

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON OCTOBER 9, 1997

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays met in regular session, Thursday, September 25, 1997, at 7:30 p.m.

Roll Call: Present: 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 September 25, 1997, regular session, be approved.

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

Mayor Clarke deviated from the agenda to address the one cent countywide sales tax. She stated the City of Hays passed Resolution No. 255 stating the intended usage of the City of Hays' portion of the one cent countywide sales tax to be:

1. One-half of the sales tax proceeds shall be used to help finance the replacement and maintenance of City Streets for a minimum of five years using the 1997 Street Task Force recommendations as a guide.
2. The City commits to a two mill decrease for fiscal year 1999 and 2000, using a portion of these sales tax proceeds.

3. Remaining proceeds of the sales tax shall be used to address the municipal pool needs of Hays residents and to finance General Fund activities, as specified in the priorities established by the Commission annually.

Mayor Clarke said there have been some indications that the City has no plan for street improvements. A plan has been prepared by the Street Task Force.

Mayor Clarke said there is confusion as to how the 1982 one-half cent sales implemented in 1982 was to be used. The 1982 sales tax was to be used to replace the 11% revenue lost by the repeal of the intangibles tax, provide adequate level of public services, to finance a street preventative maintenance program and to provide property tax relief. The 1982 sales tax has been used just as stated.

Mayor Clarke pointed out that no one likes paying taxes. However without the sales tax, it will be necessary to cut city services. Revenue from the sales tax will be received from all individuals who shop in Hays. Property tax is paid strictly by property owners.

Mayor Clarke stated she was an elected official, and she will not promise more than she can deliver. She vows to give honest answers. She said she will do what she promised. She values her integrity.

Commissioner Billinger pointed out that revenue from a one cent sales tax will not be extra revenue. Services have already been cut due to lack of revenue. The General Fund is being depleted. He asked each citizen to envision what they want for themselves and their children. He said instead of saying how can we afford more tax, how can we afford not to invest in the future of Hays.

Commissioner Leikam urged the citizens to study the issue and get the true facts not the misinformation presented by the media; seek the truth. The City was forced to make budget cuts in funding to social service agencies. All organizations were very worthy organizations. Once these agencies are totally cut

out of the budget, the next place to cut will be essential City services such as fire, police, streets, etc.

Commissioner Rome said the citizens of Ellis County have a good quality of life. A sales tax will help all the cities involved maintain that quality of life.

Commissioner Hickman said this sales tax revenue will be invested in city streets and a swimming pool. It will be used to reduce the property tax. This Commission was entrusted to maintain the City's operations. We need the same level of trust from the citizens that we are going to follow through and address the priorities presented by the citizens of Hays.

3. CITIZEN COMMENTS: Ray Winters, 2780 East 8th Street, addressed the Commission regarding his concerns with replacing Municipal Pool. Mr. Winters feels the Pool should be repaired rather than replaced.

John Goetz, 2314 Timber Drive, commended the Commissioners for the great job they do.

Marcia Higginson, 3713 J. P. Drive, President of the Board of Directors of the Hays Arts Council, stated the Hays Arts Council is 30 years old. The Hays Arts Council was the first community arts council in the state of Kansas. Ms. Higginson invited the Commissioners to a 30th birthday celebration on November 7th, honoring the founders of the Council. There will be events throughout the year celebrating the Council's 30th year.

Glen Staab, 3328 Lincoln Drive, addressed the Commission regarding the county sales tax issue to be voted on in the near future. Mr. Staab urged every eligible voter to exercise their right to vote.

Lynn Hamm, owner of Coast to Coast, 1501 Main Street, requested the City not change the starting time of City Commission meetings to 7:00 p.m. His business, which is next door to City Hall, is open until 8:00 p.m. on Thursday evenings. People coming to Commission meetings often take parking designated for his customers. Mr. Hamm suggested meetings start at either 8:00 p.m. or the meeting day be changed from Thursday

to another evening. The City also owns a empty lot on West 16th Street which could be paved for parking.

City Manager Zacharias stated temporary signs could be placed requesting City Hall patrons to not use Coast to Coast parking. A long term solution would be to get the parking lot on West 16th Street paved.

Dick Bedard and John Shaver, members of the Pool Task Force, stated Larkin Associates did a study in 1994 and the cost at that time to renovate the pool was \$1,200,000. Updated cost estimates bring that figure to \$1,600,000. Mr. Bedard and Mr. Shaver felt the viewing audience should know those figures.

