

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON SEPTEMBER 9, 2004

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, September 9, 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 regular meeting held on August 26, 2004; they stand approved as written.

3. CITIZEN COMMENTS: There were no comments.

4. CONSENT AGENDA: Henry Schwaller IV moved, Troy Hickman seconded, that the following mayoral appointment be approved:

Golf Course Advisory Committee

Doug Huston – 3-year term that will expire July 1, 2007

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

NEW BUSINESS

5. HAYS PUBLIC LIBRARY: Steve Dinkel, Michael Volker, Mark Roberti, and Marty Straub made a request to place a non-binding referendum on the November 2, 2004 ballot. The referendum would be in regard to having the Hays Public Library Board install filtering software that meets federal “Children’s Internet Protection Act” standards on all Hays Public Library (HPL) computers and internet connectivity accessed by youth under the age of 18.

Citizens have expressed concern to the HPL Board about the accidental exposure to pornography which may occur when a minor is using a computer at the Library that does not have a filtering system. The group feels the Board has not considered their plea and has not installed internet filters on all the computers as requested. The citizen group feels it is at an impasse with the HPL Board.

Dr. David Goodlet, chairman of the HPL Board, responded that statutorily the HPL Board wouldn’t necessarily be bound by a binding referendum. If there were to be a referendum, they would take it into consideration. The Board feels it has taken into consideration the citizen’s concerns and is constantly evaluating information. Dr. Goodlet stated the HPL has a very efficient monitoring system in place. There are computers that are filtered and parents may request that their children be allowed to access only those computers. The basic reason filters were not installed on all the computers is because that would be an attempt to solve a non-problem by creating a problem. The HPL Board does not see that there is a problem.

Dr. Goodlet stated that in his opinion the Board as a whole would be extremely leery about setting a precedent by obligating itself to follow whatever the results of a non-binding referendum. This would set a dangerous precedent for any library board.

Commissioner Steward commented that he has been contacted by many people over this issue and he has told them that statutorily the City Commission has no authority to tell the HPL Board how to operate the Library.

Commissioner Hickman stated it is his feeling that installation of a filtering system along with the present monitoring system that is in place would make the system stronger.

Dr. Goodlet stated that protecting children is not the only issue that is involved. If that were the only issue, the computers would need to be removed to completely protect children from seeing any pornography or violent sites. The Board feels that there is very little gained by installing filters and there is a significant loss.

City Manager Randy Gustafson stated that staff needs to research and discuss the possibility of placing a referendum question on the ballot before any action is taken.

The Commission took a five minute recess before continuing.

6. HAYS PUBLIC LIBRARY ANNUAL REPORT: Melanie Miller, Library Director, and Beth Bowerman, vice-chair of the Board, presented the 2003 Annual Report of the Hays Public Library (HPL). Ms. Miller stated the 2000 Hennen Index ranked the HPL the No. 1 library in the nation in its population category and No. 5 in 2003, with a rating of twelfth out of all population categories. In 2002, the HPL had the highest per capita circulation in Kansas. Statistics are not yet available for 2003.

7. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC HEARING – 8TH STREET WATER LINES: Chairperson Koerner opened the public hearing to hear comments regarding the submittal of a Community Development Block Grant (CDBG) to assist in the cost of upgrading the water lines from Elm to Fort Streets.

There were no comments.

Chairperson Koerner closed the public hearing.

Henry Schwaller IV moved, Wayne Billinger seconded, that the following items be approved in order to facilitate the Grant:

Resolution No. 477, being a resolution certifying legal authority to apply for the 2005 Kansas Small Cities Community Development Block Grant Program from the Kansas Department of Commerce and authorizing the Mayor to sign and submit such an application; and

Resolution No. 478, being a resolution assuring the Kansas Department of Commerce that funds will be continually provided for the operation and maintenance of improvements to the waterline system to be financed with Community Development Block Grant funds; and

Resolution No. 479, being a Residential Anti-displacement and Relocation Assistance Plan under Section 104(d) of the Housing and Community Development Act of 1974, as amended; and

Addendum No. 2 to the 2004 Capital Improvement Plan contract for Engineering Services with BG Consultants.

