

Memo

To: City Commission
From: Toby Dougherty, City Manager
Date: 10-6-15
Re: October 15, 2015 Work Session

Please find the attached agenda and supporting documentation for the October 15, 2015 Work Session.

Item 2 – Kiwanis Park Play Unit

Please refer to the attached memorandum from Jeff Boyle, Director of Parks, regarding the play unit in Kiwanis Park. This is also related to Item 3 (Kiwanis Park Restroom). The Kiwanis Club has donated \$40,000 for improvements and upgrades to Kiwanis Park. The City budgeted \$40,000 for 2015 to match these improvements. The goal was to install a play unit and restrooms in Kiwanis Park. City staff solicited proposals for various play units and then evaluated the proposals to weigh costs versus product provided as well as long-term durability. City staff is recommending the piece of playground equipment from ABCreative in De Soto, Kansas in the amount of \$30,420 as we feel this represents the best utilization of the available dollars.

Item 3 – Kiwanis Park Restroom

City staff is recommending the purchase of a prefabricated restroom from CXT Inc. in the amount of \$40,100. This will be the first of this type of restroom that the City has purchased. The State of Kansas utilizes these types of restrooms quite often and has had great success with them. They are also significantly cheaper than the previous restrooms that we have created in City parks.

Item 4 – 7th Street Angle Parking

At the August 20, 2015 Work Session, the City Commission discussed the one-way street designations on 7th and 6th Streets. During the discussion, a business owner, located in the 500 Block of West 7th Street, asked the Commission to consider angle parking along the street. The City Commission asked staff to look into the possibility of instituting angle parking on 7th Street. Please refer to the attached memorandum from John Braun, Assistant Director of Public Works, which outlines City staff's investigation and research on the matter. In summary, it is possible to install angle parking on one or all of the blocks on West 7th Street. However, due to accident

concerns, the cost to grind off the concrete hump that is currently in the middle of the street, as well as issues surrounding the ability of fire equipment to properly respond and deploy during a fire, City staff suggests no change be made to the current configuration.

Item 5 – Replat of Lots 1 and 2 and Arnhold Drive in Arnhold's Industrial Addition

This item is self-explanatory. Please refer to the memo from Jesse Rohr, Planning, Inspection and Enforcement Division Superintendent.

Item 6 – Rezoning of Lots 15 and 17, Block 6, HP Wilson Addition (C-O to C-2) – 117 East 7th Street

This item is self-explanatory. Please refer to the memo from Jesse Rohr.

Item 7 – Transitioning to November Elections

As you may recall, the State of Kansas Legislature modified the municipal election laws during the last legislative session moving all municipal elections to November. The City Attorney's office was asked to put together a memorandum outlining the requirements of the changes and give the Commission a briefing on how this will affect our operations moving forward, more specifically, how the elections will be handled in the move from April of 2015 to November. Please refer to the attached memorandum from Todd Powell, Assistant City Attorney. City Attorney John Bird will explain the matter in more detail at the work session.

Item 8 – Fact Finding Report/SEIU Contract 2016-2018

The City of Hays and Service Employees International Union Local 513 met and conferred to discuss the 2016-2018 contract. At the end of the meet and confer sessions, the parties had yet to agree on three items in the contract. Therefore, an impasse was declared on June 3, 2015. The State of Kansas appointed a mediator who unsuccessfully tried to mediate the dispute. The State of Kansas then appointed a fact finder who held a fact finding hearing on September 17th. These services were provided by Rex Wiant. The fact finder then issued the Findings of Fact on September 24th, which was received in my office on September 28th.

According to State Statute, if the dispute continues 14 days after the report is submitted to the party, the report shall be made public. A copy of the Fact Finding Report is included with this memorandum. Procedurally, the City Commission is required to hold a hearing on the matter. City staff, as well as the SEIU Local 513 Business Representative, will support the positions of each party at the hearing. City staff, as well as SEIU Local 513, is asking the City Commission to hold that hearing on October 22, 2015.

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**CITY OF HAYS
CITY COMMISSION WORK SESSION
THURSDAY, OCTOBER 15, 2015 – 6:30 P.M.
AGENDA**

1. **ITEM FOR REVIEW: [October 1, 2015 Work Session Notes \(PAGE 1\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: [Kiwanis Park Play Unit \(PAGE 5\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Jeff Boyle, Director of Parks
3. **ITEM FOR REVIEW: [Kiwanis Park Restroom \(PAGE 9\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Jeff Boyle, Director of Parks
4. **ITEM FOR REVIEW: [7th Street Angle Parking \(PAGE 27\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Greg Sund, Director of Public Works
5. **ITEM FOR REVIEW: [Replat of Lots 1 and 2 and Arnhold Drive in Arnhold's Industrial Addition \(PAGE 47\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Greg Sund, Director of Public Works
6. **ITEM FOR REVIEW: [Rezoning of Lots 15 and 17, Block 6, HP Wilson Addition \(C-O to C-2\) – 117 East 7th Street \(PAGE 55\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Greg Sund, Director of Public Works
7. **ITEM FOR REVIEW: [Transitioning to November Elections \(PAGE 65\)](#)**
PERSON RESPONSIBLE: John T. Bird, City Attorney
8. **ITEM FOR REVIEW: [Fact Finding Report/SEIU Contract 2016-2018 \(PAGE 75\)](#)**
PERSON RESPONSIBLE: Toby Dougherty, City Manager
9. **OTHER ITEMS FOR DISCUSSION**
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.

City of Hays
City Commission
Work Session Notes

Thursday, October 1, 2015 – 6:30 p.m.

Present: Eber Phelps, Shaun Musil, James Meier, Henry Schwaller IV, John Bird,
Toby Dougherty and Kim Rupp

Absent: Lance Jones

September 17, 2015 Work Session Notes

There were no corrections or additions to the minutes of the work session held on September 17, 2015; the minutes stand approved as presented.

2015 Uniform Public Offense Code/2015 Standard Traffic Ordinance

The League of Kansas Municipalities (LKM) publishes a revised version of the Uniform Public Offense Code for Kansas Cities (UPOC) and the Standard Traffic Ordinance for Kansas Cities (STO) on a yearly basis. Municipalities may adopt these two sets of ordinances for their use. These ordinances contain the most current legislative changes and updates put into place annually by the Kansas Legislature.

Don Scheibler, Chief of Police, informed the Commissioners of notable changes to the documents for 2015.

The Commissioners will be asked to adopt by ordinance the revised UPOC and STO at the October 22, 2015 Commission meeting.

Strong Towns Continued Discussion

In June City Manager Toby Dougherty introduced the results of City staff's Strong Towns fiscal investigation of the City of Hays to the City Commission. Since then, City staff has continued to fine-tune the investigation based on

principals, techniques, and tactics learned through the Strong Towns Organization.

Mr. Dougherty presented information on the findings. He stated all infrastructure is currently underfunded and revenues for street maintenance are decreasing. State and federal dollars for maintenance and replacement that we have relied heavily on are no longer available. Most of the new growth is not paying its way and our general fund expenditures are increasing faster than our revenue. He stated we want to be proactive, prepared and are trying to look at what is best for everyone in the community long term.

City staff is developing a website to help simplify the message and make it available to the public.

Commissioner Schwaller stated he is in favor of the Strong Towns philosophy, but does not want to appear anti-growth.

Other Items for Discussion

Chairperson Phelps congratulated Johnny O'Connor who recently assumed the position of Director of Utilities.

Executive Session

Henry Schwaller IV moved, Shaun Musil seconded, that the Governing Body recess to executive session at 7:30 p.m. for 15 minutes to discuss union negotiations. The executive session included the Commissioners, the City Manager, and the City Attorney. K.S.A. 75-4319 authorizes the use of executive session to discuss the topics stated in the motion.

Vote: Ayes: Eber Phelps

Shaun Musil

James Meier

Henry Schwaller IV

No action was taken during executive session.

Henry Schwaller IV moved, Shaun Musil seconded, that the Governing Body recess to a second executive session at 7:45 p.m. for five minutes to

discuss union negotiations. The executive session included the Commissioners, the City Manager, and the City Attorney. K.S.A. 75-4319 authorizes the use of executive session to discuss the topics stated in the motion.

Vote: Ayes: Eber Phelps

Shaun Musil

James Meier

Henry Schwaller IV

No action was taken during executive session.

The work session was adjourned at 7:50 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk

Commission Work Session Agenda

Memo

From: Jeff Boyle, Director of Parks

Work Session: October 15, 2015

Subject: Kiwanis Park Play Unit

Person(s) Responsible: Jeff Boyle, Director of Parks

Summary

The Hays Kiwanis Club donated \$40,000 and the city matched \$40,000 in the 2015 Special Parks Budget to update Kiwanis Park with a new play unit and restroom. Members of the Hays Kiwanis Club reviewed the play unit proposals and requested approval to purchase the unit from ABCreative in De Soto, Kansas for an amount of \$30,420 which includes labor for an install supervisor from their firm. City Staff is requesting approval to purchase the proposed play unit from ABCreative for an amount of \$30,420 with funding from the Park Improvement Fund.

Background

The existing play equipment at Kiwanis Park was purchased and installed in 1991 by the Hays Kiwanis Club and City Staff. Play equipment generally lasts 15-20 years. The main play unit is in need of replacement at this time.

Discussion

City Staff prepared Request for Proposals (RFP) for playground equipment and received thirteen (13) proposals. The RFP that was prepared suggested a price in the \$30,000 range in an effort to have funds left over for playground fall zone materials. Members of the Hays Kiwanis Club reviewed the proposals and requested approval to purchase the play equipment from ABCreative in De Soto, Kansas for an amount of \$30,420 which includes labor for an install supervisor from their firm. The recommended play unit is not the lowest priced unit but the Kiwanis Club liked the layout and features provided. This unit appears to be the most cost effective of the proposals submitted and will fit into the existing space at the park.

Legal Consideration

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

Financial Consideration

The Hays Kiwanis Club donated \$40,000, which was placed in the Park Improvement Fund, to assist with the purchase of playground equipment and a restroom facility for Kiwanis Park at 17th and Harvest. The Hays City Commission approved a \$40,000

“matching funds” request in the 2015 Special Park and Recreation Budget for this purpose bringing the total available funds to \$80,000. The proposals received ranged from \$23,427 to \$35,625. The recommended play unit price is \$30,420. An amount of \$2,800 would be required for fall zone materials after the unit is installed. The remaining funds would be used to purchase a new restroom facility.

Options

The City Commission has the following options:

- Approve the request to purchase play equipment from ABCreative for an amount of \$30,420.
- Do nothing at this time

Recommendation

The Hays Kiwanis Club and City Staff recommend approval to purchase the play unit from ABCreative for an amount of \$30,420 from the Park Improvement Fund.

Action Requested

Approve the purchase of the play unit from ABCreative for an amount of \$30,420 from the Park Improvement Fund.

Supporting Documentation

3D rendering of recommended unit



PROPOSAL: 120-89031-1

KIWANIS PARK



Commission Work Session Agenda

Memo

From: Jeff Boyle, Director of Parks

Work Session: October 15, 2015

Subject: Kiwanis Park Restroom

Person(s) Responsible: Jeff Boyle, Director of Parks

Summary

The Hays Kiwanis Club donated \$40,000 which was placed in the Park Improvement Fund and the city matched \$40,000 in the 2015 Special Parks Budget to update Kiwanis Park with a new play unit and restroom. The Hays Kiwanis Club and City Staff are requesting approval to purchase the CXT Inc. Cortez Precast Flush Restroom, via the State of Kansas Bid Procurement Contract Award #40341, for an amount of \$40,100. Funding will include \$40,000 from the Special Park Budget and \$100 from the Park Improvement Fund.

Background

Kiwanis Park does not currently have a restroom facility available for park visitors. Restrooms are one of the most important amenities to have in a park setting and are typically one of the first items installed when building a park.

Discussion

City Staff looked at various ways to purchase restroom facilities in an effort to find the most cost effective way to provide adequate and long lasting restrooms for park areas. Previous restroom facilities constructed in area parks were costing approximately \$70,000 to construct. City Staff determined that pre-cast concrete restrooms were less expensive to purchase and install yet still looked nice and fulfilled the basic needs for city park users. The State of Kansas purchases these same types of restrooms for the Kansas Department of Wildlife and Parks and Tourism and has already gone through the bidding processes for purchasing such and has a current contract in place with CXT Inc. The contract includes a provision that allows political subdivisions of the State of Kansas to purchase the restrooms off of the contract. The Cortez Precast Flush Restroom offered by CXT has separate men's and women's restrooms and meets all ADA requirements. The contract price for the restroom including delivery is \$40,100. City Staff will prepare the base and will hire a local contractor to install the piping to the facility.

Legal Consideration

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

Financial Consideration

The Hays Kiwanis Club donated \$40,000, which was placed in the Park Improvement Fund, to assist with the purchase of playground equipment and a restroom facility for Kiwanis Park at 17th and Harvest. The Hays City Commission approved a \$40,000 “matching funds” request in the 2015 Special Park and Recreation Budget for this purpose bringing the total available funds to \$80,000. The total expected play unit cost of \$33,220 would leave \$46,780 available for restroom portion of the project. The restroom is \$40,100 plus \$6,085 for plumbing and electrical bringing the total restroom project cost to \$46,185 or \$595 under budget.

Options

The City Commission has the following options:

- Approve the request to purchase the CXT, Inc. Cortez Precast Flush Restroom for an amount of \$40,100 through the State of Kansas Bid Procurement Contract Award #40341.
- Do nothing at this time

Recommendation

The Hays Kiwanis Club and City Staff recommend approval to purchase the Cortez Precast Flush Restroom, via the State of Kansas Bid Procurement Contract Award #40341, for an amount of \$40,100.

Action Requested

Approve the purchase of the CXT Inc. Cortez Precast Flush Restroom, via the State of Kansas Bid Procurement Contract Award #40341, for an amount of \$40,100. Funding to pay for the restroom will include \$40,000 from the Special Park Budget and \$100 from the Park Improvement Fund.

Supporting Documentation

Visual of the CXT Cortez Precast Flush Restroom
State of Kansas Bid Procurement Contract Award #40341



CONTRACT AWARD

Date of Award: April 27, 2015
Contract ID: 0000000000000000000040341
Event ID: EVT0003680
Replace Contract: New

Procurement Officer:
Telephone:
E-Mail Address: david.stueve@da.ks.gov
Web Address: <http://admin.ks.gov/offices/procurement-and-contracts>

Item: Precast Concrete Restrooms – Various Locations
Agency/Business Unit: Wildlife, Parks and Tourism
Period of Contract: May 01, 2015 through April 30, 2016
(With the option to renew for one additional thirty-six month periods)

Contractor: CXT INC
3808 N SULLIVAN RD BLDG 7

Vendor ID: SPOKANE VALLEY, WA 99216-1618
0000166227
FEIN: 91-1498605
Contact Person: Rich Edwards
E-Mail: redwards@lbfoster.com
Toll Free Telephone: 800-696-5766
Local Telephone: 262-321-1421
Cell Phone Number: 262-321-1421
Fax: 509-928-8270

Payment Terms: Net 30

Political Subdivisions: Pricing is available to the political subdivisions of the State of Kansas.

Procurement Cards: Agencies may not use a P-Card for purchases from this contract.

Administrative Fee: No Administrative Fee will be assessed against purchases from this contract.

The above referenced contract award was recently posted to Procurement and Contracts website. The document can be downloaded by going to the following website: <http://www.da.ks.gov/purch/Contracts/>

1. Terms and Conditions

1.1. Contract Documents

In the event of a conflict in terms of language among the documents, the following order of precedence shall govern:

- Form DA 146a;
- written modifications to the executed contract;
- written contract signed by the parties;
- the Bid Event documents, including any and all amendments; and
- Contractor's written offer submitted in response to the Bid Event as finalized.