4. COMMISSION INFORMATIONAL MEMORANDUM: There were no comments.

5. CONSENT ITEMS: There were no consent items.

6. SPECIAL ASSESSMENT DISTRICT: The owners of property within the Second Replat Portion of Westridge Addition are requesting the formation of a special assessment district for the paving of Post Road and Butterfield Road. Normal procedure was not followed leading up to the submittal of this petition. The petitioners have used their own engineering firm for the design of this project, and have solicited a bid from Allied Inc. for the construction of the curbing, guttering, and paving. Construction has already started on the project. The City did not initiate the project, however, the City would acquire the project when it is completed. The City's Bond Council has advised that the project can be financed in this manner, however, this not a practice we want to become accustomed to in the future.

City Attorney John Bird stated that from a legal point of view, the preferred way is to have the City initiate the project to guarantee that improvements are done in an efficient manner and at a reasonable cost. Ultimately when the City finances a project, there is always the risk of the City ending up owning the project if special assessments are not paid. A developer could pay himself for developing the streets, pay his own construction company for the work, then hang it on the taxpayers

if the lots aren't sold. In this case, the lots are owned by several different parties. Mr. Bird agreed with bond counsel's advise that the Petition should contain the phrase "to be acquired by the City of Hays, Kansas" and that the city engineer should provide a cost estimate for the project to insure that the project is cost effective.

Mr. Laas stated the cost estimate included in the Petition is the city engineer's figure.

City Manager Zacharias stated the Commission could approve this Petition, however, it should be made clear that the City does not want to make it a practice in our special assessment policy.

Commissioner Leikam stated she felt we should not deviate from our present policy.

Mr. Laas stated he did not feel the deviation was with our development policy. The project will be approved prior to the City's acquisition. In accordance with our policy, a different engineering firm could be used. It is a more accepted practice to have the city initiate and oversee the project.

City Manager Zacharias stated acquiring a street after it is built and creating a special assessment district is not in our Development Policy. The City normally makes the contract with the engineer and with the contractor. In that sense, this project is outside the bounds of our Policy.

Mayor Clarke stated she does not have any problem with approving this, however, she would like it stated that the City should not let this become policy. The individuals doing the project have made some commitments. With the rash of new development projects that have sprung up in the last few years, the City is in a constant learning process. The project has already been started, it will be approved before being acquired by the City, and it is owned by several parties who have made quite a financial commitment. There is minimal risk to the City.

Mr. Laas stated the water and sewer lines are being installed by the developer and are not being special assessed.

Commissioner Billinger stated he felt we should have consistency in our decisions.

Mayor Clarke stated the consistency will be in stating in the motion for approval that the Commission will not allow this to happen again. The inconsistency is in not telling the developer up front they cannot do this. We are in a learning curve and will know how to prevent this from happening in the future.

Commissioner Rome stated it is unfortunate that this got to this point, but the project is too far along to not approve the special assessment district.

Howard Rome moved, Jayne Clarke seconded, that a Resolution declaring the advisability and authorizing the creation of a special assessment district to place roads in Blocks 1, 2, and 3, of the Second Replat of a Portion of Westridge Addition, with the stipulation that this not be precedent setting, be approved.

Prior to voting, Commissioner Leikam stated her only concern is that when this project came forth, no one knew anything about it. This is not something we want to do in the future.

Commissioner Billinger stated he had the same concerns. If this does not pass, would it delay the project? Every time a motion states "this will be the last time we do this", he feels uneasy. The Development Policy should address this issue.

Mr. Laas stated if this does not pass, the developer will pay for his own streets without the opportunity to special assess them over a period of time.

Commissioner Hickman asked what are the advantages or disadvantages to having the developer doing it this way?

Mr. Laas stated there is the perception there would be a cost savings to the developer and property owners.

Christie Chambers, developer of the project, stated there is a significant cost savings. Approximately \$8,000 per lot is being saved.

Mayor Clarke stated the point is that there is minimal risk for the City. The City will not be paying for the streets.

Only if someone defaults on the specials would the City have any liability.

Commissioner Billinger stated even though there is a big savings, should the Commission approve the project, he is uneasy with the inconsistency.

Mrs. Chambers stated that even though the project is not totally complete, she is confident her figures are correct. If a project can be done this way, why wouldn't the Commission be asking how could they do this project for much less than the City could?

Commissioner Billinger stated if this request was denied, the developer would still pay no more than any other developer. They would only lose the ability to special assess the costs.

City Manager Zacharias stated the question is who is going to finance this expense? Will it be financed through a special assessment that has the City's bond rating behind it or will it be financed through a bank loan? Some developers pay for all improvements and they are assessed back to the lot. The other method is to use the City as the bank, the City develops the property and does a special assessment. This is a kind of hybrid of those two situations.

Mrs. Chambers stated this situation is different than other development projects. They were approached by other parties to sell them lots, and they had firm commitments from several people before they even started this project. They have never developed property before; this is the only area they plan to develop.

