

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON DECEMBER 9, 1999

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session, Thursday, December 9, 1999, at 7:30 p.m.

Roll Call: Present: Wayne Billinger
Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome

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

2. MINUTES: Howard Rome moved, Troy Hickman seconded, that the minutes of the November 23, 1999, regular session, be approved.

Vote: Ayes: Wayne Billinger
Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome

3. MAYOR/VICE-MAYOR SELECTIONS: Wayne Billinger moved, Henry Schwaller IV seconded, that Troy Hickman be appointed as the next Mayor of the City of Hays to complete the Mayoral term vacated by Wayne Billinger, through April 2000.

Vote: Ayes: Wayne Billinger
Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome

Troy Hickman moved, Larry Schmidt seconded, that Henry Schwaller IV be appointed as Vice-Mayor of the City of Hays.

Vote: Ayes: Wayne Billinger
Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome

Mayor Hickman recognized Wayne Billinger for his accomplishments as mayor from August 1998 through December 1999. Mayor Hickman presented Commissioner Billinger with an engraved gavel.

4. CITIZEN COMMENTS: Director of Fire and Inspection Services Wayne Schwartz recognized Allen Leiker for 28 years of service with the Fire Department. Mr. Leiker retired November 29, 1999.

5. COMMISSION INFORMATIONAL MEMORANDUM: City Manager Hannes Zacharias reported the Emergency Operations Command Center will be open during the evening of December 31, 1999, to monitor any activities regarding Y2K.

6. CONSENT ITEMS: There were no consent items.

7. INSPECTION REPORT REVIEW: The City Building Inspection Ordinance and Policies Study Group recommends the language in Section 6-31 (g)(3) relating to licensed contractors be changed to: Any owner or his authorized agents or employees who: **1.** Construct, remodel, repair or improve one or two-family residences not exceeding two stories in height and structures or buildings and **2.** Alterations or additions to a building, including but not limited to, store fronts or facades, interior alteration or additions, fixtures, cabinet work, appliances or other equipment, if the alterations or additions do not create or effect the structural system of the building. This would allow construction work on one and two-family dwellings to be done without a licensed residential contractor.

Wayne Schwartz, Director of Fire and Inspection Services, recommended that if the above change is adopted that the classification of residential contractor

and limited roofing contractor be eliminated. If the owner wants to have licensed contractors perform their work, they could still hire a licensed contractor. However, by eliminating the need to license contractors working on one and two-family dwellings, the one enforcement tool for failure to comply with code will be lost, that being the suspension or revocation of their license. Mr. Schwartz recommended that an administrative policy or city ordinance allow the City to withhold water service to the property until such time as all building code requirements have been met.

Commissioner Schwaller stated under the current policy, a homeowner building his own home cannot hire someone unlicensed to help him, but a licensed contractor can hire whomever he wants; that is unfair. The homeowner should be the final judge of who they hire to work on their property.

Commissioner Schmidt stated this should also apply to the small business owner, as long as structural work is not involved.

Mayor Hickman stated he agrees with the Study Group recommendation and also Mr. Schwartz's recommendation to withhold water services until all inspections meet building code requirements. The Study Group focused on the residential property owner but did not address the small business owner.

Mr. Schwartz stated he would also like to have language added to the ordinance that would require the homeowner who hires unlicensed people to come in to apply for the permit himself.

Henry Schwaller IV moved, Larry Schmidt seconded, that Section 6-31 (g)(3) be amended to read: Any owner or his authorized agents or employees who: **1.** Construct, remodel, repair or improve one or two-family residences not exceeding two stories in height and structures or buildings accessory thereto and **2.** Alterations or additions to a building including but not limited to storefronts or facades, interior alterations or additions, fixtures, cabinet work, appliances or other equipment, so long as such said alterations or additions do not create or affect the structural system of the building.

Vote: Ayes: Troy Hickman

Henry Schwaller IV

Larry Schmidt
Howard Rome
Wayne Billinger

Henry Schwaller IV moved, Larry Schmidt seconded, that Section 6-5 of the Code of Ordinances of the City of Hays, Kansas, be amended to reflect that a Certificate of Occupancy and water service be withheld until such time as all inspections meet building code requirements.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

8. HALL STREET DESIGNS: At the last meeting, the issue of improvements to Hall Street was discussed. Several options were presented, however, all motions to move ahead with the improvements failed. Commissioner Billinger asked that the issue be placed on the next agenda for further discussion with the hope of reaching a compromise. He hated to see the City lose the grant money.

