

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

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session, Tuesday, November 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:** Troy Hickman moved, Howard Rome seconded, that the minutes of the regular session held on October 28, 1999, be approved.

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

**3. CITIZEN COMMENTS:** Luella Barber, USD #489 teacher, invited Commissioners to the Safety Awareness Fair to be held November 15<sup>th</sup> & 16<sup>th</sup>, 1999.

**4. COMMISSION INFORMATIONAL MEMORANDUM:** City Manager Hannes Zacharias shared information he has received from the Kansas Legislative Research Department soliciting testimony to the Task Force on rail passenger service. This Task Force is established to enhance and/or reinstate passenger rail transportation services. Hays is located on one of the proposed routes connecting Kansas City and Denver.

The Commission instructed the City Manager to pursue dialogue with the Task Force and gain more information.

**5. CONSENT ITEMS:** Troy Hickman moved, Howard Rome seconded, that Charles A. Eakins be appointed to a unexpired two year term on the Traffic Advisory Committee, to expire on January 1, 2001.

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

**Agenda Item # 7 was discussed next.**

**7. INSPECTION REPORT REVIEW:** Wayne Schwartz, Fire and Inspection Services Director, reviewed recommended changes regarding permit requirements. Mr. Schwartz recommended permits not be required for the following:

1. One-story detached accessory buildings
2. Fences not over 6 feet
3. Oil derricks
4. Movable cases, counters and partitions not over 5 feet 9 inches high
5. Retaining walls not over 4 feet in height, unless supporting a surcharge or impounding Class I, II or III A liquids.
6. Certain water tanks
7. Certain platforms
8. Painting, papering, and similar finish work
9. Temporary motion picture, television and theater stage sets
10. Certain window awnings
11. Certain prefabricated swimming pools
12. Residential roofing
13. Siding
14. Window and door replacement
15. Relocation of certain non-structural partitions

16. Any other items deemed cosmetic in nature by building officials.

Commissioner Schmidt stated that residential roofing, relocation of non-structural partitions, and items deemed cosmetic in nature should not be exempt from permit and inspection requirements for safety reasons.

Commissioner Rome stated he agreed that residential roofing should have a permit requirement.

Mr. Schwartz stated his preference would be to use the Uniform Building Code for enforcement for residential roofing, siding, window and door replacement, relocation of non-structural partitions, and cosmetic alterations.

Commissioner Schwaller stated he was concerned about the word “repair” in the Uniform Building Code. That word could cause some confusion between structural repairs and minor maintenance or cosmetic repairs.

Mr. Schwartz stated City ordinances outline regulations for what requires a permit. The adopted Uniform Building Code has those very same guidelines. Past practice has been to observe those things listed in the City ordinance. The Study Group recommendation on the permit issue is to do away with the language that is in the City ordinance and use the language that is in the UBC. This would help eliminate some of the confusion.

The Commissioners requested City Attorney John Bird remove the word “repaired” from the language and come up with a word that would differentiate between minor and major structural repairs. The Commissioners will then study the language again before giving final approval to an ordinance change.

Troy Hickman moved, Wayne Billinger seconded, that the exemptions from permit requirements, Items 1 through 11 and Item 13, excluding Items 12,14,15, and 16, as recommended by Mr. Schwartz, be approved. Items 12, 14, 15 and 16 will be required to have permits and inspections.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

**6. TAX ABATEMENT:** Mayor Billinger opened a public hearing to receive comments regarding the issuance of a ten-year tax abatement for the expansion of A-1 Plank Incorporated. Members of the Allenbaugh family, owners of A-1 Plank and Scaffold Manufacturing, addressed the Commission. They spoke on the history of the company, their relocation to Hays, and capital improvements made to the Hays facility.

Lavern Squier, Ellis County Coalition for Economic Development Executive Director, stated A-1 Plank qualifies for a tax abatement under state statute. The three taxing units, those being the City of Hays, Ellis County, and USD 489, will be winners if this abatement is approved, and have been notified of the public hearing regarding the tax abatement. The benefits outweigh the loss of tax revenue. Mr. Squier stated that the employment agreement states that A-1 Plank is willing to agree to a threshold of employment of 110 employees each year. Additional employees beyond the 110 can be used as a credit toward another year.

Howard Rome moved, Troy Hickman seconded, that the public hearing be closed.

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

Henry Schwaller moved, Troy Hickman seconded, that a ten-year tax abatement for the expansion of A-1 Plank Incorporated, and an Employee Investment in Lieu of Taxes Agreement, be approved.

