

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON NOVEMBER 13, 1997

1. CALL TO ORDER: The Governing Body of the City of Hays, Kansas met in regular session, Thursday, November 13, 1997, at 7:30 p.m.

Roll Call: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

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

2. MINUTES: Sharon Leikam moved, Howard Rome seconded, that the minutes of the October 23, 1997, regular session, be approved.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

3. CITIZEN COMMENTS: There were no comments.

4. COMMISSION INFORMATIONAL MEMORANDUM: City Manager Zacharias stated that a CDBG Grant for water line improvements on south Vine Street has been denied. Staff is in the process of reviewing the grant application and will determine how the application can be submitted to receive funding.

City Manager Zacharias stated he has signed an amendment to our Economic Development Administration Grant for Sternberg Drive. The amendment extends the completion date for the roadway from October 27, 1997, to January 27, 1998.

Commissioner Rome stated that flights west to Denver will take effect January 7, 1998.

5. CONSENT ITEMS: Wayne Billinger moved, Sharon Leikam

seconded, that Tom Robinson be appointed to the National Organization on Disability.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

The appointment of a City Commission representative to the Ellis County Coalition Board of Directors was delayed until a later date.

6. EPA REGIONAL AWARD: Mayor Clarke presented an award to Steve Leiker, Superintendent of the Wastewater Treatment Plant. The Hays Wastewater Treatment Plant received a Region VII Operations & Maintenance Excellence Award in the category of Advanced Treatment for plants that treat more than one but less than 10 million gallons a day of wastewater.

7. AMERICA RECYCLES DAY: Brenda Cary, Assistant Director of Public Works, addressed the Commission regarding "America Recycles Day" to be held on November 15, 1997. This is a national event designed to raise consumer awareness of the economic and environmental benefits of recycling. Citizens may fill out pledge cards pledging to recycle more and buy recycled products. A drawing of the pledge cards will be held. Local merchants have donated prizes made out of recycled products. All pledge cards will be forwarded to Washington D.C. for a chance to win a grand prize.

8. KDHE GRANT APPLICATION: Brenda Cary, Assistant Director of Public Works requested approval from the City Commission to apply for a grant to purchase some capital equipment in order to enhance the existing Blue Bag Residential Recycling Program, improve safety for our refuse/recycling crews, and to expand the program. The grant is 75% (\$52,500) from the state with a 25% (\$17,500) match from the City. The \$70,000 would purchase compacting units, containers and hoppers.

Howard Rome moved, Troy Hickman seconded, that the Mayor be authorized to sign a grant request for compactors, containers

and hoppers to be used in the Hays Recycling Program.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

9. KDHE CONTRACTS: A request for composting equipment was awarded in Round #4 of the Kansas Competitive Solid Waste Plan Implementation Program. The State will provide 75% (\$37,337.35) with a 25% (\$12,445.75) match from the City. The equipment will be purchased after the first of the year.

Wayne Billinger moved, Sharon Leikam seconded, that the Mayor be authorized to sign a contract with KDHE accepting a grant in the amount of \$37,337.35 for purchase of composting equipment.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

10. HAYS RECREATION COMMISSION BUILDING: Rick Claiborn, Superintendent of the Hays Recreation Commission, addressed the Commission regarding the possible purchase of an existing building at 1105 Canterbury Drive. The cost of the building is \$275,000. \$50,000 has been donated toward the renovation of the front 5,000 square feet. Additional donations have been promised.

The purpose of buying this building would be to convert it to a programming base for the Recreation Commission. Currently, the majority of the programs are indoor programs which are offered at a variety of locations throughout Hays. Mr. Claiborn is requesting the City of Hays to facilitate the financing by way of a lease/purchase agreement in order to receive a low interest rate. State statutes allow Recreation Commissions to purchase facilities by going through either the city or school district. USD 489 finance law limits their ability to handle

this project. They have limitations on how they can spend their funds.

Three options are available for funding this project: raising the mill levy, raising program fees, or purchase within their existing budget. The HRC Board of Directors has decided to purchase the building within their budget, if the City would give assistance. HRC is asking the City to arrange a loan through a bank or the City's cash reserves, then pass the annual debt cost onto the HRC.

Mayor Clarke asked the City Attorney if the City could do what Mr. Claiborn was requesting. City Attorney John Bird stated the City could enter into a lease/purchase agreement or purchase the building with unencumbered funds and then get repaid by the HRC.