1.2. Captions

The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

1.3. Definitions

A glossary of common procurement terms is available at <http://admin.ks.gov/offices/procurement-and-contracts>, under the "Procurement Forms" link.

1.4. Contract Formation

No contract shall be considered to have been entered into by the State until all statutorily required signatures and certifications have been rendered and a written contract has been signed by the contractor.

1.5. Notices

All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") that may be required or desired to be given by either party to the other shall be IN WRITING and addressed as follows:

Kansas Procurement and Contracts
900 SW Jackson, Suite 451-South
Topeka, Kansas 66612-1286
RE: Contract Number 40341

or to any other persons or addresses as may be designated by notice from one party to the other.

1.6. Statutes

Each and every provision of law and clause required by law to be inserted in the contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then on the application of either party the contract shall be amended to make such insertion or correction.

1.7. Governing Law

This contract shall be governed by the laws of the State of Kansas and shall be deemed executed in Topeka, Shawnee County, Kansas.

1.8. Jurisdiction

The parties shall bring any and all legal proceedings arising hereunder in the State of Kansas District Court of Shawnee County, unless otherwise specified and agreed upon by the State of Kansas. Contractor waives personal service of process, all defenses of lack of personal jurisdiction and forum non conveniens. The Eleventh Amendment of the United States Constitution is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this Agreement shall be deemed a waiver of the Eleventh Amendment

1.9. Mandatory Provisions

The provisions found in Contractual Provisions Attachment (DA 146a) are incorporated by reference and made a part of this contract.

1.10. Termination for Cause

The Director of Purchases may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:

- the Contractor fails to make delivery of goods or services as specified in this contract;
- the Contractor provides substandard quality or workmanship;
- the Contractor fails to perform any of the provisions of this contract, or
- the Contractor fails to make progress as to endanger performance of this contract in accordance with its terms.

The Director of Purchases shall provide Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as State may authorize in writing), the Director of Purchases shall issue the Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

1.11. Termination for Convenience

The Director of Purchases may terminate performance of work under this contract in whole or in part whenever, for any reason, the Director of Purchases shall determine that the termination is in the best interest of the State of Kansas. In the event that the Director of Purchases elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least 30 days prior to the termination date. The termination shall be effective as of the date specified in the notice. The Contractor shall continue to perform any part of the work that may have not been terminated by the notice.

1.12. Rights and Remedies

If this contract is terminated, the State, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed, any completed materials. The State shall be obligated only for those services and materials rendered and accepted prior to the date of termination.

In the event of termination, the Contractor shall receive payment prorated for that portion of the contract period services were provided to or goods were accepted by State subject to any offset by State for actual damages including loss of federal matching funds.

The rights and remedies of the State provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

1.13. Antitrust

If the Contractor elects not to proceed with performance under any such contract with the State, the Contractor assigns to the State all rights to and interests in any cause of action it has or may acquire under the anti-trust laws of the United States and the State of Kansas relating to the particular products or services purchased or acquired by the State pursuant to this contract.

1.14. Hold Harmless

The Contractor shall indemnify the State against any and all loss or damage to the extent arising out of the Contractor's negligence in the performance of services under this contract and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

The State shall not be precluded from receiving the benefits of any insurance the Contractor may carry which provides for indemnification for any loss or damage to property in the Contractor's custody and control, where such loss or destruction is to state property. The Contractor shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction or damage to State property.

1.15. Force Majeure

The Contractor shall not be held liable if the failure to perform under this contract arises out of causes beyond the control of the Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes.

1.16. Breach

Waiver or any breach of any contract term or condition shall not be deemed a waiver of any prior or subsequent breach. No contract term or condition shall be held to be waived, modified, or deleted except by a written instrument signed by the parties thereto.

If any contract term or condition or application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application. To this end the contract terms and conditions are severable.

1.17. Assignment

The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the State. State may reasonably withhold consent for any reason.

This contract may terminate for cause in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the State.

1.18. Third Party Beneficiaries

This contract shall not be construed as providing an enforceable right to any third party.

1.19. Waiver

Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by State shall not constitute a waiver.

1.20. Injunctions

Should Kansas be prevented or enjoined from proceeding with the acquisition before or after contract execution by reason of any litigation or other reason beyond the control of the State, Contractor shall not be entitled to make or assert claim for damage by reason of said delay.

1.21. Staff Qualifications

The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

Failure of the Contractor to provide qualified staffing at the level required by the contract specifications may result in termination of this contract or damages.

1.22. Subcontractors

The Contractor shall be the sole source of contact for the contract. The State will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements

of the contract shall apply without qualification to any services performed or goods provided by any subcontractor.

1.23. Independent Contractor

Both parties, in the performance of this contract, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor accepts full responsibility for payment of unemployment insurance, workers compensation, social security, income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.

1.24. Worker Misclassification

The Contractor and all lower tiered subcontractors under the Contractor shall properly classify workers as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding. Failure to do so may result in contract termination.

1.25. Immigration and Reform Control Act of 1986 (IRCA)

All contractors are expected to comply with the Immigration and Reform Control Act of 1986 (IRCA), as may be amended from time to time. This Act, with certain limitations, requires the verification of the employment status of all individuals who were hired on or after November 6, 1986, by the Contractor as well as any subcontractor or sub-contractors. The usual method of verification is through the Employment Verification (I-9) Form.

The Contractor hereby certifies without exception that such Contractor has complied with all federal and state laws relating to immigration and reform. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and, at the State's option, may subject the contract to termination for cause and any applicable damages.

Unless provided otherwise herein, all contractors are expected to be able to produce for the State any documentation or other such evidence to verify Contractor's IRCA compliance with any provision, duty, certification or like item under the contract.

1.26. Proof of Insurance

Upon request, the Contractor shall present an affidavit of Worker's Compensation, Public Liability, and Property Damage Insurance to Procurement and Contracts.

1.27. Conflict of Interest

The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the State and providing services involving this contract or services similar in nature to the scope of this contract to the State. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any state employee who has participated in the making of this contract until at least two years after his/her termination of employment with the State.

1.28. Nondiscrimination and Workplace Safety

The Contractor agrees to abide by all federal, state and local laws, and rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws or rules or regulations may result in termination of this contract.

1.29. Confidentiality

The Contractor may have access to private or confidential data maintained by State to the extent necessary to carry out its responsibilities under this contract. Contractor must comply with all the requirements of the

Kansas Open Records Act (K.S.A. 45-215 et seq.) in providing services under this contract. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this contract shall be disseminated by either party except as authorized by statute, either during the period of the contract or thereafter. Contractor agrees to return any or all data furnished by the State promptly at the request of State in whatever form it is maintained by Contractor. On the termination or expiration of this contract, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by State, shall destroy or render it unreadable.

1.30. Environmental Protection

The Contractor shall abide by all federal, state and local laws, and rules and regulations regarding the protection of the environment. The Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws or rule or regulations may result in termination of this contract for cause.

1.31. Care of State Property

The Contractor shall be responsible for the proper care and custody of any state owned personal tangible property and real property furnished for Contractor's use in connection with the performance of this contract. The Contractor shall reimburse the State for such property's loss or damage caused by the Contractor, except for normal wear and tear.

1.32. Prohibition of Gratuities

Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any State employee at any time.

1.33. Retention of Records

Unless the State specifies in writing a different period of time, the Contractor agrees to preserve and make available at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this contract for a period of five (5) years from the date of the expiration or termination of this contract.

Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

The Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of the using agency; independent auditors acting on behalf of state and/or federal agencies shall have access to and the right to examine records during the contract period and during the five (5) year post contract period. Delivery of and access to the records shall be within five (5) business days at no cost to the state.

1.34. Off-Shore Sourcing

If, during the term of the contract, the Contractor or subcontractor plans to move work previously performed in the United States to a location outside of the United States, the Contractor shall immediately notify the Procurement and Contracts and the respective agency in writing, indicating the desired new location, the nature of the work to be moved and the percentage of work that would be relocated. The Director of Purchases, with the advice of the respective agency, must approve any changes prior to work being relocated. Failure to obtain the Director's approval may be grounds to terminate the contract for cause.

1.35. On-Site Inspection

Failure to adequately inspect the premises shall not relieve the Contractor from furnishing without additional cost to the State any materials, equipment, supplies or labor that may be required to carry out the intent of this Contract.

1.36. Indefinite Quantity Contract

This is an open-ended contract between the Contractor and the State to furnish an undetermined quantity of a good or service in a given period of time. The quantities ordered will be those actually required during the contract period, and the Contractor will deliver only such quantities as may be ordered. No guarantee of volume is made. An estimated quantity based on past history or other means may be used as a guide.

1.37. Price Adjustments

Prices shall remain firm for the entire contract period. Prices shall be net delivered, including all trade, quantity and cash discounts. Any price reductions available during the contract period shall be offered to the State of Kansas. Failure to provide available price reductions may result in termination of the contract for cause.

On the yearly anniversary date of this contract, costs may remain at the existing contract price or a request for adjustment may be made, either upward or downward, keyed to industry changes. Contractor shall furnish documentation at least 30 days prior to expiration date to substantiate any claim for increase. Price increases shall not exceed five percent (5%) of the existing contract. The State of Kansas reserves the right to accept, amend or deny any such price increase. If parties to the contract cannot agree on renewal terms, it is hereby understood that the contract will be rebid.

1.38. Payment

Payment Terms are Net 30 days. Payment date and receipt of order date shall be based upon K.S.A. 75-6403(b). This Statute requires state agencies to pay the full amount due for goods or services on or before the 30th calendar day after the date the agency receives such goods or services or the bill for the goods and services, whichever is later, unless other provisions for payment are agreed to in writing by the Contractor and the state agency. NOTE: If the 30th calendar day noted above falls on a Saturday, Sunday, or legal holiday, the following workday will become the required payment date.

Payments shall not be made for costs or items not listed in this contract.

Payment schedule shall be on a frequency mutually agreed upon by both the agency and the Contractor.

1.39. Invoices

Each purchase order must be individually invoiced. Invoices shall be forwarded to the using agency in duplicate and shall state the following:

- date of invoice.
- date of shipment (or completion of work);
- purchase order number and contract number;
- itemization of all applicable charges; and
- net amount due.

1.40. Accounts Receivable Set-Off Program

If, during the course of this contract the Contractor is found to owe a debt to the State of Kansas, a state agency, municipality, or the federal government, agency payments to the Contractor may be intercepted / setoff by the State of Kansas. Notice of the setoff action will be provided to the Contractor. Pursuant to K.S.A. 75-6201 et seq, Contractor shall have the opportunity to challenge the validity of the debt. The Contractor shall credit the account of the agency making the payment in an amount equal to the funds intercepted.

K.S.A. 75-6201 et seq. allows the Director of Accounts & Reports to setoff funds the State of Kansas owes Contractors against debts owed by the Contractors to the State of Kansas, state agencies, municipalities, or the federal government. Payments setoff in this manner constitute lawful payment for services or goods

received. The Contractor benefits fully from the payment because its obligation is reduced by the amount subject to setoff.

1.41. Federal, State and Local Taxes

Unless otherwise specified, the contracted price shall include all applicable federal, state and local taxes. The Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Contract. The State of Kansas is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the contracted price. Upon request, the State shall provide to the Contractor a certificate of tax exemption.

The State makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

1.42. Shipping and F.O.B. Point

Unless otherwise specified, prices shall be F.O.B. DESTINATION, PREPAID AND ALLOWED (included in the price bid), which means delivered to a state agency's receiving dock or other designated point as specified in this contract or subsequent purchase orders without additional charge. Shipments shall be made in order to arrive at the destination at a satisfactory time for unloading during receiving hours.

1.43. Deliveries

All orders shall be shipped within 90 days for vault toilets, and 120 days for flush restrooms, ARO, clearly marked with the purchase order number. If delays in delivery are anticipated, the Contractor shall immediately notify the ordering agency of the revised delivery date or partial delivery date. The order may be canceled if delivery time is unsatisfactory. The Contractor shall inform Procurement and Contracts of any supply or delivery problems. Continued delivery problems may result in termination of the contract for cause.

1.44. Charge Back Clause

If the Contractor fails to deliver the product within the delivery time established by the contract, the State reserves the right to purchase the product from the open market and charge back the difference between contract price and open market price to the Contractor.

1.45. Debarment of State Contractors

Any Contractor who defaults on delivery or does not perform in a satisfactory manner as defined in this Agreement may be barred for up to a period of three (3) years, pursuant to K.S.A. 75-37,103, or have its work evaluated for pre-qualification purposes. Contractor shall disclose any conviction or judgment for a criminal or civil offense of any employee, individual or entity which controls a company or organization or will perform work under this Agreement that indicates a lack of business integrity or business honesty. This includes (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in the termination of the contract.

1.46. Materials and Workmanship

The Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by this Contract, within the time specified, in accordance with the provisions as specified.

The Contractor shall be responsible for all work put in under these specifications and shall make good, repair and/or replace, at the Contractor's own expense, as may be necessary, any defective work, material,

etc., if in the opinion of agency and/or Procurement and Contracts said issue is due to imperfection in material, design, workmanship or Contractor fault.

1.47. Industry Standards

If not otherwise provided, materials or work called for in this contract shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations which shall apply.

1.48. Implied Requirements

All products and services not specifically mentioned in this contract, but which are necessary to provide the functional capabilities described by the specifications, shall be included.

1.49. New Materials, Supplies or Equipment

Unless otherwise specified, all materials, supplies or equipment offered by the Contractor shall be new, unused in any regard and of most current design. All materials, supplies and equipment shall be first class in all respects. Seconds or flawed items will not be acceptable. All materials, supplies or equipment shall be suitable for their intended purpose and, unless otherwise specified, fully assembled and ready for use on delivery

1.50. Warranty

The State requires a "standard" warranty of 365 days. This warranty shall be included in the cost of the product or equipment.

The Contractor will be the sole point of contact on any problems with the product, equipment or systems during the warranty period.

The Contractor shall be responsible for all work performed under this contract. The Contractor shall make good, repair and replace, at the Contractor's own expense, as may be necessary, any defective work, material acceptance, if in the opinion of agency or Procurement and Contracts said defect is due to imperfection in material, design, or workmanship for the warranty period specified.

1.51. Inspection

The State reserves the right to reject, on arrival at destination, any items which do not conform with specification of the Contract.

1.52. Acceptance

No contract provision or use of items by the State shall constitute acceptance or relieve the Contractor of liability in respect to any expressed or implied warranties.

1.53. Ownership

All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Contractor under this contract shall be owned by the using agency. The Contractor may not release any materials without the written approval of the using agency.

1.54. Information/Data

Any and all information/data required to be provided at any time during the contract term shall be made available in a format as requested and/or approved by the State.

1.55. Certification of Materials Submitted

The Bid document, together with the specifications set forth herein and all data submitted by the Contractor to support their response including brochures, manuals, and descriptions covering the operating characteristics of the item(s) proposed, shall become a part of the contract between the Contractor and the State of Kansas. Any written representation covering such matters as reliability of the item(s), the experience of other users, or warranties of performance shall be incorporated by reference into the contract.

1.56. Transition Assistance

In the event of contract termination or expiration, Contractor shall provide all reasonable and necessary assistance to State to allow for a functional transition to another vendor.

1.57. Integration

This contract, in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This Agreement between the parties shall be independent of and have no effect on any other contracts of either party.

1.58. Modification

This contract shall be modified only by the written agreement and approval of the parties. No alteration or variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

1.59. Severability

If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected and each provision of this contract shall be enforced to the fullest extent permitted by law.