Rick Chambers stated they are saving \$134,000 by doing it this way and feel responsible to the other property owners. What they have done made sense to them.

Commissioner Billinger stated that if this is accepted, in the future, would it be possible to weigh the two methods and choose whether we want this to be a part of the Development Policy?

Mr. Zacharias stated bond counsel said they have never done a special assessment district in this fashion. The law says you

can do it, however this is not the usual method.

City Attorney John Bird stated there is a tax exempt aspect to this. When Commission approval is given, people who buy these bonds get favorable tax treatment. The reason we like to do things the same way every time is because once the IRS and other regulatory agencies who rule on this say the project is OK and everything has been done right, we don't have to worry about something coming back to "bite" us later. Doing it a different way than before means there is a higher possibility of a question being raised by someone. One of the reasons for having procedures is so that a public improvement is done in a way that is consistent with good planning and fairness. Mr. Bird stated the fact that ownership is already distributed among six different families, the risk of having it come back to the City is minimal. Also, the developer is not his own contractor.

Commissioner Billinger stated he would vote no on the motion as previously stated, but would not be opposed to an amendment to the motion that stated the City investigate this method and leave it open to do this on a case by case basis or adjusting our policy to include this method, rather than just close the door to doing it in the future. If this method is low risk and also saves development cost, we should look into it.

Mayor Clarke asked Commissioner Billinger if the motion is changed, would you proceed with this particular issue tonight, with the caveat that we look at the Development Policy?

Commissioner Billinger stated he would proceed if an amendment to the motion is made.

Commissioner Rome amended his motion to include the statement that instead of closing the door and saying we will never allow this again, to instead say the policy remain open to investigate case by case or establish new policy that would include these provisions.

Mayor Clarke seconded the amended motion.

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

7. CONNECTION TO MAJOR SEWER LINE EXEMPTION: Rick and Christie Chambers have requested and paid an administrative fee to connect Lots 5 and 6, Block 1, Replat Portion of Westridge Addition, to the existing sanitary sewer trunk line which lies in 41st Street right-of-way adjacent to Lots 5 and 6. The Development Policy provides for individuals to request permission to connect to trunk lines. The developer is in the process of installing sewer lines for the remaining lots in the subdivision.

Troy Hickman moved, Sharon Leikam seconded, that the request from Rick and Christie Chambers to have Lots 5 and 6 of Block 1 of a Replat of a Portion of Westridge Addition to be exempt from repayment for connections to a major sewer line in accordance with the Development Policy, be approved.

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

8. CHANGE ORDERS: Sharon Leikam moved, Wayne Billinger seconded, that Change Order No. 2 to the 1996 Street Improvement Contract (West 12th Street and Fort Street Railroad Crossing) with Wes-Kan Construction for a total deduction of \$7,210.42, be approved, and further that Change Order No. 1 - Final for Vine Street Resurfacing Contract from 27th Street to I-70 with Allied, Inc., for a total deduction of \$10,918.80, be approved.

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

9. ORDINANCE TO CHANGE MEETING TIME: City Attorney John Bird stated that adoption of this ordinance would allow the Commission to change the starting time and the place of Commission meetings by resolution instead of ordinance. This method would be less expensive since ordinances need to be published in the official City newspaper.

Wayne Billinger moved, Troy Hickman seconded, that Ordinance No. 3419, being an ordinance making certain requirements for changing the time and place for meetings of the Board of Commissioners in the City of Hays, Kansas, and repealing Ordinance No. 2824, be approved.

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

Due to the concerns of Lynn Hamm, owner of the Coast to Coast, as stated in the Citizen Comments, the Commission agreed to keep the meeting time at 7:30 p.m. However, it was necessary to approve the resolution to state the meeting time and effective date.

Troy Hickman moved, Sharon Leikam seconded, that Resolution No. 264, being a resolution setting the place and time of the regular meetings of the Board of Commissioners, be approved.

Vote: Ayes: Jayne Clarke
Troy Hickman
Howard Rome
Sharon Leikam
No: Wayne Billinger

10. DEED RESOLUTION: The Endowment Association of Fort Hays State University is requesting acceptance of a warranty deed and dedication of 3.422 acres for Sternberg Drive. A resolution accepting roadway right-of-way must be approved to show acceptance of this deed and dedication. The University has control over access points, curb cuts, plantings, and lighting.

The City has committed to paying for water for irrigation and electricity for lighting. The street would be under the control of the University, but maintained by the City. If the City chooses not to maintain the roadway in the future, the City would abandon the roadway and it would go back to the University.

Commissioner Billinger asked who would be responsible for the landscaping and maintenance of the 20'9" shoulder?

City Manager Zacharias stated the University will be responsible for the landscaping and maintenance.

