

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

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

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

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

2. MINUTES: There were no corrections to the minutes of the June 24, 2004 regular meeting; they stand approved as written.

3. CITIZEN COMMENTS: Mike Michaelis, Executive Director of the Ellis County Coalition for Economic Development (ECCED), and Nick Niernberger, Heart of America Development Corporation board member, appeared before the Commission to request \$100,000 in financial assistance and property tax relief for a prospective unnamed new tenant for the Sykes building on Commerce Parkway. Heart of America Development Corporation owns the building and the new tenant would sign a ten year lease on the property. The private sector has contributed \$100,000 towards this endeavor. The Ellis County Commission has been asked to provide property tax relief, \$50,000 in financial assistance and assistance in expanding the parking lot to accommodate 460 parking stalls. The \$250,000 cash contributions will be used to remodel the interior of the building. It is anticipated that the firm will employ 400 people full-time within the first year.

The State of Kansas will provide a low interest loan to pave the new parking lot. Mr. Michaelis stated this would be processed through the Revolving Loan Fund which will come through the City and passed onto the Heart of

America Development Corporation. If for some reason the company would default, the City would be liable for this loan. Mr. Michaelis also asked for a letter of request to the State Department of Commerce for a Kansas Economic Opportunity Initiatives Fund loan in the amount of \$150,000. The City would not be liable for this loan. On behalf of the new company, Mr. Michaelis also requested that Sykes Boulevard be renamed.

Commissioner Schwaller stated he has no objections to any of the incentives requested other than the cash contribution being used for remodeling purposes. This is a great opportunity to fill the building and create jobs; however, remodeling is generally paid by the lease holder. There are other firms that are expanding and have never asked anyone for contributions to fund their remodeling/expansion.

Mr. Niernberger stated he feels the big difference is that Heart of America Development Corporation is a non-profit organization that is not competing with any other firm. This is being done for the people of Ellis County in order to bring jobs back to Hays.

City Manager Gustafson stated the \$100,000 could be deemed as an incentive to the Heart of America Development Corporation. This could be viewed as the City's participation in acquiring 400 jobs.

Commissioner Hickman stated he doesn't think the community would be discouraged by the Commission spending \$100,000 on this endeavor. The payroll for 400 employees would be over \$6 million.

Commissioner Schwaller stated that he is concerned about what the City would do in the future if other firms make similar requests.

Commissioner Steward stated that this is wonderful news for our community. Even though the City will be providing approximately \$26,000 in property tax relief for 10 years plus the \$100,000 contribution, this is not an opportunity the City can pass up.

Kent Steward moved, Wayne Billinger seconded, that a refund of taxes for real estate and personal property in their entirety for a period of 10 years be granted or until the Heart of America Development Corporation costs associated

with this project are paid off, whichever is sooner; a \$100,000 grant be given to Heart of America Development Corporation; the City apply for a partnership loan from the State of Kansas for an amount not to exceed \$250,000 from the Revolving Loan Fund; and draft a letter of request to the State Department of Commerce for a Kansas Economic Opportunity Initiatives Fund loan for \$150,000. Additionally, that the City Manager and the City Attorney be directed to take whatever action deemed necessary to perform due diligence on this matter.

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

Eileen Jackson, president of the Board of Directors of the Humane Society of the High Plains, appeared before the Commission to request the Commission consider their proposal for animal sheltering services. The proposal from the Humane Society was not received by the due date. Mrs. Jackson requested the Commission make an exception in this case. The Humane Society was in the process of restructuring their operation and has just recently reorganized.

Commissioner Schwaller stated that the Commission asked the Humane Society to do some internal housekeeping and they have complied with that request. They have eliminated all of the costs possible and are working with a large base of volunteers. The board is changed and they seem to be getting things in order. The City should recognize those changes.

Commissioner Schwaller stated he is concerned about the Police Department taking over animal control services. Animal control detracts from the focus and the mission of the Police Department and takes funds from the City and diverts it to new staff and equipment that would be better spent in the community. The Humane Society has the facility in place and the experience to do animal control.