2. Specifications

Contractor shall provide pre-cast concrete restrooms as per specifications, installed at various locations in the state of Kansas for a period of one year. Contract at mutual consent of both parties may be renewed for one (1) additional term of three (3) years. Pricing shall reflect construction, freight, crane rental, installation, and backfill of structure. Colors and textures shall be chosen by KDWPT at time of order.

By submission of this bid, the contractor agrees that, upon receipt of a purchase order by KDWPT, he or she shall construct, transport and install the restrooms listed below within a **90 day** time frame for all vault toilets and within a **120 day** time frame for the flush restrooms. Unless otherwise exempted from this requirement by the owner, the contractor will be subject to \$200 dollars per day liquidated damages from the owner and said damages will be deducted from the agreed price of the building prior to payment. It is understood that this requirement is subject to weather and soil conditions being optimum for the installation of the buildings.

NOTE – The specifications can be found by using the “Click here to access those additional files” tab located in the “Attention” box after using the following link:

<http://da.ks.gov/purch/Contracts/>

3. Costing Sheet

This will be the unit pricing to be used for orders placed during the contract period:

GROUP 1

“Gunnison” Unisex Single Vault Toilet (As manufactured by CXT Inc.)	Price/Unit Installed	___\$16,500_____
“Tioga Special” Vault Toilet (As manufactured by CXT, Inc.)	Price/Unit Installed	___\$31,700_____
“Tioga Special” with Chase and Lights (electrical) Vault Toilet Installed (As manufactured by CXT, Inc.)	Price/Unit Installed	___\$39,300.00___
	Add / Deduct for Solar Lighting Package	___\$1,350.00_____
“Cascadian” Unisex Single Vault Toilet (As manufactured by CXT, Inc.)	Price/Unit Installed	___\$19,500.00___
“Cascadian Double” Vault Toilet (As manufactured by CXT, Inc.)	Price/Unit Installed	___\$34,900_____
“Cascadian Double” Vault Toilet w/ Chase and Lights (As manufactured by CXT, Inc.)	Price/Unit Installed	___\$42,400_____
	Add / Deduct for Solar Lighting Package	___\$1,350.00_____

GROUP 2

“Cortez” Precast Flush Restroom (As manufactured by CXT Inc.)	Price/Unit Installed	___\$40,100.00___
“Ozark I” Precast Flush Restroom (As manufactured by CXT, Inc.)	Price/Unit Installed	___\$28,600.00___
“Ozark II” Precast Flush Restroom (As manufactured by CXT, Inc.)	Price/ Unit Installed	___\$51,500.00___

4. Contractual Provisions Attachment

DA-146a Rev. 06/12

4.1. Terms Herein Controlling Provisions

It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

4.2. Kansas Law and Venue

This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

4.3. Termination Due To Lack Of Funding Appropriation

If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4.4. Disclaimer Of Liability

No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

4.5. Anti-Discrimination Clause

The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or

whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

4.6. Acceptance Of Contract

This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

4.7. Arbitration, Damages, Warranties

Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

4.8. Representative's Authority To Contract

By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

4.9. Responsibility For Taxes

The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

4.10. Insurance

The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

4.11. Information

No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

4.12. The Eleventh Amendment

"The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

4.13. Campaign Contributions / Lobbying

Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

Subject to the terms and conditions of the bid specifications and this contract, State hereby accepts the offer of Contractor as expressed by Contractor's bid submitted to Procurement and Contracts on **April 22, 2015** in response to Bid Event Number **EVT0003680**.

It is understood and agreed by the parties that pursuant to the bid, Contractor agrees to furnish **Precast Concrete Restrooms – Various Locations** for **Wildlife, Parks and Tourism** on order of the Agency at the price or prices contained herein.

This contract is entered into this **27th** day of **April, 2015** by and between the State of Kansas (State) and **CXT INC, SPOKANE VALLEY, WA** (Contractor).

Contractor: **CXT INC**

Agency: **Wildlife, Parks and Tourism**

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

I hereby certify that the competitive bid/procurement laws of the State of Kansas have been followed.

State of Kansas

By: _____

TRACY T. DIEL
DIRECTOR OF PURCHASES

Commission Work Session Agenda

Memo

From: John Braun, Assistant Director of Public Works

Work Session: October 15, 2015

Subject: 7th Street Angle Parking

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

Summary

At the August 20, 2015 Work Session, City Staff was directed to research the addition of angled parking along the north side of 7th Street from FHSU towards downtown. This was the result of a request from a business owner in the 500 block of W 7th Street. City Staff has investigated the possibilities and solicited input from adjacent property owners. Due to potential traffic safety issues and fire fighting response concerns, staff does not recommend adding angle parking along the north side of 7th Street.

Background

In July and again in August 2015, the City Commission discussed converting 6th and 7th Streets from one-way to two way traffic. At the August 20th Work Session, the majority of the City Commissioners were not in favor of converting the streets to two-way traffic, but did consider a request from a local business to convert some of the parallel parking to angle parking. Staff was directed to research the addition of angled parking along the north side of 7th Street from FHSU towards downtown.

Consideration of converting this section of 7th Street to angle parking was included in the 2004 City Wide Traffic Study. The study recommended angle parking along the north side of 7th Street from Park to Ash. Portions of that study are attached for reference.

Discussion

Public Works staff sent letters to 56 property owners adjacent to 7th Street from the FHSU campus to Main Street and received 8 responses. Generally responses were mixed with half of the respondents opposed to making a change, and the other half supportive of the change to angle parking. A summary of responses are attached to this memo.

Speed counts were taken to determine the typical speed and traffic volume in the area. Approximately 1,500 vehicles drive on this section of 7th Street each day. The 85th percentile speed = 32 mph.

Parking spaces along the north side of 7th Street were counted and a layout for angle parking was drawn up. Currently there are two west bound lanes on 7th Street separated by a 2” high concrete divider (median). The angle parking configuration would convert the north lane to angle parking resulting in only one west bound lane. A map showing the configuration is attached.

Currently there are 32 parallel parking spaces along the north side of 7th from FHSU to the United Methodist Church. Converting to angled spaces would add eleven spaces making the total 43. Converting parallel parking to angled parking all the way to Main Street would result in a net gain of 22 parking spaces.

Staff did a demonstration of angle parking and recorded some video, which will be shown at the October 15th work session.

One issue that needs consideration is the dividing median. Vehicles entering and leaving angled parking stalls would have to drive over the 2’ high concrete hump. While probably not a problem most of the time, it could cause problems when ice or snow is present. Removing the hump is not a simple task. The City does not currently have equipment that could cut off or grind the hump down. Removing the median concrete and replacing it with smooth concrete pavement is not an option since that would damage the surrounding brick pavement resulting in a significant cost to patch the brick back. The estimated cost to hire a contractor to cut off the hump is \$23.60 per LF plus mobilization. The cost for some possible scenarios to cut off the hump are listed below:

- 500 block W 7th (Park to Elm only) = \$6,214
- 300-500 block (Park to Ash) = \$27,855
- 100-500 block (Park to Main) = \$49,919

Another issue that warrants discussion is safety. The driver of a vehicle backing out of an angle parking stall does not always have good visibility of conflicting traffic, especially when parked next to a larger vehicle. Installation of angle parking along the north side of 7th Street may cause an increase in accidents. The Chief of Police contributed the following statement, *“Angle parking is less desirable because the driver leaving the space has limited visibility to the rear and they are required to back into the flow of traffic. We will most likely see an increase in the number of accidents as a result of this parking activity and because of the increase in parking spaces”.*

Finally, the Fire Chief has expressed concern with having only a single 12’ lane (parallel parking on the south side and angle parking on the north side) for fire fighting response. Setting up a fire truck typically requires 20’ of width. The Fire Chief contributed the following statement, *“The stabilizer jack spread on our ladder trucks are 19-feet [Ladder 1] and 17-feet [Ladder 2]. A pumper truck is 12 feet wide but requires additional clearance to connect supply hose and deploy attack hose, access equipment in side compartments, etc.”*

Legal Consideration

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

Financial Consideration

The estimated cost to paint the angled parking stalls is \$2,300, which would be a recurring cost every 2-3 years as the markings fade. This is approximately \$500 per block.

Advanced warning signs would need to be installed at a cost of \$200.

If the median is to be removed, that cost could be in the range of \$6,214 for just the 500 block of W 7th to \$50,000 for the entire stretch from Main Street to FHSU.

The lesser cost of pavement markings and signage can be funded through the existing operating budget; however, the cost to remove the median is unbudgeted.

Options

Options include the following:

- Install angle parking along W 7th Street from Park Street to Main
- Install angle parking along a small area of W 7th Street.
- Remove the dividing median
- Provide alternate direction to staff
- Do nothing.

Recommendation

Staff recommends doing nothing.

Action Requested

None

Supporting Documentation

Pictures of angled parking demonstration

Maps showing angle parking option

Responses from adjacent residents

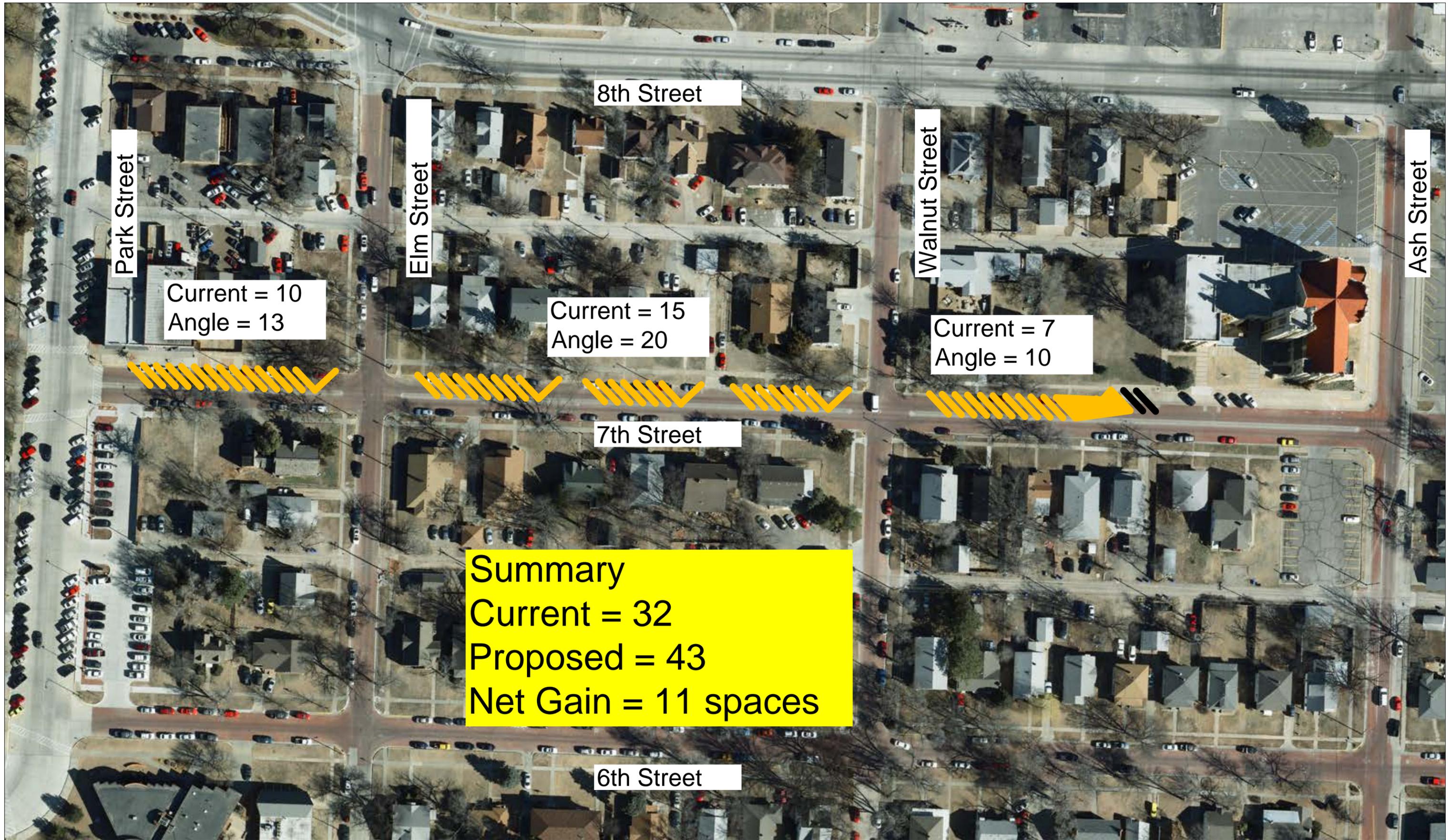
Excerpt from August 20, 2015 WS

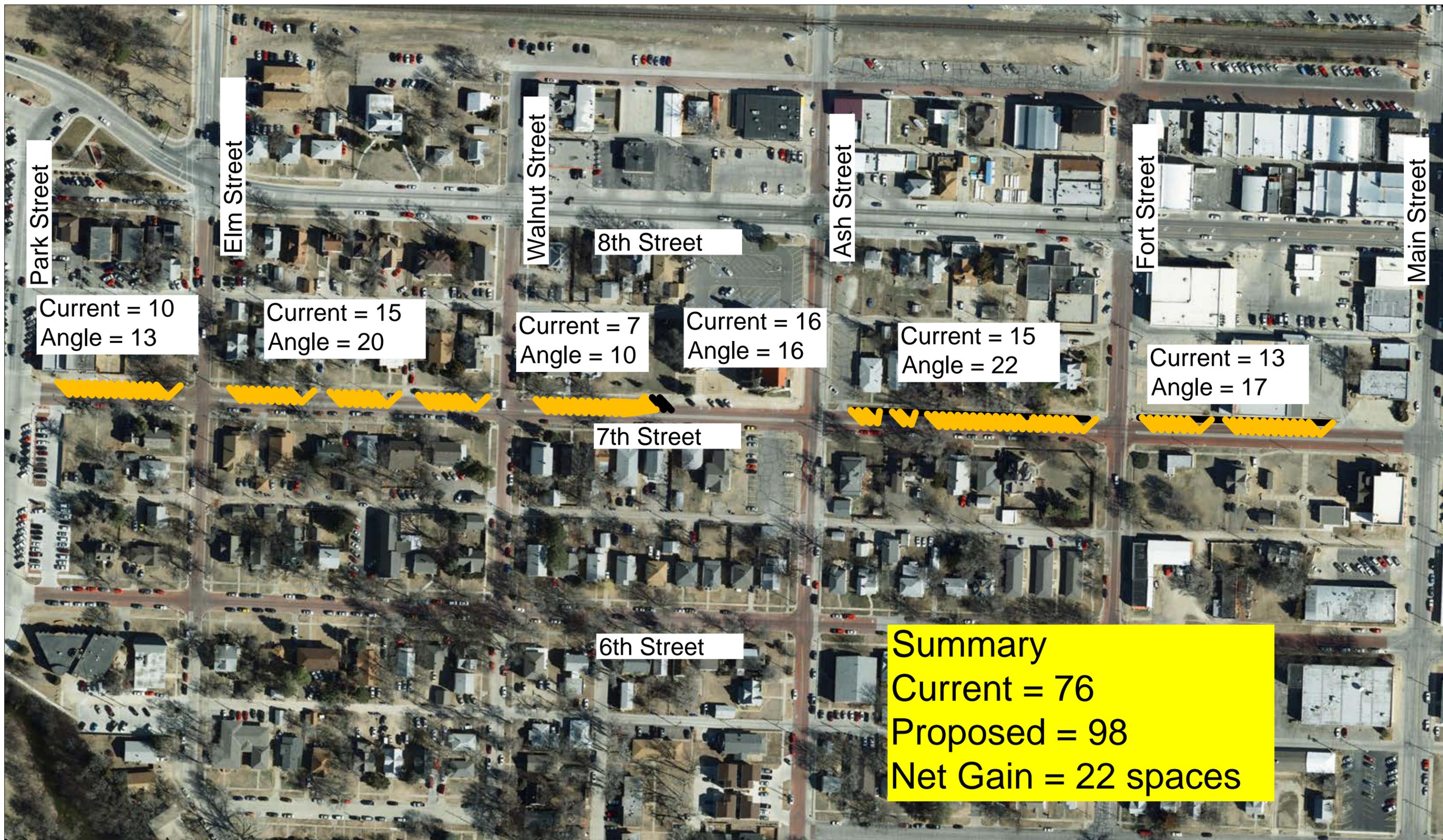
Portion of 2004 City Wide Traffic Study

Angle Parking Demonstration on West 7th Street

(more pictures and video will be shown at the October 15th Work Session)







7th Street Angle Parking
Property Owner Responses

	Name	Address	Comment
1	Bannister	407 W 7th	Does not see any disadvantages to making angled parking
2	Haines	701 Main	Requested angled parking start west of his drive entrances.
3	Leiker	Walnut	Opposed due to the potential for more accidents. Also if someone goes the wrong way on the one-way, there will be nowhere to go.
4	Readle	707 Main	Stated that the current arrangement is sufficient and any changes would be costly and of marginal value.
5	Rice	400 block	Opposed to change because it will only allow more drunks to park in front of his property.
6	Tippy	703 Fort	Not opposed to change, but more concerned with the late night partying and drunken revelry.
7	Tuttle	701 Walnut	Opposed due to the potential for more accidents.
8	Johannes	408 W 7th	Supports removing the median

Removal of One-Way Street Designation for 6th and 7th Streets

Commissioner Jones asked to discuss the possible removal of the one-way street designation for 6th and 7th Streets. The matter was discussed briefly at the July 2, 2015 work session. At that work session, the City Commission asked that this item be placed on a future work session agenda with additional public notice; encouraging people who may have an opinion on the matter to attend the work session.

