

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON JULY 22, 2004

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, July 22, 2004 at 7:30 p.m.

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

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

**2. MINUTES:** There were no corrections to the minutes of the July 8, 2004 regular meeting; they stand approved as written.

**3. FINANCIAL STATEMENT:** Troy Hickman moved, Wayne Billinger seconded, that the Financial Statement for the month of June 2004 be approved.

City Clerk Susie Berger reported that sales tax collections received in June 2004 totaled \$171,461 compared to \$159,006 for June 2003. Year to date collections reflect a 4.61% increase over last year for the same time period.

Commissioner Schwaller was not in the Commission chambers during the vote.

Vote: Ayes: Sunell Koerner  
Kent Steward  
Wayne Billinger  
Troy Hickman

Not Voting: Henry Schwaller IV

**4. CITIZEN COMMENTS:** There were no comments.

**5. SALES TAX DISCUSSION:** Commissioner Hickman encouraged the citizens to vote on August 3<sup>rd</sup>.

Commissioner Schwaller stated that many property owners in other communities are asking for property tax relief by implementing a sales tax. It is not an unusual trend. It is important that citizens vote for this measure because it benefits anyone who owns property. This is good for the whole community. Commissioner Schwaller stressed that if the sales tax passes, the City Commission cannot reinstate the property tax in some future year without voter approval. Additionally, this is not unfair to rural areas. People from rural areas use the services in this community. Other communities are also free to use sales tax for property tax relief.

Commissioner Billinger reminded citizens of the public forum to be held on Tuesday, July 27<sup>th</sup> from 7:00 to 8:00 p.m. in Room 100 at Hays High School. Channel 13 will broadcast the forum. Calls and email comments or questions will be taken.

Commissioner Steward stated he believes this is a great opportunity for the City and will be good for our future. The forum will be a good opportunity to become educated on the issue.

Chairperson Koerner commented this is an opportunity for the City to live within its means. The City will only be able to spend what is generated from the additional sales tax revenue. She feels that a portion of the money saved through property tax relief will be put back into the community in other ways.

**6. CONSENT AGENDA:** No motion was made to approve Resolutions expressing appreciation to new business owners in Hays

### **NEW BUSINESS**

**7. NUISANCE ABATEMENT PROCEEDINGS:** The nuisance at 610 East 7<sup>th</sup> Street has been resolved. No action was necessary.

**8. 41<sup>st</sup> STREET ECONOMIC DEVELOPMENT GRANT APPLICATION:** City staff proposed the submission of an Economic Development Grant Application for the improvement of 41<sup>st</sup> Street from Vine Street to Commerce Parkway. The project is split into two phases. The first phase would be from the east edge of a

proposed Home Depot Development to approximately 750 feet east of the 41<sup>st</sup> and Canterbury intersection. It includes three lanes of concrete pavement with storm sewer and combined curb and gutter from Indian Trail west and a gravel shoulder from Indian Trail east. Total cost for Phase I is estimated to be \$2,654,000.00

City Manager Gustafson stated the City share for Phase I would be around \$600,000 or anything in excess of \$2 million dollars which is the limit of KDOT's participation. He anticipates that the City would bond this; however, there may be a combination of funding from both the City and Ellis County.

Wayne Billinger moved, Kent Steward seconded, that the Mayor be authorized to sign a narrative to be included in an Economic Development Grant Application for improvements to 41<sup>st</sup> Street north of I-70.

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

**9. FEASIBILITY STUDY AND PRELIMINARY DESIGN OF AN ANAEROBIC**

**DIGESTION SYSTEM:** The City of Hays served as vehicle to apply for a USDA Rural Development Grant in the amount of \$135,000. This was done on behalf of a company called NEWCO with Mr. Dave Van Doren being the responsible party. The grant has been awarded to the City of Hays. The City agreed to pay 10% (\$13,500) and USDA's portion is 90% (\$121,500).

City Manager Randy Gustafson requested approval of a sole-source contract due to the specific nature of the study. The contract has been reviewed by Mr. Van Doren's attorney, the City Attorney and representatives from USDA. All is in order. City staff will administer the grant.

City Manager Gustafson stated the purpose of the study is to explore the possibility of utilizing an in-ground sewage digester that will contain waste generated from the KSU Agricultural Farm, the feedlots and the sewage plant. This waste then produces a gas which is used to produce energy and compost.