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

**8. KDOT SYSTEMS ENHANCEMENT PROJECT FUNDING APPLICATION:**

City Manager Zacharias said the application for KDOT System Enhancement funding on and along Vine Street from 27<sup>th</sup> Street north to 55<sup>th</sup> Street is due December 8, 1999. One component of that process is an economic impact assessment of the improvements. Dr. Preston Gilson and Dr. Joe Aistrup, representing the Docking Institute, reviewed the Economic Impact Study prepared by the Docking Institute. Mr. Gilson said one large retailer (Wal-Mart) has already committed to locate at 43<sup>rd</sup> and Vine. One large retailer tends to attract other retailers. Traffic flow is critical once retail development takes place. It is estimated that by 2011 projected sales with this expansion will be 355 million dollars per year, with an estimated 1,000 jobs created.

Public Works Director Elden Hammerschmidt said the City's recommended projects for Highway Enhancement funds have been reviewed by KDOT. The projects originally recommended totaled \$11.2 million. After removing the projects which KDOT would not consider for funding, the total estimated project cost is \$7.6 million. The City's portion of the cost would be \$1.5 million at a 20 percent match. Mr. Hammerschmidt reviewed the recommended improvements to the Highway Enhancement Program as follows:

Vine Street – I-70 to 48 <sup>th</sup> Street.	\$2,325,000
Vine Street – Accel./Decel. N of I-70	60,320
Vine Street – 48 <sup>th</sup> to 55 <sup>th</sup> Street	1,932,016
33 <sup>rd</sup> Street – Vine to Cross-over to 32 <sup>nd</sup>	1,078,783
Mopar Drive – Vine to Rev. Frontage Rd.	144,838
West Rev. Frontage Rd. – Mopar to 43 <sup>rd</sup>	191,557
43 <sup>rd</sup> Street – Vine West to W. Frontage Rd.	508,352
43 <sup>rd</sup> and Vine Intersection Traffic Signals	164,147
41 <sup>st</sup> Street-Vine East to Rev. Frontage Rd.	167,747
43 <sup>rd</sup> Street – Vine to E. Rev. Frontage Rd.	542,998
45 <sup>th</sup> Street – Vine to E. Rev. Frontage Rd.	206,679
East Rev. Frontage Rd. – 41 <sup>st</sup> to 45 <sup>th</sup>	370,837
Total	\$7,693,273

Assistant City Manager Penny Post oak reviewed the debt service schedule including the proposed recommended improvements. She stated that with some creative financing on the part of our Financial Advisor, both the Vine Street and the Hall Street Projects could be left in the Capital Improvement Plan. If the Hall Street project is pushed back to 2005, or 2003 with the issuance of two year temporary notes, both projects would be affordable, and there would only be a slight increase in the mill levy.

City Manager Zacharias said City staff's recommendation is to apply for highway enhancement funds totaling \$7,693,273 for the above recommended projects with a 20 percent match of \$1,538,655, being provided by the City.

Commissioner Schmidt said he felt work should be done on the south end of town, while working on the north end. His revised recommendation for Hall Street Improvements in 2002 would be \$800,000 less; this money could be put toward the Highway Enhancement Project. Spending all the City's money on north Vine Street will make Wal-Mart happy, but not the general citizenry. Mr. Hammerschmidt felt the additional sales tax and property tax generated by additional development could be used toward improvements in other parts of the City.

Troy Hickman moved, Wayne Billinger seconded, that the recommendation of City staff for improvements along Vine Street totaling \$7,693,273, with the City providing a 20% match, be submitted to the Kansas Department of Transportation for consideration of funding through the System Enhancement Program.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller

Larry Schmidt

Howard Rome

**9. ANNUAL CLEAN-UP REVIEW:** Assistant City Manager Post oak presented several financial scenarios regarding the affects of various rate increases on the Solid Waste Fund.

City Manager Zacharias said the purpose of this discussion is to let the Commissioners know that they have given City staff direction to implement a 50 cent increase in January, and City staff will prepare an ordinance to that effect. More than likely, staff will be proposing an increase in 2001 and 2003 as well. The numbers may change depending on markets for recyclable materials.

Discussion took place regarding curbside versus alley pick up for the Spring Clean Up. City Staff recommended alley pick up for safety reasons. Seasonal personnel will be hired, and they will not be as familiar with the streets. Walking between parked cars with large objects can be dangerous, and two-way traffic could pose problems on narrow streets.

Howard Rome moved, Wayne Billinger seconded, that the Spring Clean up will take place in the alleys.

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

**10. GUSTAD BRIDGE APPLICATION:** Assistant Public Works Director Brenda Cary said the Kansas Department of Transportation has notified the City that they have made federal funds available to help pay for the construction to improve the low water crossing at FHSU.

Initially, a grant was awarded by KDOT only to find that the “bridge” was not really classified as a bridge by their standards. It is a low water crossing. However, since it appeared to be a mistake by KDOT, they have worked with the City and Fort Hays State University to determine the scope of a project to build a lessor structure (four concrete box culvert bridge) instead of the multispans bridge that was initially requested.