City Manager Gustafson commented that the Humane Society's proposal was for shelter services only, not animal control. Animal control proposals were submitted by the Police Department and Hillside Veterinary Clinic. The proposal was specifically structured to allow exceptions and that was overlooked by the Humane Society.

Commissioner Schwaller stated he believes the Humane Society has made the changes necessary to provide the whole spectrum of services. If the City does not assist them in some way, they will not exist. The City and Ellis County will be worse off for it; that is his main concern. The changes requested by the City were made and they need the City's assistance.

City Manager Gustafson stated the Request for Proposal was structured to be fair and as accurate as possible. The Commission will review the proposals and will direct staff on how to proceed.

Mrs. Jackson stated the Humane Society is prepared to offer excellent shelter services at a fair, low price. They had no idea what Hillside Veterinary Clinic or the Police Department bid for shelter services. If the Humane Society receives the contract for shelter services, it would help them stay open. She thanked the Commission for their consideration.

4. SALES TAX DISCUSSION: Commissioner Billinger stated the date set for the public forum on the sales tax question will be July 26, 2004. The forum will be held at Hays High School in Room 100.

City Manager Gustafson reported on a request made by Commissioner Hickman at the last Commission meeting. Commissioner Hickman wanted to know how many mills would need to be added to the budget to fund City operations if the sales tax question was defeated. City Manager Gustafson stated the initial increase in mill levy would be between nine and thirteen mills to do the same things as would be done with the sales tax revenue. If the sales tax initiative is passed, property tax would be reduced by approximately 10%. If not, the initial request on a mill levy increase would increase the overall property tax by 10%.

5. COMMERCIAL IMPROVEMENT AWARDS: Connie Wilson, representing the Hays Beautification Committee presented Commercial Improvement Awards to Lifetime Dental Care, Northwest Kansas Surgery Center, and Days Inn. Each business received a framed letter of commendation as well as have a Commercial Improvement sign placed in front of their business.

6. CONSENT AGENDA: Troy Hickman moved, Wayne Billinger seconded, that Cereal Malt Beverage Licenses be approved for the two Casey Retail Convenience Stores located at 1600 East 27th Street and 1301 Canterbury Drive.

Commissioner Schwaller noticed that the applications were missing some information.

City Attorney Bird stated that approval could be given subject to the applicants filling out the missing information.

Troy Hickman amended his motion to approve the Cereal Malt Beverage Licenses subject to the applicant completing the application in its entirety. Wayne Billinger amended his second to the motion.

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

NEW BUSINESS

7. AMENDMENT NO. 3 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES – SMOKY HILL WELLFIELD EXPANSION PROJECT:

At the July 1, 2004 Work Session, the City heard a report on the results and conclusions of Phase II of the Smoky Wellfield Expansion Project. The new well sites and/or relocations have been clearly identified and it is now time for the next step, which is approval of an engineering contract. Staff recommended approval of Amendment No. 3 to the Agreement for Professional Engineering Services between Burns and McDonnell and the City of Hays in an

amount not-to-exceed \$379,094. The Project will be designed, and then bid for construction; it is estimated to be completed in 15 to 16 months.

Troy Hickman moved, Wayne Billinger seconded, that the Commission approve Amendment No. 3 for the Smoky Hill Wellfield Expansion Project between Burns & McDonnell Engineering Company, Inc. and the City of Hays, Kansas for an amount not-to-exceed \$379,094.

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

8. ON-STREET HANDICAPPED ACCESSIBLE PARKING POLICY: Currently, no policy or regulations are in place to address on-street handicapped accessible parking. Staff has drafted two policies that address this issue. One allows the Commission to make the final decision; one allows the Board of Zoning Appeals to make the decision.

City Manager Gustafson stated the Commission is a policy making body. It is appropriate for the Commission to pass the policy on how these decisions are to be made; the Commission is not an administrative body.

Henry Schwaller IV moved, Troy Hickman seconded, that the policy complying with the requirements, spirit, and intent of the Americans with Disabilities Act (ADA) giving full authority to the Board of Zoning Appeals, be approved.