The study will determine if this would be a sound and environmentally effective way to produce energy. If it were to become a profitable business, the City Manager is hopeful that the City would get a small share of the profits.

Commissioner Schwaller asked how the City will get their share of money (\$13,500) back. City Manager Gustafson stated there is not an agreement to be reimbursed at this point in time, but it is his intention to have one before the project is complete.

Henry Schwaller IV moved, Troy Hickman seconded, that a contract with 2MS, Inc. to provide a Feasibility Study and Preliminary Design of an Anaerobic Digestion System to eliminate odors and produce energy and compost for an amount not to exceed \$135,000, be approved.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Henry Schwaller IV

Troy Hickman

**10. RETAIL DEVELOPMENT:** The Commission was requested to approve a Memorandum of Understanding (MOU) with D. J. Christie/Home Depot. This MOU is the culmination of several months of discussions with developer D. J. Christie regarding the development project that is to be anchored by Home Depot.

City Manager Gustafson stated that if this project were to proceed, the City would issue \$2.2 million in Home Rule Bonds that will be secured by Home Depot and paid by a ½ cent City sales tax on retail sales generated from Home Depot and the other businesses that will be included in the project and by the City's portion of the ad valorem property taxes generated by the businesses located within the project. The Bond proceeds will be used to pay for construction of the public street improvements; none of the funds will be utilized for land acquisition. Additionally, a Transportation Development District (TDD) will be created by the City imposing a ½ cent TDD sales tax on retail sales within

the development. The City shall issue TDD Bonds secured and paid for by the TDD revenues.

Gary Anderson, representing Gilmore and Bell, bond counsel for the City, reviewed the MOU with the City Commission. The agreement is a non-binding agreement which is an expression of good faith interest by the parties to proceed towards actual agreements that will have more detail.

Alex Glenn, director of development for D. J. Christie, and Chase Simmons, attorney representing Home Depot, reviewed the MOU with the Commissioners. Mr. Glenn stated the \$2.2 million dollars will go towards infrastructure within the development. The TDD revenue will pay for the roads to get to the development.

Mr. Simmons said the \$2.2 million would go towards parking lots, lighting, and landscaping in addition to the infrastructure, but not towards any buildings or fixtures. This development is not just about Home Depot; Home Depot will be the economic engine for the development. The property taxes and sales taxes will help fund the development; it will be easier to entice other businesses once these improvements are in place.

Mr. Simmons reviewed expense and revenue figures associated with the development. It is forecast that the entire development will have an appraised value of \$20 million. Annual sales are estimated to be \$44 million once the development is fully occupied. One-half cent of the sales tax collected, which is estimated to be \$220,000, will go to pay off the Home Rule Bonds. That amount is expected to increase 3% each year and the bonds could be paid off in seven to 10 years.

City Manager Gustafson commented that if the proposed sales tax reform passes, the City would be paying \$220,000 for the Home Rule Bonds but would be receiving \$330,000 from the additional  $\frac{3}{4}$  cent sales tax. Once the bonds are paid off, all sales tax revenue would come back to the City.

Troy Hickman moved, Wayne Billinger seconded, that the Mayor and the City Manager be authorized to sign the Memorandum of Agreement with D. J. Christie for the Home Depot development.

Commissioner Steward stated the idea of Home Depot coming to our community is very exciting. The biggest hurdle for him personally is that he does not see it as a proper role of government to take sides with one business against another business. It is especially bothersome to him when it means creating a competitive advantage for a major out-of-town corporation against businesses that been in our community for many years. Some of our existing businesses may fail because of Home Depot coming in. Even without giving any incentives at all, tremendous retail growth will occur in that area. By giving incentives, retail growth will happen sooner than later and there is value in having it sooner. It would be helpful for him to have some way of measuring what kind of value the City is getting by providing these incentives.

Commissioner Steward stated he is closer to supporting the project this evening than he had been, however, he is going to vote no because he would like to have some type of market study done first. He has heard almost nothing from owners of existing business and he would like to hear from them. He is questioning why he is fighting against government's role in the project when the very people who would be affected by it don't seem to be bothered. The most important votes are down the road and he is open to changing his vote sometime in the future.