City staff conducted a brief inquiry into the matter and sees no significant issues should the Commission choose to convert 7th Street from one-way traffic to two-way traffic. City staff does see significant issues with changing 6th Street from one-way to two-way traffic.

Chuck Taylor, owner of Chuck's Bar on West 7th Street, was not in favor of changing the one-way designation, but suggested adding angle parking on the north side of the street. He stated parking is very minimal and this would help out the businesses in the area.

Tony Taylor, owner of On the Rocks, located above Chucks Bar, stated adding the angle parking they are suggesting could increase parking by 50%.

Dave VanDoren, with the Hadley Center, stated many people go around the block unnecessarily due to the one-way streets. He proposed making it two-way from Main Street to Vine Street to alleviate this.

Commissioner Jones stated studies show one-way streets are not economically friendly to businesses. He also stated two-way traffic slows traffic naturally by left hand turns.

It was the consensus of the Commission that City staff research the addition of angle parking in the area and report back, but were not in support of changing the one-way designations.

Ordinance Regulating Sewer Rates for Private Well Owners

At the July 16, 2015 work session a resident questioned why she was being charged \$24.65 per month for sewer usage as she is a private water well

One Way Traffic Analysis

6th and 7th Streets in Hays, Kansas

Hays Citywide Traffic Study

July 2004

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List of Exhibits and Tables

Figures 3-9 and 3-10 – 6th Street Existing Conditions

Figures 3-11 and 3-12 – 7th Street Existing Conditions

Figures 3-13 and 3-14 – 6th Street Proposed Pavement Marking

Figures 3-15 and 3-16 – 7th Street Proposed Pavement Marking

Table 3-2 – Summary of Issues Impact for Each Alternative

Introduction

Background and History

6th Street and 7th Street in Hays are one-way streets functionally classified as collectors that run generally in the east-west direction on the southern edge of downtown Hays. 6th Street runs one-way east from Park to Milner Street where it turns back to two-way operation. 6th Street acts in conjunction with 7th Street that runs one-way west from Vine to Park Street. Both streets serve traffic to and away from the university and downtown.

It appears that the streets were converted from two-way operation in the 1960's. Individual discussions with residents, city staff and other individuals have resulted in a belief that the change was made to address capacity issues for traffic in the downtown core. Interviews with two individuals have pinpointed the general timeframe based on specific events. Therefore, we are relatively sure that these streets have been operating as a one-way couple since the mid- to late-1960's.

HWS Consulting Group Inc. (HWS) has been retained by the City of Hays to perform a citywide traffic study that provides a comprehensive look at the entire street system. The result of this analysis is expected to provide general and consistent direction for the overall planning of traffic operations and improvements to the transportation network. As part of this study, the City requested a specific analysis of the operation of 6th and 7th Streets related to conversion from one-way operation to two-way operation. The apparent impetus for this analysis is related to a perceived driving inconvenience in downtown Hays.

Public Input Process

Public Meetings

On April 5, 6, and 7, 2004, HWS and the City of Hays sponsored a series of informal public open houses to provide the citizens of Hays an opportunity to discuss with the consultant team issues that might be a concern and should be analyzed. The open houses were held at neighborhood elementary schools in the evening hours from 5-8 p.m. each night.

Various methods of communication were made available to interested citizens. They could tell a member of the project team about their concern, they could write their concern on a comment form, or they could contact a member of the team at a later time with their issue. Individuals that attended the meetings were encouraged to visit with their friends and neighbors about the project, and blank comment forms were distributed for any person that could not attend to send in their comments to the team. Additionally, public notice of the meetings and website postings were made to allow for additional comment.

Approximately 26 people attended the open houses. A variety of issues were identified and discussed. Written comments were received in various forms and are maintained and available in a separate bound file.

Attendees were asked specifically about their opinions of the one-way street systems in Hays. Feedback can generally be characterized as split. Those that wanted to maintain the one-ways generally seemed more adamant about the issue, while those that wanted to revert to two-way were more indifferent.

Interviews

During the public input process HWS had the opportunity to visit with various other individuals that had a vested interest in the transportation network. Interviews were held with Sid Carlile, Chief of Fort Hays State University Police; Jim Braun, Chief of Hays Police Department; John Braun, Assistant Public Works Director; and Gavon Smith and Phil Moore with the transportation division of USD #489.

These interviews were conducted to receive focused input from these individuals and their impressions of traffic operations. A wide-range of issues was discussed and will be detailed in other reports prepared as part of this project. This report will focus on the specific discussions related to one-way operations.

Mr. Carlile did indicate some concern with how reverting to two-way operation on 6th and 7th Streets would impact pedestrian traffic at the intersections with Park Street. He noted that 7th Street likely had the width to handle a reversion, but 6th would require the removal of parking.

Issues Identification

HWS was able to identify a variety of issues that need to be addressed prior to making any changes in the operation of the one-way system. These issues were identified through the public input process, during the interview process and through driving and walking of the corridors.

During the public open house forum period, HWS was making observations of the entire street system in Hays. A video camera was mounted in the vehicle to record conditions as they exist and provide a resource for review of the street system. Commentary by HWS representatives about immediate observations of the roadway network is a part of the video. Video of the one-way system being analyzed was included in this process.

The following are brief descriptions of the issues that have been identified through this process and will be analyzed in this report:

- **Access to downtown.** The Downtown Hays Development Corporation (DHDC) commissioned a study that was completed in October 2003. Page 3 of the report suggests, "In addition, a traffic planning study should be considered to investigate the option of re-establishing two-way traffic streets throughout Downtown, furthering the concept of pedestrian-oriented environment and mitigate higher speed thru-traffic patterns." These statements along with a desire by downtown property owners to ease inconvenient movements in the downtown area highlight this issue.

- **Parking.** Inconsistent parking in the downtown area on the existing system and parking impacts of changing the system will need to be analyzed.
- **Pavement marking.** The need to provide consistent and legible markings on the existing system or a changed system is an issue.
- **Traffic volumes.** The existing volumes that currently use the system and how that system can handle those volumes along with the ability of an altered system to handle traffic volumes will be analyzed. The expected change in traffic patterns will be discussed.
- **Speeds.** Speeds are typically an issue with respect to streets. What impacts can be expected with any alternative will be analyzed.
- **Typical section.** The type of street width, lane width, number of lanes and how parking will be accommodated within the street are an issue.
- **School environs.** The bus loading zones, private pick-up/drop-off loading zones and school crossings will be addressed.
- **Intersection controls.** The type and need for intersection controls will be analyzed.
- **Crash patterns.** Existing crash statistics are highlighted and an expectation of changes in those patterns will be provided.
- **Poor geometric layouts.** There are a few intersections in the corridor that provide unsafe conditions due to poor geometric layout. Those intersections will be identified and conceptual alterations provided for consideration.
- **Cost.** The estimate of cost for any alternative tends to be an issue. The estimates in this report reflect only those capital expenditures that might be expected. The impact of costs for crashes and traffic efficiency are not estimated.

The existing conditions in the corridor related to markings, volumes, speeds, street widths, school locations, signing, crashes and the geometric layout of the streets are shown on the Figure 3-9 through Figure 3-12 in the Appendix.

Alternative Identification

It is important to identify alternatives to be considered for improvement to a corridor. In this particular instance several alternatives are being considered and an analysis of each is a part of the report. The alternative improvement strategies are described as follows:

- **Alternative 1 - Do Nothing.** The “Do Nothing” alternative is one that should always be analyzed and considered. This alternative envisions making no changes in the corridor leaving it as it exists today.
- **Alternative 2 - Remain one-way with limited improvements.** This alternative would provide some alterations to pavement marking, parking, and signing

through the corridor but would maintain one-way street operation on 6th and 7th. Geometric changes at a few intersections should be made with this alternative.

- **Alternative 3 - Return to two-way operation.** This alternative would convert traffic operation back to two-way movement with the appropriate signing, parking, pavement marking, and geometric changes throughout the corridor.

Discussion of Alternatives

This section will provide a discussion relative to the issues previously identified to each of the alternatives described in the previous section. Reference to the existing conditions shown in Figures 3-9 through 3-12 will be made throughout this discussion. A one-page exhibit is included as Table 3-2 to summarize the discussion.

Alternative 1 – Do Nothing. This alternative as it has been described makes no impact to either 6th or 7th Street. None of the issues will be addressed by doing nothing to 6th or 7th Street. The cost estimate for this option reflects that no capital improvement will be made. Costs for crashes that continue to occur or in the efficiency of the roadway network are not reflected in the estimate.

Alternative 2 - Remain one-way with limited improvements.

- **Access to downtown.** Access to downtown will remain unaltered. Additionally, access to property along both streets will remain unaltered with this option.
- **Parking.** We would suggest that limited improvement be made in the parking situation. Angle parking on the north side of 7th west of Ash Street could be explored. This would increase the amount of available parking in the area and better clarify the driving lane by forcing all through traffic into the southern most lane. It is our opinion that this allowance will create lower speeds through the corridor and will also better communicate to the driver where they should be within the roadway section.
- **Pavement marking.** Changes in the pavement marking should be made. Parking markings will better clarify the travel lane(s) on 6th and 7th. Markings at the intersections will allow for better alignment of turning vehicles and avoid confusion and conflict between turning vehicles.
- **Traffic volumes.** The traffic volumes on 6th and 7th are shown on the figures included in the Appendix. The volumes range from 1,000 vehicles per day (vpd) to just over 2,000 vpd. The peak hour typically only sees about 10% of these vehicles. No peak hour count data was available. For urban streets of this character the capacity of one lane of traffic could typically be expected to be 1,000 vehicles per hour (vph) (ITE traffic handbook, Table 5-2). This provides approximately 80% of capacity that is unused in the worst case. One lane of traffic should easily accommodate the existing traffic and any growth that might be expected.
- **Speeds.** No speed studies have been performed by the City of Hays on 6th and 7th Streets. It is desirable to provide a uniform speed because expectations, perception, and reaction are eased for all users. It is our opinion that providing improvements that better clarify the lanes throughout the corridors will have a

positive impact on the uniformity of operating speeds. The volumes suggest that only one lane is needed to carry the traffic. This will better condense the range of operating speeds in both corridors and likely will lower the 85th percentile speed. This change will create a positive impact on expectation, perception and reaction to motorists and pedestrians using both corridors. Prior to making changes to the street system the speed and volumes should be quantified as a baseline for evaluating these improvements in the future.

- **Typical section.** As noted we believe the typical section should include parking on both sides of the street and room for one lane of traffic. The section on 7th Street from Main to Park is unique in that a clear separation of lanes provided by the narrow raised median. We believe this section could handle one driving lane and utilizing the area on the other side of the median as angled parking. This would increase parking opportunities and provide a single lane of through movement. The narrower section of 6th Street does not provide the opportunity to return it to two-way operation without sacrificing the parking along the street.
- **School environs.** The school environs for 6th and 7th Streets are significantly different than those of Fort and Ash. No elementary schools are located on these streets and there are no school crosswalks in the area. However there is a large proportion of school-related pedestrian traffic associated with FHSU at the west end of the corridors. School aged children frequently are unloaded on Park Street for field trips to FHSU.
- **Intersection controls.** The existing intersection controls are shown in Figures 3-5 through 3-8. The significant comment related to this issue is one of consistency. There exist a variety of inconsistent signing techniques throughout the corridor. Some of these techniques do not conform to the guidelines contained in the Manual on Uniform Traffic Control Devices (MUTCD). Several of these signing and control instances communicate confusion to the driving public. Any changes should be made according to the MUTCD. Typical signing applications will be prepared if this alternative is selected.
- **Crash patterns.** The crashes that are occurring in the corridors appear to be concentrated at intersections. The rate of crashes does not appear to be in excess of expectations for corridors of this type. Sideswipe crashes are noticed and are likely due to the confusion created in traffic paths. Some drivers appear to perceive that more than one lane of traffic exists in the corridor, especially where there is a raised median along 7th Street. It is common to see traffic traveling through the corridor side-by-side. There is sufficient width in locations that drivers may perceive this to be acceptable. This condition contributes to confusion and potential sideswipe crashes. The clarification of where the travel path is in the corridor should help to alleviate this problem. There is sufficient capacity to handle the volume of traffic in one lane. Markings at key intersections through the corridor to provide for separate turning lanes are will be prepared if this alternative is selected.
- **Poor geometric layouts.** The termination points at each end of the one-way corridors needs to be examined to determine if traffic is being handled correctly. Geometric changes should be constructed that align vehicles appropriately. The changes involve the installation of permanent curb and gutter tapers that force vehicles into the appropriate lanes as they are aligned with an opposing two-way street.

