

**CITY OF HAYS COMMISSION MEETING
THURSDAY, JANUARY 14, 2016 – 6:30 P.M.
AGENDA**

1. Call to order by Chairperson.
2. **MINUTES:** Consider approval of the minutes from the regular meeting held on December 22, 2015. (PAGE 1)
3. **REORGANIZATION OF GOVERNING BODY:** (PAGE 9)
 - A. Nomination and election of Mayor
 - B. Nomination and election of Vice-Mayor
4. **CITIZEN COMMENTS:** (non-agenda items).
5. **CONSENT AGENDA:** (Items to be approved by the Commission in one motion, unless objections are raised).
 - A. **City Commission Rules of Procedure:** Resolution No. 2016-001 (PAGE 23)
 - B. **Mayoral Appointment Recommendations:** CARE Council and Fort Hays Municipal Golf Course Advisory Board (PAGE 37)

UNFINISHED BUSINESS

6. **REZONING OF PROPOSED BLUE SKY ACRES ADDITION FROM AGRICULTURAL (A-L) TO RESIDENTIAL SUBURBAN DISTRICT (R-S):** Consider the request for rezoning of the proposed Blue Sky Acres from Agricultural (A-L) to Residential Suburban District (R-S). (PAGE 43)

NEW BUSINESS

7. **RELEASE OF 2016 FUNDS FOR ELLIS COUNTY COALITION FOR ECONOMIC DEVELOPMENT:** Consider approving a request for the release of funds for the 2016 fiscal year to the Ellis County Coalition for Economic Development. (PAGE 53)
8. **REPORT OF THE CITY MANAGER**
9. **COMMISSION INQUIRIES AND COMMENTS**
10. **EXECUTIVE SESSION (IF REQUIRED)**
11. **ADJOURNMENT**

ANY PERSON WITH A DISABILITY NEEDING SPECIAL ACCOMMODATIONS TO ATTEND THIS MEETING SHOULD CONTACT THE CITY MANAGER'S OFFICE 48 HOURS PRIOR TO THE SCHEDULED MEETING TIME. EVERY ATTEMPT WILL BE MADE TO ACCOMMODATE ANY REQUESTS FOR ASSISTANCE.

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON DECEMBER 22, 2015

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Tuesday, December 22, 2015 at 6:30 p.m.

Roll Call: Present: Eber Phelps
Shaun Musil
James Meier
Henry Schwaller IV
Lance Jones

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

2. MINUTES: There were no corrections or additions to the minutes of the regular session held on December 10, 2015; the minutes stand approved as presented.

3. FINANCIAL STATEMENT: Finance Director, Kim Rupp, presented a report of the financial summaries of the revenue and expenditure activities of the City of Hays for the month ended November 30, 2015. Month-to-date general fund sales tax collections were at \$591,684 which is a decrease of \$60,756 as compared to last year. That is the third consecutive month drop totaling \$111,549. Year-to-date general fund collections are at \$6,810,728, up \$33,179 or .49%.

The Finance/City Clerk's Office invested \$2,500,000 of maturing or renewing certificates with an incredible weighted average interest rate of .51%. The portfolio of certificates of deposit on November 30, 2015 totaled \$54,850,000 with a weighted average interest rate of .32%. The total balance of the Money Market account on November 30, 2015 was \$1,000,000 with a current yield of .20%. Total investments are up \$1,050,000 when compared to this time last year.

Henry Schwaller IV moved, Shaun Musil seconded, that the Financial Statement for the month of November, 2015 be approved.

Vote: Ayes: Eber Phelps
Shaun Musil
James Meier
Henry Schwaller IV
Lance Jones

4. CITIZEN COMMENTS: There were no comments.

5. CONSENT AGENDA: The following mayoral appointment was presented for approval:

Northwest Kansas Community Corrections Board

Marcia Tacha – two-year term to expire November 1, 2017 (2nd term)

Henry Schwaller IV moved, Shaun Musil seconded, to approve the consent agenda as presented.

Vote: Ayes: Eber Phelps
Shaun Musil
James Meier
Henry Schwaller IV
Lance Jones

NEW BUSINESS

6. 2016 WAY\$ TO WATER Wİ\$DOM WATER CALENDAR: Morgan Lawrence and Nancy Handley, members of the Water Wise Tigers, part of a leadership class at Fort Hays State University, along with community partner, Stacie Minson, Kansas State University Watershed Specialist; presented information on a 2016 calendar they produced.

The 2016 “Way\$ to Water Wİ\$dom Water Calendar” includes 2015 water quality poster contest winners. It also provides educational tips to help homeowners, businesses, and the community, conserve water and protect local water supplies.

They solicited 28 sponsors and raised a total of \$8,199. They distributed 9,000 calendars throughout Ellis County to schools, churches, local government and sponsoring businesses.

7. POOL OPERATIONS – CITY’S CONTRACTUAL OBLIGATION TO THE HAYS RECREATION COMMISSION: Each year the Hays Recreation Commission (HRC) and the City of Hays conduct a joint meeting to discuss general operations, financial reports and/or any other facility needs or expectations that may need to be addressed. The HRC realized a total loss for pool operations of \$31,402.12 in 2015 and are requesting the contractual obligation of 50% or \$15,701.06 from the City of Hays.

Shaun Musil moved, Lance Jones seconded, to proceed with the pool reimbursement request from the Hays Recreation Commission for one-half of the operating loss for an amount of \$15,701.06 with funding from the Contractual Services line item of the 2015 General Fund Pool Budget.

Vote: Ayes: Eber Phelps

Shaun Musil

James Meier

Henry Schwaller IV

Lance Jones

8. FORT HAYS MUNICIPAL GOLF COURSE PRO-SHOP RESTROOM UPGRADES – AWARD OF PROPOSAL: The current restroom facilities at the Fort Hays Municipal Golf Course Pro-Shop need to be updated and be made Americans with Disabilities Act (ADA) compliant. Design-build request for proposals were sent out to forty-five licensed and insured contractors in an effort to obtain a good ADA accessible restroom design for both the men’s and women’s restrooms within the budgeted amount of \$70,000.

Two responsible proposals were received; Commercial Builders, Inc. at \$62,700 and Paul-Wertenberger Construction with a base bid not to exceed \$70,000. The proposals were reviewed by the Golf Course Advisory Board, Pro-Shop Manager and City staff. The lowest price and preferred design was submitted by Commercial Builders, Inc.

Jeff Boyle, Parks Director, stated the difference between the two design proposals is Commercial Builders, Inc. will give the Pro-Shop more usable storage area. The storage area in the proposal from Paul-Wertenberger Construction is not going to be large enough for the items the Pro-Shop Manager would need to store.

James Meier moved, Lance Jones seconded, to approve the proposal from Commercial Builders, Inc. for an amount of \$62,700 from the Golf Course General Fund Budget for the restroom remodel at the Fort Hays Municipal Golf Course.

Commissioner Schwaller preferred the design proposed by Paul-Wertenberger Construction stating it has more capacity and is something that will last longer.

Vote: Ayes: Eber Phelps

Shaun Musil

James Meier

Lance Jones

No: Henry Schwaller IV

9. FORT HAYS MUNICIPAL GOLF COURSE CART STORAGE SHED –

AWARD OF BID: On September 13, 2015 a cart storage shed caught on fire. The building was a total loss. The total cost to remove the old shed and rebuild a new one is \$43,126.00. The city received \$29,808.20 from the insurance company after deductible. These funds were placed in the Park Improvement Fund. The city will also receive a recoverable depreciation amount of \$4,502.60 after the structure is rebuilt. The low bid for removal of the damaged shed was Commercial Builders, Inc. for \$3,800.00. This part of the project has been completed. The proposed payment method for the replacement cart storage shed is as follows:

Total project costs:

Removal of damaged cart storage shed	\$3,800.00
New cart storage shed proposed	<u>\$39,326.00</u>
Total	\$43,126.00

Project Funding:

Insurance payment received less deductible	\$29,808.20
Anticipated recoverable depreciation	\$4,502.60
Golf Course Budget	<u>\$8,815.20</u>
Total	\$43,126.00

The lowest bidder for construction of a new cart storage shed is Commercial Builders, Inc. for an amount of \$39,326.00.

Lance Jones moved, James Meier seconded, to approve the bid from Commercial Builders, Inc. to rebuild the cart storage shed at the Fort Hays Municipal Golf Course in the amount of \$39,326.00 utilizing \$30,510.80 in insurance funds from the Park Improvement Fund and \$8,815.20 from the Golf Course General Fund Budget.