Engineer Harvey Ruder summarized the various options as follows:

Option 1. Includes removal and replacement of the existing pavement with concrete pavement from 8th Street to 27th Street. Waterline replacement and traffic signals at 13th and 27th Streets.

Option 2. Includes removal and replacement of the existing pavement and some widening to allow for three lanes from 8th Street to 27th. Realignment of the 12th, Elm, & Hall intersections. Waterline replacement and traffic signals at 13th and 27th Street and a bus-parking lane in front of the grade school.

Option 3. Reconstruct Hall Street to four-lane with 13th intersecting Hall Street as it now exists, waterline replacement and traffic signals at 13th and 27th.

Option 4. Includes reconstruction of Hall Street to four-lane width with 13th Street realigned to intersect Hall at right angles on the

east side. 13th Street, west of Hall would no longer intersect Hall Street and a connecting road between 12th Street and 13th Street would be constructed. Waterline replacement and traffic signals at 13th and 27th are included.

Option 5. Includes removal and replacement of the existing brick pavement on 8th Street with concrete pavement between Elm Street and Milner Street. Waterline replacement between Main Street and Elm Street is also included. This option does not include replacement of curb and gutter.

Option 6. This is a new option presented by Commissioner Rome. It includes removal and replacement of existing pavement, widening to allow for four lanes at the Hall and 27th intersection, traffic signals at 27th and 13th Streets. Commissioner Rome felt this option addressed the critical area of congestion at 27th & Hall Street.

A grant has been awarded to provide 80 percent of funding for the project, with the City providing 20 percent of the cost of construction and engineering. Preliminary engineering and purchase of right-of-way would be the City's responsibility.

Public Works Director Elden Hammerschmidt said he has been communicating with Larry Emig of KDOT regarding this project. Mr. Emig suggested that once the Commission has made a decision, it would be beneficial for City officials to meet with KDOT's staff to cover funding criteria, and review basic design criteria that must be followed in order to qualify for funding. This should be done prior to hiring an engineer to design plans.

Service Superintendent Don Larson reviewed traffic counts taken this week on Hall Street. The average traffic count along Hall Street varied from 6300 to 7700 cars per day.

Planning Commission chairman Larry Gould reiterated the Planning Commission's recommendation given at the last meeting to widen Hall Street to four-lane. Several citizens spoke on the issue.

John Watson, 509 West 12th Street, was opposed to transferring funds from Hall Street to improve 8th Street, and felt Hall Street should be widened to accommodate potential growth north of Interstate 70.

LouAnn Brungardt, 501 West 40th Street, and Trevor Jacobs, 505 West 13th Street, opposed the widening of Hall Street.

Mike Seibel, 527 West 24th Street, supported constructing Hall Street to four-lane. He urged the Commission to do what is best for all the citizens, not just citizens who live on Hall Street.

Commissioners Billinger and Rome supported widening Hall Street to four-lane. Commissioner Schmidt supported repairing, but not widening the street, and using the excess funds to repair 8th Street. Mayor Hickman felt the money for Hall Street repair should be allocated to other priorities.

Commissioner Schwaller said he was opposed to constructing Hall Street to four-lane because he did not see a need for it, but would continue to abstain from voting since he owned property along Hall Street.

Wayne Billinger moved, Howard Rome seconded, that Option 3 with the 2nd alternative, from 12th to 27th, four-lane width, 13th Street intersecting Hall Street, waterline replacement and traffic signals at 13th and 27th Streets, be approved.

Vote: Ayes: Howard Rome

Wayne Billinger

No: Troy Hickman

Larry Schmidt

Abstain: Henry Schwaller IV

Commissioner Billinger said at the last meeting, he asked that this issue be brought up for discussion again in the hopes of reaching a compromise. He is not sure where the compromise could be.

Larry Schmidt moved that Option No. 2 and 5, which would repair Hall Street and 8th Street, be accepted. There was no second to the motion.

Howard Rome moved, that Option No. 6, repair Hall Street from 13th Street to 27th Street, purchase the right-of-way on the west side of 27th Street for

signalization purposes, and install turning lanes at various intersections from 27th Street to 13th Street, otherwise left at two lane, be accepted. Commissioner Billinger seconded the motion for purposes of discussion.