KDOT has notified the City that they will fund 80% of construction and construction engineering for this project. Fort Hays State will fund the design engineering and 20 percent of construction and construction engineering. There will be no capital outlay made by the City.

City Staff recommends that the Mayor and the City Manager sign a Request for Construction Project to implement the grant process with KDOT.

Troy Hickman moved, Howard Rome seconded, that the Mayor be authorized to sign a "Request for Construction Project" application to construct Gustad Bridge between 183 By-Pass and College Boulevard.

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

**11. CHANGE ORDER:** Jim Sullivan, architect for the Municipal Pool Construction Project, presented the following change orders for consideration by the Commission.

1. SUNDECK OUTLETS: \$448.00

Four additional outlets to supplement the existing contract outlets are proposed on the Sundeck to provide ample power for activities.

2. BOILER FLUES: \$5,327.62

This additional amount is to provide an increase in flue size as required for pump house boilers. Mechanical plans indicate three four-inch flues and one nine-inch flue extending through the roof of the pump house. Upon closer investigation it was discovered that manufacturers require a minimum of one 18-inch flue and three 20-inch flues. This discrepancy was due to a coordination issue between Pool and Mechanical Engineers and misrepresentation of flue size requirements on the drawings. Glassman Plumbing, who provided this change order amount, brought this situation to the Architect's attention. It is understood that had the appropriate flue sizes been indicated on the drawings, the contract amount would have represented this additional amount. Glassman Corporation is not including additional labor in their proposal. It was noted that the initial intent of the drawings was to include 24-inch flues and 22-inch flues, but the flues were downsized to the 18-inch and 20-inch flues.

3. ADA Compliance \$2,191.81

Following letting of contract for construction, additional ADA reviews were undertaken and have resulted in the following revisions:

- a. Add van accessible parking stall, parking sign and sidewalk ramp at Larks Park - \$543.19.
- b. Substitute 2 wood benches for plastic benches in Men and Women's Locker/Toilets - \$823.26.
- c. Delete shower seats in Men and Women's Showers - credit of \$300.00.
- d. Add one 24" grab bar at Men's Shower for \$75.17
- e. Add automatic door openers at Wheelchair Lift for \$1,050.19.

Total Change Order	\$7,967.43
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Commissioner Schmidt asked Mr. Sullivan if the boiler manufacturer has approved in writing the new flue sizes. He understands that going from 24-inch to 20-inch loses 20 percent efficiency of the flue. Also, he questioned if the warranty would remain in place if the flue size were downsized. Mr. Sullivan said he has been in contact with the manufacturer, and a decrease in efficiency was not mentioned with the reduction of flue size.

Troy Hickman moved, that Change Order No. 6, totaling \$7,967.43, for the Hays Municipal Pool, with the provision that the City receives a warranty for the boiler flues from the boiler manufacturer, be approved. There was no second to the motion.

Commissioner Schmidt said these are not change orders; they are mistakes, and the City should not pay for mistakes. He felt if the boiler was designed for a 24-inch flue, there probably was a reason, and the reason was more than likely efficiency.

Commissioner Rome also felt if the plans called for a 24-inch flue, he would rather pay the extra money and be safe rather than sorry.

Mr. Sullivan pointed out that if the design professional had not made a mistake, there would have been an additional \$5,000 added to the original contract.

City Attorney Bird noted that the architect job was done within acceptable, professional standards, and there will always be variances. In Attorney Bird's opinion, the architect has not done anything today, or any other time the architect has come before you to violate the standards. He recommended that the project be built as it should have been designed, pay the contractor, and look to the architect for an adjustment.

Commissioner Schwaller suggested the boiler be built to the manufacturer's specifications, and negotiate the cost difference with the architect.

Henry Schwaller IV moved, Larry Schmidt seconded, that the Change Order, Item #2 Boiler Flues, in the amount of \$5,327.62, be accepted, pending review by the manufacturer guaranteeing that a reduction in the flue to 20 inches will not alter in any way the efficiency and effectiveness of the boilers. If the manufacturer cannot guarantee such, then the flue should be installed to meet the 24-inch size.

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

Henry Schwaller IV moved, Troy Hickman seconded, that Change Order, Item #1 Sundeck Outlets, in the amount of \$448.00, be accepted.

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

Commissioner Schwaller questioned why the ADA Compliance items were being brought forth in a change order. Mr. Sullivan stated ADA Compliance is constantly open to areas of interpretation. Additional review of the drawings identified areas that need to be revised to comply with ADA.

City Attorney Bird stated ADA compliance is an evolving area. Issues are still not crystal clear on many areas.

Commissioner Schwaller questioned why the handicap parking at Larks Park was being charged to the pool project. Mr. Sullivan stated the handicap parking at Larks Park would be used by the pool patrons as well as by people going to Larks Park.