Vote: Ayes: Eber Phelps
Shaun Musil
James Meier
Henry Schwaller IV
Lance Jones

10. 2015 BOUNDARY RESOLUTION: Kansas statutes require cities to pass a resolution re-defining the entire boundary line of the city whenever property is annexed into the city limits during a calendar year.

The following ordinances annexed property into the city limits since the last boundary resolution was passed on December 23, 2014:

- Ordinance No. 3892 - General Hays Road and 48th Street
- Ordinance No. 3901 - 2225 West 41st Street
- Ordinance No. 3912 - 1517 Commerce Parkway

Shaun Musil moved, James Meier seconded, to approve Resolution No. 2015-025 which re-defines the boundaries or corporate limits of the City of Hays, Kansas.

Vote: Ayes: Eber Phelps
Shaun Musil
James Meier
Henry Schwaller IV
Lance Jones

11. REPORT OF THE CITY MANAGER: The City Manager had no additional items to report on.

Assistant City Manager, Jacob Wood, presented a monthly report of city-related activities, services and programs.

12. COMMISSION INQUIRIES AND COMMENTS: Commissioner Jones wished everyone a Merry Christmas and Happy New Year.

Commissioner Schwaller apologized for things he has said and done during the meetings of the body that were rude and hurtful to his fellow commissioners. He asked that his behavior not affect the causes that he supports or the people whose issues he advocates. He pledged to devote the rest of his time of service on this commission earning their belief that he is sincere through his actions.

Chairperson Phelps accepted Commissioner Schwaller's apology.

Commissioner Meier commented that Commissioner Schwaller's apology shows his true character.

Commissioner Musil stated he accepts and appreciates Commissioner Schwaller's apology.

Chairperson Phelps commented that he attended a recent Planning and Zoning Commission meeting and there were many comments on the creation of the Comprehensive Plan and he wanted to clarify that the most recent Comprehensive Plan took 18 months to develop and there were many opportunities for public input. He also stated the comprehensive plan was presented to the City Commission and adopted as a policy to be used as we grow and develop.

Chairperson Phelps congratulated Dan Koerner, Police Sergeant, and Tim Dreiling, School Resource Officer, on their retirement and thanked them for their service.

The meeting was adjourned at 7:38 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk

CITY OF HAYS
AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 3

MEETING DATE: 1-14-16

TOPIC:

City Commission Reorganization

ACTION REQUESTED:

Determine the term lengths for the Mayor and Vice Mayor.

NARRATIVE:

The City Commission recently adopted several ordinances that brought us into compliance with the recently-passed State laws regarding municipal elections. Most notably, the next municipal election will now take place in November of 2017 with the new Commission taking seat in January of 2018. In adopting the ordinances, the City Commission changed the reorganization meeting from April to January of each year. City staff is asking the City Commission to discuss the reorganization.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Toby Dougherty, City Manager
City Commission

ADMINISTRATION RECOMMENDATION:

N/A

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Staff Memo
Agenda Packet from 10-22-15 – Transitioning to November Elections

Commission Work Session Agenda

Memo

From: Toby Dougherty, City Manager

Work Session: January 7, 2016

Subject: Commission Reorganization/Rules of Procedure

Person(s) Responsible: Toby Dougherty, City Manager

Summary

Due to changes enacted by the Kansas State Legislature, the City Commission recently adopted an ordinance changing the date of Commission reorganization to the second Regular Meeting in January of each year. The Commission's Rules of Procedure still refer to an April reorganization. Staff is placing this item on the agenda in order for the Commission to discuss the reorganization as it relates to the transition to the November 2017 election, and suggests the Commission modify its Rules of Procedure.

Background

During the 2015 legislative session, the Kansas Legislature modified the state laws governing municipal elections. Municipal elections were moved to November with the newly-elected officials taking office in January. Elected officials that were scheduled to be up for election in April of 2017 will now face election in November of 2017 and take office January of 2018.

In order to remain compliant with the State statutes, the Commission adopted a series of ordinances at the October 22nd regular meeting. One of these ordinances, #3307, changes the date of the meeting where the Commission is reorganized and a new Mayor/Vice Mayor are elected, moving the date from April to January. The Commission's Rules of Procedure also refer to an April reorganization.

Discussion

There are two issues to be discussed at the meeting. First, the current Rules of Procedure state that the Commission will reorganize in April after the Ellis County Commission has certified the election results. City Staff suggests the Commission modify the Rules of Procedure to reflect the January reorganization. Second, moving the reorganization to January is going to create a situation where a Commissioner will serve a long or short term as mayor. The current Mayor was elected in April of 2015. Reorganization at the January 28th Regular Meeting would result in a nine month term. Staff suggests the Commission discuss the transition.

Legal Consideration

There are no legal obstacles to proceeding as recommended by City Staff.

Action Requested

Staff requests the Commission modify its Rules of Procedure to reflect the January reorganization and discuss the term of the Mayor/Vice Mayor.

Supporting Documentation

Rules of Procedure (redline)

Agenda packet from the October 22, 2015 Regular Meeting

CITY OF HAYS
AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 15

MEETING DATE: 10-22-15

TOPIC:

Transitioning to November Elections

ACTION REQUESTED:

- A) Consider approving Ordinance No. 3907 amending Chapter 2 of the City of Hays, Kansas, Municipal Code, by modifying Article II, Section 2-22, regarding organization of Commissioners.
- B) Consider approving Ordinance No. 3908 establishing the number of qualified electors that must sign a nomination petition pursuant to 2015 Session Laws of Kansas, Vol. 2, Chapter 88, Section 53(b).
- C) Consider approving Ordinance No. 3909 affirming the City Manager form of Government and transitioning the terms of office for Commissioners to the November election cycle established by L. 2015, Chapter 88 (H.B. 2014).

NARRATIVE:

During the legislative session of 2015, the Kansas Legislature passed HB 2104 (the "Act") which moved City elections from April of odd years to November of odd years. The Act also contains many provisions relating to elections of City officials including those relating to the election date, the beginning of the term of office for newly elected Commissioners, filing deadlines and primaries. Included are several recommendations to the Governing Body in order for the City to comply with provisions of the Act.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

John T. Bird, City Attorney
Todd Powell, Assistant City Attorney

ADMINISTRATION RECOMMENDATION:

N/A

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Staff Memo
Ordinance No. 3907
Ordinance No. 3908
Ordinance No. 3909

Commission Work Session Agenda

Memo

From: Todd D. Powell, Assistant City Attorney

Work Session: October 15, 2015

Subject: Transitioning to November Elections

Person(s) Responsible: City Attorney

Summary

During the legislative session of 2015, the Kansas Legislature passed HB 2104 (the “Act”) which moved City elections from April of odd years to November of odd years. The Act also contains many provisions relating to elections of City officials including those relating to the election date, the beginning of the term of office for newly elected Commissioners, filing deadlines and primaries. This memo contains several recommendations to the Governing Body in order for the City to comply with provisions of the Act.

Background

For one hundred and fifty four years, spring elections have been conducted for officials of cities and municipalities in Kansas. In 2015, the Kansas Legislature passed a set of new statutory provisions and revisions to existing statutes which moves non-partisan City elections from April to November.

Discussion

The Act contains provisions relating to several election-related topics. Those pertinent to the City of Hays and for which consideration of some action is required are outlined herein.

1. Terms of Office. Terms of office must now begin on the second Monday in January following certification of the November election. This changes the previous statutory language from having a term of office that begins at the first regular meeting of the Governing Body following certification of the election results after April elections. This change will require the City of Hays to create an additional regular meeting on the second Monday in January in order to allow newly-elected officials to take their oaths of office on the day that their terms begin, or to call a special meeting on that date for the specific purpose of allowing newly-elected officials to take their seats. In order to cause the least amount of change possible, staff recommends calling a special meeting for the second Monday in January following certification of a November election.

Additionally, this change will require a change to an existing ordinance. Specifically, Section 2-22 – Organization of Commissioners, states that, “At the first regular meeting

in April of each year, the commissioners shall, by ballot, by majority vote of all the members of the commission, elect one of its members as chair and one of its members to act as vice-chair and to serve as the chair in the absence of the chair.” Staff recommends that this Section 2-22 be changed to reflect the November election cycle and the term of newly-elected commissioners beginning on the second Monday in January following the November election. A proposed ordinance to this effect is attached hereto as Attachment 1.

The City passed a Charter Ordinance, Charter Ordinance No. 3, in 1968 relating to the number of commissioners constituting the Hays City Commission and providing for the staggering of the terms of such commissioners. The Ordinance also addresses how terms of office are determined between two and four year terms. This Charter Ordinance does not refer to any election date or any specific time frame by which the new commissioners take office, and therefore staff does not recommend any changes to this Charter Ordinance in light of the Act.