Commissioner Billinger asked if USD 489 would be willing to cost-share the risk. Mr. Claiborn stated USD 489 Superintendent Fred Kaufman did not think USD 489 could have their name on a title for land that is not used for school purposes.

Attorney Bird stated he did not know of any impediments on the school district's part, other than budgetary constraints, to participate in a lease/purchase. Both entities have the ability to do cooperative projects.

Mr. Clairborn said the HRC has an option to buy this building until November 28th. Due to the timing of scheduled meetings, HRC decided to appear before the City Commission and seek their support. USD 489 may be approached at a later date when the back portion of the building will be renovated.

Mayor Clarke stated she would prefer to have more time to think about the matter, however, she realizes that the timing is important. She asked what would be the worst thing to happen if HRC defaulted on the loan? Attorney Bird stated it would depend on how the agreement is structured. The City could acquire the building and/or lose the revenue from funds that otherwise would be invested. There are other lease/purchases where you can walk away.

Sharon Leikam moved, Howard Rome seconded, that City staff

work with Hays Recreation Commission to develop a lease/purchase agreement to assist in the purchase of the building at 1105 Canterbury Drive, using commercial resources as the funding source, rather than City reserves.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

11. 46th Street Addition: Community Development Coordinator Kent Laas presented the final plat for 46th Street First Addition. The plat contains 59 lots and is connected to 41st Street Second Addition by Madison Drive and Smoky Hill Drive. The remaining area between the two subdivisions is not platted at this time, but is within the City Limits, and it has been suggested by the developer that this will be the next phase of development. Utilities are being planned and designed to extend through this undeveloped area to serve the 46th Street Addition with provisions in place to access those utilities at such time as development takes place between the two developed areas.

Sharon Leikam moved, Troy Hickman seconded, that the final plat of 46th Street Addition, be approved.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

An ordinance rezoning 46th Street Addition from "A-L" Agriculture to "R-3N" Neighborhood District. This is a new zoning district which was recently created to allow a higher one and two family dwelling density. It is intended to promote "traditional" neighborhood qualities and services by allowing retail sales of specified convenience goods and services with a Special Use Permit. A key element of this new district is the reduced front, side and rear yard setbacks. This zoning change has been unanimously approved by the Planning Commission.

Howard Rome moved, Troy Hickman seconded, that Ordinance No. 3420, being an ordinance rezoning a tract of land situated in the west half (W/2) of the Southeast Quarter (SE/4) of section twenty (20), Township Thirteen (13) South, Range Eighteen (18) West of the Sixth Principal Meridian, Ellis County, Kansas, more generally known as 46th Street Addition, Ellis County, Kansas, from "A-L" Agriculture to "R-3N" Two Family Neighborhood District, be approved, with a slight modification to the legal description.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

An agreement for 46th Street Addition between the City of Hays and Western Plains Service Corporation addressing the financial issues as they relate to the development policy and the developer's contribution when special assessments are used was presented. The parties agree to the following:

1. Western Plains will initially pay utilities, including sanitary sewer, water and storm sewer in the annexed area not included in 46th Street Addition, and will initially pay for curb, gutter and street improvements on Madison Drive from the north edge of 41st Street Plaza Second Addition to the south edge of 46th Street Addition.

2. When the annexed ground from the north edge of 41st Street Plaza Second Addition to the south edge of 46th Street Addition is platted and dedicated, the City agrees that all sums expended by Western Plains to provide the utility services and street improvements will be credited towards Western Plains' 30 percent contribution of the developer's portion of the utility and street improvement to those lands so platted and dedicated.

3. The City agrees that Western Plains' contribution to said development costs shall not exceed 30 percent of the development during the development of that annexed area between the northern end of 41st Street Plaza Second Addition and the

southern end of 46th Street Addition.

4. The City agrees that Western Plains need not develop Smoky Hill Drive until said area is platted, dedicated and ready for development by Western Plains.

5. Western Plains agrees to maintain as a secondary way across that portion of Smoky Hill Drive from the northern edge of 41st Street Plaza Second Addition to the southern edge of 46th Street Addition according to standards acceptable to the City Fire Chief until such time as the street is improved and accepted to City standards.

