

MINUTES OF A MEETING OF  
THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON APRIL 8, 2004

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, April 8, 2004 at 7:30 p.m.

Roll Call: Present: Troy Hickman  
Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV

Chairperson Hickman stated that a quorum was present and called the meeting to order.

**2. REORGANIZATION OF GOVERNING BODY:** **A:** Henry Schwaller IV nominated Sunell Koerner to the position of Mayor of the City of Hays. Wayne Billinger seconded the nomination.

Vote: Ayes: Troy Hickman  
Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV

Chairperson Koerner reviewed the mayoral term of Troy Hickman who served as Mayor for the past 18 months and presented him with a gavel.

**B.** Henry Schwaller IV nominated Kent Steward to the position of Vice-Mayor of the City of Hays. Wayne Billinger seconded the nomination.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV

Troy Hickman

**3. MINUTES:** There were no corrections to the minutes of the meeting held on March 25, 2004; they stand approved as written.

**4. CITIZEN COMMENTS:** Sam Zwenger, a biology student at Fort Hays State University, expressed concern regarding the odor from the Kansas State University Agricultural Farm located south of Hays. He shared information from a report he did for a political science class concerning this ongoing problem. He wanted to know if anything is being done.

Commissioner Schwaller stated that a group of private citizens and business people have applied for a grant to convert some of the methane generated from the Wastewater Treatment Plant and the Kansas State University Farm to energy.

Diana Pfeifer, employee of the Country Kitchen, commented on the Clean Air Ordinance. She feels restaurants that allow smoking should be grandfathered in and not be forced to comply with the Ordinance, should it be passed.

**5. CONSENT AGENDA:** Henry Schwaller IV moved, Wayne Billinger seconded, that the following consent agenda items be approved:

**A. Mayoral Appointments:**

Hays-Ellis County Board of Zoning Appeals:

Lou Caplan – 3 year term to expire May 1, 2007

Roger Staab – 3 year term to expire May 1, 2007

CARE Council:

Bruce Whittington – an unexpired term to expire March 1, 2006

**B. Cereal Malt Beverage License:**

X-Tra Innings Concession Stand

**C. Business Resolutions:**

Resolutions expressing appreciation to the following new business owners in Hays:

Simpson Farm Enterprises  
Beefeaters Plus  
Putt-Putt Miniature Golf

**UNFINISHED BUSINESS**

(No business to review)

**NEW BUSINESS**

**6. RULES OF PROCEDURE:** Troy Hickman moved, Wayne Billinger seconded, that a resolution adopting the new Rules of Procedure be approved.

Commissioner Schwaller stated the new language allows the Commission to amend the rules when desired rather than after an election. He doesn't feel there should be a blanket statement allowing the Commission to amend the rules at any time unless the information concerning the amendment is provided to all Commissioners prior to a meeting to which action will be taken.

City Manager Randy Gustafson stated that this version adopts the present rules which contain the amendment procedure. He suggested the Rules of Procedure be adopted. Any amendments would go on the next work session agenda for discussion before being placed on the following Commission agenda.

Discussion was held and suggestions were made to amend various sections of the Rules of Order.

The chairperson called for the vote.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

The Commission will consider amendments to the Rules of Procedure at a future work session.

**7. GREENS AND IRRIGATION AT THE FORT HAYS MUNICIPAL GOLF**

**COURSE:** City Manager Gustafson said many of the greens on the back-nine of the Fort Hays Municipal Golf Course must be rebuilt. While the repairs are being made, all irrigation related work should be completed. The total project cost will be \$63,839.80. Funding to complete the project would require using all budgeted funds (\$25,000), Mulligan Funds (\$8,000), plus an additional \$30,839.80 from the General Fund. Staff is requesting authorization to proceed with the project.

Kent Steward moved, Henry Schwaller IV seconded, that the project to rebuild the greens and upgrade the irrigation at the Hays Municipal Golf Course at a cost of \$63,839.80 be approved.

City Manager Gustafson stated this project was not put out to bid because City staff will be doing the biggest share of the work. Most of the cost for the project will be for materials.

