

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON FEBRUARY 12, 1998

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas, met in regular session, Thursday, February 12, 1998 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: Howard Rome moved, Sharon Leikam seconded, that the minutes of the January 20, 1998, 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: There were no comments.

5. CONSENT ITEMS: Wayne Billinger moved, Troy Hickman seconded, that the the following mayoral appointments, be approved.

Public Wholesale Water Supply District Committee

Lavern Squier - 3 year term expiring March 1, 2001

Recreation Commission

Dennis Burke - unexpired term ending August 1, 2000

Vote: Ayes: Jayne Clarke
Wayne Billinger

Troy Hickman
Howard Rome
Sharon Leikam

6. DANIEL G. RUPP MEMORIAL RESOLUTION: Wayne Billinger moved, Howard Rome seconded, that Resolution No. 270, being a Resolution renaming Northridge Park, Daniel G. Rupp Park, be approved.

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

7. BUDGET AMENDMENT PUBLIC HEARING: Mayor Clarke opened a public hearing to consider amending the 1998 Special Fire Equipment Budget from \$153,071 to \$347,610. City Manager Zacharias said this amendment will allow the City to spend the accumulated cash reserve in 1998 to purchase the 1,500-gallon per minute fire truck. He noted that the property taxes generated for this fund will remain at .75 mills. This amendment will give the City the authority to spend dollars that were budgeted in 1997, but were not spent.

There being no comments, Wayne Billinger moved, Troy Hickman seconded, that the public hearing be closed.

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

Sharon Leikam moved, Troy Hickman seconded, that the 1998 Special Fire Equipment Budget be amended from \$153,071 to \$347,610.

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

8. FIRE TRUCK BIDS: Howard Rome moved, Sharon Leikam seconded, that a bid from Hays Fire Equipment for a fire truck and loose equipment totaling \$222,682.61, be accepted.

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

9. TRANSIENT MERCHANT ORDINANCE: Action on the approval of an amended Transient Merchant Ordinance was postponed from a previous meeting to give City staff the opportunity to research whether or not other cities require transient merchants located in malls to obtain a Transient Merchant License.

Assistant City Manager Penny Post oak said she contacted eight cities in Kansas including Liberal, Garden City, Topeka, Dodge City, Lawrence, Salina, Hutchinson and Great Bend. Most of the cities do not enforce their transient merchant ordinance within their malls, even though there is not specific language exempting this. The City of Topeka has a specific exemption regarding sales within certain structures. The Topeka Transient Merchant Ordinance contains language exempting "Sales conducted within the following structures: shopping malls, and shopping centers".

Commissioner Billinger felt shopping centers should be more specifically defined in the proposed City ordinance.

Hays Mall manager Mike Michaelis said a mall is usually defined as businesses within an enclosed area.

City Manager Zacharias said transient merchants located in the Mall parking lot would not be exempt from getting a Transient Merchant License.

Mayor Clarke said a transient merchant ordinance cannot be written to cover every situation. There will always be "what ifs".

City Attorney Bird said it is impossible to have a fool proof ordinance. Someone will be clever enough to figure out a way to get around the ordinance. The City Attorney suggested

that the Commission determine what the ultimate goal is. Is the goal to make sure sales tax is equally collected; is there a property tax issue; or is the goal to prevent "fly by night merchants", here today, gone tomorrow, from coming into the City? The Ordinance can get too microscopic.

The consensus of the Commission was to think about this Ordinance another two week, and further define shopping centers.

10. TAX CREDIT RESOLUTION: Sam Catanese and Alan Joseph, representing Investment Resources Corporation, were present and asked the City to pass a Resolution in support of a Tax Credit Application to the Kansas Department of Commerce for the purchase and renovation of Centennial Towers.

Mr. Catanese explained that the Section 8 Contract between the present owners and the Department of Housing and Urban Development will expire on or about March 31, 1998. It is advantageous for the present owners to sell the property since they would not be in a favorable position to continue financing the property. Investment Resources Corporation is willing to purchase the property, and have applied for tax credits. Mr. Catanese said to obtain the tax credit Investment Resources will be required to spend a minimum of \$300,000 renovating the property. If the tax credit is used, the housing will have to remain affordable for the next 30 years.

Sharon Leikam moved, Howard Rome seconded, that Resolution No. 273, being a Resolution urging the Kansas Department of Commerce and Housing to issue tax credits to Investment Resources Corporation to assist in the purchase and rehabilitation of Centennial Towers, be approved.