- **Cost.** For this option it is expected that there will be some cost associated with the change in geometrics and the addition of pavement. Conceptual level estimates have been made to provide a range of costs for comparison purposes. There will be approximately 8500 linear feet of pavement marking applied. There will be approximately 250 feet of new curb and gutter installed. Minimal landscaping has been estimated where the new curb and gutter is installed. The material costs for this work is estimated at the low end of the range assuming city crews could accomplish this work. The upper end of the range represents an estimated cost if the work were outsourced to a contractor (costs were determined from 1st Quarter 2004 KDOT bid averages). The conceptual opinions of cost fall in the range of \$10,000-\$21,000.
- *Alternative 3 – Return to two-way operation.*
- **Access to downtown.** Access to downtown and in downtown will be allowed to operate in a traditional sense. Motorists choosing to use 6th and 7th Streets as full access will be able to do so. Extra travel distance will not be required to make movements in the northbound or southbound direction throughout the corridors. Additionally, access to individual residences will be allowed.
- **Parking.** Parking changes will need to be made to accommodate two-way movement. Parking along much of 6th from Park to Main will need to be eliminated because there is insufficient street width to accommodate travel in both directions and a parking lane. Existing parallel parking on 7th Street could be modified to follow the direction of travel and allow two-way traffic.
- **Pavement marking.** Changes in the pavement marking will have to be made. A complete design of the pavement markings in each corridor will have to be prepared if this option is selected.
- **Traffic volumes.** There is sufficient available capacity to handle two-way traffic on 6th and 7th if they revert to this mode of operation. It is likely that traffic will be distributed approximately evenly over both streets with a change.
- **Speeds.** The reversion to two-way traffic will have the impact of better defining lane assignments to a single lane in each direction. A single lane in each direction would tend to tighten the range of speeds and would likely decrease the 85th percentile speed.
- **Typical section.** As noted we believe the typical section for the corridor from Park to Main Street on 6th Street is insufficient to allow one lane of traffic in each direction with parking. HWS will prepare a detailed set of typical sections for the selected option.
- **School environs.** The school environs for 6th and 7th Streets are significantly different than those of Fort and Ash. No elementary schools are located on these streets and there are no school crosswalks in the area. However there is a large proportion of school-related pedestrian traffic associated with FHSU at the west end of the corridors. School aged children frequently are unloaded on Park Street for field trips to FHSU. These operations would unlikely be affected by a conversion to two-way operation.
- **Intersection controls.** Intersection control and signing will require significant change throughout the corridor. A complete signing plan consistent with two-way

operation as outlined in the MUTCD will need to be prepared if this alternative is selected.

- **Crash patterns.** Short-term increases in crashes can be expected. There will be a period of adjustment that the driving public will have to go through. Over time the public will adjust to the changed conditions and crashes will level. However, the crash pattern will likely be altered when the frequency levels off. More turning movement and rear end crashes can be expected. Access to individual properties and additional movements allowed at intersections will tend to increase the potential for these types of crashes.
- **Cost.** For this option it is expected that there will be costs associated with the change in geometrics, the addition of pavement marking and the removal of signage. Conceptual level estimates have been made to provide a range of costs for comparison purposes. There will be approximately 27,600 linear feet of pavement marking applied. The signage changes required will be relatively minimal. The material costs for this work is estimated at the low end of the range assuming city crews could accomplish this work. The upper end of the range represents an estimated cost if the work were outsourced to a contractor (costs were determined from 1st Quarter 2004 KDOT bid averages). The conceptual opinions of cost fall in the range of \$28,000-56,000.

Conclusions

- The one-way street system of 6th and 7th Streets has existed since the late 1960's.
- The one-ways were converted to address traffic capacity needs in that era when the main shopping district and hub of activity were in the downtown core.
- An "engineering reason" does not exist to maintain 6th and 7th as one-way streets. There is sufficient capacity in the street system to return them to two-way operation. It is unlikely that the long-term crash pattern will significantly increase.
- An "engineering reason" does not exist to revert 6th and 7th to two-way streets. There is no significant delay created by the one-way system. A crash pattern will not be alleviated.
- Reversion to two-way operation will result in a net loss of parking especially on 6th Street near the FHSU Campus.
- Better clarification of travel lanes is needed through the corridor.
- Speeds could be reduced in the corridor by converting to two-way or better clarifying lane assignments in the one-way system.
- Consistent and recognized procedures of dealing with traffic related issues would provide the driving public with better understanding and conformance to traffic controls.
- A change in operation from one-way to two-way in any part of the corridor will likely result in a short-term increase in confusion and crashes. Elected officials and city

administration will likely have to endure a period of sharp criticism from the community for affecting this change.

Recommendations

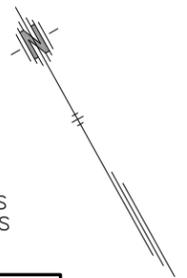
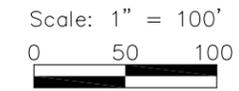
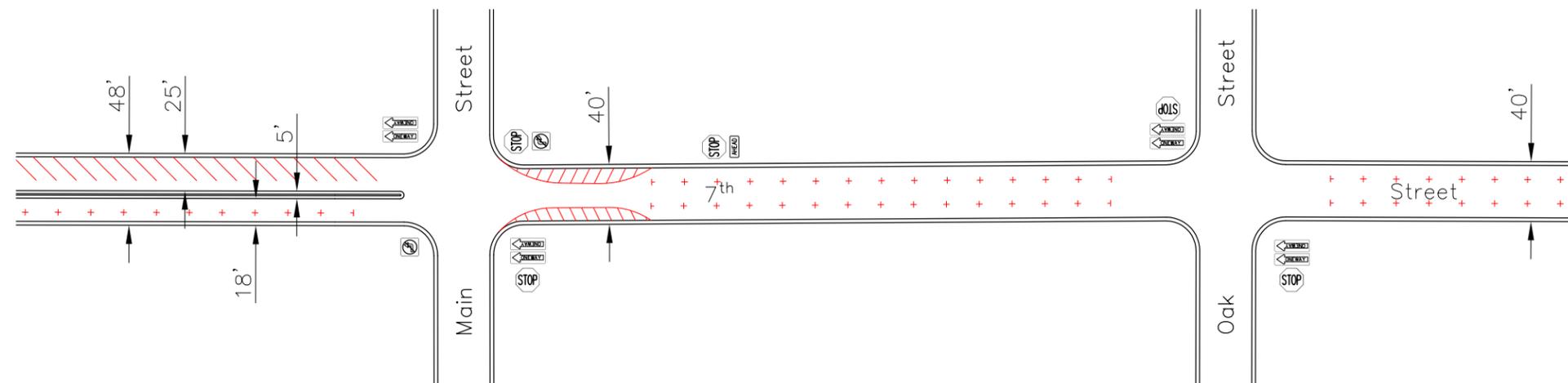
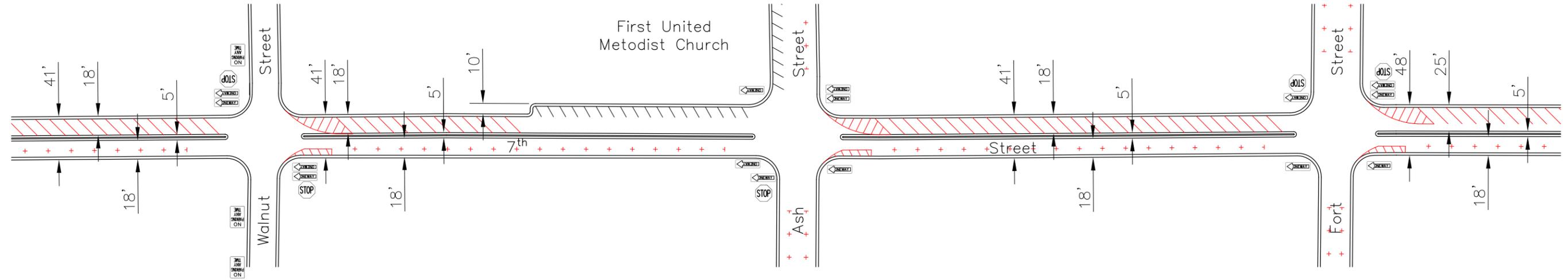
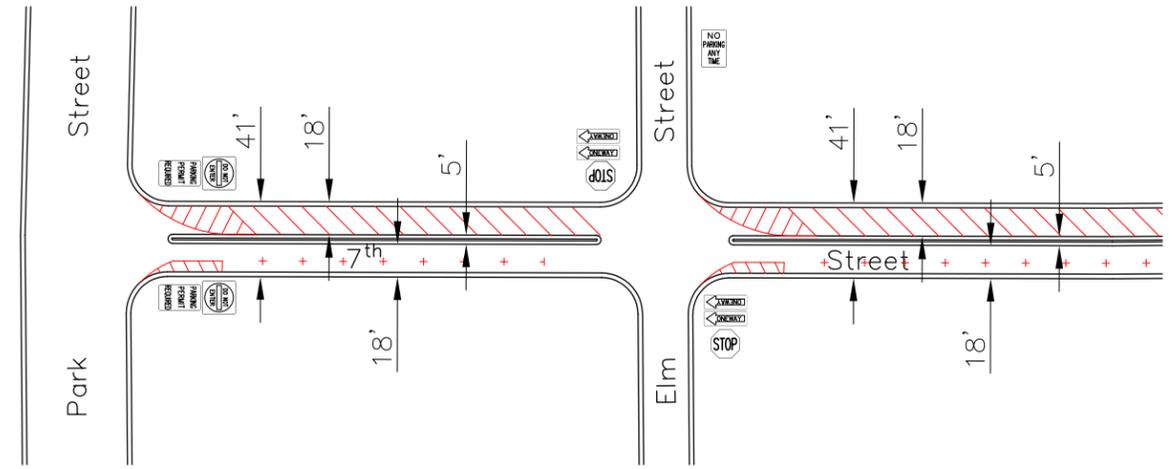
It is our recommendation that the one-way operation of 6th and 7th Streets be maintained with limited improvements through the corridor to enhance this operation. The familiar saying, *"If it ain't broke, don't fix it,"* seems to apply in this instance. This is a case of long-standing habits and driving practice being ingrained in the community. There doesn't appear to be a compelling reason to place the community in the position of adjusting to this change. The inconvenience of the one-way system does not appear to place a burden on the street system in such a way that change is warranted. The overall cost is less in the short term. The potential severity of crashes in a two-way system is greater than a one-way system.

The specific recommendations are as follows:

- Modify the signing to be consistent with the MUTCD throughout the corridor.
- Modify the intersection of 6th and Riley.
- Convert to diagonal parking on north side of 7th from Ash to Park.
- Apply pavement marking to 6th and 7th Streets. See Figures 3-13 through 3-16 for proposed pavement marking.

Fort Hays State University

Picken Hall



LEGEND
 RED - PROPOSED PAVEMENT MARKINGS
 BLACK - EXISTING PAVEMENT MARKINGS

**CITY OF HAYS TRAFFIC STUDY
 PROPOSED PAVEMENT MARKING
 7TH STREET (PG 1/2)**



JULY 2004

FIG 3-15

Commission Work Session Agenda

Memo

From: Jesse Rohr, PIE Superintendent

Work Session: October 15, 2015

Subject: Replat of Lots 1 and 2 and Arnhold Dr. in Arnhold's Industrial Addition

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

Summary

The subject property, known as Arnhold's Industrial Addition, is under consideration for approval of a replat of Lots 1 and 2 as well as the portion of right of way currently platted as Arnhold Dr. This is undeveloped and unimproved property outside the City limits located west of Canterbury and north of E 8th St. There is a proposed plan from Midwest Energy to develop an electrical substation on the property. Approval of the plat as submitted would act to combine two lots (1 and 2) and vacate the right of way platted as Arnhold Dr. On September 21, 2015 the final plat was reviewed and approved (8-0 vote) by the Hays Area Planning Commission. Staff, as well as the Planning Commission, recommends approving this plat as submitted.

Background

The plat of Arnhold's Industrial Addition was originally approved in 1979, over 35 years ago. No physical, accepted improvements have ever been made to the area and most of the area is completely undeveloped.

Discussion

The subject property, known as Arnhold's Industrial Addition, is under consideration for approval of a replat of Lots 1 and 2 as well as the portion of right of way currently platted as Arnhold Dr. Approval of the plat as submitted would act to combine two lots (1 and 2) and vacate the right of way platted as Arnhold Dr. While there are other ways of accomplishing the combining of these two lots and vacate the right of way, the replat is the cleanest and most effective method for doing so. Any future development of the larger common area would likely require replatting of the entire area beyond the plat of Arnhold's Industrial Addition.

Staff from the Utilities Department has been apprised of this proposed development and agrees with the proposal. This plat was also taken before the Utility Advisory Committee with no issues noted. All easements as required are in place for future placement of any required utilities although there are no plans at this time for any utility extensions of any kind. The plat meets the requirements of the current subdivision regulations in regard to

lot size, setbacks, and any specific utility requirements. The property will remain outside of the City limits at this time and for the immediate future.

On September 15, 2015 the final plat was reviewed and approved (8-0 vote) by the Hays Area Planning Commission.

Legal Consideration

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

Financial Consideration

None identified.

Options

The City Commission has the following options:

- Approve the plat as submitted
- Do not approve the plat

Recommendation

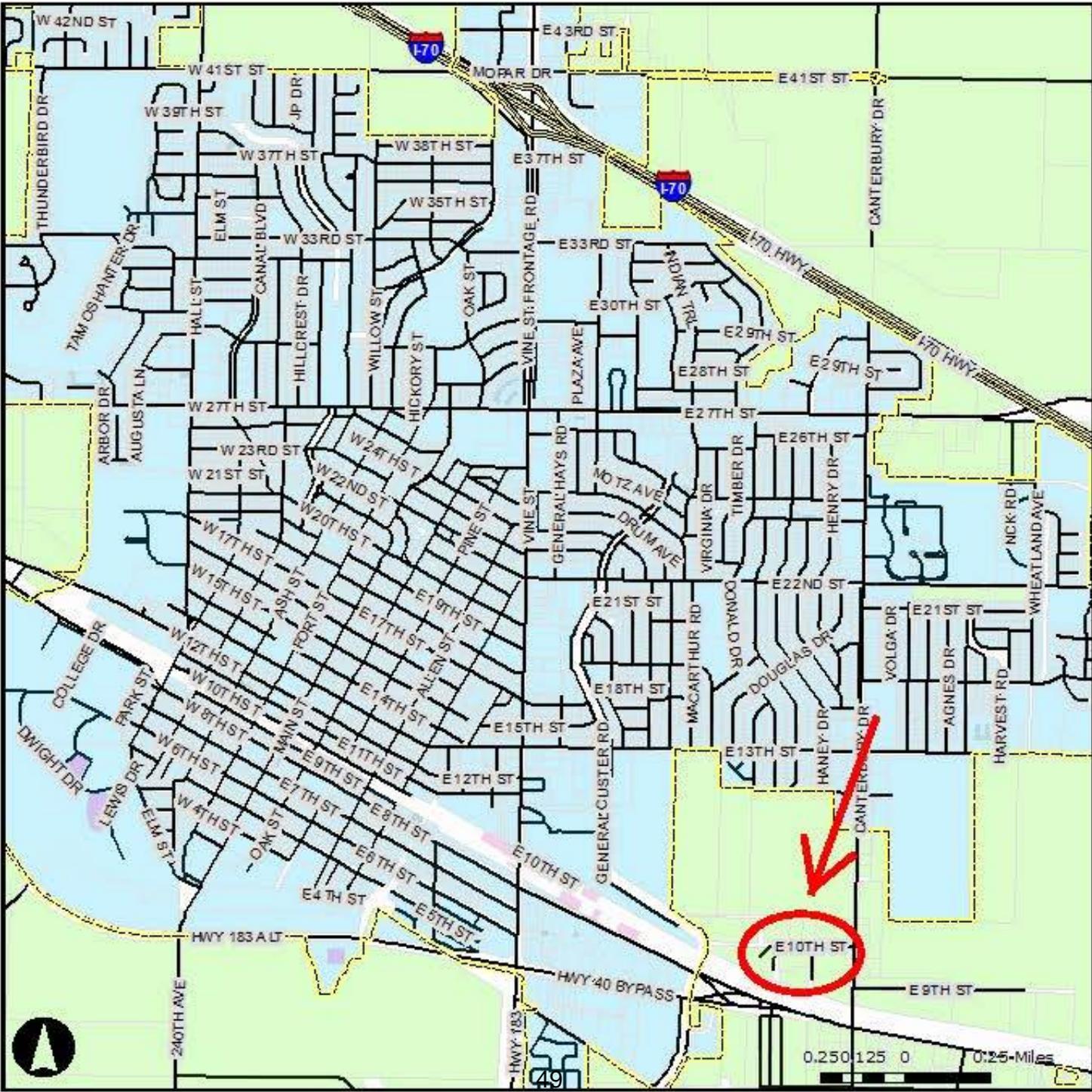
Staff, as well as the Planning Commission, recommends approving this plat as submitted.

