

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON OCTOBER 14, 1999

1. CALL TO ORDER: The Governing Body of the City of Hays, Kansas met in regular session, Thursday, October 14, 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, Larry Schmidt seconded, that the minutes of the regular session held on September 23, 1999, be approved.

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

3. AWARDS: The Commission recognized the Hays Convention and Visitors Bureau for its third place award from the Destinations' Guide Award contest regarding the promotion of Sternberg Museum to tour operators.

4. CITIZEN COMMENTS: Errol Wuertz presented a petition urging the City Commission to move the John Werth hangar to another location at the Hays Municipal Airport.

5. COMMISSION INFORMATIONAL MEMORANDUM: City Manager Hannes Zacharias urged the Commissioners to attend strategic planning meetings being held to develop goals for the League of Kansas Municipalities into the next century. The City Manager stated funds are budgeted for Commissioners to

attend the National League of Cities Congress of Cities meeting to be held in Los Angeles, November 30 through December 4, 1999, and urged to Commissioners to consider attending.

6. CONSENT ITEMS: Troy Hickman moved, Howard Rome seconded, that the following mayoral appointments be approved:

Beautification Committee

Ann Furman – three year term expiring August 1, 2002

Kris Dewell – three year term expiring August 1, 2002

Trades Board

Gary Weatherbee – four year term expiring August 27, 2003

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

7. PARKS AND RECREATION MASTER PLAN: Randy Clinskales and Rick Claiborne, representing the Hays Recreation Commission, addressed the Commission regarding the desire of the HRC to have a master plan in place that will address both the present and future needs of the City.

City staff and the HRC recommend that a proposal from Bucher, Willis and Ratliff in the amount of \$20,000 be accepted to fund a master plan. HRC has agreed to pay 40% of the cost (\$8,000) with the remaining 60% (\$12,000) being paid by the City of Hays. Additionally, both entities recommend a statistically valid needs assessment study be completed at an additional cost of \$8,000, to be split 40%-60%; the City's cost being \$4,800. This survey would be representative of the general public, not just those that are surveyed. BWR would perform a survey as part of their master plan, but would not be able to guarantee that it is statistically accurate.

Commissioner Schmidt stated he was not in favor of spending additional funds for a statistically valid needs assessment study. He felt a general survey would serve our needs at this time.

Commissioner Schwaller stated he was supportive of the master plan. A more in depth study could be done at later date by another firm, if the Commission should decide to do so.

Henry Schwaller IV moved, Larry Schmidt seconded, that the proposal submitted by Bucher, Willis and Ratliff to complete a Parks and Recreation Master Plan in conjunction with the Hays Recreation Commission for a total City of Hays cost not to exceed \$12,000, be approved.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

8. POOL ISSUES: A. ACCEPT BID: Wetland Irrigation was the low bidder on the underground sprinkler system at the Hays Municipal Pool, bidding \$29,316. Jim Sullivan, pool architect, stated he spoke with Wetland Irrigation about concerns of over spray from sprinkler heads going into the street. With some small modifications to the plan, the problem of over spraying should be avoided.

Commissioner Schmidt stated there is a concern about putting chemicals into the Lazy River from the irrigation system. He is inclined to accept a plan originally submitted by Riedel Landscaping. His plan was more costly but would be more efficient. Commissioner Schmidt would like staff to further research the underground sprinkler system plan submitted by Wetland Irrigation before accepting their bid.

Commissioner Hickman stated he is comfortable with staff's evaluation of Wetland Irrigation design plan.

Troy Hickman moved, Wayne Billinger seconded, that the bid submitted by Wetland Irrigation to install the irrigation system at the Hays Municipal Pool for a total of \$29,316, be accepted.

Vote: Ayes: Wayne Billinger

Troy Hickman

Howard Rome

No: Henry Schwaller IV

Larry Schmidt

B. CHANGE ORDER NO 1. Mr. Sullivan presented a change order for electrical items in the amount of \$4,207. These are for items not shown on the electrical plan but are changes the architect feels are necessary for the pool to run efficiently. The items are for a main disconnect, amp breakers, a motor starter, and a circuit for a sump pump.