2. Transitioning of Current Office Holders’ Terms to the New Election Cycle. The Act provides that terms that would have ended in April 2017 will now end in January 2018, when the officials elected in the November 2017 General Election take office. The Act does not provide any guidance for city officials whose terms would end in April 2019. For terms ending in 2017 and 2019, the City can either pass an ordinance extending the terms of any commissioner elected to a four year term in April 2015, until January 2018, or January 2020, as the case may be, or the City can take no action and the officials will continue in office until the term commences for the next person elected to that office. Although there should be no legal issue with commissioners elected to office in April 2015 serving until January 2018 or 2020, depending on the length of their term, staff recommends that the City adopt an ordinance extending the terms of commissioners elected to a two year term in April 2015 to January of 2018 and the terms of commissioners elected to a four year term in April 2015 to January 2020, and a draft ordinance to this effect is attached hereto as Attachment 2.
3. City Manager Form of Government. The Legislature repealed what was commonly known as the City Manager Plan Act (CMPA), which more than sixty Kansas cities, including Hays, have used to adopt the City Manager form of government. The Kansas League of Municipalities sought and received an amendment recodifying core parts of the CMPA and retaining the continued operation of the Act for those cities that have adopted it. The amended legislation establishes that cities shall continue to operate under the current form of government unless or until changed “according to law”. Although it does not appear that any affirmative action is required to be taken by the Governing Body in order to maintain the City Manager form of government, staff recommends out of prudence that the Governing Body adopt an ordinance reaffirming the City Manager form of government. This language is included in the proposed ordinance in section 1 of Attachment 2. This draft ordinance also affirms that the City will continue to follow statutes relating to the class and form of government for any issues not preempted by changes to the CMPA, or altered by ordinance passed by a majority vote of the Governing Body.

4. Partisan Elections. The Act gives cities the option to continue to conduct city elections in either non-partisan fashion, or to change to partisan city elections. If this change were to be made, the laws applicable to elections occurring at the same time as city elections would then apply to city elections to the extent that they are not in conflict with the provisions of the Act. If the Governing Body decides to change to partisan city elections, the adoption of an ordinary ordinance would be required. Federal employees and active duty military officers are prohibited by federal law from running for partisan office. As staff considers this issue to be a policy decision within the province of the Governing Body, staff makes no recommendation as to whether City elections should remain non-partisan or be changed to partisan. Staff stands ready to assist with the management of legal issues and election procedure changes that would result from changing to a partisan election process.
5. Filing Deadlines and Requirements. The new filing date for candidates for city office is June 1st by 12:00 p.m. prior to the election, or if such date falls on a Saturday, Sunday or holiday, then the filing date is before 12:00 p.m. on the next following day that is not a Saturday, Sunday, or holiday. Primary elections, if required, shall be held on the first Tuesday in August.

Additionally, City clerks must now inform the county election officer of all city offices to be voted on at the next election no later than May 1st of every year that the city has an election.

Furthermore, the filing fee for city office is now \$20.00 for all cities. Candidates for city office are no longer allowed to file through the City clerk's office and all candidate filings must be made through the County Election office – the County Clerk.

Finally, the Act requires cities to establish by ordinance the number of qualified electors of the city that must sign a nomination petition, in lieu of paying the filing fee. Staff recommends that the City establish an ordinance setting forth the number of qualified electors of the City and that the number be set low to encourage potential candidates to file. Currently the number is 50 qualified electors of the city or a number of electors not less than 1% of the ballots cast in the last general city election, whichever is less. A draft ordinance incorporating this current threshold is attached as Attachment 3.

6. Governing Body Vacancies. Where a vacancy in any seat on the Commission exists, the Governing Body of any municipality shall appoint by a majority vote of the remaining members a person to fill the vacancy within sixty days of the vacancy. If the appointment is not made within the sixty day timeframe, the Governing Body shall pass a resolution calling for a special election to fill such vacancy, to be held within forty-five days of the passage of such resolution.

These provisions shall not apply to any municipality which has a procedure for filling vacancies in its Governing Body and which has filled such vacancies within sixty days of the vacancy. Therefore, cities can establish their own rules for filling vacancies by majority vote of the Governing Body. No action is recommended to be taken by the

Governing Body at this time regarding the filling of vacancies, unless the Governing Body wishes to make alternative provisions for the filling of vacancies.

7. Appointments and Statement of Substantial Interests Deadlines. In light of terms of office beginning in January rather than April, appointments to city boards and commissions that are tied to the beginning of commissioners' terms should be changed to coincide with the new effective date of terms of office under the Act. However, as it is practice of the City of Hays to make appointments at various times during the year, it would not appear that any specific change to the time for appointment of terms would be required, and staff does not make any recommendation to the Governing Body in this regard.

Another issue, however, is the time frame for filing the statement of substantial interests. K.S.A. 75-4302a requires that statements of substantial interests be filed:

- By an individual appointed on or before April 30 of any year to fill a vacancy in an elective office of a governmental subdivision, between April 15 and April 30, inclusive, of that year.
- By an individual appointed after April 30 of any year to fill a vacancy in an elective office of a governmental subdivision, within 15 days after the appointment.
- By any individual holding an elective office of a governmental subdivision, between April 15 and April 30, inclusive, of any year if, during the preceding calendar year, any change occurred in the individual's substantial interests.

These dates continue in effect even though they no longer correspond with municipal election dates. Staff understands that the Kansas League of Municipalities is considering legislation to amend the dates in this statute, and therefore no action is recommended by the Governing Body with regard to statements of substantial interest.

Legal Considerations

There are no known legal obstacles to proceeding as recommended by City staff.

Financial Consideration

The fiscal impact of the changes made by HB 2104 is unknown at this time although it is anticipated that there may be some minimal financial impact as a result of the changes contained in the Act.

Options

The City Commission has the option to:

- Adopt all recommendations of City staff herein and the proposed ordinances that would implement such recommendations.
- Adopt some of the recommendations of City staff herein but not adopt the other recommendations of the City staff. If this option is selected staff recommends

that the three ordinances proposed herein be adopted to comply with provisions of the Act.

- Decide the policy issue of partisan vs. non-partisan elections.
- Give staff other direction.

Recommendations

Staff recommends that the Governing Body adopt the ordinances proposed as Attachments 1-3 and otherwise proceed as indicated herein.

Action Requested

See Recommendations.

Supporting Documentation

Draft Ordinances

ORDINANCE NO. 3907

AN ORDINANCE AMENDING CHAPTER 2 OF THE CITY OF HAYS, KANSAS, MUNICIPAL CODE, BY MODIFYING ARTICLE II, SECTION 2-22, REGARDING ORGANIZATION OF COMMISSIONERS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

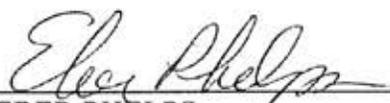
Section 1. Chapter 2, Article II, Section 2-22, of the City of Hays, Kansas Municipal Code is hereby amended to read:

“Section 2-22 – Organization of Commissioners.

At a special meeting called on the second Monday in January of each year, or at the first regular meeting following the second Monday in January of each year, the Commissioners shall, by ballot, by a majority vote of all the members of the commission, elect one of its members as chair and one of its members to act as vice-chair and to serve as the chair in the absence of the chair. In case either the chair or vice-chair is not chosen at such regular meeting, the commissioners may, at their option, continue to ballot for such officers at any adjourned or subsequent regular meeting.”

Section 2. This ordinance shall take effect and be in force from and after its passage and publication in the *Hays Daily News*, the official City newspaper.

PASSED by the Commission this 22nd day of October, 2015.



EBER PHELPS
Mayor

ATTEST:



BRENDA KITCHEN
City Clerk

(SEAL)



ORDINANCE NO. 3908

AN ORDINANCE ESTABLISHING THE NUMBER OF QUALIFIED ELECTORS THAT MUST SIGN A NOMINATION PETITION PURSUANT TO 2015 SESSION LAWS OF KANSAS, VOL. 2, CHAPTER 88, SECTION 53(b).

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

Section 1. Any person desiring to become a candidate for city office elected at large shall file with the county election officer, before the filing deadline, established in K.S.A. 25-205, and amendments thereto, a declaration of candidacy on a form furnished by the county election officer as specified by the secretary of state. The nomination petition must be signed by 50 qualified electors or one percent (1%) of the qualified electors of the City of Hays, whichever is less.