Commissioner Steward disagreed. When the ADA is considered and with the amount of sensitivity that is needed in these kinds of decisions, he feels it properly belongs to the Commission to make the final decision.

Vote: Ayes: Sunell Koerner
Wayne Billinger
Henry Schwaller IV
Troy Hickman
No: Kent Steward

9. ANNEXATION OF PROPERTY: This annexation ordinance is to annex a tract of land (30.22 acres) north of I-70 on the east side of Vine.

Henry Schwaller IV moved, Wayne Billinger seconded, that Ordinance No. 3644, being an ordinance annexing land to the City of Hays, Kansas, be approved.

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

10. ANNEXATION OF PROPERTY: This annexation ordinance is to annex a small tract of land (.856 acres) that is adjacent to the proposed reverse access road (General Hays Road).

Henry Schwaller IV moved, Wayne Billinger seconded, that Ordinance No. 3645, being an ordinance annexing land to the City of Hays, Kansas, be approved.

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

11. CONTRACT FOR BUILDING INSPECTION SERVICES – CITY OF LIEBENTHAL: The City of Liebenthal made a request to contract with the City of Hays for building inspection services for an indefinite period of time at the rate for inspection services of \$25 per hour. The City of Hays currently has a similar contract with the City of Ellis and it works very well. Staff has determined that this request would not over-burden existing staff and is recommending approval of the contract.

Wayne Billinger moved, Henry Schwaller seconded, that the Mayor be authorized to sign a contract with the City of Liebenthal for inspection services to be provided by the City of Hays.

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

12. SHERMAN AVENUE PROPERTY CHANGE OF ZONING

CLASSIFICATION: City staff requested a zoning change for the City owned property located on Sherman Avenue from “C-2” (General Commercial and Service District) to “R-3” (Two-Family Dwelling District). The rezoning is a requirement of the property exchange agreement between the City and the proposed buyer.

Wayne Billinger moved, Troy Hickman seconded, that Ordinance No. 3646, being an ordinance rezoning Lots Two (2) through Nine (9) of Block One (1) of the Hays Plaza Seventh Addition, more generally located in the 3000 block of Sherman Avenue, Ellis County, Kansas, from “C-2” (General Commercial and Service District) to “R-3” (Two-Family Dwelling District), be approved.

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

13. REPORT OF THE CITY MANAGER:

City Manager Gustafson stated that during right-of-way acquisition for the proposed General Hays Road between 22nd Street and Cody, more property was acquired than needed. A 2420 square foot tract adjacent to Dreiling Oil was offered to them for sale at the same rate the City paid for the property in April 2004. City Manager Gustafson requested approval of a resolution authorizing the sale of the property.

Kent Steward moved, Sunell Koerner seconded, that Resolution No. 472 being a resolution authorizing the Mayor to execute documents to transfer certain real estate to Dreiling Oil, Inc. be approved.

Commissioner Schwaller stated he would not vote; he previously had a material conflict of interest.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Troy Hickman

Not Voting: Henry Schwaller IV

Police Chief Jim Braun reviewed an information sheet with the Commissioners concerning motorized scooters. He plans on having the information distributed to the local media and inserted with the monthly utility bills.

13. COMMISSION INQUIRIES AND COMMENTS: Commissioner Billinger commented that he would like to review the policy regarding fireworks early enough so that next year it is clear as to what is allowed and what is prohibited.

Commissioner Steward stated that earlier he had commented that he wanted a ban on specific breeds of dogs that pose a serious threat to public safety. After more research, he feels that the ordinance would be more effective if it was not breed specific.

15. EXECUTIVE SESSION: City Manager Gustafson requested an executive session to discuss attorney-client privileged information.

Wayne Billinger moved, Troy Hickman seconded, that the Governing Body recess to executive session at 9:05 p.m. for 40 minutes to discuss attorney-client privileged information. The executive session is to include the City Commission, the City Manager, the Assistant City Manager, and the City Attorney.

Vote: Ayes: Sunell Koerner

Wayne Billinger

Henry Schwaller IV

Troy Hickman

No: Kent Steward

Chairperson Koerner called the meeting back to order at 9:45 p.m. She stated no action was taken during executive session.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board