Commissioner Schwaller stated he will vote for the project because this is what our citizens want. Personally, he would vote against it; this is not economic development. He is concerned about what will happen to wholesalers and retailers that have been in this community for many years. In the long run, Home Depot and this development will be good for this community and will kick start the development north of I-70. He is hopeful that we can leverage these with other developments that take place in the City no matter what size they are or who they are.

Chairperson Koerner stated Home Depot will be a benefit to the community. There is seepage out of this community, however, Hays also has a huge draw from western Kansas and other areas. Home Depot will help contain some of the seepage and increase our draw. She has heard from local business owners that are concerned about the City giving incentives to get Home Depot to locate here.

Mr. Simmons stated that bringing in a big retailer expands the pie. There isn't the seepage. People start buying things and improving their homes because of the convenience of purchasing large items locally. There still is a role for retailers who might serve more of a niche. The retail pie will be made larger, not just simply cut into smaller pieces.

Commissioner Hickman called for the vote.

Vote: Ayes: Wayne Billinger

Henry Schwaller IV

Troy Hickman

No: Sunell Koerner

Kent Steward

**11. 2005 BUDGET HEARING:** City Manager Gustafson stated the public hearing will be August 5, 2004 at a special meeting, followed by a work session.

Wayne Billinger moved, Kent Steward seconded, that a public hearing for the 2005 Budget be set for August 5, 2004.

Commissioner Steward stated that he is concerned about the situation with the Humane Society. There is no way in good conscience he could vote to award the shelter services contract for 2005 to the Humane Society, however, the Humane Society is an institution in our community that needs to survive. As Commissioner Schwaller pointed out last week, the Humane Society responded and corrected several items that were of concern to the City Commission. He proposed the City not wait until August to see if they are awarded the 2005 contract, but to amend the 2005 Budget for a one-time gift of \$20,000. He feels this would be enough to keep them going until they can make a proposal on time next year.

Commissioner Hickman stated he would like to discuss this further at a work session.

City Manager Gustafson stated the August 5<sup>th</sup> 2005 Budget hearing will precede the August 5<sup>th</sup> work session. There will not be a work session prior to that date. This is not the time to amend the 2005 Budget; that can be done at the August 5<sup>th</sup> meeting. The Budget is approved and then the mill levy is set. It is appropriate to make amendments to the Budget at the Budget hearing.

Commissioner Billinger suggested that a gift could be made out of this year's budget. This may be an easier way to approach the matter.

The chairperson called for the vote.

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

**12. REPORT OF THE CITY MANAGER:** City Manager Gustafson requested approval of a resolution authorizing the Mayor to execute documents to transfer certain real estate on Sherman Avenue.

Commissioner Schwaller commented that this is land that was given to the City as part of the green space requirement in a development. Selling the land will put property that has been off the tax rolls back on the tax rolls. The property will ultimately be developed and generate tax revenue, plus the City will realize \$225,000 from the sale of the property.

Henry Schwaller IV moved, Troy Hickman seconded, that Resolution No. 473, being a resolution authorizing the Mayor to execute documents to transfer certain real estate to Vernon J. Kinderknecht and Carol A. Kinderknecht, be approved.

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

**13. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Schwaller requested staff look into the possibility of applying for grants or working with the Beautification Committee to beautify the shoulder area along Vine Street from 27th Street north to I-70.

Commissioner Schwaller stated the legislature and the governor signed a measure called the Downtown Redevelopment Act that will probably enhance and add onto the Redevelopment Act the City has in place now. This may allow for more property tax abatements and requested staff check into the matter to see if it could be applied to our current policy.

Commissioner Billinger suggested that local artists be contacted to see if they might be interested in placing some sculptures in the area along north Vine Street depicting our heritage and history. They possibly could be financed by local corporations.

Commissioner Steward stated that with the recent activity with Home Depot and N.E.W., the new business going into the Sykes building, it raises an alarm that the City does not have a good economic development policy in place. He distributed a draft document addressing all of the different concerns that have been raised. He offered it as another step toward getting a policy the whole Commission could support.

City Manager Gustafson stated that the economic development policy will be addressed again at the August 19<sup>th</sup> work session.

Chairperson Koerner explained that the reason she voted no on approving the Memorandum of Understanding with D. J. Christie/Home Depot is because she would rather see tax breaks go to companies that pay higher wages.

Thereupon the Governing Body adjourned.

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

Clerk of the Board