Commissioner Steward asked about the historical survey on the front nine holes of the course. He noted that no improvements could be done on the front nine until the survey was completed.

Parks Director Jeff Boyle stated work does need to be done on the front nine but cannot be done until the archeological survey is completed. Bob Wilhelm, director of the Fort Hays Historic site, will attempt to contact the Kansas Historical Society and notify them that the City of Hays would not be harming any soil surfaces.

City Manager Gustafson stated he does not recommend the study be completed at this time. All alternatives should be looked at before the City pays for the study.

Commissioner Steward disagreed with the City Manager. He said trees and greens are dying while the City is doing nothing. The cost of the study (\$9,000) should not keep the City from ruining the investment the City already has in place on the front nine holes.

City Manager Gustafson stated the problem is that the land is owned by the Historical Society; the City has a 15 year lease with 11 years left to run. He thinks it would be a fiduciary mistake for the City to spend the money fixing up the front nine without having a long term lease or ownership in place.

Commissioner Schwaller stated he can see both sides of the issue.

City Manager Gustafson stated he would put together a document outlining all the problems and nuances pertaining to improving the front nine for the Commission's consideration.

The Chairperson called for the vote.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Henry Schwaller IV

Troy Hickman

**8. GRASS SEEDER FOR THE PARKS DEPARTMENT:** In the 2004 Budget, \$7,000 was budgeted for a grass seeder and \$8,000 for backhoe attachment. The Park Director is requesting to purchase a grass seeder for approximately \$8,800. The bids revealed that Carrico Implement is the only vendor that offers a grass seeder that meets the necessary requirements. The backhoe will not be purchased at this time. This is being brought before the Commission for approval because the item is over budget. Staff recommends the purchase be approved.

At this time Commissioner Schwaller left the room for a short time.

Troy Hickman moved, Wayne Billinger seconded, that the purchase of a Land Pride seeder from Carrico Implement for approximately \$8,800 be approved.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Troy Hickman

Not voting: Henry Schwaller IV

Commissioner Schwaller returned to the room after the vote was taken.

**9. HAYS REGIONAL AIRPORT AGREEMENT FOR SERVICES:** The Agreement for Services for the overlay of Runway 16-34 from Bucher, Willis and Ratliff Corporation includes basic services during the preliminary phase, design phase, and bidding phase in the amount of \$66,650. Also included in the agreement are special services for administrative assistance in the amount of \$3,650 and Field Survey-Engineering Design in the amount of \$6,750. Total Basic and Special Services are \$77,050. These services are eligible for Federal participation (90% FAA, 10% Airport) with funds available for the City's 10% in the Airport Improvement Fund.

Troy Hickman moved, Wayne Billinger seconded, that the Agreement for Services with Bucher, Willis and Ratliff for preliminary design work involving Runway 16-34 at the Hays Regional Airport be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**10. 41<sup>ST</sup> STREET PLAZA FIFTH ADDITION – CHANGE OF ZONING**

**CLASSIFICATION:** Western Plains Service Corporation has requested a zoning change for the proposed 41<sup>st</sup> Street Plaza Fifth Addition from Agricultural to R-2 Single Family Dwelling District. The rezoning goes along with prior developments in the area and is consistent with the Comprehensive Plan.

Wayne Billinger moved, Kent Steward seconded, that Ordinance No. 3642, being an ordinance rezoning a tract of land situated in the southeast quarter (SE/4) of Section Twenty (20), Township Thirteen (13) South, Range Eighteen (18) West of the Sixth Principal Meridian in Ellis County, Kansas, from "A-L" Agricultural District to "R-2" Single-Family Dwelling District, be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV

Troy Hickman

**11. 41<sup>st</sup> STREET PLAZA FIFTH ADDTION – FINAL PLAT:** Troy Hickman moved, Henry Schwaller IV seconded, that the 41<sup>st</sup> Street Plaza Fifth Addition – Final Plat, be approved.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**12. GOLDEN BELT ESTATES FIRST ADDITION CONSTRUCTION BIDS:** Bids were received from APAC and J Corp on March 24, 2004 for the construction of street, stormwater, water and sanitary sewer for 14 lots in Golden Belt Estates First Addition. Both bids were acceptable with APAC submitting the lowest bid. Alternates were submitted for PVC versus ductile iron pipe and water service connections.