City Manager Gustafson commented that previously a grant had been awarded from KDOT to redo 8th Street from Elm to Milner Street. The CDBG grant, if awarded, will be used to fund one-half the cost of replacing the waterline underneath 8th Street from Elm to Fort Street as part of the street project. The Grant request is for \$111,081.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Henry Schwaller IV

Troy Hickman

8. CHANGE ORDER FOR 41ST STREET PLAZA 5TH ADDITION: This change order is an addition to an existing contract with APAC for the construction of Golden Belt Estates First Addition, and would allow APAC to construct 45th Street under the same unit prices and contract that they are currently constructing Fillmore and Harrison Streets. The developers feel that re-bidding would be time consuming and possibly more expensive. The change order is for \$555,508.01; property owners will be special assessed for this cost.

Sunell Koerner moved, Troy Hickman seconded, that a change order in the amount of \$555,508.01 for the construction of 45th, Fillmore, and Harrison Streets be approved.

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

9. ANNEXATION: Owners of three tracts of land located east of Hays on East 8th Street have requested by petition and consent in writing to have the tracts annexed into the city limits of Hays. It is necessary for the Commission to approve a resolution requesting the Ellis County Commission to make a finding that the annexation will not hinder proper growth and development of the area. If approved by the County, the City Commission will be requested to sign an ordinance for final approval.

Kent Steward moved, Henry Schwaller IV seconded, that a Resolution requesting approval by the Ellis County Commission in reference to the annexation of land located east of Hays on East 8th Street, be approved.

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

10. ANIMAL CONTROL ORDINANCE: Revisions have been made to the Animal Control Ordinance. Chapters 6.04 and 6.08 references animals generally and establishes what kind of animals are not allowed in the city limits, registration of animals, defines vicious dogs and sets out fines and criminal penalties along with other rules and regulations.

The Commission reviewed the revisions and made a change to Sec. 6.04.040 changing the “city board of health” to “City Manager or his designee”.

Troy Hickman moved, Henry Schwaller IV seconded, that Ordinance No. 3653, being an ordinance amending Title 6, Chapter 6.04 of the City of Hays, Kansas, Municipal Code, regarding animals generally, be approved with the changes to Sec. 6.04.040 as discussed.

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

11. ANIMAL CONTROL ORDINANCE: The Commission reviewed Sec. 6.08 of the Animal Control Ordinance and made a change to Sec. 6.08.140 to state “infected” rather than “affected”. It was also decided to change Sec. 6.08.250 to make it unlawful for any person to picket a dog for more than one hour a day.

Kent Steward moved, Wayne Billinger seconded, that Ordinance No. 3654, being an ordinance amending Title 6, Chapter 6.08 of the City of Hays, Kansas, Municipal Code regarding dogs and cats, be approved with the changes to Sec.6.08.140 and Sec 6.08.250 as discussed.

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

12. ANIMAL CONTROL ORDINANCE: Terminology changes were made to Sec. 6.12 of the Animal Control Ordinance.

Troy Hickman moved, Kent Steward seconded, that Ordinance No. 3655, being an ordinance amending Title 6, Chapter 6.12 of the City of Hays, Kansas, Municipal Code regarding rabies control, be approved.

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

Troy Hickman

13. 2004 STANDARD TRAFFIC ORDINANCE: The Kansas League of Municipalities publishes a revised Standard Traffic Ordinance (STO) on a yearly basis. The majority of the STO remains the same from year to year, with only a few changes made. It is necessary to pass an ordinance repealing certain provisions of the Code of Ordinances that conflict with the 2004 STO before passing an ordinance adopting the 2004 STO.

Wayne Billinger moved, Kent Steward seconded, that Ordinance No. 3650, being an ordinance repealing certain provisions of the Code of Ordinances of the City of Hays, Kansas be approved.

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

Wayne Billinger moved, Kent Steward seconded, that Ordinance No. 3651, being an ordinance regulating traffic within the corporate limits of the City of Hays, Kansas, incorporating by reference "The Standard Traffic Ordinance for Kansas Cities", Edition 2004, providing certain penalties and repealing Ordinance No. 3614 of the Code of Ordinances of the City of Hays, Kansas, be approved.

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

14. 2004 UNIFORM PUBLIC OFFENSE CODE ORDINANCE: The Kansas League of Municipalities publishes a revised Uniform Public Offense Code (UPOC) on a yearly basis. The majority of the UPOC remain the same from year to year, with only a few changes made.

Wayne Billinger moved, Kent Steward seconded, that Ordinance No. 3652, being an ordinance regulating public offenses within the corporate limits of

the City of Hays, Kansas, incorporating by reference “The Uniform Public Offense Code for Kansas Cities”, Edition 2004, and repealing Ordinance No. 3613 of the Code of Ordinances, be approved.