Commissioner Schwaller questioned how these items could have been missed in the plans. Asst. City Manager Penny Postoak stated approximately \$500,000 was saved by doing nine different contracts and coordination issues will arise as a result.

Commissioner Schmidt asked if approval could be put off until the next meeting. He would like an itemized list of costs. These electrical items should be done for cost; no one should make any money off this oversight.

Commissioner Hickman agreed the electrical work should have been included in the original designs. However, these are things that need to be done. For a project of this complexity and cost, these change orders and dollar amounts are not an uncommon occurrence.

Commissioner Schwaller stated he does not have a problem with change orders when they are done to improve the overall quality of a project. When mistakes are made or work is done without the approval of the Commission, then there is a problem.

Mr. Sullivan stated that this change order is a design issue, not an electrical contract issue. The electrical contractor should be receiving some overhead and profit for additional work that was not included in the bid.

Commissioner Schwaller stated the designer of the pool should pay for the oversight. There was a mistake made and mistakes are covered in our contract.

At the direction of the Commissioner, Mr. Sullivan will present a breakdown of the materials and labor at the next meeting.

CHANGE ORDER No 2. Henry Schwaller IV moved, Troy Hickman seconded, that a change order for the bathhouse sun deck railing, in the amount of \$3,526 with Commercial Builders to change the horizontal cabling to vertical bars, be accepted.

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

C. CONTRACT AMENDMENT No 1. A multi-purpose building was bid as an alternate in the original bidding process, with a cost of \$36,640. The Pool Task Force chose to delay including this with the original bid until more information on sales tax revenue projections was available. The Task Force feels this building could be paid out of the contingency fund without hampering future possible change orders. If all change orders and contract amendments were approved, there would still be \$120,000 left in the contingency fund. Ms. Post oak stated change orders should decline now that most of the underground work has been completed. The architect and the general contractor feel \$120,000 would be enough to cover any future change orders.

The multi-purpose building would provide a storage area for equipment, serve as a first aid station, a judging room at swim meets, and house the pool's speaker system and electronic timing system. If the building were built now, it would avoid having to dig up concrete decking later to install the plumbing.

Troy Hickman moved, Henry Schwaller IV seconded, that the contract amendment in the amount of \$36,640 with Commercial Builders to add the construction of a multi-purpose building, be approved.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

2. The pool budget allocated \$5,000 for the installation of a decorative fountain. An extra \$2,309 is being requested from the contingency fund for this fountain.

Henry Schwaller IV moved, Troy Hickman seconded, that the contract amendment in the amount \$7,309 with Commercial Builders to add the installation of the fountain in the bathhouse, be approved.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

9. WATER REPORT: City Manager Hannes Zacharias and Lavern Squier, President of PWWD #15 reported on water activities of the City of Hays and PWWD #15. City Manager Zacharias spoke on water use, water rights, sustainable yield and water exploration financing. The half-cent sales tax that is designated for water exploration will have approximately 6.1 million dollars by the end of 1999. Approximately 1.3 million dollars is added to that fund every year.

Mr. Squier stated one of the issues the District is working on is finalizing approval of water right applications in east Russell County in order to develop the Smoky Well Field. The job of the District is to get the water and wholesale it to the cities of Hays and Russell. Field testing and pre-engineering activities are moving forward. Surface water intake tests will be performed at a site located south of Bunker Hill in the near future.

10. HALL STREET PLANS: City Manager Zacharias reviewed traffic volume counts on Hall Street and the streets abutting Hall Street. Traffic patterns affecting Hall Street, once future development to the north of Hays takes place,

were discussed. Hall Street is an arterial street and the City development policy states arterial streets should be four lane streets.

Harvey Ruder, engineer with Bucher, Willis and Ratliff, reviewed preliminary design improvements to Hall Street from 8th Street to 27th Street.

Planning Commissioner Larry Gould said there have been a number of plans for Hall Street. Commissioner Schmidt has said he has contacted various engineer friends for comments. The Planning Commission's function is make recommendations regarding land use, however the Planning Commission was never contacted. The Planning Commission has many years of experience in Planning, and could give valuable feed back on land use issues.

