was approved by the Planning Commission.

Chairman Gould said a Resolution has been passed which will not allow a preliminary and final plat to be approved at the same meeting. It prevents input from the citizenry regarding the plat. If time were not a factor, we would have studied this

plat a little further and made some recommendations.

Chairman Gould said he has a problem with the way development has been going in the past decade . We talk a lot about loss of neighborhood and a number of things relating to family values. There was a chance for this development to create that sense. He personally felt the development looked very typical and plain. If the developer had provided a courtyard or common space, the development would have been more aesthetically appealing.

Sharon Leikam moved, Jayne Clarke seconded, that the Preliminary Plat for Arbor Valley Estates, be approved.

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

**C. Final Plat:** Eber Phelps moved, Jayne Clarke seconded, that the Final Plat for Arbor Valley Estates, be approved.

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

**D. Site Plans:** Site Plans were presented for businesses owned by Kim and Ben Staab located at 2203 East 13th Street, Hardee's Inc. located at 3505 Vine Street, Applebee's Inc. located at Highway 183 and Mopar Drive. Building Inspector Laas reviewed the site plans.

Planning Commission Chairman Gould said requiring a site plan is a new process, and needs to be fine tuned. The present Site Plan Ordinance requires a Site Plan for any building permit with a ten percent change in terms of value of property, and size of construction. The Site Plan needs to be approved by the Zoning Administrator and Planning Commission, and then sent to the City Commission for final approval. This process is quite time consuming. We may not want to continue this process with

regard to building permits.

Eber Phelps moved, Jayne Clarke seconded, that the Site Plans for Ben Staab, 2203 East 13th, Hardee's Inc., 3505 Vine, and Applebee's Inc., Highway 183 and Mopar Drive, be approved.

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

Kim Staab said their Site Plan was approved by the Planning Commission on Monday, August 19, 1996. On Tuesday, the Staabs contacted the Building Inspector's Office and requested to have their site plan considered at the Thursday, August 22, 1996 Commission Meeting. They were told they were too late to be placed on the agenda, and would have to wait three weeks. However, a request for Site Plan approval for Juenemann First Addition made at 5:00 p.m. on the day of the meeting by Commissioner Wuertz was placed on the agenda as an add-on item. Commissioner Wuertz said he had contacted the City Manager earlier than 5:00 p.m. Ms. Staab said they were willing to follow the rules, and do the right thing, however, the rules should apply to everyone.

Commissioner Clarke said she thought everyone learned from the incident, and thanked the Staabs for their patience.

Commissioner Rupp thanked the Staabs for their patience. He said he realizes it has been difficult. The Commission sometimes has to take action that is not desirable.

City Manager Zacharias also thanked the Staabs for their patience. He apologized and said we have learned from this process, and intend to stick with policy in the future. When Commissioner Wuertz approached him about this issue, he thought Commissioner Wuertz was acting as a Commissioner. Commissioner Wuertz felt he was approaching him as a realtor.

Commissioner Leikam said she too wished to apologize. She did not feel good about what happened, and will make a promise that she will never allow such an incident to happen again.

Add-on items should be limited to simple routine matters.

**E. Easement Agreements:** Eber Phelps moved Sharon Leikam seconded, that a Water Line Easement between the City of Hays and James H. Stevens and Ann M. Stevens to allow paved parking over the City's water line easement to accommodate Applebee's Restaurant, be approved.

City Manager Zacharias noted that any cost of repairs which require removal and replacement of the pavement will be paid by the Stevens.

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

**10. LICENSE REVOCATION ORDINANCE:** City Manager Zacharias said the proposed ordinance sets out specific procedures by which complaints against contractors must be processed. It establishes a hearing process under which the Trades Board makes "findings-of-fact" and gives recommendations to the Chief Building Inspector. It provides an appeals process through the City Commission, and provides sanctions for contractors engaging in the occupation while their license is suspended.

Sharon Leikam moved, Jayne Clark seconded, that Ordinance No. 3385, being an Ordinance providing a regular procedure for the revocation of a Contractor's License, granted pursuant to Section 6-32, Et. Seq., of the Book of Ordinances of the City of Hays, Kansas, and amending Section 6-39 of the Book of Ordinances of the City of Hays, Kansas, be approved.

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

**11. ROLLER HOCKEY AREA:** Hays Recreation Commission Director Rick Claiborn was present, and requested permission to use the old tennis courts on south Main as a roller hockey court. Plans

are to build a flat slab of concrete with a roller hockey court painted on it. There will be no cost to the City for this project. All costs will be paid by donations.