Commissioner Billinger has a concern about taking the right-of way from the west side of the road only. If improvements need to be made, the crown of the road should be considered. Taking right-of-way indicates to him that improvements need to be made in the future. The street should be planned to align with 27th Street north of Hall.

Commissioner Schmidt did not have a problem with acquiring right-of-way, and would be willing to add right-of-way acquisition to his option.

City Manager Zacharias noted that all right-of-way acquisition would be at City cost; KDOT will not participate in right-of-way acquisition.

Community Development Coordinator Kent Laas noted that if the Commission is considering three-lanes, more than likely additional right-of-way would need to be acquired.

Commissioner Billinger said even though he seconded the motion, he did not like the alignment at the 27th Street intersection and would vote no.

Vote: Ayes:

No: Troy Hickman

Larry Schmidt

Howard Rome

Wayne Billinger

Abstain: Henry Schwaller IV

Larry Schmidt moved to accept Options 2 and 5, and acquire right-of-way as it becomes available for use in the future. Wayne Billinger seconded the motion for purposes of discussion.

Commissioner Billinger said he did not think extensive improvements needed to be made to 8th Street. He was not opposed to minor repairs on 8th Street, but he preferred to address the entire corridor of 8th Street at another time.

Planning Commission chairman Larry Gould suggested ending the discussion tonight since it appeared no compromise was going to be made. He asked the Commission to come to a Planning Commission meeting for further discussion and try to reach a compromise. He felt everyone agreed the grant monies should be utilized. He hoped that with further discussion with Planning Commission members, a compromise could be reached.

Mayor Hickman called for a vote on the Commissioner Schmidt's motion

Vote: Ayes: Larry Schmidt

No: Troy Hickman

Howard Rome

Wayne Billinger

Abstain: Henry Schwaller

Wayne Billinger moved, Howard Rome seconded, that the Hall Street discussion be tabled in order to meet with and study the issue with members of the Planning Commission prior to the next meeting.

Vote: Ayes: Troy Hickman

Henry Schwaller

Larry Schmidt

Howard Rome

Wayne Billinger

Commissioner Schwaller said he would be willing to discuss this issue further, but he did not feel there would be any movement. If a compromise was going to be reached, it should have happened tonight.

Commissioner Rome said he could not understand why Commissioner Schwaller felt he had a personal conflict and had to abstain from voting on this issue. Commissioner Schwaller said he has interest in two pieces of property adjacent to Hall Street. If it becomes four lane, he will force the City to buy his house because it will be destroyed, or if he voted for the three-lane option, it could look like he was "feathering his nest" to protect his property. Either way, he wanted the citizens to know that he was not trying to do something to make his life better.

A citizen questioned why Commissioner Schwaller is abstaining because he owns property along Hall Street, but Commissioner Schmidt is not abstaining and he owns property on 8th Street. He felt if one is going to abstain, both should abstain and let the rest vote. Commissioner Schmidt said the suggested improvements would be about 100 feet past his property and would not affect his property anymore than any other street repair in the City.

City Attorney Bird explained that according to State Statute, neither Commissioner Schwaller nor Commissioner Schmidt has a conflict of interest because each disclosed his business interests when he filed the required papers with the County Clerk. Once that is done, you can take any action on a publicly disclosed item, if it is in the legislative arena as opposed to entering into a contract. Commissioner Schmidt and Schwaller can change their mind at any time. Neither one of them is committing any wrong under the statutes that govern conflict of interest.

The Commission set 7:00 p.m. on Thursday, December 16, 1999, as the date for a joint study session between the City Commission and the Planning Commission to further study the Hall/8th Street improvements.

9. COMBINING OF “C-2” AND “C-S” ZONING REGULATIONS: The Hays-Ellis County Planning Commission has conducted a public hearing and has approved a proposal to combine two existing Commercial Zoning Districts within the current Zoning and Subdivision Regulations. The two current districts are “C-2” General Commercial and “C-S” Highway Service. This proposal eliminates any reference to a percentage of lot coverage and to provide a service oriented commercial district designation to reflect an intent and purpose that would: “provide commercial locations for basic retail, service and office uses that do not require a central location downtown but do require access from all parts of the community along streets providing medium to high levels of mobility.” Additionally, it would recognize that “Allowed uses along Interstate and State Highway routes are intended to provide convenience for the traveler.”