Action Requested

Approve the resolution accepting the Replat of Lots One and Two and Arnhold Drive, Arnhold's Industrial Addition.

Supporting Documentation

Maps
Final Plat
Resolution



0.250 125 0 0.25 Miles

49



00000

00000

00000

00000

1707

1715

1005

CANTERBURY DR

1010

1004

1006A

00000

1002

00000

E 10TH ST

DOWALD DR

1710

909

IRANEY DR

901

E 9TH ST

2170

PRIVATE ST

HWY. 40 BYPASS

BURGUNDY LN

1640

1720

00000

00000

1860A

2050

2100

713

E 8TH ST



0 100 200 300 400 500 600 700 800 900 1000

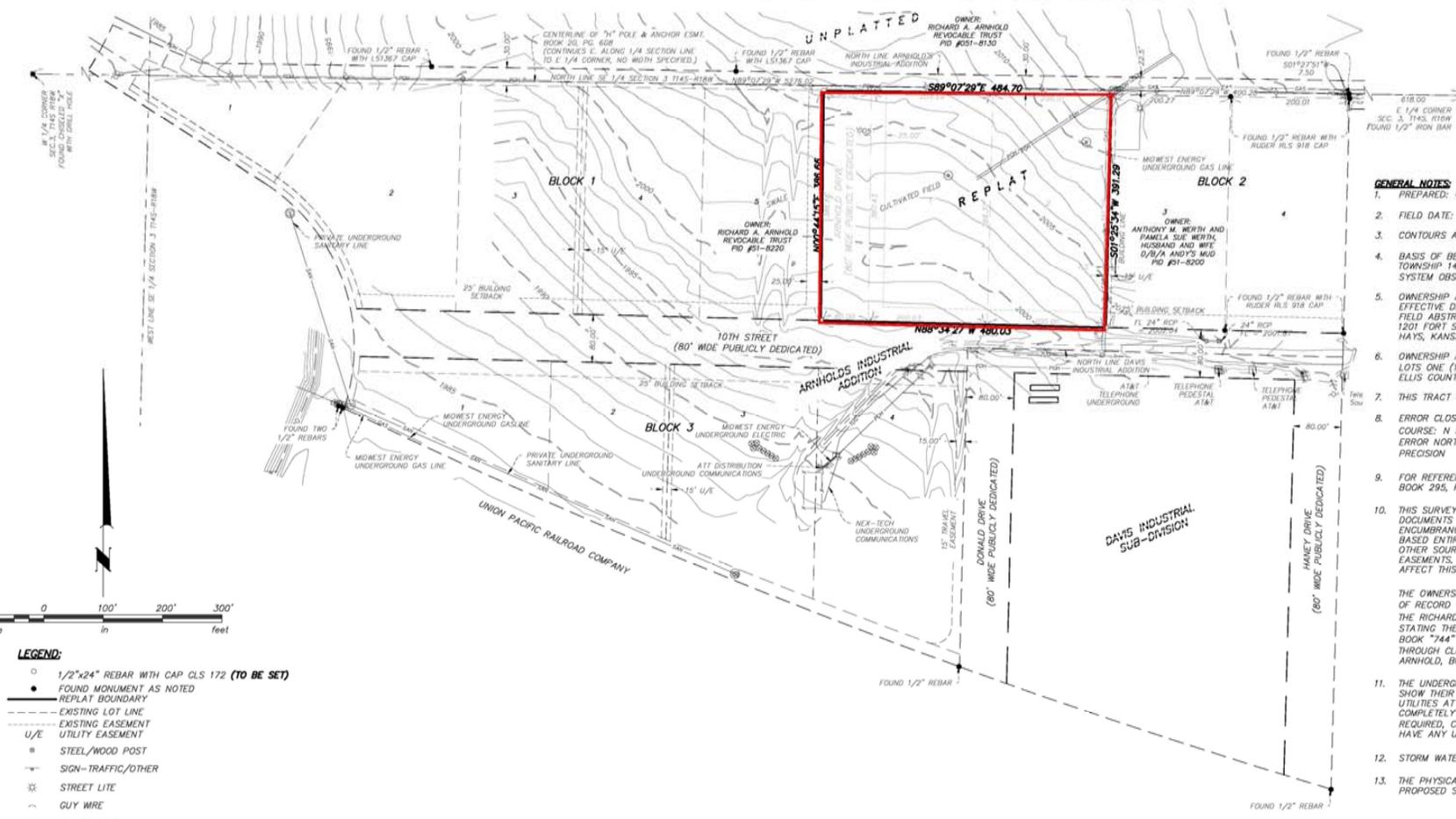
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PRELIMINARY PLAT

A REPLAT OF ALL OF LOTS 1 AND 2, BLOCK 2 AND ARNHOLD DRIVE OF ARNHOLD'S INDUSTRIAL ADDITION SE 1/4 SECTION 3 T14S-R18W 6TH PM HAYS, ELLIS COUNTY, KANSAS



VICINITY MAP
SECTION 3-T14S-R18W
(NOT TO SCALE)



- GENERAL NOTES**
1. PREPARED: 09/03/2015
 2. FIELD DATE: 05/18/2015
 3. CONTOURS ARE SHOWN AT 1 FOOT INTERVALS.
 4. BASIS OF BEARINGS: NORTH 89° 03' 29" WEST ALONG THE NORTH LINE OF THE SOUTHEAST CORNER OF TOWNSHIP 14 SOUTH RANGE 18 WEST OF THE 5TH PRINCIPAL MERIDIAN AS DETERMINED BY GROUND SYSTEM OBSERVATIONS AND REFERENCED TO THE KANSAS STATE PLANE COORDINATE SYSTEM.
 5. OWNERSHIP AND ENCUMBRANCE REPORT: TRACT #12 EFFECTIVE DATE: SEPTEMBER 15TH, 2014 AT 8:00 AM FIELD ABSTRACT AND TITLE LLC 1201 FORT SINECK, P.O. BOX 129 HAYS, KANSAS 67601
 6. OWNERSHIP AND ENCUMBRANCE REPORT DESCRIPTION: LOTS ONE (1) AND TWO (2), BLOCK TWO (2), ARNHOLD'S INDUSTRIAL ADDITION TO THE CITY OF HAYS, ELLIS COUNTY, KANSAS.
 7. THIS TRACT CONTAINS 187,623.95 SQUARE FEET OR 4.31 ACRES, MORE OR LESS.
 8. ERROR CLOSURE: 0.00077249
COURSE: N 50°00'04" E
ERROR NORTH: 0.000496533 EAST: 0.000591771
PRECISION 1: 2255934.705
 9. FOR REFERENCE: THE PLAT OF "ARNHOLD'S INDUSTRIAL ADDITION" RECORDED SEPTEMBER 20TH, BOOK 295, PAGE 667.
 10. THIS SURVEYOR HAS MADE NO SEARCH AT THE COUNTY REGISTER OF DEEDS OFFICE OR SEARCH DOCUMENTS FOR EASEMENTS, VACATIONS, RIGHT-OF-WAY ACQUISITIONS, CONDEMNATIONS, EASEMENTS, ENCUMBRANCES THAT MAY AFFECT THIS PROPERTY, THE AFOREMENTIONED ITEMS SHOWN HEREIN ARE BASED ENTIRELY UPON THE OWNERSHIP AND ENCUMBRANCE REPORT CITED ABOVE, DOCUMENTS, OTHER SOURCES, OR OTHER INFORMATION THAT PROMPTED A SPECIFIC SEARCH FOR SUCH ITEMS. EASEMENTS, VACATIONS, RIGHT-OF-WAY ACQUISITIONS, CONDEMNATIONS, COURT DECREES OR OTHER ITEMS THAT MAY AFFECT THIS PROPERTY THEIR EXISTENCE IS UNKNOWN TO THIS SURVEYOR AND ARE THEREFORE NOT SHOWN.
 11. THE OWNERSHIP AND ENCUMBRANCE REPORT CITED ABOVE STATES "THE LAST DEED CONVEYANCE OF RECORD COVERING THE ABOVE DESCRIBED REAL ESTATE VESTS TITLE IN: RICHARD A. ARNHOLD THE RICHARD A. ARNHOLD REVOCABLE TRUST, DATED MARCH 8, 2007" AND CONTAINS AN ABSTRACT STATING THE FOLLOWING: "A CERTIFICATE OF DEATH WAS FILED ON RICHARD A. ARNHOLD ON A BOOK 744" OF RECORDS AT PAGE 279. DATE OF DEATH WAS MAY 28TH, 2010. THROUGH CLIENT RELATIONS, THIS SURVEYOR BELIEVES THE CURRENT OWNER OF SUBJECT PARCEL IS RICHARD A. ARNHOLD, BUT NO CURRENT DEED SHOWING CHAIN OF TITLE HAS BEEN PROVIDED FOR VERIFICATION."
 12. THE UNDERGROUND UTILITIES SHOWN HEREON ARE REPRESENTATIONAL ONLY AND ARE IN NO WAY TO BE CONSTRUED AS A COMPLETE LIST OF ALL UTILITIES AT THIS LOCATION. THE EXACT LOCATION OF UNDERGROUND UTILITIES CANNOT BE COMPLETELY AND RELIABLY DETERMINED WITHOUT EXCAVATION. WHERE ADDITIONAL OR MORE DATA IS REQUIRED, CLIENT IS ADVISED THAT EXCAVATION MAY BE NECESSARY. IT IS THE EXCAVATOR'S RESPONSIBILITY TO MARK ANY UTILITIES BEFORE DIGGING.
 13. STORM WATER PREVENTION PLAN TO BE SUBMITTED SEPARATELY BY THE DEVELOPER'S ENGINEER.
 14. THE PHYSICAL PURPOSE FOR THIS PRELIMINARY PLAT IS FOR AN ELECTRICAL SUBSTATION. THE PROPOSED SEWAGE OR WATER UTILITIES CURRENTLY PLANNED FOR THIS SITE.

REPLAT DESCRIPTION:
ALL OF LOTS 1, 2, BLOCK 2 AND ARNHOLD DRIVE, 80 FEET WIDE, ACCORDING TO THE PLAT OF ARNHOLD'S INDUSTRIAL ADDITION, RECORDED SEPTEMBER 29, 1979 IN BOOK 295 AT PAGE 667, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 14 SOUTH, RANGE 18 WEST IN ELLIS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS BEING BOUNDED ON THE EAST BY THE WEST LINE OF LOT 3 BLOCK 2, BOUNDED ON THE SOUTH BY THE NORTH RIGHT OF WAY LINE OF 10TH STREET, BOUNDED ON THE WEST BY THE EAST LINE OF LOT 5 BLOCK 1, AND BOUNDED ON THE NORTH BY A LINE BEING 30 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF ARNHOLD'S INDUSTRIAL ADDITION. SAID TRACT CONTAINS 187,623.95 SQUARE FEET OR 4.31 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD, IF ANY.

- LEGEND:**
- 1/2"x24" REBAR WITH CAP CLS 172 (TO BE SET)
 - FOUND MONUMENT AS NOTED
 - REPLAT BOUNDARY
 - EXISTING LOT LINE
 - - - EXISTING EASEMENT
 - U/E UTILITY EASEMENT
 - STEEL/WOOD POST
 - SIGN-TRAFFIC/OTHER
 - ✕ STREET LITE
 - GUY WIRE
 - POWER POLE
 - ⊙ SANITARY MANHOLE
 - ⊙ SEWER CLEANOUT
 - ⊙ FLARED END SECTION
 - ⊙ TELEPHONE BOX
 - ⊙ TELEPHONE MANHOLE
 - ⊙ HAND HOLE
 - ⊙ GATE VALVE
 - ⊙ WATER METER
 - ⊙ WELL
 - ⊙ GAS METER
 - GAS LINE
 - POWER OVERHEAD
 - POWER UNDERGROUND
 - SANITARY SEWER
 - TELEPHONE UNDERGROUND

SURVEYOR:
Westwood
Westwood Professional Services, Inc.

DEVELOPER:
MIDWEST ENERGY INC.
1330 CANTERBURY DRIVE
HAYS, KS 67601
785-625-1432

OWNER:
BRUCE ARNHOLD
1600 EAST 13TH STREET
HAYS, KS 67601-2601

UNPLATTED

FOUND 1/2" REBAR WITH LS1367 CAP

NORTH LINE ARNHOLD'S INDUSTRIAL ADDITION

N89°07'29"W 5276.02

S89°07'29"E 484.70

N89°07'29"W 40

N00°44'15"E 386.66

ARNHOLD DRIVE
(80' WIDE PUBLICLY DEDICATED)

REPLAT

S01°25'34"W 391.29

BLOCK 2

25.00'

7.5'

15' U/E

25' BUILDING SETBACK

TH STREET
(PUBLICLY DEDICATED)

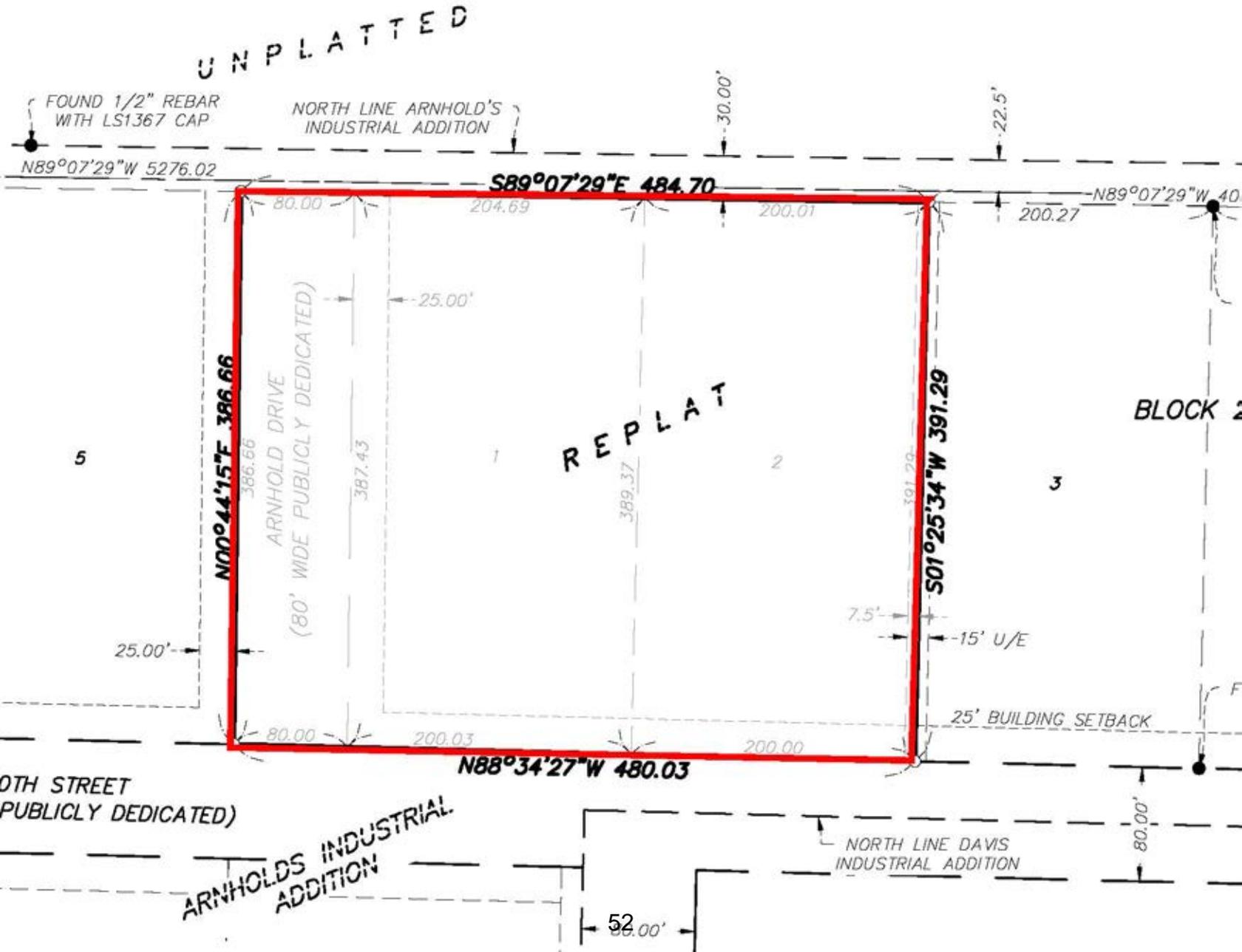
N88°34'27"W 480.03

ARNHOLDS INDUSTRIAL
ADDITION

NORTH LINE DAVIS
INDUSTRIAL ADDITION

52.00'