Preliminary plans call for connecting Elm Street to Hall Street by the elimination of three houses between 12th and 13th Streets and the realignment of 13th Street to be at more of a right angle to Hall Street. The possible construction of another entrance to Thomas More Prep-Marian High School on the north side of the existing parking lot would ease traffic congestion for both O'Loughlin Elementary and Thomas More Prep-Marian

John McElwee, 606 West 13th Street, stated City staff has been very good about keeping property owners along Hall Street informed. He said that a large contingent of people who have attended several informational meetings are not really happy with any of the plans that have been put forth, but dislike this plan the least; they don't have any better ideas. Sometimes the best idea is to leave things they way they are.

Jean Ross, Director of Planning at TMP-M, stated concern about the safety of the children at both O'Loughlin Elementary and TMP-M. The present method used to drop off and pickup children is dangerous. Another entrance constructed to the north of the TMP-M parking lot would be very helpful. Both schools are working together and will continue to work together to make the best of this situation.

A study session is scheduled for October 21st to further discuss the preliminary plans for Hall Street and the 32nd / 33rd Street intersection.

AGENDA ITEMS 12. & 13. WERE MOVED AHEAD OF AGENDA ITEM 11.

12. BUILDING LIMITATION INFORMATION: On September 29, 1999 the Hays-Ellis County Planning Commission conducted a public hearing to consider increasing the percentage of lot coverage for buildings within the current “C-S” Highway Service Zoning District. Currently the buildings within that district can occupy no more than 25% of the lot area on which they are located. The Planning Commission recommends that percentage be raised to 50%.

Commissioner Schmidt stated he is not in favor of plugging in a percent. If a person puts up the money, time and effort, he should be able to do with any remaining area what he wants to do after all other requirements are met.

Community Development Coordinator Kent Laas stated this is a planning issue and it is necessary to provide as much versatility for future use of the structure. By consuming all of the property, an owner has limited the future use of the property and thereby doesn't have the flexibility to market the property.

Commissioner Schmidt stated it's their money, their private property; they should be allowed the full use of their property, if that's what is necessary to make their business successful.

Mayor Billinger stated he could see both sides of the issue. From the City's perspective, those property owners have chosen to conduct business in a community which has zoning to protect all districts.

Larry Gould, Planning Commission chairman, stated this is only a stop gap measure. This change was done so that a property owner could move ahead with his plans; fifty percent would allow him to move ahead. Another solution may be possible after further study.

Commissioner Schwaller stated he doesn't like arbitrary numbers either, but if the Planning Commission works on this and comes back with an alternate proposal, the ordinance can be changed again.

Mr. Laas said if the Commission approves the change, this matter would be forwarded to the County Commission for their consideration. If the County Commission approves this change, it will then come back to the City Commission for final approval.

Henry Schwaller IV moved, Troy Hickman seconded, that staff be directed to prepare an ordinance changing the percentage of coverage buildings may have in commercially zoned "C-S" Highway Service Zoning District from 25% to 50%.

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

13. ZONING ORDINANCE: Troy Hickman moved, Henry Schwaller IV seconded, that Ordinance No. 3478, being an ordinance rezoning a tract of land situated in Block One and Block Two, Sternberg Addition, from "A-L" Agricultural to "C-2" General Commercial, be approved.

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

11. AIRPORT LEASE: Larry Schmidt moved, Henry Schwaller IV seconded, that the Governing Body adjourn to executive session at 10:48 p.m. for 35 minutes to discuss litigation. The executive session will include the City Commission, the City Manager, the Assistant City Manager, the City Attorney, the Airport Manager, and the Fire Chief.

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

Mayor Billinger called the meeting back to order at 11:25 p.m. He stated no action was taken in executive session.

Henry Schwaller IV moved, Howard Rome seconded, that the Governing Body adjourn to executive session at 11:26 p.m. for ten minutes to discuss the acquisition of real estate. The executive session will include the City Commissioners, the City Manager, the Assistant City Manager, the City Attorney, and the Airport Manager.

Vote: Wayne Billinger
Henry Schwaller IV
Howard Rome

Mayor Billinger called the meeting back to order at 11:35 p.m. He stated no action was taken during executive session.

City Manager Zacharias reviewed the lease agreement with Eagle Aviation with respect to the required completion of their hangar. At the September 9, 1999 Commission meeting, Commissioners directed the City Manager to give notice under Section 17-D of existence of a default condition, that being the non-completion of the building, and the continued maintenance of the trailer, and that they have 30 days to correct the problem. The 30-day deadline for the leasee to comply with this provision is October 15, 1999.