Section 2. This ordinance shall take effect and be in full force and effect immediately following its adoption and publication as provided by law.

PASSED by the Commission the 22nd day of October, 2015.


EBER PHELPS
Mayor

Attest:


BRENDA KITCHEN
City Clerk

[Seal]



ORDINANCE NO. 3909

**AN ORDINANCE AFFIRMING THE CITY MANAGER
FORM OF GOVERNMENT AND TRANSITIONING THE
TERMS OF OFFICE FOR COMMISSIONERS TO THE
NOVEMBER ELECTION CYCLE ESTABLISHED BY
L.2015, CHAPTER 88 (H.B.2014).**

WHEREAS, the City of Hays, Kansas, has adopted the Commission-Manager form of government; and

WHEREAS, the Kansas Legislature passed L. 2015, ch. 88 (H.B. 2104), which amended and transferred the statutory provisions for the Commissioner-Manager form of government, and L. 2015, ch. 88, sec. 8(a) states that a city shall continue to operate under its current form of government, if established at an election, until such time that the city's form of government is changed; and

WHEREAS, the statutory provisions for the Commission-Manager form of government have been recodified in L. 2015, ch. 88, sec. 11; and

WHEREAS, L. 2015, ch. 88, sec. 8(b) states that all existing ordinances and charter ordinances relating to a city's form of government shall remain in effect until amended or repealed by such city.

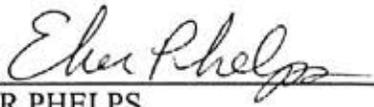
NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

- Section 1.** The City of Hays, Kansas, continues to operate under the Commissioner-Manager form of government and pursuant to all statutes relating to its class and form of government, as amended by existing or future ordinances and charter ordinances.
- Section 2.** Those governing body positions with terms that would have expired in April 2017, shall expire on the second Monday in January of 2018, when the city officials elected in the November 2017 general election take office. Those governing body positions with terms that would have expired in April 2019, shall expire on the second Monday in January of 2020, when the city officials elected in the November 2019 general election take office.
- Section 3.** General elections shall take place on the Tuesday succeeding the first Monday in November 2017, and succeeding elections will be held every two (2) years for all such governing body positions whose terms have expired. The Governing Body shall consist of five Commissioners to be elected to terms as set forth herein and

in accordance with Charter Ordinance 3 of the City of Hays. The Commissioners shall be residents and qualified electors of the City of Hays, Kansas.

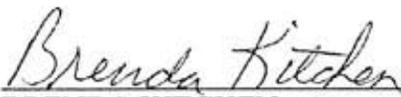
Section 4. This ordinance shall take effect and be in force from and after its passage and publication in the *Hays Daily News*, the official City newspaper.

PASSED by the Commission on this 22nd day of October, 2015.



EBER PHELPS
Mayor

ATTEST:



BRENDA KITCHEN
City Clerk

(SEAL)



CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 5A

MEETING DATE: 1-14-16

TOPIC:

City Commission Rules of Procedure

ACTION REQUESTED:

Consider approving Resolution No. 2016-001 adopting the revised City Commission Rules of Procedure.

NARRATIVE:

The current City Commission Rules of Procedure refers to an April reorganization. The next municipal election will now take place in November of 2017 with the new Commission taking seat in January of 2018. In adopting the ordinances, the City Commission changed the reorganization meeting from April to January of each year, which requires the language in the Rules of Procedure to be revised to reflect this change.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Toby Dougherty, City Manager
City Commission

ADMINISTRATION RECOMMENDATION:

N/A

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

City Commission Rules of Procedure

RESOLUTION NO. 2016-001

A RESOLUTION ADOPTING BY REFERENCE THE CITY OF HAYS CITY COMMISSION RULES OF PROCEDURE AND REPEALING ALL PREVIOUS RESOLUTIONS, MOTIONS OR ACTIONS IN CONFLICT THEREWITH.

WHEREAS, the *City of Hays City Commission Rules of Procedure* contains a full and complete set of rules, regulations, standards, and procedures which govern the proceedings of the Commission; and,

WHEREAS, it is the desire of the governing body of the City of Hays to adopt the provisions of the *City of Hays City Commission Rules of Procedure*, to apply in all of its affairs;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

- A. That the *City of Hays City Commission Rules of Procedure*, as attached hereto and as may be amended from time to time, is hereby adopted by the City of Hays, Kansas.
- B. That it shall be the policy of the City of Hays, Kansas, to abide by and conform to in all respects the provisions of the aforesaid *City of Hays City Commission Rules of Procedure*.
- C. That the City Clerk of the City of Hays, Kansas, shall maintain a copy of the *City of Hays City Commission Rules of Procedure*, and of this Resolution in the Office of the City Clerk, and shall make same available to any interested citizen.
- D. That all previous resolutions, motions or actions in conflict with the *City of Hays City Commission Rules of Procedure* are hereby repealed.

This resolution shall be effective upon its approval by the City Commission of the City of Hays, Kansas.

Adopted by the Commission on the 14th day of January, 2016.

Mayor

ATTEST:

Brenda Kitchen
City Clerk

(SEAL)

CITY OF HAYS
CITY COMMISSION
RULES OF PROCEDURE

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Adopted this 14th day of January, 2016, by the City Commission at a regular meeting, by a majority vote of the members attending.

1. Rules of Procedure - Generally

1.1. Authority: The Code of Ordinances of the City of Hays provides that the City Commission shall determine its own rules of procedure.

1.2. Adoption of Rules: The following set of Rules of Procedure shall be in effect upon their adoption by the Commission.

1.3. Rules - New Commission: At a special meeting called on the second Monday in January of each year, or at the first regular meeting following the second Monday in January of each year, the Commission shall immediately, following the election of the Chairperson and Vice-Chairperson of Commission, as provided in Sec. 4.1, adopt Rules of Procedure, either by adopting the prior Commission's Rules (with or without amendments) or by adopting new rules.

1.4. Rules of Order: These Rules of Procedure shall govern the proceedings of the Commission, and "Robert's Rules of Order Revised" shall govern those matters that these Rules of Procedure do not govern.

2. Meetings, Quorum, Attendance, Rules of Order:

2.1. Meetings to be Public: All meetings of the Commission shall be open to the public as per the Kansas Open Records Act, subject to the exemptions therein.

2.2. Quorum: A majority of the members of Commission, three (3), shall constitute a quorum. If a quorum is not present, those in attendance shall be listed and they shall adjourn to a later time.

2.3. Business Vote: All ordinances shall require the affirmative vote of the majority of the five (5) commission members.

2.4. Compelling Attendance: The Commission may adjourn from day to day to compel the attendance of absent members.

2.5. Right of Floor: Any member desiring to speak shall be recognized by the chair, and shall confine his/her remarks to one subject under consideration or to be considered.

3. Types of Meetings

3.1. Regular Meetings: The Commission shall meet in the Commission Chambers of City Hall on the second and fourth Thursdays of each month at a time specified by resolution. Should the regular meeting date be a holiday, the Board of Commissioners shall meet on the Tuesday preceding the holiday at the regular hour. Calls for regular meetings other than as provided above herein shall be in accord with Hays City Code Sec. 2.04.120.

3.2. Special Meetings: Special meetings shall be called and held pursuant to Hays City Code Sec. 2.04.130.

3.3. Work Sessions: The Commission may meet informally in work sessions (open to the public), generally to be held on the first and third Thursday at a time to be announced at the meeting preceding each meeting in the Commission Chambers to review forthcoming programs of the City, receive progress reports on current programs or projects, or receive other similar information from the City Manager and staff, provided that all discussions thereon shall be informal and no formal action shall be taken at any such session.

3.4. Regular and Special Meetings and Work Sessions: Notices of all meetings and work sessions shall be posted at City Hall, showing place, date and time of meeting or session, as well as an agenda for such meeting or session, and

further disseminated according to the requirements of the Kansas Open Meetings Act.

3.5. Executive Sessions: Executive Sessions or closed meetings may be held in accordance with the provisions of the Kansas Open Meetings Act.

3.6. Adjourned Meetings: Any meeting of the Commission may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next regular meeting.

3.7. Emergency Meetings: Emergency meetings, necessitated by national, statewide or local catastrophe, riot, or insurrection, requiring immediate action for which the Commission may need to act immediately, shall be called by available Commission members, who may act by emergency declaration, with or without a quorum, and by the majority of as many Commission members as are present, to take only such actions as are necessary to restore the public welfare and peace to its more normal state. This rule shall prevail only until such time as Commission passes an ordinance to deal with such extraordinary circumstances. As a part of the emergency declaration, such Commission members as are present may by majority vote of those present suspend all or any portion of the within rules for such emergency meeting.