Commissioner Schwaller stated he is very much in favor of accommodating the disabled, but felt the funding for the van accessible parking stall should come out of another fund, not the pool fund.

Troy Hickman moved, Wayne Billinger seconded, that Change Order, Item #3 ADA Compliance, in the amount of \$2,191.81, be accepted.

Vote: Ayes: Wayne Billinger

Troy Hickman

Larry Schmidt

Howard Rome

No: Henry Schwaller IV

At this point in the meeting, Commissioner Schwaller left due to illness.

**12. TALLGRASS ADDITION REZONING:** Lusk Land Company, Wichita, Kansas, submitted six change of zoning requests for properties located within Tallgrass Second Addition. The Hays-Ellis County Planning Commission recommends the City Commission adopt the appropriate ordinances to change the zoning.

Howard Rome moved, Larry Schmidt seconded, that the following ordinances be approved:

**Ordinance No. 3481:** An ordinance rezoning a tract of land situated in Block B and Block C, Tallgrass Second Addition, Ellis County, Kansas, from "A-L" Agricultural to "R-3N" Two Family Neighborhood District.

**Ordinance No. 3482:** An ordinance rezoning a tract of land situated in Block C, Tallgrass Second Addition, Ellis County, Kansas, from "A-L" Agricultural to "R-3" Two Family Dwelling District.

**Ordinance No. 3483:** An ordinance rezoning a tract of land situated in Block G and Block A, Tallgrass Second Addition, Ellis County, Kansas, from “A-L” Agricultural to “C-2” General Commercial District.

**Ordinance No. 3484:** An ordinance rezoning a tract of land situated in Block F, Tallgrass Second Addition, Ellis County, Kansas, from “A-L” Agricultural to “C-1” Neighborhood Shopping District.

**Ordinance No. 3485:** An ordinance rezoning a tract of land situated in Block B and Block E, Tallgrass Second Addition, Ellis County, Kansas, from “A-L” Agricultural to “R-4” Multi-Family Dwelling District.

**Ordinance No. 3486:** An ordinance rezoning a tract of land situated in Block D, Tallgrass Second Addition, Ellis County, Kansas, from “A-L” Agricultural to “R-1” Single-Family Dwelling District.

Vote: Ayes: Wayne Billinger

Troy Hickman

Larry Schmidt

Howard Rome

**13. NEIGHBORHOOD REVITALIZATION DISTRICT PLAN:** Kent Laas, Community Development Coordinator, reviewed the criteria for implementing the Neighborhood Revitalization District Plan and the geographic boundaries defined at an earlier Commission meeting. The Appraiser’s Office has provided a computer file that supplies names, address and property values for property located within the geographic boundary.

The next step will be to develop a complete and thorough Plan for the entire area (including residential) that specifically addresses the unique aspects of our downtown shopping district with an emphasis on historic preservation. Prior to adopting the Plan, a public hearing must be held to consider the Plan. Then, the City, County, and USD 489 must enter into Interlocal Agreements to adopt the Plan. The City should then adopt an ordinance establishing the program.

**14. UNION CONTRACTS:** City Manager Zacharias stated that Service Employees Local 513, Firefighters Local 2119, and the Fraternal Order of Police

Lodge 48 have agreed to three-year agreements, which will expire December 31, 2002. The primary issue during negotiations with all three entities was the completion and implementation of a new pay plan.

Howard Rome moved, Troy Hickman seconded, that the City Manager be authorized to sign Memorandums of Understanding with the Fraternal Order of Police Lodge 48, Service Employees Local 513, and Hays Firefighters Local 2119, effective January 1, 2000 through December 31, 2002.

Vote: Ayes: Wayne Billinger  
Troy Hickman  
Larry Schmidt  
Howard Rome

**15. PAY PLAN RESOLUTION:** Commissioner Schmidt stated he has no problem with pay raises given to front line employees, however, he feels the raises given to department heads is excessive.

Troy Hickman moved, Howard Rome seconded, that the City adopt a resolution establishing the City Pay's Plan effective December 26, 1999.

Vote: Ayes: Wayne Billinger  
Troy Hickman  
Howard Rome  
No: Larry Schmidt

**16. EXECUTIVE SESSION:** Troy Hickman moved, Howard Rome seconded, that the Governing Body adjourn to executive session at 11:05 p.m. for five minutes to discuss personnel. The executive session is to include the City Commission and the City Manager.

Vote: Ayes: Wayne Billinger  
Troy Hickman  
Larry Schmidt  
Howard Rome

Mayor Billinger called the meeting back to order at 11:10 p.m. He stated no action was taken during executive session.

**17. ADD-ON ITEMS:** Commissioner Schmidt requested staff develop an ordinance that gives a specific decimal reading for our Noise Ordinance.

Thereupon the Governing Body adjourned.

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

Clerk of the Board