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

11. CONVENTION AND VISITORS BUREAU CHARTER ORDINANCE:

Convention and Visitors Bureau Director Jana Jordan, and the Convention and Visitors Bureau Advisory Board Vice Chairman

Terry Mannell addressed the Commission in regard to increasing the Transient Guest Tax. Ms. Jordan said the Advisory Board is comprised of motel owners and members at large. At the January 20, 1998 meeting, the Advisory Board passed a motion to recommend increasing the Transient Guest Tax from three percent to four percent by a seven to two vote.

Mr. Mannell said the Transient Guest Tax generates an annual income of \$237,000. The projected expenditures for 1998 are \$253,000. Since the expenditures exceed the revenue, it is necessary to use cash carry-over to balance the budget. By 1999, the cash carry-over will be less than the amount recommended by City auditors unless more revenue is generated, or expenditures are cut. The Board felt that with the opening of Sternberg Museum in the near future, marketing efforts should not be decreased, but rather increased to promote this wonderful attraction.

Mr. Mannell said a one percent increase in the Guest Tax will generate an additional \$75,000. Initially, this will be more revenue than is actually needed to balance the budget. It is planned to use the excess revenue on programs and projects that have been on the CVB's "wish list" for some time. Those projects include a 1-800 number for Hays motels, assist with the marketing of Sternberg Museum, an Inter-active Visitors Information System in Sternberg Museum, expand and enhance the Twilight Tours by acquiring better transportation (a new bus with air-conditioning, or a trolley).

Ms. Jordan explained that in accordance with State Statute, the Transient Guest Tax can only be used to contract with any agency or organization to promote conventions and tourism within the City, to create innovative projects and activities promoting conventions and tourism, and to promote the general economic welfare of the City and its environs, including the attraction of tourist related industries.

Ms. Jordan noted that most cities in Kansas of comparable size have a four percent Guest Tax at the present time, a few larger cities have a Guest Tax of five or six percent.

Troy Hickman moved, Sharon Leikam seconded, that Charter Ordinance No. 19, being an Ordinance exempting the City of Hays, Kansas from the provisions of K.S.A. 12-1696 and K.S.A. 12-16.101, inclusive, and providing substitute and additional provisions of the same subject, relating to the levy of a Transient Guest Tax for the Tourism and Conventions, be approved.

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

12. HUMANE SOCIETY CONTRACT: An Agreement for Animal Control Services for 1998 between the Humane Society of the High Plains and the City of Hays was presented. The contract with the Humane Society has not been updated since 1981. This new Agreement has been revised to reflect the actual services the City receives from the Humane Society.

Howard Rome moved, Troy Hickman seconded, that an Agreement between the City of Hays and the Humane Society of the High Plains for animal control services for 1998, be approved.

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

Assistant City Manager Postoak said while reviewing the Humane Society agreement, City staff realized that the Ordinance governing animal control services needs to be changed to reflect the Humane Society's current charges for impounding fees. She presented an Ordinance amending Section 4-45 of the Code of Ordinances of the City to reflect the impoundment fee of \$10 per day.

Wayne Billinger moved, Sharon Leikam seconded that Ordinance No. 3429, being an Ordinance amending Section 4-45 of Chapter 4, Article III, of the Code of Ordinances of the City of

Hays, Kansas, as amended by Ordinance No. 3050, as passed on November 20, 1984, by increasing the cost of impounding, feeding, and caring for dogs and cats at large from the sum of eight dollars (\$8.00) per day to the sum of ten dollars (\$10.00) per day.

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

13. GOLF CART PATH FEES: City Manager Zacharias said the Golf Course Advisory Board has requested permission to charge a yearly trail fee of \$25.00 to each member who has a golf cart, and a \$5.00 trail fee for anyone bringing a cart onto the golf course, or an annual fee of \$25.00 if they elect to pay the yearly fee. This money would be placed in a fund ear-marked for cart path improvements. He noted that at some point the City will be asked to match the funds that have been set aside for cart path improvements.

Howard Rome moved, Sharon Leikam seconded, that a recommendation from the Fort Hays Municipal Golf Course Advisory Board instituting a yearly trail fee and putting proceeds of such trail fees into a separate fund, be approved.

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

14. MADISON DRIVE IMPROVEMENTS: Community Development Coordinator Kent Laas said he approached the Ellis County Commission with a request that the County Commission endorse the establishment of a Special Assessment District to improve Madison Drive. Since a portion of Madison Drive is in the County. State Statute requires the County to endorse the formation of a Special Assessment District. Because of the projected cost for the paving improvements which would have to

be borne by the three property owners outside of the City, and the thoughts of the County Commissioners regarding the need for Madison Drive, if in fact Smoky Hill Drive could be paved instead, the County Commission would not endorse the formation of a special assessment district outside of the City for the paving of Madison Drive.