City Manager Gustafson stated approximately \$88,000 of the construction cost will be paid by the City-at-large because the City is requiring over-sizing of the infrastructure such as the water and sewer lines.

City Manager Gustafson stated that staff has checked with Bond Counsel and the City Financial Advisors about future projects adjacent to this project. It is acceptable to use these bids as prices for construction of further development if it is acceptable to the contractor without having to go through the bidding process. This will help speed up the process.

Kent Steward moved, Wayne Billinger seconded, that the bid from APAC for the base bid and both Alternates 1 and 2 in the amount of \$355,118.75 be accepted.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**13. DEVELOPMENT POLICY:** Public Works staff has been examining the Development Policy and Infrastructure Guidelines for New Development for well over a year. This review instigated a number of changes that are included in what has become two draft documents. Staff sent the draft documents to local developers and selected realtors for comment and review. Their comments were considered and some changes were incorporated based upon their concerns.

Henry Schwaller IV moved, Troy Hickman seconded, that the Development Policy and Infrastructure Guidelines for New Development be adopted.

Commissioner Schwaller noted that there were no street construction specifications in the document.

City Manager Gustafson stated there are engineering specifications that detail the type of concrete, the type of asphalt, and so forth. The Development Policy generally states such things as the width of the streets. The zoning and subdivision regulations also must be met. Developers must meet the criteria in all four of these categories.

Discussion was held on street construction, easements, rights-of-ways and street widths. The Commission requested more information before voting on the Development Policy. Staff will do further research and report back to the Commission at a later date.

Troy Hickman moved, Henry Schwaller IV seconded, that the previous motion to adopt the Development Policy be rescinded and that approval of the Development Policy be tabled.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

**14. REPORT OF THE CITY MANAGER:** There were no additional items for the City Manager to report.

**15. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Hickman thanked the present and past Commissions and City staff for their support while he was Mayor.

Commissioner Billinger asked what effect the increase in fuel prices will have on the City's budget.

City Manager Gustafson stated he anticipated staying within the budget. Some equipment, and consequently their maintenance, has been eliminated. Staff is tracking expenses; it will be close, but the City should be able to stay within the budget.

Commissioner Billinger proposed that the Clean Air Ordinance be placed on a work session agenda for further discussion.

Commissioner Hickman stated his preference would be to not bring it back up at a work session.

Commissioner Billinger stated he felt there may have been some misperception on the intent of the Ordinance on the night the Commission voted on two to three proposals of the Ordinance. The majority of the Commission wanted some ordinance in place to ban smoking in certain establishments.

Commissioner Schwaller stated he does not support a blanket smoking ban. He would support a ban in restaurants only. He does not feel there are enough votes to pass an ordinance that would ban smoking in any other additional businesses.

Wayne Billinger moved, Sunell Koerner seconded, that the Commission re-open discussion on the Clean Air Ordinance and this item be placed on a work session agenda in the near future.

Vote: Ayes: Sunell Koerner

Wayne Billinger

No: Kent Steward

Troy Hickman

Not voting: Henry Schwaller IV

The motion failed.

Chairperson Koerner noted that there are many committees and boards that will have openings and urged any citizen who may be interested to contact City staff.

**16. EXECUTIVE SESSION:** The City Manager requested an executive session for the purpose of discussing real estate negotiations with the justification that if the City's position were known it would make it less than desirable.

Wayne Billinger moved, Troy Hickman seconded, that the Governing Body recess to executive session at 8:55 p.m. for 20 minutes to discuss real estate negotiations. The executive session shall include the City Commission, the City Attorney, the City Manager, and the Assistant City Manager.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Henry Schwaller IV  
Troy Hickman

The Governing Body reconvened at 9:15 p.m. Chairperson Koerner stated that no action was taken during executive session.

Thereupon the Governing Body adjourned.

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