Kent Laas, Community Development Coordinator, and Larry Gould, Planning Commission chairman, recommended a Section 10, Stormwater

Drainage Regulations, be added to the new “C-2” General Commercial and Service District to address the impervious surface issue at some time in the future.

Henry Schwaller IV moved, Larry Schmidt seconded, that City staff be directed to prepare an ordinance combining “C-2” and “C-S” zoning regulations as proposed by the Planning Commission.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

After the Commission has voted on the ordinance, the issue will be forwarded to the Ellis County Commission for their consideration.

10. NOISE ORDINANCE REVIEW: Police Chief Lawrence Younger presented statistics relating to complaints received the last three years concerning loud noise problems. Of the 1,712 complaints, 110 written citations were given and processed through City court.

City Manager Zacharias stated that the City of Manhattan has a permit for exemption from the provisions of their noise ordinance. The exemption specifies the time during which the permit shall be effective and prescribes any conditions or requirements deemed necessary to minimize adverse affects upon the community. This permit may be revoked in the event the conditions prescribed are violated.

Commissioner Schmidt stated that using a decibel meter would not hinder on an officer’s judgement, personality, or who made the complaint. A meter would definitely determine what is too loud.

Commissioner Billinger stated there are many variables that would need to be considered in determining what is too loud.

Commissioner Schwaller stated the current ordinance was written in 1954 and should be updated. It does not deal with vehicles or sub-woofers in car trunks or glass pack mufflers.

Chief Younger stated that any new ordinance written could deal with vehicles, but may be hard to enforce. Would we have to prove who was driving that vehicle at that time? Could there be an argument about the quality of the decibel meter being used?

Chief Younger stated officers respond to a noise complaint when called in by a citizen. If the complainant states he will sign a complaint, the officer issues the citation and has the complaining party come forward as a witness. This has not been a problem nor has our ordinance caused any problems. Using a decibel meter makes it more complicated than it needs to be. The process we currently use works. The intent is not to make an arrest, it is to quiet the noise. Most times this works.

City Attorney John Bird stated that a decibel meter does not discriminate between someone playing drums or someone mowing the lawn. Mechanical devices can be used to slant testimony as much as an officer's own opinion.

City Manager Zacharias stated the problem with vehicles could be handled within our current ordinance. The problem is catching them in the act; it's an enforcement issue.

Suenell Koerner, 306 West 38th Street, stated most people willingly turn down the volume and comply once a complaint is received. This is not a major problem. Our present system is working fine.

Wayne Billinger moved, Howard Rome seconded, that the present ordinance regarding noise ordinances be retained as written and language be added to allow permit exemptions similar to provisions in the Manhattan ordinance.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Howard Rome
Wayne Billinger

No: Larry Schmidt

11. TRAFFIC ADVISORY COMMITTEE RECOMMENDATION REVIEW:

Commissioner Schwaller requested that the Traffic Advisory Committee

recommendations regarding improvements to pedestrian crosswalks located at Donald Drive and 22nd, and MacArthur and 22nd Street, along with the recommendations regarding protected left turning movements at 22nd & Vine Street, be tabled until the next Commission meeting. The items were tabled by consensus of the Commission.

12. PARK AND RECREATION MASTER PLAN STEERING COMMITTEE: A.

Wayne Billinger moved, Henry Schwaller IV seconded, that the recommendations from the Park and Recreation Master Plan Steering committee to reconstitute and expand the existing committee to include the following, be approved:

1. Representative from USD 489
2. Representative from Fort Hays State University
3. Representative from Hays Medical Center
4. Hays Recreation Commission Chairman Randy Clinkscales
5. Hays Recreation Commission appointee
6. Hays Recreation Commission appointee
7. City Commissioner Larry Schmidt
8. City Commission appointee
9. City Commission appointee
10. Hays Recreation Superintendent Rick Claiborn, ex officio non-voting member
11. City of Hays Parks Director Jeff Boyle, ex officio non-voting member

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

B. Henry Schwaller IV moved, Howard Rome seconded, that the Mayor's recommendations to appoint Nancy Shaver and Rex Ball to the Parks and Recreation Master Plan Steering Committee, be approved.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

13. NAMING OF HAYS MUNICIPAL POOL: Asst. City Manager Penny Postoak reported on the results of an opinion poll that was in the City Works newsletter. There were 131 responses. Of those 131 responses, 91 indicated they wished to keep the name “Hays Municipal Pool”. The consensus of the Commission was to retain the present name.