80.00'



RESOLUTION

GOVERNING BODY OF THE CITY OF HAYS, KANSAS, TO THE PUBLIC:

WHEREAS, Midwest Energy Inc., acting on behalf of Bruce A. Arnhold, Trustee of the Richard A Arnhold Rev. Trust, have presented to the Governing Body of the City of Hays, Kansas, a certain replat of LOTS 1 AND 2, BLOCK 2 AND ARNHOLD DRIVE OF ARNHOLD'S INDUSTRIAL ADDITION, situated outside the corporate limits of the City of Hays, Kansas, being lots and streets comprising the following described real estate, to-wit:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 14 SOUTH, RANGE 18 WEST, OF THE 6TH PRINCIPAL MERIDIAN, ELLIS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

LOTS 1 AND 2, BLOCK 2, AND ARNHOLD DRIVE OF THE ARNHOLD INDUSTRIAL ADDITION, with said tract containing 4.31 acres,

to be known as the REPLAT OF LOTS 1 AND 2, BLOCK 2 AND ARNHOLD DRIVE OF ARNHOLD'S INDUSTRIAL ADDITION to the City of Hays, Kansas; and,

WHEREAS, the said plat has been examined and considered by the Hays Area Planning Commission of the City of Hays, Kansas; and,

WHEREAS, the City Attorney of the City of Hays, Kansas, has found that the proposed plat conforms to the requirements of the statutes in such matters made and provided;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS, that the City of Hays, Kansas, hereby approves the REPLAT OF LOTS 1 AND 2, BLOCK 2 AND ARNHOLD DRIVE OF ARNHOLD'S INDUSTRIAL ADDITION, to the City of Hays, Kansas, and the City Clerk is instructed to endorse such approval on said plat.

Passed and adopted by the Governing Body of the City of Hays, Kansas, this 22nd day of October, 2015.

Eber Phelps - Mayor

ATTEST:

BY _____
Brenda Kitchen - City Clerk

(SEAL)

Commission Work Session Agenda

Memo

From: Jesse Rohr, PIE Superintendent

Work Session: October 15, 2015

Subject: Rezoning of Lots 15 and 17, Block 6, HP Wilson Addition (C-O to C-2) – 117 E 7th

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

Summary

The owner of 117 E 7th St. (Lots 15 and 17, Block 6, HP Wilson Addition) has submitted a request to rezone the property from C-O (Office and Institution District) to C-2 (General Commercial and Service District). A public hearing was conducted on September 15, 2015 at the regular meeting of the Planning Commission and it was recommended by a vote of 8-0 that the rezoning be approved. The zoning change from C-O to C-2 would allow the owners to use the property for other commercial ventures that are not currently allowed in the C-O district, which would hopefully allow for increased profit off of the property. The applicant is asked to not be specific as to the exact use to prevent a biased decision from being made. All of the uses allowed in C-2 must be taken into consideration. Staff, as well as the Planning Commission, recommends approving an ordinance rezoning Lots 15 and 17, Block 6, HP Wilson Addition (117 E 7th) from C-0 (Office and Institution District) to C-2 (General Commercial and Service District).

Background

The subject property abuts existing Commercial (C-2) zoning, Central Business District (C-3) zoning, and Multi-family (R-4) zoning making it quite conducive to a wide variety of various zoning districts and uses. The R-4 zoning is the least compatible of those in the area. The plan for redevelopment/infill development on this site is encouraged by staff as well as the Comprehensive Plan and follows the Strong Towns concept.

Discussion

The owner of 117 E 7th St. (Lots 15 and 17, Block 6, HP Wilson Addition) has submitted a request to rezone the property from C-O (Office and Institution District) to C-2 (General Commercial and Service District).

The zoning change from C-O to C-2 would allow the owners to use the property for other commercial ventures that are not currently allowed in the C-O district, which would hopefully allow for increased profit off of the property. The applicant is asked to not be specific as to the exact use to prevent a biased decision from being made. All of the uses allowed in C-2 must be taken into consideration.

A public hearing was conducted on September 21, 2015 at the regular meeting of the Planning Commission. All property owners within 200 feet of the subject property were notified of the public hearing. No public comments were presented at the hearing.

The subject property, as well as surrounding properties, is designated as “Downtown” on the Future Land Use Map and Comprehensive Plan. This area, per the Comprehensive Plan, is designated for mixed uses, primarily including commercial, office, and upper level residential.

The item was approved by a vote of 8-0 and a favorable recommendation was made by the Planning Commission to the City Commission to approve the rezoning, primarily due to the existing uses and zoning of the surrounding properties.

Legal Consideration

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

Financial Consideration

None identified at this time.

Options

The City Commission has the following options:

- Approve the rezoning request from C-O to C-2 as recommended by the Planning Commission and City staff
- Send the request back to the Planning Commission for further consideration with specific basis for further review
- Deny the rezoning request from C-O to C-2 (Requires a 2/3 majority vote to overturn the P.C. recommendation)

Recommendation

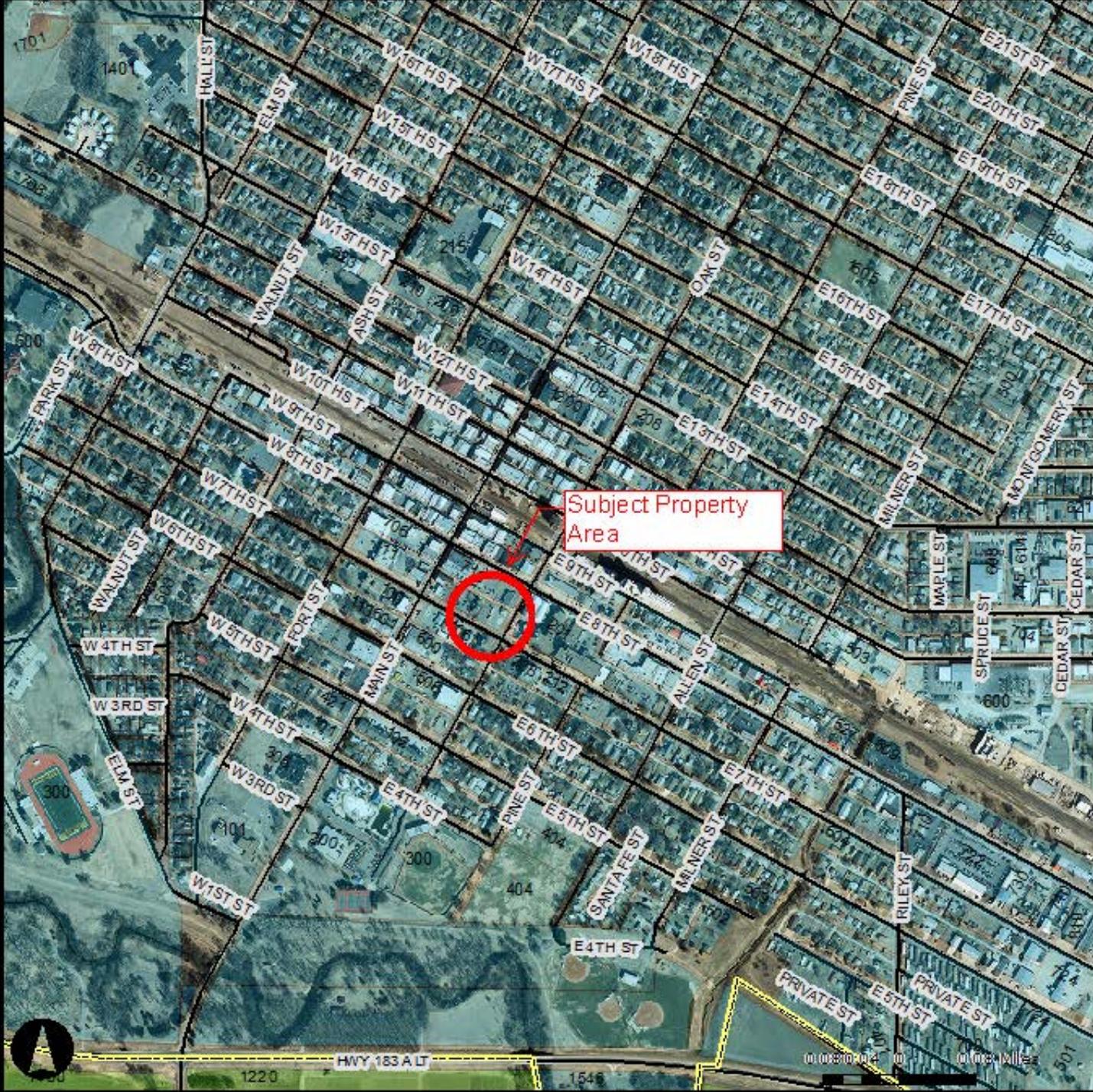
Staff, as well as the Planning Commission, recommends approving this rezoning request from C-O to C-2 as submitted to encourage redevelopment of this property and allow for more commercial uses than those allowed in the C-O district.

Action Requested

Approve an ordinance rezoning the property of 117 E 7th (Lots 15 and 17, Block 6, HP Wilson Addition) from C-O to C-2.

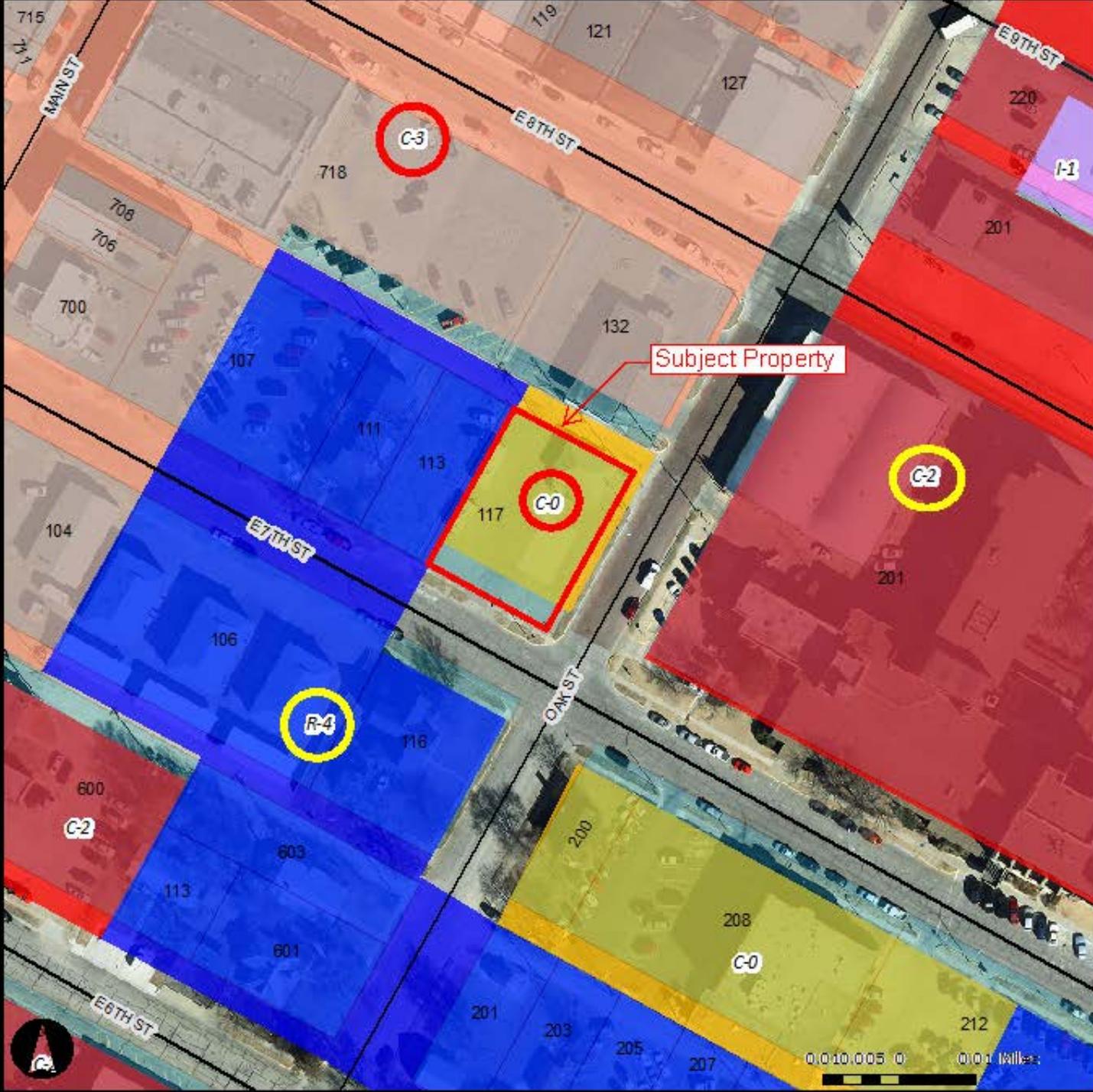
Supporting Documentation

Map(s)
Planning Commission Findings of Fact
Ordinance



Subject Property Area





PLANNING COMMISSION FINDING OF FACT

1. CASE NO.: **15-03Z** FILING FEE PAID: **\$140.00**
 2. DATE FILED: **07/23/2015**
 3. DATE ADVERTISED FOR HEARING: **08/23/2015**
 4. PUBLIC HEARING DATE: **09/21/2015**
 5. APPLICANT'S NAME: **HADLEY REDEVELOPMENT LLC**
 6. LOCATION OF PROPERTY: **117 E. 7TH Street**
 7. DESCRIPTION OF PROPERTY: **Lots 15 & 17, Block 6, H P Wilson Addition.**
 8. PRESENT USE OF PROPERTY: **Commercial Use**
 9. PRESENT ZONING: **"C-O"** REQUESTED ZONING: **"C-2"**
-

1. CHARACTER OF THE NEIGHBORHOOD:
DIRECTION

NORTH: **Commercial/Service**

SOUTH: **Multi-Family**

EAST: **Commercial/Service**

WEST: **Multi-family/Commercial/Service**
2. THE ZONING OF SURROUNDING PROPERTY:
DIRECTION

NORTH: **"C-3" Central Business District**

SOUTH: **"R-4" Multiple Family Dwelling District**

EAST: **"C-O" Office & Institution District & "C-2" General Commercial & Service District**

WEST: **"R-4" Multi-Family Dwelling District**

3. **CONSIDERATION OF THE RECOMMENDATIONS OF PERMANENT PROFESSIONAL STAFF:** The property abuts existing Commercial (C-2) zoning, Central Business District (C-3) zoning, and Multi-family (R-4) zoning making it quite conducive to a wide variety of various zoning districts and uses. The subject property, as well as surrounding properties, is designated as "Downtown" on the Future Land Use Map and Comprehensive Plan. This area, per the Comprehensive Plan, is designated for mixed uses, primarily including commercial, office, and upper level residential.