4. Mayor and Duties

4.1. Election of Mayor and Mayor Pro Tem: At a special meeting called on the second Monday in January of each year, or at the first regular meeting following the second Monday in January of each year, a Chairperson and Vice-Chairperson shall be elected. The Chairperson shall have the title of Mayor. The Vice-Chairperson shall have the title of Vice-Mayor. The meeting shall be called to order

by the Mayor who shall accept nominations for the offices of Mayor and Vice-Mayor.

The election shall be by roll call vote or by open ballot in a contested election and it shall require a majority vote by the members of the Commission.

4.2. Chairperson / Mayor: The Chairperson shall preside at all meetings of the Commission. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and Vice-Chairperson, the City Manager shall call the Commission to order, whereupon the members of the Commission present shall elect a temporary chairman.

4.3. Call to Order: The person presiding shall take the chair precisely at the hour appointed for the meeting and shall immediately call the Commission to order. A temporary chairman shall serve as presiding officer of the Commission until the arrival of the Chairperson or Vice-Chairperson, at which time the temporary chairman shall immediately relinquish the chair upon the conclusion of the business immediately before the Commission.

4.4. Preservation of Order: While the Commission is in session, the members must preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its presiding officer. Media coverage may be provided so long as said coverage does not interfere with the orderly conduct of Commission meetings. Any person making personal, impertinent or slanderous remarks, or who shall become boisterous, while addressing the Commission may be requested to leave the meeting and may be forthwith, by the presiding officer, barred from further audience before the Commission.

4.5. Points of Order: The person presiding shall determine all points of order, subject to the right of any member to appeal to the Commission. If any appeal is taken, the question shall be, "Shall the decision of the presiding officer be sustained?"

4.6. Questions to be Stated: The person presiding shall cause all questions to be stated, submitted to vote and announce all results. A roll call vote shall be taken upon the request of any member in the manner provided in these rules.

4.7. Appointment of Board, Commission, Committee and Authority Positions: Prior to appointment of any board member, commission or committee member or authority member, the term for which or vacancy of which will occur before the expiration of the then-Mayor's term, copies of any applications, letters of intent, or other indication of interest shall be provided to the Commission for review. At the regular meeting of the Commission preceding the meeting at which the appointment will be made, the Mayor shall make a recommendation for the Commission's consideration. At the next regular meeting, the Mayor shall make the appointment, subject to formal approval by the Commission. If the appointee does not receive a majority vote of Commission, then any member of Commission may make a nomination for the position, subject to formal approval by the Commission. Such nomination shall be made from the applications, letters of intent or other indication of interest previously provided to the Commission. The Commission by unanimous consent may waive the time limits for this procedure.

5. Order of Business and Agenda:

5.1. Order of Business: All meetings of Commission, except executive sessions as outlined, shall be open to the public. At the hour appointed for meeting, the Commission shall be called together by the Chairperson, and in his/her absence by the Vice-chairperson. It shall be determined whether a quorum is present. Upon the appearance of a quorum the board of commissioners shall proceed to business, which shall be conducted in the following order:

1. Reading of the minutes of the last regular meeting and intervening special meetings, which, if no corrections are offered, shall stand approved;
2. Presentation of financial statements;
3. Citizen comments;
4. Consent agenda;
5. Unfinished business;
6. New business;
7. Report of city manager;
8. Commission inquiries and comments;
9. Executive session (if required);
10. Adjournment.

The foregoing order of business shall not, however, prohibit the introduction of any germane material or resolution by any member of the Commission under any appropriate heading of business hereinabove stated. For good reason, the person presiding may alter the order of the agenda unless decided otherwise by majority vote of Commission quorum present.

5.2. Presentation by Members of Commission: The agenda shall provide a time when the Chairperson or any Commission member may bring before the Commission any business that he/she feels should be deliberated upon by the Commission. These matters need not be specifically listed on the agenda, but formal action on such matters shall be deferred until a subsequent Commission meeting, when they can appear on the agenda, except that immediate action may be taken upon a vote of two-thirds of all members of the Commission.

5.3. Reading of Minutes: Unless a reading of the minutes of a Commission meeting is requested by a member of the Commission, such minutes may be approved without reading, if each member has been previously furnished with a copy of the minutes.

5.4. Rules of Debate:

(a) Presiding officer. The person presiding may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges of a Commission member by reason of his/her acting as the person presiding.

(b) Getting the floor. Every member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine himself/herself to the question under debate, avoiding all personalities and indecorous language.

(c) Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him/her to order, or as herein otherwise provided. If a member, while speaking, be called to order, he/she shall cease speaking until the question of order be determined, and if in order, he/she shall be permitted to proceed.

(d) Introduction of ordinances and resolutions. Each ordinance or resolution shall be introduced and moved to be adopted as follows: "I move the introduction and adoption of Ordinance No. ____ (or Resolution No. ____)."

(e) Debate. The Commission member moving the adoption of an ordinance or resolution shall have the privilege of opening debate after the motion for adoption of the ordinance or resolution, but shall not speak against same. Such Commission member shall have the privilege of closing debate, by being invited by the presiding officer to speak last before vote is taken.

(f) Remarks entered in minutes. A Commission member may request, through the presiding officer, the privilege of having an abstract of his/her statement on any subject under consideration by the Commission entered in the minutes.

6. Ordinances, Resolutions, and Motions

6.1. Form: Ordinances and resolutions shall be presented to the Commission only in printed or typewritten form.

6.2. Voting: Voting decides all questions ultimately. Yes or no vote shall be taken from each Commission member upon the consideration of passage of all motions, ordinances and resolutions and shall be entered upon the official record of the Commission.

6.3. Tie Vote: In the event of a tie in votes on any motion, the motion shall be considered failed.

7. Citizens' Rights

7.1. Addressing the Commission: Any person desiring to address the Commission by oral communication shall first secure the permission of the presiding officer, provided, however, that preference will be given to those persons who have notified the City Manager by noon of the Friday immediately preceding the Thursday Commission meeting of their desire to speak in order that their name may be placed on the agenda and they will be recognized by the presiding officer without further action.

7.2. Manner of Addressing the Commission: Each person addressing the Commission shall step up to the microphone, shall give his/her name and address in an audible tone of voice for the record and, by prior determination, and, on a case-by-case basis, time limits may be imposed by the presiding officer. All remarks shall be addressed to the Commission as a body, and not to any member thereof. No person, other than members of the Commission and the person having the floor, shall be permitted to enter into any discussion, except by the authority of the presiding officer.

7.3. Courtesy Requirements: As a courtesy to all who use the City Commission Chambers, the City Commission shall require that everyone:

1. Remove hats, caps and sunglasses.
2. Refrain from chewing gum or tobacco and eating.
3. Refrain from smoking.
4. Turn off all cell phones and pagers.

8. Suspension and Amendment of these Rules

8.1. Suspension of these Rules: Any provision of these rules not governed by the City Code of Ordinances, City Code, state statutes or general state law may be temporarily suspended by a vote of a majority of the Commission. The vote on any such suspension shall be taken by a roll call vote and entered upon the record.

8.2. Amendment of these Rules: These rules may be amended, or new rules adopted, by a majority vote of all members of the Commission, provided that the proposed amendments or new rules shall have been placed on the agenda and provided to all Commission members prior to the Commission meeting at which action is taken on the amended or new rules.

CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 5B

MEETING DATE: 1-14-16

TOPIC:

Mayoral Appointment Recommendations

ACTION REQUESTED:

Receive Mayor Phelps' proposed appointments to the CARE Council and Fort Hays Municipal Golf Course Advisory Board.

NARRATIVE:

The following proposed appointments will be presented for approval at the next City Commission meeting.

CARE Council

Heather Musil – 2-year term to expire 3-1-18 (1st term)

Fort Hays Municipal Golf Course Advisory Board

Sean Dreiling – unexpired term to expire 7-1-16 (1st term)

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Mayor Phelps

ADMINISTRATION RECOMMENDATION:

N/A

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Applications received for these Boards

CITY OF HAYS
APPLICATION FOR SERVING ON A CITY BOARD OR COMMITTEE

Email: hmusil@usd489.com

Date: 6/15/2015

Name: Heather Musil

Address: 3319 Willow Hays, KS

Day Time Phone Number: 785-623-8970

Evening Phone Number: 785-623-8970

Place of Employment: USD 489 teacher at Hays Middle School

How long have you been a Resident of Hays: I've been a resident of Hays since 1995, so 20 years.