Without the formation of the Special Assessment District, the City will be responsible for funding the land acquisition as well as the paving improvements. Therefore, in order to proceed with the paving of Madison Drive full width, it will be necessary to acquire the necessary right-of-way and construction easements in the area outside of the City.

Mr. Laas said the Western Plains Service Corporation, the developers, have indicated that if Smoky Hill Drive is improved instead of Madison Drive, they would shelf the affordable housing addition (46th Street Addition), and proceed to develop from south to north one block at a time, beginning with 43rd Street. The developers project it will take five to seven years to reach the proposed 46th Street Addition.

Commissioner Billinger asked what sort of loss would the developers incur if they stopped proceedings for the development of 46th Street Addition. Mr. Laas said the developers have incurred some engineering costs, but have told Bucher, Willis and Ratliff to hold off any further action until this issue is resolved.

Commissioner Billinger mentioned that if the area just north of the present developed area would be developed, even though it will not be affordable housing, some affordable housing would open up in other areas of the City.

Commissioner Hickman said he realizes the developers have put much effort into the affordable housing district; the City Commission and City staff have also spent many hours on this issue. We have discussed improving Smoky Hill Drive, and we have discussed improving Madison Drive. He is not sure that all scenarios have been exhausted. He received another suggestion today which he is not at liberty to discuss without further

research. It may be prudent to hold off any action at this time until other options have been exhausted.

Commissioner Rome said if the County is not in support of creating a Special Assessment District for Madison Drive, he does not feel the \$80,000 cost should be paid by the City-at-large.

Commissioner Leikam said she is opposed to condemnation. She is in favor of exploring other options.

Mayor Clarke said she did not feel any Commissioner favored condemnation. At this point, it may be best not to pursue developing Madison at this time.

Howard Rome moved, Sharon Leikam seconded, that the City stop development of Madison Drive as a 40 foot wide street.

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

15. ANNEXATION AGREEMENT: Community Development Coordinator Laas said the City has received a request from Leroy and Twila Brungardt, et al to connect to the City's sanitary sewer system. The property is located on Old Highway 40, west of Commerce Parkway and is occupied by two residential structures. As per City Policy, the requesting property owners will be required to pay a nonrefundable \$200 fee in conjunction with executing the Agreement. This Agreement includes provisions for annexation at such time as the property is contiguous with the City limits, as well as provisions for payment of water and street improvements by the petitioners in the future. It further establishes that outside residential utility rates will be collected for services.

Howard Rome moved, Troy Hickman seconded, that an Agreement for Annexation and Provision of Sanitary Sewer between the City of Hays and Leroy & Twila Brungardt, husband and wife, Charles H. & Rose A. Brungardt husband & wife, and Carol Atwood a single person, be approved subject to the payment of a \$200 fee in

conjunction with the execution of this Agreement.

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

16. UTILITY EASEMENT VACATION ORDINANCE: Community Development Coordinator Kent Laas presented an Ordinance vacating a portion of a utility easement at 1314 Agnes Drive. Mr. Laas said originally, a ten foot utility easement existed for an electrical line to serve a street light. A building permit for an addition was granted in 1992. The utility easement has been encroached upon to the extent that a portion of the addition to the house (1.7 feet by 15 feet) is within the easement. All utilities companies have been contacted, and based on their comments, it appears this small portion of the easement can be vacated without affecting utility services. From the owners standpoint, it is important that this small portion of the easement be vacated so he can proceed with the sale of his home.

Wayne Billinger moved, Sharon Leikam seconded, that Ordinance No. 3425 being an Ordinance vacating a portion of a Utility Easement located on Lot Nine (9), Block Two (2), Golden Belt Seventh Addition to the City of Hays, Kansas, be approved.

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

17. FRONTIER ROAD ANNEXATION: Community Development Coordinator Laas stated when the City annexed the Rans property (Frontier City 2nd Addition) and the KDOT property (a portion of Frontier City Addition), the right-of-way for Frontier Road was not included in either legal description. This fact was made known at the time the City boundary was being updated. An ordinance has been prepared to correct this situation. The County Commission has consented to this annexation.

Troy Hickman moved, Wayne Billinger seconded, that Ordinance No. 3428, being an Ordinance annexing the right-of-way for Frontier Road, be approved.

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

18. ENGINEERING AGREEMENT: City Manager Zacharias explained that Black & Veatch have been our consulting engineers for water issues for a number of years. Since the City does not have on-staff engineers, this Agreement allows the City to obtain engineering services in an timely fashion. Overall, the Agreement remains the same as years past, except the salaries have increased by approximately four percent.