City Manager Zacharias stated that as of today the hangar portion is complete. The office area is not complete. The trailer has been moved from behind the hangar to the inside of the hangar and is being used as a temporary office.

Albert Hunt stated he uses the trailer only as a restroom. He conducts business at a counter. Filing cabinets and a desk are out in the hangar; they are not in the trailer.

H. D. Woods, architect for the project, stated construction of the hangar is moving along and this hangar will be an asset to the airport and the community.

Henry Schwaller IV moved, Larry Schmidt seconded that the City Attorney, the City Manager, and the Airport Manager meet with Eagle Aviation to discuss terminating his lease or renegotiate the lease to establish a time line for completion of the hangar.

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

No: Troy Hickman

14. 13TH STREET SEWER LINES BID: Bids were received for the 13th Street Sewer Line Extension Project from the following:

J Corp	\$466,546.20 (original bid)
	470,802.70 (after two corrections)
Allied, Inc.	664,774.20
Smoky Hill L.L.C.	669,478.60
BRB Contractors	744,636.60

The engineer's estimate for this project is \$802,692.50. John Youll, Bucher, Willis and Ratliff engineer, stated BWR questioned the disparity between the J Corp bid and the next lowest bidder, Allied, Inc. BWR asked J Corp to go back through their bid and see if they missed something and if they were comfortable with their bid. Boring and excavation will need to be done because of water in the area, which will complicate the project. Steve Pfannenstiel drilled manholes and encountered water, but felt the banks were fairly stable. He indicated he could complete the job. J Corp is a new corporation and does not have any experience in sewer line work. After J Corp reviewed the job again, they indicated they would be able to do the job, therefore, BWR recommends they be allowed to perform the work. J Corp will provide a performance bond for this project.

Larry Schmidt moved, Henry Schwaller IV seconded, that the bid submitted by J Corp in the amount of \$470,802.70 for the installation of a new sewer interceptor line, be accepted.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

15. 33rd/32nd INTERSECTION PRELIMINARY ENGINEERING CONTRACT:

Henry Schwaller IV moved, Howard Rome seconded, that the City enter into a contract with Bucher, Willis and Ratliff for preliminary engineering work on 33rd/32nd Street intersection improvements (Vine to Skyline) for a total not to exceed \$15,500.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

16. CHANGE ORDER: Henry Schwaller IV moved, Troy Hickman seconded, that Change Order #1 (final) for 41st Street Plaza Third Addition for a total deduct of \$1,814.15, be accepted.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

17. ELIMINATE SCHOOL ZONE: This item is tabled until the next Commission meeting.

18. ANNUAL CLEANUP: Brenda Cary, Assistant Director of Public Works, reviewed the history of refuse rates and disposal costs since 1993. In order to provide an annual alley cleanup, staff contacted private haulers to see if any interest in the project could be generated. Only one person responded and he was not interested in submitting a bid.

Ms. Cary stated it would cost between \$56,000 to \$61,000 to provide an annual cleanup. Seasonal help would be utilized for nine weeks during the summer months. Waste would be collected in four separate pickups. By sorting waste prior to disposal, Ellis County has agreed to waive the disposal fees for brush, metals, and construction and demolition debris. The City would have to pay disposal costs for all other items.

To cover the total cost of the program, it would be necessary to increase refuse collection fees from about \$.60 to \$1.00 per month per customer. A \$.60 per month increase would generate approximately \$41,040 per year. This would not generate enough income to cover the costs of wear and tear on City equipment. A \$1.00 increase per month would generate approximately \$68,400 per year, which would cover equipment costs.

Commissioner Schmidt suggested items be taken to the street for pickup. Alley pickup would encourage people to hold debris all year long until the next pickup. People who litter the alley could be handled with a nuisance complaint.

Commissioner Schwaller suggested two scenarios to proceed with a cleanup program. One would be to have the cleanup, determine the actual cost, and then establish a rate increase based on the actual cost. The other scenario would be a small rate increase January 1, 2000; if that doesn't cover the cost, the City would pay the difference, then have another rate increase in 2001.