Mayor Rupp asked if there are any liability issues the City should be aware of. Mr. Claiborn said in checking with other cities who have skate board parks, liability has not been a problem. City Attorney Bird pointed out that the legislature has exempted recreational facilities from liability.

Mr. Claiborn said a short fence would be built to keep the balls from going into Main Street.

Eber Phelps moved, Sharon Leikam seconded, that a request from the Hays Recreation Commission to convert the old tennis court area at Frontier Park into a roller hockey area, be approved.

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

**12. ENGINEERING AGREEMENTS:** A contract between the City of Hays and Bucher, Willis and Ratliff to provide engineering services for the placement of water lines, sewer lines, and streets in 41st Street Plaza Second Addition was presented. The total cost for all engineering work is a not-to-exceed amount of \$45,000. It is planned that this work can be completed this fall for bid this winter with construction being completed in early spring of 1997.

The cost of the project should be paid by a yet to be established special assessment district including all property within the 41st Plaza Second Addition. The City will be responsible for a portion of those costs that are associated with intersections and any appropriate water and sewer mains.

This project will be contingent upon the next item for your consideration which is a storm drainage study.

A contract was presented for engineering services with Bucher, Willis and Ratliff to conduct a storm drainage study to

the north of 41st, east of Smoky Hill Drive, west of Hall Street, and south of Interstate-70.

City Manager Zacharias said the cost of this study is a not-to-exceed amount of \$8,675. Financing for this study would come from the Special Highway Fund. It is suggested that this expense be recouped through time by assessing any developer platting property in the area on a square footage basis.

Jayne Clarke moved, Sharon Leikam seconded, that a contract with Bucher, Willis and Ratliff to design and inspect street, water line, and sewer line improvements associated with 41st Plaza Second Addition, be approved, and an engineering contract with Bucher, Willis and Ratliff to provide stormwater engineering for an area associated with 41st Plaza First and Second Addition to the City of Hays.

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

The Commission also directed city staff to develop a policy to recoup expenses paid for storm drainage studies from developers platting within the area.

**13. SCHOOL ZONE ORDINANCE:** Errol Wuertz moved, Sharon Leikam seconded, that Ordinance No. 3387, being an Ordinance amending Section 25-133 of Article V, Chapter 25, of the Code of Ordinance of the City of Hays, Kansas, as amended by Ordinance No. 3271, as passed on September 24, 1992, and as published on September 30, 1992, by adding thereto 27th Street, from Canterbury Street to the east city limits, in the City of Hays, Kansas, as a School Zone, be approved.

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

**14. SPEED LIMIT ORDINANCE:** Errol Wuertz moved, Sharon Leikam

seconded, that Ordinance No. 3386, being an Ordinance amending Section 25-133 of Article V, Chapter 15, of the Code of Ordinances of the City of Hays, Kansas as amended by Ordinance No. 3224, as passed on November 8, 1990, and as published on November 16, 1990, by establishing a maximum speed limit of 40 miles per hour on 8th Street from the intersection of Vine Street to the east city limits, be approved.

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

**15. STREET TASK FORCE:** City Manager Zacharias said a task force is being established to study City streets and establish priorities for repairs, determine costs of those repairs, and ultimately explore various ways of financing the repairs. Five people have volunteered to serve on the Task Force. We are still needing two more people.

Errol Wuertz moved, Sharon Leikam seconded, that the following people be appointed to the Street Task Force:

Tom Wasinger Sue Boldra  
Jayne Clarke Mike Michaelis  
Carl Parker

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

**16. HOUSING AUTHORITY CONTRACT:** Sharon Leikam moved, Eber Phelps seconded, that Resolution No. 221, being a resolution amending a Resolution of the City of Hays, Kansas passed on the 14th Day of February, 1974, relating to payments in Lieu of taxes by the Hays Housing Authority, be approved.

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

**17. ADD-ON ITEMS:** City Manager Zacharias reviewed the Community Police Training schedule with the Commission.

City Manager Zacharias announced that the City of Hays has received a Solid Waste Grant totaling \$26,647 to help with the City's Recycling Program.

Commissioner Wuertz congratulated the returning 388th Unit of the National Guard who have returned from the Persian Gulf.

Commissioner Wuertz congratulated the National Merit Scholarship semi-finalists at Hays High School.

Commissioner Clarke observed that the Commission has dealt with a lot of growing issues during this meeting, i.e., rezoning, site plans, parking, water drainage. Growth is great, and we have a lot to be thankful for, as we struggle with the good and the bad.

Thereupon the Governing Body adjourned.

Submitted

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

Clerk of the Board