Troy Hickman moved, Sharon Leikam seconded, that an Agreement between the City of Hays, Kansas and Western Plains Service Corporation which addresses financial issues relating to the development of 46th Street Addition, be approved.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

Jim Desbien, developer of 46th Street Addition, requested permission to improve the residential streets in 46th Street Addition to a 31 foot width.

Wayne Billinger moved, Troy Hickman seconded, that a request from Western Plains Service Corporation to construct Hoover Street, Jefferson Street, Adams Street, 46th Street and 47th Street to 31 foot width, be approved.

It was noted that Madison would be constructed to 40 foot width and 45th Street will be constructed as a collector to a 45 foot width. The street widths were recommended by the Hays-Ellis County Planning Commission.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

12. MADISON AVENUE: Mr. Laas said the developer has requested that Madison Drive be developed to provide primary access to the new subdivision with Smoky Hill Drive used for emergency access only. Smoky Hill Drive would be improved with the next phase of development (41st Street Third Addition presumably). The Planning Commission discussed at length the issue of how Madison Drive should be improved to accommodate access to the proposed plat. By unanimous vote, the plat was approved with the recommendation that Madison Drive be improved to 40' width and the rest of the streets except 45th Street be improved to 31' width. The issue of how Madison Drive is to be improved should be addressed by the Commission. If Madison is improved as a half-street, it must be concrete pavement and should be paved slightly wider than 20 foot to accommodate adequate two way traffic movement.

Howard Rome moved, Sharon Leikam seconded, that the Planning and Zoning Commission's recommendation to develop Madison Avenue at full width (40 feet), be approved.

Community Development Coordinator Laas said since part of the street lies outside of the City limits, there are statutory provisions that would allow for paving the entire street.

Dan Meckenstock, property owner on the west side of the proposed Madison Drive, questioned the cost involved in paving the entire street. He noted that one of the property owners is an 88 year old woman, and she may have to relocate because she will not be able to afford to pay the special assessment.

Mr. Meckenstock pointed out that Madison Drive will probably be the only street in Hays that does not have an address; no houses will front Madison Drive. A 40 foot street will be constructed where an alley should be. Mayor Clarke asked Mr. Meckenstock if he brought this concern to the Planning

and Zoning Commission. Mr. Meckenstock said he did discuss the issue with the Planning Commission. He said the rules have been bent to construct a street that does not serve anyone adjacent to it. A number of property owners are going to be asked to pay for a street that they are not going to use to service an area farther north. He does not see any reason to padlock Smoky Hill Drive, which is the rightful street to serve the new development, and put the burden on Madison Drive. He thinks the City is being "bullied" by the developers to the north.

Commissioner Leikam said she thought the lady, Mrs. McIntosh had signed an agreement stating that she would not oppose any special assessments. City Attorney Bird thought that was stated in the agreement. City Manager Zacharias said the trustees for Mrs. McIntosh were aware of potential special assessments.

City Manager Zacharias asked Mr. Meckenstock if Madison would be paved to 40 feet, would he be willing to part of a special assessment district. Mr. Meckenstock said he wanted to keep his options open as long as possible. He has not decided if he likes a 31 foot street or a 40 foot street. He would like the issue with Mrs. McIntosh resolved in her favor. He suggested that the developers who caused this dilemma to come forward and help Mrs. McIntosh. The cost to pave Madison Drive should not be placed on the City-at-large.

City Manager Zacharias said the City has three options:

1. Work with property owners on the west side and do voluntary special assessments. The property owners on the east side have said they will be part of a special assessment district.

2. Use a newly found statute forcing a special assessment on land outside the City with a deferred payment up to a maximum of ten years, or until the land is annexed.

3. Acquire the property through willing property owners or by condemnation; have the City-at-large pay the cost, and recoup the cost at the time the land is developed.

Mr. Desbien said the estimated cost to construct a 40 foot

street was provided to the City. The estimated cost for Mrs. McIntosh is \$10,922, and the cost to Mr. Meckenstock is \$30,661.

Mr. Desbien said Western Plains did not ask for Madison Drive to be paved. The City is requiring that there be two accesses to the 46th Street development. Western Plains would be happy to have one entrance to the development.