Larry Schmidt moved, Henry Schwaller IV seconded, that refuse rates be increased by \$.50 starting January 1, 2000, to reinstate the annual cleanup program, with debris being picked up at the street.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

19. GAS PURCHASES: City Manager Zacharias reviewed information regarding the process used to refuel City vehicles. The Police Department conducted a survey as to what entities could meet that department's needs. These include

24-hour availability, deduction of federal gas taxes prior to billing and fleet information (including time, date, location, officer, fuel costs, gallons, and odometer reading). Coastal Mart provides the best level of service at this time. Some other entities are investigating expanding their operations to provide our needs.

City Manager Zacharias suggested the City adopt some specifications and have any of the interested organizations bid on our gas purchases.

Commissioner Schwaller suggested the use of corporate fleet cards that are issued by credit card companies such as MasterCard or Visa. Using this method, gas could be purchased at any station in town that accepts credit cards. The card would be for gas purchases only, one card per vehicle. The bank issuing the card provides transaction details. Special customized reports can be created to track and control all expenses.

Staff is to report back at the next meeting to see if this would work with our system.

20. QUORUM CHARTER ORDINANCE: At the request of Commissioner Schmidt, this item is being discussed again.

Commissioner Schmidt stated he has talked to six previous commissioners, and commissioners in other communities. Five of the six former City Commissioners feel the quorum should be changed. Communication is the key to good government. Two commissioners should be able to talk to each other without violating the quorum rule. All business would still need to be conducted by at least three commissioners. This charter ordinance would have to be voted on every year; it would not lock in any future Commissions.

Mayor Billinger asked what the League of Municipalities stand is on the quorum issue. City Manager Zacharias stated he assumes the League's position is that it provides more open access to government and does not allow individual commissioners to wire the votes before they are cast in commission chambers. Many media organizations have lobbied against changing the quorum from three to four.

Mayor Billinger stated that changing the quorum would probably expedite business. If two commissioners discussed an issue prior to a meeting, he didn't feel there would be as much discussion in commission chambers. The process we have now insures that all debate is done in public.

Commissioner Rome stated that all of the people he has personally talked to told him to leave the quorum at three. Everything that needs to be discussed should be discussed in the Commission chambers.

Commissioner Schwaller stated the Commission should try Commissioner Schmidt's proposal. If there are concerned citizens that don't like it, they have the option of filing a petition to stop the ordinance.

Henry Schwaller IV moved, Larry Schmidt seconded, that a charter ordinance be adopted changing the quorum necessary for transacting business from three commissioners to four commissioners.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Howard Rome

No: Wayne Billinger

Troy Hickman

The motion failed because it takes four aye votes to adopt a charter ordinance.

21. STUDY SESSIONS: A study session is scheduled for October 21, 1999 to review the Vine Street enhancement application and Hall Street improvements.

22. EXECUTIVE SESSION: The executive session was held prior to Item 11.

23. ADD-ON ITEMS: City Manager Zacharias stated that an agreement between Keane Wurm, Werth Aerial Spraying, and the City has been reached. This is in regards to a settlement at the airport regarding the F-10 and H-4 hangars. The parties have come together and signed an agreement. The agreement states the issue is dismissed from federal court with prejudice. The issue of damages will be determined during a separate process within the next 90 days. City Manager Zacharias recommended that he be authorized to sign the agreement in behalf of the City.

City Attorney John Bird stated that both he and Dave Traster, the attorney representing the City on this litigation, concur with the City Manager's recommendation to sign the agreement.

Troy Hickman moved, Henry Schwaller IV seconded, that the City Manager be authorized to sign the agreement.

Vote: Ayes: Wayne Billinger

Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

Commissioner Hickman stated he would like to have an update on the Neighborhood Revitalization Act. City Manager Zacharias stated the City is in the process of getting all the property ownership and values together. Other items have taken precedence, but this is on the list of things to do.

Commissioner Hickman read a statement outlining a proposal for an incentive for higher wages. This proposal would be a tool that existing businesses in our community could use to pay higher wages and be eligible for property tax credits within the scope of the plan. Commissioner Hickman asked the Commissioners to study his proposal and requested this be placed on the next meeting's agenda for further discussion.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board