Name of Board(s) you are interested in serving on: Care Council and Sister Cities

How much time could you devote per month: varies; 5-10 hours

Are you related to anyone who is currently serving on a Board/Committee?: No

If Yes, Explain:

Briefly describe why you are interested in serving on a Board/Committee for the City of Hays:
As a teacher, I work directly with children and their families who are in need of services which are provided through the Care Council. As for the Sister Cities, I have traveled to Paraguay and love the culture. There are so many opportunities to share and learn through these cultures.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: I am on two church boards at First United Methodist Church, a member of PEO, a member of Teamin' up for Tots (Angel Tree), and volunteer in my children's classrooms.

CITY OF HAYS
APPLICATION FOR SERVING ON A CITY BOARD OR COMMITTEE

Email: scdreiling@fhsu.edu

Date: 1/1/2016

Name: Sean Dreiling

Address: 313 skyline ct Hays, KS 67601

Day Time Phone Number: 303)817-3682

Evening Phone Number:

Place of Employment: Fort Hays State University Athletics

How long have you been a Resident of Hays: 8 years

Name of Board(s) you are interested in serving on: Fort Hays Municipal Golf Course

How much time could you devote per month: anytime that doesn't interfere w/ job at FHSU

Are you related to anyone who is currently serving on a Board/Committee?: No

If Yes, Explain:

Briefly describe why you are interested in serving on a Board/Committee for the City of Hays: I am an avid golfer and one who really loves the game. I am the head golf coach at Fort Hays State University, and I would like to see the University and FHMGC more connected.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: I work for the University which is my job, but it has a lot of community interaction. Games and functions that take place in the community bring people together and shows the pride of our great city.

CITY OF HAYS
APPLICATION FOR SERVING ON A CITY BOARD OR COMMITTEE

Email: golfinchic@yahoo.com

Date: 6/3/2015

Name: Sharon Honeyman

Address: 2018 Metro Lane

Day Time Phone Number: 785-259-5613

Evening Phone Number: 785-259-5613

Place of Employment: JCP

How long have you been a Resident of Hays: 46 years

Name of Board(s) you are interested in serving on: Gold Advisory Board

How much time could you devote per month: 5-10 hrs or as needed

Are you related to anyone who is currently serving on a Board/Committee?: No

If Yes, Explain:

Briefly describe why you are interested in serving on a Board/Committee for the City of Hays: I'm interested in voicing my opinion on some things that need to be changed and or addressed at The Fort! Seeing as how I'm an avid golfer I see things that NEED TO BE CHANGED and or addressed ASAP! I play the course on a daily basis and I feel like it's a very nice public course that has a much bigger profitability than it's currently making if some changes are made.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: I served on the Wild West Committee for about 6 years.

DEC 28 2015

CITY OF HAYS
APPLICATION FOR SERVING ON A CITY BOARD OR COMMITTEE

NAME: Jim Schreiber

ADDRESS: 2523 Haney Dr. Hays KS.

DAY TIME PHONE NUMBER: 785-656-0121 EVENING PHONE NUMBER: same

E-MAIL ADDRESS: _____

PLACE OF EMPLOYMENT: FHSU

HOW LONG HAVE YOU BEEN A RESIDENT OF HAYS? 4.5 yrs

NAME OF BOARD(S) YOU ARE INTERESTED IN SERVING ON: Golf Course advisory board

HOW MUCH TIME COULD YOU DEVOTE PER MONTH? 2 hrs.

ARE YOU RELATED TO ANYONE WHO IS CURRENTLY SERVING ON A BOARD/COMMITTEE? No

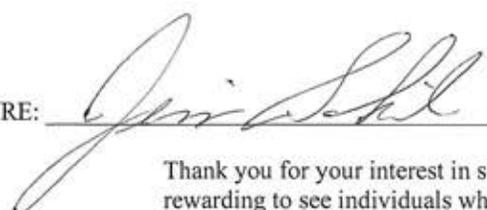
IF YES, EXPLAIN: _____

BRIEFLY DESCRIBE WHY YOU ARE INTERESTED IN SERVING ON A BOARD/COMMITTEE FOR THE CITY OF HAYS.

Was asked to serve on this board

PLEASE LIST ANY GROUPS OR ACTIVITIES THAT YOU PARTICIPATE IN, OR HAVE PREVIOUSLY PARTICIPATED IN, THAT DEMONSTRATE YOUR INVOLVEMENT IN THE COMMUNITY.

N/A

SIGNATURE:  DATE: 12/22/15

Thank you for your interest in serving on a Board/Commission. It is rewarding to see individuals who are willing and able to commit their time and energy to make the City of Hays a better place to work, live and play.

CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 6

MEETING DATE: 1-14-16

TOPIC:

Mary Alice Unrein Rezoning Request

ACTION REQUESTED:

Accept the Hays Area Planning Commission's recommendation to deny rezoning a tract of land owned by Mary Alice Unrein currently zoned agricultural land to suburban residential for a proposed development located about two miles south of the City limits.

NARRATIVE:

Over the last six months or so, staff has been working with Ms. Unrein regarding her proposed development located south of Hays. In the interim between when the City Commission last took up this issue on November 19, 2015 and when the Planning Commission reconsidered it on December 21, 2015, staff realized that we have confused the process regarding consideration of a new development by including the particular concerns regarding the proposed development along with the rezoning issue. Based on this realization, when the issue was reintroduced to the Planning Commission, on December 21, 2015, they were asked to concentrate only on the issue at hand, the rezoning request. During their meeting, the Planning Commission approved a recommendation to the City Commission that the change in zoning from agriculture to suburban residential be denied.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Greg Sund, Director of Public Works

ADMINISTRATION RECOMMENDATION:

The staff recommendation to the Planning Commission and now to the City Commission is to deny the rezoning request.

COMMITTEE RECOMMENDATION(S):

The Hays Area Planning Commission recommended denial of Ms. Unrein's rezoning request.

ATTACHMENTS:

Staff Memo
Planning Commission Findings of Fact
Map showing area affected by the rezoning request.

Commission Work Session Agenda

Memo

From: Director of Public Works Greg Sund

Meeting: January 14, 2016

Subject: Rezoning Request of Unrein tract in the SE/4 of Section 16, Township 14 South, Range 18 West, Ellis County, Kansas

Person(s) Responsible: Director of Public Works Greg Sund

Summary

The applicant, Mary Alice Unrein, submitted initial plans for a proposed development she now calls the Blue Sky Acres Subdivision to the City of Hays, Kansas, in June 2015. Over the ensuing months leading up to the request being placed on the Hays Area Planning Commission agenda, the subject of this proposed development was discussed by members of the Utility Advisory Committee and by City Staff. In the discussions, the rezoning request seemed to get lost in details about the proposed development. The Planning Commission recommended denial of the request to change the zoning. The City Commission sent the recommendation back to the Planning Commission. The Planning Commission on December 21, 2015, heard further discussion and had input from Staff and the applicant and voted to recommend denial of the request to change the zoning, as set out in the attached materials. The Commission is now required to hear the matter and make a final decision. For this reason, between November 24, 2015 when the City Commission last considered this issue and the Hays Area Planning Commission meeting on December 21, 2015 we reframed the issue to focus only on the request to rezone the property in question from agricultural (A-L) to suburban residential (R-S).

Background

Mary Alice Unrein first submitted information regarding her proposed development, that she now calls the Blue Sky Acres Subdivision, to the City in June 2015. The issue was taken up by the Planning Commission on October 19, 2015. During that meeting, the Planning Commission approved a motion recommending denial of the rezoning request to the City Commission. The City Commission took up the issue on November 24, 2015. Based on information submitted by Ms. Unrein during that meeting and other factors discussed, the City Commission approved a motion to return the issue to the Planning Commission for reconsideration. During the interim between the City Commission meeting and the Planning Commission meeting, staff realized that information about the

proposed development had been included in the discussions to the point that the base issue of the change of zoning had been superseded. For that reason, Staff reframed the issue for the December 21, 2015 meeting of the Planning Commission to focus only on the matter at hand at this time, the rezoning request. Discussions relating to platting, right of way access, water supply, and wastewater treatment will only become issues of concern if the rezoning request is approved. During the Planning Commission meeting on December 21, 2015, the Planning Commission approved a recommendation denying the rezoning of the property in question. The property, referred to as the Blue Sky Acres Addition, is legally described as a tract of land in the SE ¼ of Section 16, Township 14 South, Range 18 West, 6th Prime Meridian, more commonly described as a tract of land located adjacent and to the west of the VonFeldt Addition located on 250th Avenue (US-183) about two miles south of Hays.