Wayne Billinger moved, Troy Hickman seconded, that Resolution No. 265, being a resolution approving the warranty deed and dedication of Sternberg Drive, be approved.

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

11. TEMPORARY NOTES: Bids were received from the following for the issuance of Temporary Notes in the amount of \$1,060,000, to finance the construction of 33rd Street, Commerce Parkway, sewer lines in Centennial Estates, and Vine Street:

Commerce Bank	
4.090%	
Kansas City, MO	
Country Club Bank	4.275%
Kansas City, MO	
Emprise Bank	4.20 %
Hays, KS	
Golden Belt Bank	4.20 %
Hays, KS	

NationsBank 4.625%
St. Louis, MO

United Missouri 4.360%
Kansas City, MO

Sharon Leikam moved, Troy Hickman seconded, that the bid from Commerce Bank, Kansas City, MO, for \$1,060,000 General Obligation Municipal Temporary Notes, with an interest rate of 4.090%, be approved, and further that Resolution No. 261, being a resolution authorizing the issuance and delivery of \$1,060,000 principal amount of General Obligation Municipal Temporary Notes, Series 1997-B, of the City of Hays, Kansas, for the purpose of temporarily financing the cost of certain street and utilities improvements of the City; and prescribing the terms and details of said notes, be approved.

Mayor Clarke stated she will abstain from the vote because her husband is a financial officer at Emprise Bank.

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

Abstain: Jayne Clarke

Bids for the issuance of temporary notes in the amount of \$100,000 to finance airport improvements were received from the following:

Commerce Bank 6.333333%
Kansas City, MO

Country Club Bank 6.208333%
Kansas City, MO

Emprise Bank 6.25%
Hays, KS

Golden Belt Bank 6.50%
Hays, KS

United Missouri Bank 6.53%
Kansas City, MO

Sharon Leikam moved, Troy Hickman seconded, that the bid from Country Club Bank, Kansas City, MO, for the issuance of Temporary Notes in the amount of \$100,000, with an interest rate of 6.20833%, to finance airport improvements, be approved, and further, that Resolution No. 262, being a resolution authorizing the issuance and delivery of \$100,000 principal amount of taxable General Obligation Municipal Temporary Notes (Airport Improvement Project), Series 1997-C, of the City of Hays, Kansas, for the purpose of temporarily financing the costs of certain airport improvements of the City; and prescribing the terms and details of said notes, be approved.

Mayor Clarke stated she will abstain from the vote because her husband is a financial officer at Emprise Bank.

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

Abstain: Jayne Clarke

12. DISEASED TREE NOTIFICATION: In order to send official notice to a property owner stating they must remove a diseased tree, staff must get permission from the City Commission. Resolution No. 262 addresses this concern and gives staff the authority to abate the conditions causing the violation if the property owner does not do so within ten days upon receipt of notice. The cost incurred by the City shall be charged against the property. A tree located at 204 East 14th Street is infested with roaches. Due to health and safety concern, this issue is brought before the Commission.

Troy Hickman moved, Sharon Leikam seconded, that Resolution No. 266, being a resolution directing the City Clerk to issue

notice requiring abatement of a diseased tree violation at 204 East 14th Street, Hays, Kansas, be approved.

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

13. LICENSE FEES FOR TRANSIENT MERCHANTS: Commissioners Billinger and Rome have requested the ordinance regarding license fees for agents, peddlers, solicitors and transient merchants be reviewed.

City Manager Zacharias stated the ordinance has not had a thorough review since 1954. In 1982, the fees were raised to their current level.

Commissioner Billinger stated that many of these merchants are in competition with our local merchants, which is understandable, however, the fees as stated in our ordinance are fairly low. Perhaps the fees should be doubled and any excess funds above and beyond what it takes the City to process, go to Economic Development or small business development. It should be more equitable for our existing businesses.

Assistant City Manager Penny Post oak stated more complaints are received when merchants selling larger dollar items like furniture come to town. A few of the other types of items sold include clothing, T-shirts, sunglasses, and paintings.

Commissioner Billinger felt staff should study this and recommend fees. Ordinances should be reviewed periodically.

City Manager Zacharias stated money has been set aside in the 1998 Budget to deal with ordinance codification. Attorneys will pull out ordinances that are old and may recommend review. If the Commission should desire, the City could check with other cities for comparison purposes.

Commissioner Rome stated some of these merchants are infringing on businesses that are trying to make a living in Hays, and we need to take care of our people here in Hays.

The consensus of the Commission was to have City staff review the ordinance.

14. ADD-ON ITEMS: In light of a comment by Ray Winters earlier in the meeting, Commissioner Troy Hickman stated for the record that he was employed with Hays International Mailing when he was running for election and when he took office, even though he is currently employed by Sykes Enterprises.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board