Troy Hickman moved, Sharon Leikam seconded, that a General Engineering Agreement with Black & Veatch Engineers for 1998, with a not-to-exceed amount of \$25,000, be approved.

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

19. LEGISLATIVE ISSUES: City Manager Zacharias reported that Commissioner Billinger, other staff members and himself attended a League Conference on legislative issues. One of the major issues discussed was the adopted 1998 Legislative Policy Statements calling for the removal of "caps" or artificial limitations on the growth in demand transfer programs for the State General Fund which fund general state aid to cities, counties and other units of local government.

Demand Transfer programs include the following:

Local Ad Valorem Tax Reduction (LAVTR) Program: The source is supposed to be 3.6 percent of total state sales and compensating use tax revenue.

City-County Revenue Sharing (CCRS): The source is supposed to be 2.8 percent of total state sales and compensating use tax revenue.

Special City-County Highway Fund: Cities and counties receive monies from the Special City-County Highway Fund which is supposed to be funded by 100 percent of the state's motor carries property tax.

With the exception of FY 95, the Legislature has imposed caps on the growth of the three demand transfers in each state fiscal year since 1991. Governor Grave's FY 99 budget recommends the transfers be capped at a 2.4 percent increase, equal to his recommended growth rate in state general fund spending (excluding the state's appropriation to "buy-down" the uniform state school mill levy).

The City Manager said the Governor has indicated that should cities be successful in convincing the legislature to make that revision to his budget, he will not veto it. If the caps are removed, this will result in about a \$54,000 increase to the City's General Fund.

Sharon Leikam moved, Howard Rome seconded, that Resolution No. 271, being a Resolution urging the Kansas Legislature to remove the "Caps" on the Demand Transfer State Aid Programs from the State General Fund to cities and other local governments, be approved.

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

City Manager Zacharias said another issue that was discussed was the Internet Tax Freedom Act which would exempt internet transactions from sales tax collections. This creates

an unlevel playing field for local merchants who are subject to the 5.9 percent sales tax.

Troy Hickman moved, Sharon Leikam seconded, that Resolution No. 272, being a Resolution opposing the Internet Tax Freedom Act and the Private Property Right Implementation Act of 1997, be approved.

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

City Manager said legislation regarding ADA regulations was also introduced. A hearing will be held on Tuesday, February 17, 1998.

Mayor Clarke pointed out that the City is not introducing legislation to repeal ADA regulations, but to clarify the law as it reads currently as to who is to be responsible for enforcing ADA regulations on existing businesses.

20. WEED ORDINANCE: City Manager Zacharias reported that during the 1997 Kansas Legislature Session, one change was made in the weed law for cities in Kansas. Cities no longer have to republish their weed ordinance on an annual basis. Since the City did pass an Ordinance in 1997 that contains the sunset clause, it will be necessary to pass a short repealer Ordinance which will repeal the section of the existing Ordinance that provides for the sunset at the end of the 1997 season.

The benefit of this new Weed Ordinance is that the annual publication requirements has been removed from the Statute, and the City will not be required to renew the Ordinance each year. Also, after a single notice, the City may cut weeds on any lot for the remainder of the calendar year without further notice to the property owner. It also allows the cost of mowing to be assessed directly to the parcel should the landowner refuse to pay the City for the mowing.

Howard Rome moved, Troy Hickman seconded, that Ordinance No. 3430, being an ordinance relating to the cutting of weeds

and vegetation, providing for notice and providing for cutting by the City of Hays, and providing for changes therefore; and repealing Ordinance No. 3397 of the City of Hays, Kansas in conflict herewith, be approved.

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

21. UNCOLLECTIBLE WATER AND COURT COSTS: City Manager Zacharias presented a listing of water, sewer, sanitation, and court costs deemed as non-collectible. These accounts will be charged off as bad debts. However, if any of the individuals are located, they would be required to pay the bill.

Sharon Leikam moved, Howard Rome seconded, that water, sewer and sanitation accounts totaling \$1,676.09, and Police Court accounts totaling \$2,256.50, be designated as non-collectible.

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

22. PROPERTY MAINTENANCE RESOLUTIONS: City Manager Zacharias said the properties that were in question have been cleaned up to the City's satisfaction.

23. ADD-ON ITEMS: Commissioner Billinger said he would like discussion of the striping of Hall Street from 27th to 41st included as an agenda item at the next meeting.

Thereupon the Governing Body adjourned.

Submitted by: _____
Clerk of the Board