Discussion

During the most recent Hays Area Planning Commission meeting, staff recommended focusing the discussion on the rezoning request alone and to base any decision on the factors described in the Kansas Supreme Court decision *Golden vs. City of Overland Park* (1978), and following cases. While the factors listed in the Supreme Court decision are not considered exclusive issues pertinent to a rezoning request, by addressing these issues, cities have met the tests on conformity with the procedural aspects of the law and the reasonableness of the action. For this reason, Staff recommends the City Commission review the Planning Commission's findings of fact in regard to each of the eight issues and make its own findings based upon the information presented to it at this meeting. For reference, the issues to be addressed, at a minimum, are:

1. Character of the neighborhood
2. Zoning and uses of nearby properties
3. Suitability of the subject property for the uses to which it has been zoned
4. Extent to which removal of the restrictions will detrimentally affect nearby property
5. Length of time subject property has remained vacant as zoned
6. Relative gain to the public health, safety, and welfare by the diminishment of the value of applicant's property as compared to the hardship imposed upon the individual landowners if rezoning is approved
7. Recommendations of Planning Staff
8. Conformity of the requested change to the Master Plan/Comprehensive Plan.

Based on review of the City Zoning and Subdivision Code and the 2012 Comprehensive Plan, Staff recommends denial of the rezoning request. The land is not contiguous to the City limits, is not in conformity with the Master Plan and is not in one of the identified growth areas, and would remove agriculturally zoned land from production, a use of this land that has existed throughout the past. If the zoning is changed, it will expose adjacent agricultural lands to scrutiny by people who build homes in the new development who often complain about conditions experienced in agricultural areas such as dust, smell, and use of chemicals. Such complaints are common even though the agricultural use was in existence long before residential development and thereby negatively affects the resulting development. Staff further recommends that the Commission find in its written order,

after hearing all the evidence, that the subject property has been in use for the purposes for which it is currently zoned for more than forty years since a comprehensive land use law regulating property in Hays and its surrounding territory was adopted, and for all of recorded history before that, and that in the context of land development in the area that is a factor in favor of denying a change in the zoning.

Legal Consideration

Kansas law provides that after the Commission's return of the recommendation to the Planning Commission and receipt of the Planning Commission's subsequent recommendation, the Commission may adopt, revise or amend such recommendation or take no further action thereon. There are no known legal obstacles to proceeding as recommended by City Staff.

Financial Consideration

None.

Options

The Hays Area Planning Commission recommended denial of the rezoning request made by Mary Alice Unrein for the tract she calls the Blue Sky Acres Addition legally described as a tract of land in the SE ¼ of Section 16, Township 14 South, Range 18 West, 6th Prime Meridian, more commonly described as a tract of land located adjacent and to the west of the VonFeldt Addition located on 250th Avenue (US-183) about two miles south of Hays. Options are to accept the Planning Commission's recommendation, deny it, or take no action, which has the same practical effect as accepting the Planning Commission's recommendation.

Recommendation

Staff recommends the Governing Body approve a motion to accept the Planning Commission's recommendation to deny the rezoning request from Mary Alice Unrein for the reasons listed in the Hays Area Planning Commission's Findings of Fact because the land is not contiguous to the City limits, is not in conformity with the Master Plan, is not in one of the identified growth areas, would remove agriculturally zoned land from production, a use of this land that has existed throughout the past, having a negative impact on existing adjacent agricultural land, because of the recommendation of Planning Staff and because the subject property has been used for the purpose for which it is currently zoned for more than 40 years, and the public welfare does not require the property to be rezoned.

Action Requested

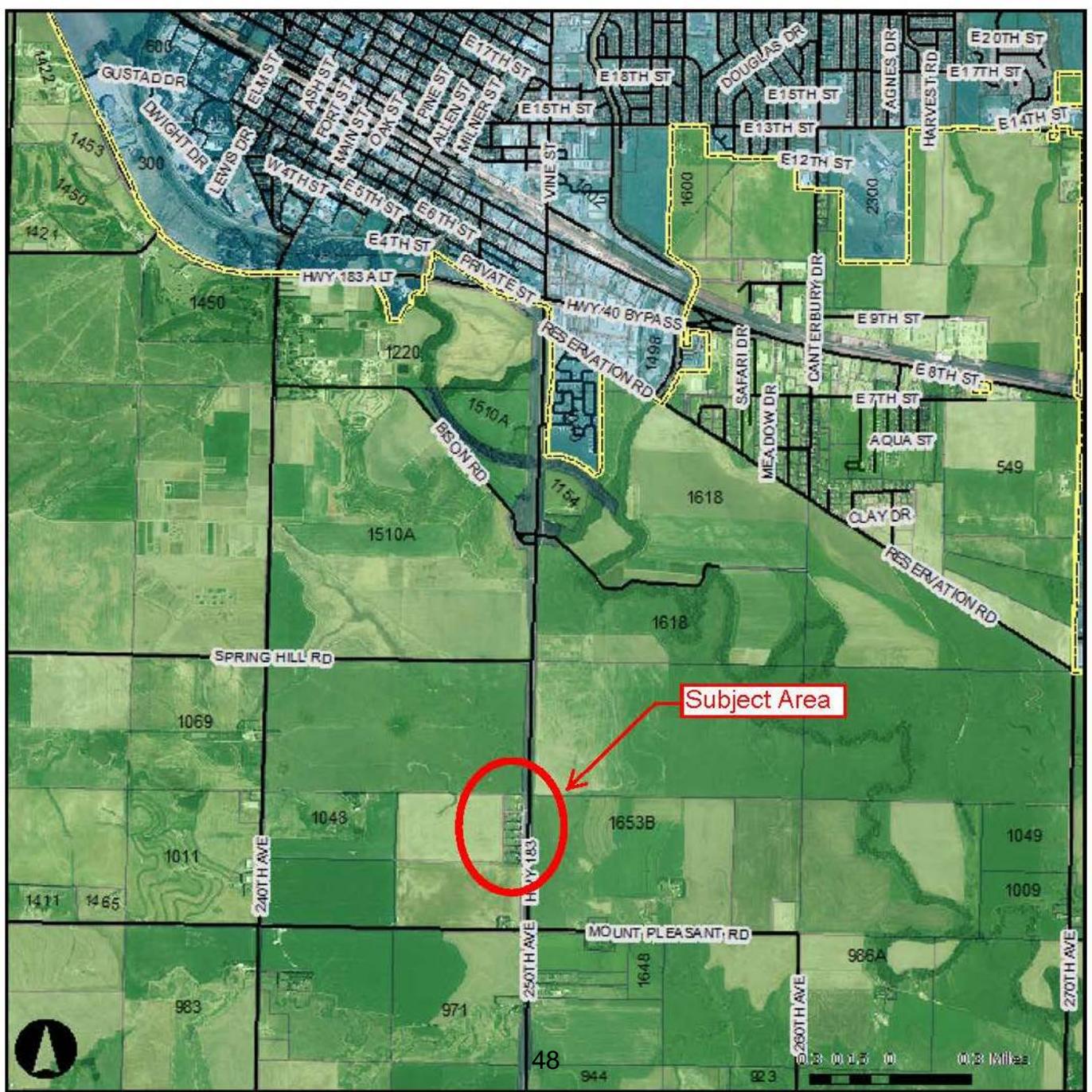
To deny the request for rezoning submitted by Mary Alice Unrein for the proposed Blue Sky Acres Addition legally described as a tract of land in the SE ¼ of Section 16, Township 14 South, Range 18 West, 6th Prime Meridian, more commonly described as a tract of land located adjacent and to the west of the VonFeldt Addition located on 250th Avenue (US-183) about two miles south of Hays because:

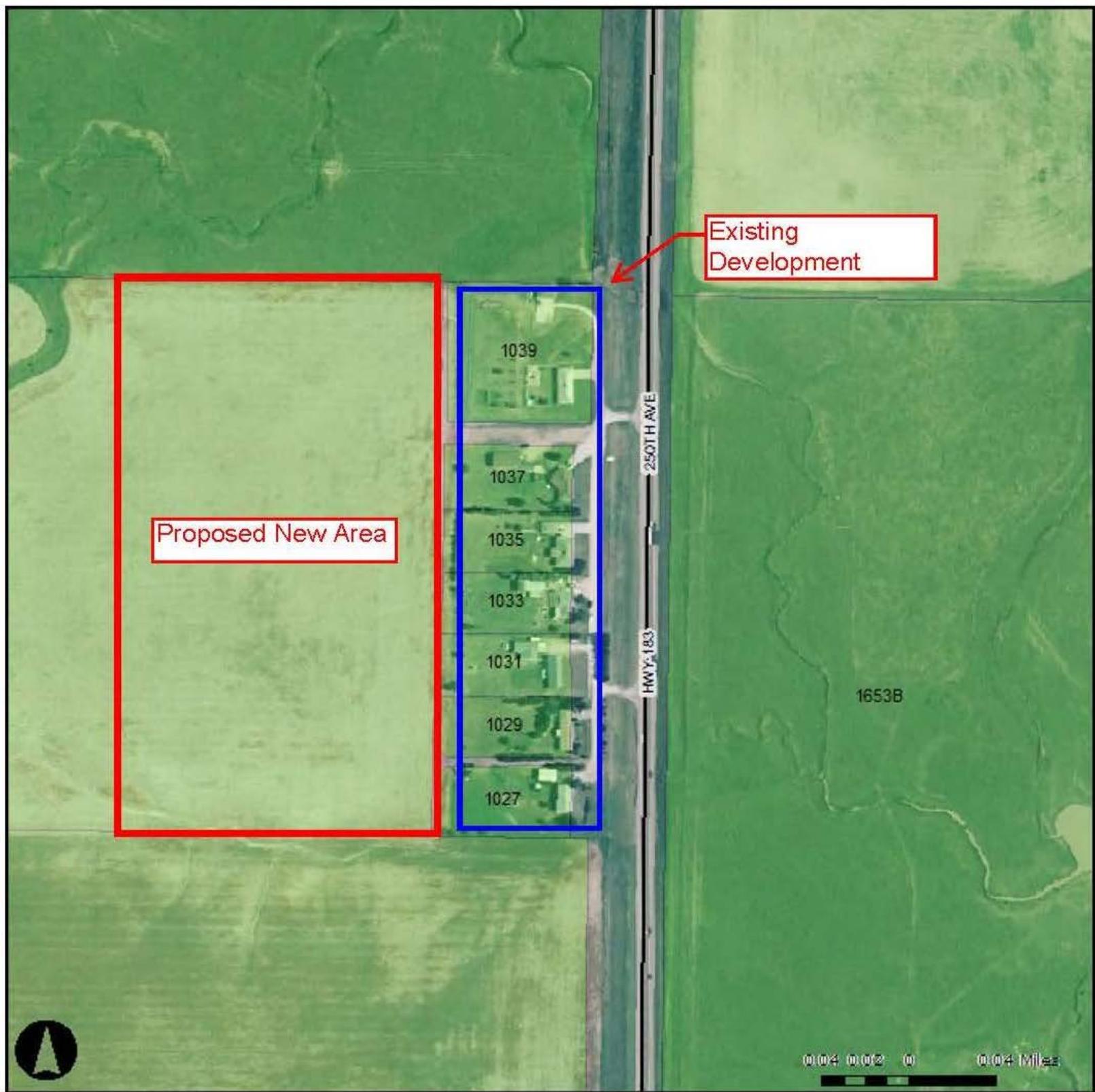
1. The character of the neighborhood and adjacent zoning is agricultural with the exception of 7 residential lots to the east located adjacent to 250th Avenue (US-183) that were platted in 1977 and a change to zoning could result in negative impacts on adjacent agricultural lands due to complaints regarding dust, smells, and use of chemicals on the agricultural lands.
2. The tract in question has been restricted to agricultural uses throughout its known history and is very suitable for agricultural uses and has been used for those purposes.
3. The tract in question is not contiguous to the city limits and is not located in one of the growth areas described in the 2012 Comprehensive (Master) Plan.
4. The recommendation of Planning Staff.

Supporting Documentation

Two maps showing the tract in question in relation to the city of Hays and adjacent properties.

The Hays Area Planning Commission's Findings of Fact.





PLANNING COMMISSION FINDING OF FACT

1. CASE NO.: **15-05Z** FILING FEE PAID: **\$200.00**
 2. DATE FILED: **09/17/2015**
 3. DATE ADVERTISED FOR HEARING: **09/27/2015 and 09/28/2015**
 4. PUBLIC HEARING DATE: **10/19/2015**
 5. APPLICANT'S NAME: **MARY ALICE UNREIN**
 6. LOCATION OF PROPERTY: **South U.S. 183/250th Ave west of Von Feldt's Addition**
 7. DESCRIPTION OF PROPERTY: **Tract in the N/2 of SE/4 of Section 16-T14S-R18W (currently farm ground)**
 8. PRESENT USE OF PROPERTY: **Agriculture**
 9. PRESENT ZONING: **"A-L"** REQUESTED ZONING: **"R-S"**
-

1. CHARACTER OF THE NEIGHBORHOOD:
DIRECTION

NORTH: **Agriculture**

SOUTH: **Agriculture**

EAST: **Suburban Residential (7 lots)**

WEST: **Agriculture**
2. THE ZONING OF SURROUNDING PROPERTY:
DIRECTION

NORTH: **"A-L" Agriculture**

SOUTH: **"A-L" Agriculture**

EAST: **"R-S" Residential Suburban**

WEST: **"A-L" Agriculture**

3. CONSIDERATION OF THE RECOMMENDATIONS OF PERMANENT PROFESSIONAL STAFF: The property abuts an existing residential suburban area to the east surrounded by agriculture properties in all other directions. The subject property, as well as surrounding properties, is designated as "Agriculture" on the Future Land Use Map and Comprehensive Plan. Residential development is discouraged in areas denoted as "Agricultural Production" in the Comprehensive Plan.
4. DEDICATION OR RESERVATION NEEDED FOR:
 1. DRAINAGE: **Yes**
 2. STREETS: **Yes**
 3. UTILITY EASEMENTS:
 - a. ELECTRICITY: **Yes**
 - b. GAS: **Yes**
 - c. SEWERS: **Yes**
 - d. WATER: **Yes**
 4. SHOULD PLATTING BE REQUIRED: **Platting is in process**
- A. TRAFFIC CONDITIONS:
 1. CLASSIFICATION OF STREET ON WHICH PROPERTY FRONTS: **Local/State Highway**
 2. RIGHT-OF-WAY WIDTH: **60' ROW**
 3. SIGHT DISTANCE: **OK**
 4. TURNING MOVEMENTS: **OK**
 5. COMMENTS ON TRAFFIC: **Local/Highway**
4. THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED: **The existing zoning (Agriculture) is very suitable for the subject property. Other zoning districts and development is discouraged.**
5. THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: **Changing the zoning classification from "A-L" Agriculture Zoning District "R-S" Residential Suburban could impact existing residential development and also could impact existing agricultural properties as Ag land preservation is undermined.**
6. THE LENGTH OF TIME THE SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED: **The property has been used for agricultural production or natural land preservation for as far back as records are available.**
7. THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE NEIGHBORING PROPERTY, AS COMPARED TO THE HARDSHIP IMPOSED ON THE INDIVIDUAL LANDOWNER: **There is no known gain to the public health, safety, or welfare that will occur if this property is developed as a residential use. There is also no**

foreseen hardship on the subject property landowner if the property were to remain as agriculture.

8. THE CONFORMANCE OF THE REQUESTED CHANGE TO THE ADOPTED OR RECOGNIZED MASTER PLAN BEING UTILIZED BY THE CITY: **The subject property is surrounded by agriculture uses except to the east is the “R-S” Residential Suburban Zoning District. The Comprehensive Plan designates this area as agriculture.**

The request for the “R-S” Residential Suburban zoning classification is contrary to that of the Comprehensive Plan.

The Comprehensive Plan states this area:

- Should be generally used for agriculture
- Extension of urban services is unlikely
- Extremely low residential densities (below one unit per 20 acres) may be permitted
- Should remain as open space or agriculture – urban encroachment should be discouraged

Based on these considerations, the Planning Commission does not recommend the change of zoning from “A-L” Agriculture to “R-S” Residential Suburban Zoning Classification.

CITY OF HAYS
AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 7

MEETING DATE: 1-14-16

TOPIC:

Release of 2016 Funds to Ellis County Coalition for Economic Development

ACTION REQUESTED:

Consider approving the release of \$87,550 to the Ellis County Coalition for Economic Development for the 2016 fiscal year.

NARRATIVE:

The 2016 Budget for the City of Hays did not contain a direct allocation for the Ellis County Coalition for Economic Development. The allocation was for "Economic Development Activities". Therefore, the City Commission will need to take formal action to allow for the release of these funds to the Ellis County Coalition for Economic Development.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Toby Dougherty, City Manager

ADMINISTRATION RECOMMENDATION:

N/A

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

None