City Manager Zacharias asked Mr. Desbien if Western Plains would be willing to pave Smoky Hill Drive and make Madison a secondary entrance. Mr. Desbien said no, he would not favor paving Smoky Hill Drive at this time. He would favor eliminating it. Mr. Zacharias questioned why Western Plains would not be willing to pave Smoky Hill and leave Madison as a dirt road; why have two paved streets eventually. Mr. Desbien said that would not be satisfactory, Madison will have to be paved at some time. Mr. Zacharias felt it would make more sense to pave Smoky Hill at this time; rock Madison, and pave it when development occurs in that area. Mr. Desbien said that would not be agreeable. If Madison Drive needs to be paved, let us do it now, we are willing to pay our share.

Mr. Meckenstock suggested paving Madison to a 24 foot alley.

Mayor Clarke said the motion on the floor does not address how the street will be financed, and that can be addressed in the future. The motion states that Madison will be developed at full width. She called for the vote.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

Commissioner Rome made reference to Mr. Meckenstock's comment that paving Madison would be wasting money. He pointed out that paving Madison Drive now will save money. It appears that the Commission is being held "hostage", and he does not like it.

13. SIGN ORDINANCE AMENDMENT: Community Development

Coordinator Laas said at the October 20, 1997, Hays-Ellis County Planning Commission meeting, they considered an advertising sign issue which has been brought to his attention by KDOT (Bureau of Right-of way representatives). At issue is the fact that the current advertising signs for the Vagabond Motel and the Midway Motel located just north of Interstate 70 on Vine are too close together and do not comply with the provisions of K.S.A. 68-2234(c) 4 which states that "signs visible from a freeway or interstate highway shall not be erected within 500 feet of another sign on the same side of the highway". The signs in question have been in place for some time and do comply with the City's "C-S" Highway Service District regulations to the extent that two pole signs are permitted per zoning lot. However, there is a clause under the City's Article VI., Section 2., Sign Use Regulations which states that "these sign regulations shall not conflict with the Kansas Highway Advertising Control Act of 1972 or any amendment thereto".

Mr. Laas said there is a provision within the aforementioned statutes which allows local zoning authorities the option of adopting their own regulations.

The Planning Commission discussed the issue of sign clutter if the proposed amendment were adopted. It was pointed out that the owner of a property zoned and platted as a commercial lot along I-70 would not be inclined to permit both of his allowed pole or billboard signs to be used for some off premise business. The Planning Commission recommended the City and County Commission adopt the proposed change.

The proposed amendment to the ordinance allows the City to enforce their own regulations and overrides the State regulations.

Troy Hickman moved, Sharon Leikam seconded, that Ordinance No. 3421, being an ordinance amending the Zoning Regulations of the City of Hays, Kansas, as adopted by Reference by Ordinance No. 2458 of the Code of Ordinances of the City of Hays, Kansas, on October 25, 1973, and as published on November 1, 1972, and as thereafter amended, by Deleting Article VI. Sign Regulations,

Section 2. Use Regulations, be approved.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

14. SANITARY SEWER BIDS: The City Commission recently passed a Resolution creating a "Special Assessment District" for the installation of a sanitary sewer for eight residential building lots within the Replat of a Portion of Centennial Estates 6th Addition. The Resolution contained a cost estimate (including engineering) of \$43,630.00. On November 6, 1997, a bid opening was held for this project. One bid was received in the amount of \$35,864.00 from Allied, Inc. The engineer's estimate was \$38,730.00.

Mr. Henry Schwaller, owner of the lots had entered into a contract with Bucher, Willis, and Ratliff to provide engineering services for this project prior to asking for the creation of a Special Assessment District through the City. Since BWR is the City's engineer and because the Resolution cost estimate contained a contingency for engineering, it will be possible to take over the contract and make the appropriate payments to BWR.

Howard Rome moved, Troy Hickman seconded, the the bid submitted by Allied, Inc. for sanitary sewer improvements to Centennial Estates 6th Addition, be approved.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

15. SIDEWALK IMPROVEMENTS: City Manager Zacharias said as in any city, sidewalks are difficult to deal with. A Sidewalk Replacement Program can be extremely time consuming. In past programs, the Inspection Department would canvass the City and mark sidewalks that were not in compliance. The individual

homeowners were given a certain amount of time to repair or replace the sidewalk. If the property owner did not replace the sidewalk, the City contracted to have the sidewalk replaced, and assessed the cost back to the property owner through special assessments.