14. AUDIT CONTRACT: Henry Schwaller IV moved, Larry Schmidt seconded, that the City of Hays enter into a contract with Adams, Brown, Beran, and Ball to perform the 1999 Audit.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

15. 27TH STREET CONSTRUCTION REVIEW: City staff has recommended the placement of green space on the south side of 27th Street adjacent to the City cemetery fence. The area is too narrow for a sidewalk. The north side of 27th Street has a 10-foot wide sidewalk to accommodate foot traffic.

Howard Rome moved, Henry Schwaller IV seconded, that staff research the cost of xeriscaping the south side of 27th Street adjacent to the City cemetery fence.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

16. COMMUNITY PROMOTIONS: This item was tabled until the January 13, 2000 Commission meeting.

17. CITY COMMISSION AGENDA PROCESS: Commissioner Schwaller recommended the order of the Commission meeting agenda be changed to follow Section 2-15 of the Code of Ordinances. This would rearrange the order of business that is now being followed. A resolution could be adopted that would allow the chairman to set the agenda and adopt by consensus a more civil way of having add-ons on the agenda.

Commissioner Billinger suggested City staff provide the proposed agenda to Commissioners on Friday. The Commissioners may comment and make changes to the agenda order prior to Monday, when it is distributed.

City Manager Zacharias stated he is following the same format for setting the agenda that was in place when he became City Manager in 1992. Unfinished business is placed first on the agenda, other than public hearings, which are scheduled earlier. Other items of similar topic matter are grouped together. The last items on the agenda are topics that involve staff only.

City Manager Zacharias stated with the Commission-Manager form of government, the chairman does not have any more authority than anyone else does. That is why most City Managers handle the agenda; every Commissioner has equal access to all the documents. The agenda could be given out on Friday to allow all of the Commissioners to make changes.

The consensus of the Commission was to try this method of setting the agenda for several months.

18. LEGISLATIVE POLICY REVIEW: City Manager Zacharias reviewed the proposed 2000 City of Hays State Legislative Policy Statement. The City Manager suggested statements relating to Internet taxation be added to the policy. Another statement should be added that demand transfers are not taken away from cities. Monies earmarked for city services should not be used for other purposes.

Commissioner Schwaller suggested amending the Community and Economic Development language to include expanding the existing constitutional exemption for high-tech service firms.

City Manger Zacharias will supply a final draft document at the next meeting.

19. EXECUTIVE SESSION: Henry Schwaller IV moved, Howard Rome seconded, that the Governing Body adjourn to executive session at 10:48 p.m. for 10 minutes to discuss personnel. The executive session will include the City Commission and the City Manager.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

Mayor Hickman called the meeting back to order at 10:58 p.m. He stated no action was taken.

Wayne Billinger moved, Howard Rome seconded, that the City Manager be given a 2.5% increase in salary retroactive to his anniversary date.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

20. ADD-ON ITEMS: Commissioner Schmidt requested that the quorum issue be placed on the January agenda for further discussion. Commissioner Schmidt recommended the City and Ellis County address the 41st Street maintenance issues and discuss the criteria for building 48th Street. The City should resolve the issues involving 41st Street.

City Manager Zacharias stated staff is working on a proposal concerning how 41st Street and streets similar to 41st Street are handled. Further information will be forthcoming in January.

Commissioner Schwaller requested the Traffic Advisory Committee review Article 10 regarding the speed limit of trains driving through the city limits.

City Attorney John Bird stated recent State Statutes have taken away cities' power to regulate train traffic. Staff will research the issue and report back to the Commission.

Commissioner Schwaller requested the contract with Bucher, Willis and Ratliff be reviewed and the Commission consider opening up the bidding process to other engineering firms.

Mayor Hickman requested tonight's meeting be recessed until Tuesday, December 21st, rather than holding the regular scheduled meeting on Thursday, December 23rd. Recessing is an easier method of scheduling a Commission meeting on a date not proscribed by our ordinances.

Henry Schwaller IV moved, Wayne Billinger seconded, that this meeting be recessed until December 21, 1999, at 7:30 p.m.

Vote: Ayes: Troy Hickman

Henry Schwaller IV

Larry Schmidt

Wayne Billinger

No: Howard Rome

Thereupon the Governing Body was recessed.

Submitted by: _____

Clerk of the Board