Chairperson Koerner commented that she feels the laws as pertaining to minors purchasing, consuming, or in possession of liquor are unfair. Persons between the ages of 18 and 21 are considered minors when it comes to alcohol laws, but are old enough to fight and die for our country, old enough to get married and old enough to buy cigarettes. If they are charged with crimes they are charged as adults, not minors. Entire families could lose their driving privileges as a result of a minor’s convictions. This is a very unfair way to handle a problem. She cannot vote for approval of the UPOC based on her convictions.

City Attorney John Bird stated cities cannot impose a completely new set of criminal statutes that contradict state law. The UPOC brings cities laws to the same level as the state’s law. Cities do not have any control over changing the rules. The legislature is going after alcohol convictions from every angle possible.

Vote: Ayes: Kent Steward

Wayne Billinger

Henry Schwaller IV

Troy Hickman

No: Sunell Koerner

15. VINE STREET MILL AND OVERLAY CHANGE ORDER: The City has a 50/50 KLINK Grant from KDOT to mill and overlay Vine Street from 13th to 27th Street. The current contract with APAC-Kansas, Inc. of Hays for construction of improvements is in the amount of \$464,948. After the previous asphalt overlay was removed, it was determined that additional work would be required to patch the concrete base of the roadway, and place the asphalt overlay in two lifts to account for deteriorated joints in the concrete base.

City Manager Gustafson requested Commission approval to approve a change order for an estimate not to exceed \$82,047. KDOT has agreed with the change order and will pay 50% of the cost. The final cost will not be known until

the project is completed. The 2004 Budget set aside \$300,000 for this project; the City's share so far is \$255,824. Even with the additional cost of approximately \$41,000, the project will still be under the budgeted amount.

Troy Hickman moved, Henry Schwaller IV seconded, that the City Manager be authorized to approve a change order at the completion of the Vine Street Mill and Overlay Patching Project to adjust the contract to actual quantities not to exceed the budgeted amount of the total project.

Vote: Ayes: Sunell Koerner

Kent Steward

Wayne Billinger

Henry Schwaller IV

Troy Hickman

16. REPORT OF THE CITY MANAGER: The City Manager had nothing additional to report.

17. COMMISSION INQUIRES AND COMMENTS: Commissioner Schwaller requested an update on the alley clean-up program.

City Manager Gustafson replied that the alley clean up program is basically following the trash routes geographically. The first route was completed in June with the second route scheduled to be completed by December. The third, fourth, and fifth areas will be completed within the next 18 months. Staff will provide an update as the program progresses.

Commissioner Schwaller stated that there is still a problem with drainage in the railway corridor west of Ash Street. This could erode the street and destroy the brick. He requested staff look into this.

Commissioner Billinger stated he has noticed a lot of water runoff from citizens watering their lawn. He suggested that either a change be made to the policy banning water runoff or the policy should be more strictly enforced.

Commissioner Billinger mentioned that he is often contacted about recreational vehicles camping in Hays. He wondered if the City would ever be interested in leasing camping spots in Frontier Park East.

City Manager Gustafson stated there is a need for a recreational campground in Hays. There has been some interest in a location near I-70.

Commissioner Steward addressed the issue of animal control for 2005. Proposals were taken for animal control services, even though he urged the Commission at the time to consider the Humane Society as a special case. The Humane Society is a community institution and it should not be treated just like any other business. However, the consensus of the Commission was to treat the animal control proposal just like any other business proposal. The Humane Society has told the Commissioners that they are insolvent and may have to shut their doors permanently at any time. He doesn't feel the City in good conscience could contract with an agency that may not be open for business in six months.

Commissioner Steward went on to say that there was a process to submit proposals. Hillside Veterinary Clinic followed the process; the Humane Society did not. They came in weeks late and undercut the proposal made by Hillside. To give this contract to the Humane Society would not only be poor business but it would also be a breach of faith in the way the City does business. However, he suggested that the City donate a one time gift of money to the organization. He would also like to see a third party evaluation of their operation next year, financial and operational. With that information in hand, it may be possible to negotiate a contract with them for future animal impoundment services in 2006.

Chairperson Koerner commented that she is unhappy with the quality of the work on the railroad crossing on Main Street.

She also requested staff look into angle parking in front of the Hays Public Library.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board