The City also pursued forcing residences with no sidewalks to install sidewalks. Several individuals approached the Commission and made an appeal to be exempt from the sidewalk requirement due to some undue hardship. Many of those requests were granted by the City Commission. It became a very difficult activity to administer. The City lacks manpower to do a survey of the community and repair sidewalks in need of repair.

The City Manager asked the Commission if they wanted City staff to pursue the sidewalk issue.

The City Commission directed City staff to survey other cities and gather information on how other cities have handled the sidewalk issue and report back to the Commission.

16. 27TH STREET FROM OAK TO PLAZA AVENUE: Public Works Director Elden Hammerschmidt said City Staff have reviewed various studies conducted in regard to 27th Street. The 27th Street Project is intended to be a 1998 CIP Project. The proposal before us is do we proceed with the preliminary engineering and survey work, or stop pursuing this project at this time.

Based upon review of the studies and conversations with traffic engineers, City staff believes to improve 27th Street as planned for in the 1998 Capital Improvement Plan as a four lane only without a dedicated left turn lane, would be a mistake. It is recommended that the project be done right or left as is. Doing it right, is to follow the recommendations of the 1985 Study and improve the corridor as a four lane with an additional fifth lane for a dedicated left turn lane on 27th Street at the intersection of 27th and Vine. As development continues east, west and north, of the corridor, and projects such as Sternberg Museum become reality, the future demand upon the area will only increase. The updated construction estimate

for 27th Street Project, including a fifth lane between Plaza Avenue and Oak Street is \$1,149,900.00.

After a lengthy discussion and review of traffic counts and studies, the consensus of the Commission was that 27th Street is an extremely busy street, being the only street that goes from the far west end of the City to the east end of the City. The intersection of 27th is such a "bottleneck" that people avoid it by taking a residential route.

Commissioner Leikam said she has had several calls concerning the sidewalks on 27th Street. Many people use the sidewalk, and she would hope that widening the intersection would not mean loss of the sidewalk.

Mr. Lloyd Lundy, owner of the Vagabond Motel, located just off of Vine Street, expressed concern over having the intersection of 27th & Vine closed during the peak tourist season. Mr. Hammerschmidt said the north, south lanes on Vine will be open as much as possible.

Mr. Darrell Seibel noted that the absence of left turn lanes is the biggest problem at the 27th Street intersection.

Howard Rome moved, Jayne Clarke seconded, that Bucher, Willis and Ratliff proceed with preparation of an engineering contract for improvements to 27th Street from Oak Street to Plaza Avenue, to be considered at a future meeting.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

17. TOWN HALL MEETING: Mayor Clarke and the City Manager addressed questions that were not able to be answered at the Town Hall meeting held recently.

18. ADD-ON ITEMS: Assistant City Manager Penny Postoak presented a Resolution to abate a nuisance located at 717 East 7th Street. She stated this property has health concerns along with being unsightly. The property owner has ten days to clean up the property or the City will clean it up and charge the

costs back to the property owner.

Sharon Leikam moved, Troy Hickman seconded, that Resolution No. 267 being a Resolution authorizing the City of Hays or its designated agent to abate nuisances located at 717 East 7th, Hays, Kansas, be approved.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

City Manager Zacharias presented a "Memorandum of Understanding" in conjunction with the County in relation to the management of the Vine Street corridor. He explained that the area would be under a corridor management study and the agreement would allow the City of Hays, Ellis County and the Kansas Department of Transportation to have some joint control over ingress and egress access. This will heighten our partnership in trying to manage that corridor. Most importantly, it will make us available for State and Federal grants.

Commissioner Billinger said he received word that possibly \$1,000,000 could be allocated for corridor studies, along with other projects. By approving this document tonight would start the application process and put the City in front for obtaining a portion of these funds.

Troy Hickman moved, Wayne Billinger seconded, that a "Memorandum of Understanding" between the Kansas Department of Transportation, Ellis County and the City of Hays, in relation to the Vine Street corridor management, be approved.

Vote: Ayes: Jayne Clarke
Wayne Billinger
Troy Hickman
Howard Rome
Sharon Leikam

Commission Hickman said on November 18, 1997, a delegation of representatives from the City of Hays will be in Washington,

D. C. for the All America City recognition. Lynn Albers who was very instrumental in helping the City get the award, will not be able to attend. He thanked her for her dedication and hard work.

Thereupon the Governing Body adjourned.

Submitted by: _____
Clerk of the Board