4. **DEDICATION OR RESERVATION NEEDED FOR:**
 1. DRAINAGE: **N/A**
 2. STREETS: **N/A**
 3. UTILITY EASEMENTS:
 - a. ELECTRICITY: **Existing**
 - b. GAS: **Existing**
 - c. SEWERS: **Existing**
 - d. WATER: **Existing**
 4. SHOULD PLATTING BE REQUIRED: **Property is platted**
 - A. **TRAFFIC CONDITIONS:**
 1. CLASSIFICATION OF STREET ON WHICH PROPERTY FRONTS: **Local**
 2. RIGHT-OF-WAY WIDTH: **60' ROW**
 3. SIGHT DISTANCE: **OK**
 4. TURNING MOVEMENTS: **OK**
 5. COMMENTS ON TRAFFIC: **Local**

4. **THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED:** **The existing zoning is suitable for the property, however, expanding to a broader zoning district, such as the proposed "C-2" designation, will allow for an expanse of uses above and beyond what is currently allowed while still keeping the area compatible with the surrounding areas.**

5. **THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY:** **Changing the zoning classification from "C-O" Office and Institution District to "C-2" General Commercial and Service District should detrimentally affect on nearby properties.**

6. **THE LENGTH OF TIME THE SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED:** **The property is not vacant. The property has been in its current zoning status since April, 1995.**

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: The proposed rezoning presents more options for the use of the property, therefore expanding the possibilities of the owner to utilize the property for a wider variety of uses. The limited number of uses allowed currently may be considered a hardship to the owner and may outweigh any possible (but unlikely) destruction of value of neighboring properties.

8. THE CONFORMANCE OF THE REQUESTED CHANGE TO THE ADOPTED OR RECOGNIZED MASTER PLAN BEING UTILIZED BY THE CITY: The subject property, as well as surrounding properties, is designated as "Downtown" on the Future Land Use Map and Comprehensive Plan. This area, per the Comprehensive Plan, is designated for mixed uses, primarily including commercial, office, and upper level residential.

The request for the "C-2" Commercial And Service District zoning classification does blend with the overall scheme of the surrounding properties and does meet the intent of the master plan.

With the "C-O" designation being primarily for office/medical uses, and since this regional area changed from a primary hospital/medical use to general commercial and service uses, there was a need to expand the zoning to allow for more uses.

Based on these considerations, Staff does recommend the change of zoning from "C-O" Office and Institution District to "C-2" General Commercial & Service District Zoning Classification.

ORDINANCE NO.

AN ORDINANCE REZONING A TRACT OF LAND SITUATED IN SECTION FOUR (4), TOWNSHIP FOURTEEN (14) SOUTH, RANGE EIGHTEEN (18) WEST OF THE 6TH P.M. IN ELLIS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS FIFTEEN (15) AND SEVENTEEN (17), BLOCK SIX (6) OF THE HP WILSON ADDITION TO THE CITY OF HAYS, ELLIS COUNTY, KANSAS, OTHERWISE KNOWN AS 117 E 7TH,

FROM "C-O" OFFICE AND INSTITUTION DISTRICT TO "C-2" GENERAL COMMERCIAL AND SERVICE DISTRICT.

WHEREAS, the Hays Area Planning Commission, after due and legal notice published in the Hays Daily News, the official city newspaper, on August 23, 2015, and after a public hearing held in conformity with such notice on September 21, 2015, did, on the last mentioned date, recommend to the Governing Body of the City of Hays, Kansas, the re-zoning of the following-described real estate:

THAT PART OF SECTION FOUR (4), TOWNSHIP FOURTEEN (14) SOUTH, RANGE EIGHTEEN (18) WEST OF THE 6TH P.M. IN ELLIS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS FIFTEEN (15) AND SEVENTEEN (17), BLOCK SIX (6) OF THE HP WILSON ADDITION TO THE CITY OF HAYS, ELLIS COUNTY, KANSAS, OTHERWISE KNOWN AS 117 E 7TH,

from "C-O" OFFICE AND INSTITUTION DISTRICT TO "C-2" GENERAL COMMERCIAL AND SERVICE DISTRICT;

WHEREAS, upon due consideration, it appears that the best interests of the City of Hays, Kansas, will be subserved by the following recommendation of the Hays Area Planning Commission,

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

Section 1. That the following-described real estate, to-wit:

THAT PART OF SECTION FOUR (4), TOWNSHIP FOURTEEN (14) SOUTH, RANGE EIGHTEEN (18) WEST OF THE 6TH P.M. IN ELLIS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS FIFTEEN (15) AND SEVENTEEN (17), BLOCK SIX (6) OF THE HP WILSON ADDITION TO THE CITY OF HAYS, ELLIS COUNTY, KANSAS, OTHERWISE KNOWN AS 117 E 7TH,

be rezoned from "C-O" OFFICE AND INSTITUTION DISTRICT TO "C-2"
GENERAL COMMERCIAL AND SERVICE DISTRICT.

Section 2. This ordinance shall take effect upon its publication in the Hays Daily News, the official city newspaper.

PASSED by the Governing Body on the _____ day of _____, 2015.

Eber Phelps, Mayor

ATTEST:

Brenda Kitchen, City Clerk

(SEAL)

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. _____

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 _____ day of _____, 2015.

EBER PHELPS
Mayor

Attest:

BRENDA KITCHEN
City Clerk

[Seal]

ORDINANCE NO. _____

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 ____ day of _____, 2015.

EBER PHELPS
Mayor

ATTEST:

BRENDA KITCHEN
City Clerk

(SEAL)

ORDINANCE NO. _____

**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 ____ day of _____, 2015.

EBER PHELPS
Mayor

ATTEST:

BRENDA KITCHEN
City Clerk

(SEAL)

Commission Work Session Agenda

Memo

From: Toby Dougherty, City Manager

Meeting: October 15, 2015

Subject: Receipt of Finding of Fact and Recommendations -
Official Hearing October 22nd

Person(s) Responsible: Toby Dougherty, City Manager

Summary

City staff and SEIU have met and conferred various times throughout the year to discuss the 2016 – 2018 contract. June 3, 2015 impasse was declared, and in July, an unsuccessful mediation took place. A fact finding was conducted September 17. According to state statute the City Commission must hold a hearing and make public the findings of fact and recommendation as well as taking such action as it deems to be in the public interest, including the interest of the public employees involved.

Background

The agreement between the City of Hays and the SEIU Local 513, AFL-CIO expires December 31, 2015. City designated representatives met and conferred with SEIU representatives beginning March 11, 2015. Three sections of the contract: Health Insurance, PTO, and Termination, were unresolved after the meet and confer sessions. An impasse was declared on June 3.

In accordance with state statute, a mediator was appointed and an unsuccessful mediation attempt was held on July 16. After the unsuccessful mediation, the parties requested the appointment of a fact finder. These services were provide by Rex Wiant on September 17, 2015 and resulted in a fact finding report and recommendations received September 28th. After conversations between the SEIU Business Representative Harold Schlechtweg and City Manager Toby Dougherty, both parties are still at impasse.

Discussion

According to State Statute 75-4332, if the dispute continues 14 days after the report is submitted to the parties, the report shall be made public. A copy of the fact finding report and recommendations are included with this memo.

Procedurally the representative of the city shall submit to the City Commission a copy of the findings of fact and recommendations of the fact-finding board, together with the

staff's recommendations for settling the dispute. The SEIU may submit to the City Commission recommendations for settling the dispute. Staff and SEIU information and recommendations are included in this packet.

The City Commission is required to conduct a hearing October 22nd, at which time staff and SEIU representatives are given the opportunity to explain their positions. After holding the hearing, the City Commission shall take such action as it deems to be in the public interest, including the interest of the public employees involved.

Legal Consideration

The City is following the statutory requirements pertaining to this issue. The Commission, after hearing the "recommendations" from SEIU and the City Manager, is required to take whatever action it deems appropriate.

Financial Consideration

There is no financial consideration in setting a hearing. The impacts of the City Commission direction following the hearing may have a financial impact.

Process

This issue is brought to the City Commission as required by state statute. The City Commission is being asked to:

- Move the matter to the October 22nd regular meeting where the Commission will hold a hearing of recommendations and input from City Staff and SEIU representatives.
- After the hearing is conducted, the City Commission may take necessary action as it deems to be in the public interest, including the interest of the public employees involved.

Recommendation

Hold a hearing as required by state statute for recommendations and input from City Staff and SEIU representatives on October 22, 2015. Once closed, the City Commission may take necessary action as it deems to be in the public interest.

Action Requested

Open the hearing as required. After closing the hearing, the Commission may take necessary action.

Supporting Documentation

Attachment A: Timeline of Process

Attachment B: Fact Finding Report

Attachment C: SEIU Memo

Attachment D: City Manager Memo

Attachment E: SEIU Contract with Markups from Meet and Confer Sessions

SEIU	
March 11, 2015	Meet and Confer Session #1
March 25, 2015	Meet and Confer Session #2
April 22, 2015	Meet and Confer Session #3
May 21, 2015	Meet and Confer Session #4
June 3, 2015	Meet and Confer Session #5 Impasse Declared
July 16, 2015	Mediation
September 17, 2015	Fact Finding

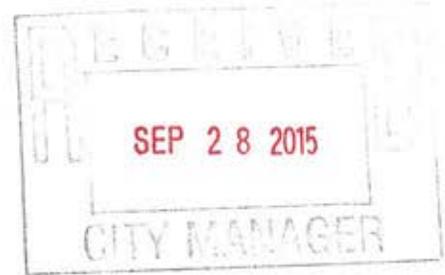
Rex H. Wiant, Arbitrator

37 East Concord Ave.
Kansas City, Missouri 64112
816.363.0018 Office/Fax
816.361.0144 Home
rwiant@naarb.org

September 24, 2015

Toby Dougherty
City Manager City of Hays
PO Box 490
Hays, KS 67601

Harold Schlechtweg
Business Manager
SEIU Local 513
3349 W. Douglas
Wichita, KS 67203



RE: Fact Finding City of Hays and SEIU Local 513, 75-I-6-2015.

Dear Representative Dougherty and Schlechtweg:

Enclosed is my fact finding report and statement. Thank you for the selection in this matter.

Sincerely,



Rex H. Wiant
Fact Finder

Rex H. Wiant, Arbitrator

37 East Concord Ave.
Kansas City, Missouri 64112
816.363.0018 Office/Fax
816.361.0144 Home
rwiant@naarb.org

September 24, 2015

Statement of Services

Fact Finding City of Hays and SEIU Local 513,
KS-PERB 75-I-6-2015.

1 day travel + 1 day hearing + 2 days study and writing = 4 days.

4 days X \$600 (KS-PERB rate) = \$2400

Expenses

Hotel	\$148.85
Mileage	\$322.00
Tolls	\$5.50
Postage	\$4.50
Subtotal	\$480.85

\$2400 + \$480.85 = \$2880.85

Half payable by each side \$1,440.42.

Toby Dougherty
City Manager City of Hays
PO Box 490
Hays, KS 67601

Harold Schlechtweg
Business Manager
SEIU Local 513
3349 W. Douglas
Wichita, KS 67203

Before
Rex H. Wiant
Fact Finder

*****)
In the matter of fact finding between:)
City of Hays, Kansas)
and) Fact Finding
Service Employees International Union)
Local 513)

KS-PERB #75-I-602015

For the Employer:

- Toby Dougherty, Chief Spokesman and City Manager
- Erin Gieber, Human Resources Director
- Greg Sund, Director of Public Works
- Jeff Boyle, Director of Parks
- Bernie Kitten, Director of Utilities

For the Union:

- Harold Schlechtweg, Chief Spokesman and Business Representative
- Shawn Swift, Member
- Clayton Unruh, Member
- Daniel Jenger, Member

Jurisdiction:

The parties selected Rex H. Wiant to serve as Fact Finder in the instant dispute from a list provided by the Kansas Public Employment Relations Board. A hearing was held on September 17, 2015 in City Hall. Both sides presented complete cases on three issues: Health Insurance, Paid Time Off and Termination of the Agreement. All

evidence was subject to cross examination. The hearing closed with final arguments.

Background:

The city of Hays (hereinafter the "Employer") was incorporated in 1885 and is the county seat for Ellis County. It is a second class city according to Kansas law with a population of over 20,000. Its largest employer is Fort Hays State University and the City has a diversified economy including health care, oil and retail. The City benefits from a large trade area that keeps its commercial sector doing well.

The Service Employees International Union, Local 513 (hereinafter the "Union") represents full-time personnel in the Public Works, Parks and Utilities Departments. The Employer has two other bargaining units.

The Employer uses this agreement for a basis to guide policy for non-organized employees.

Findings of Fact:

The parties bargain under the Kansas Public Employer-Employee Relations Act. Both parties agreed that they had negotiated and mediated to the point of impasse.

The parties spent most of their arguments on the history of bargaining. No comparability groups or ability to pay arguments were made. Because the parties spent their time on history, the Fact Finder will base his decision on those facts.

The parties agreed to a wage increase of \$2,500 to all employees.

Issue 1. Health Insurance

Current Contract: The Employer budgets \$9,500 per employee to provide health insurance.

Employer Position: No change for the life of the three year agreement.

Union Position: Increase to \$10,500.

Discussion: Both sides must compromise on health insurance. The Employer wants to freeze its contribution for the life of a three year contract. The Union wants to continue a 100% benefit. From a practical point of view neither is reasonable. What they should be aiming for is the biggest benefit at least cost. History shows that insurance costs have been steadily rising. There is no reason to expect any change in the next year. Employees should share in those increased costs.

This next year \$9,500 will cover those costs and will give the parties time to meet and work out a long term guide. They will need to work with other Unions, large employers, the hospital and other health professionals. It is particularly important that the hospital remain viable, because without it, an injured person would be more than one hour away from any hospital. The interests are the same for the parties; here they can build a good solution that can serve a model for rural areas.

The Fact Finder's Recommendation is no change for the next year.

Issue 2. Paid Time Off

Current Contract: 100% of base salary.

Employer Position: Reduce to 70%.

Union Position: No change.

Discussion: The 100% number was part of a quid pro quo to switch from a laundry list of leave options to PTO. Now the Employer wishes to reduce that number to

70% and break that quid pro quo. This opens a new can of worms that neither side needs at this time.

It is important to note that the Employer's change does not get employees back to work any faster. The Employer has concerns about misuse of PTO and that is reasonable. If they believe an employee is misusing PTO they may request the traditional Doctor's note. If problems persist then further discipline may be appropriate. I hope the parties are not upset by the observation that Hays is a small town. If an employee is out on PTO and seen shopping for shoes it will be noticed and can be followed up on by the Employer. The Fact Finder's experience is that only a few of the employees try to take advantage of the system. It is easier to deal with the few than make changes that impact all employees in the bargaining unit.

The Fact Finder recommends no change.

Issue 3. Termination (Reopener)

Current Contract: Reopen wages and insurance annually.

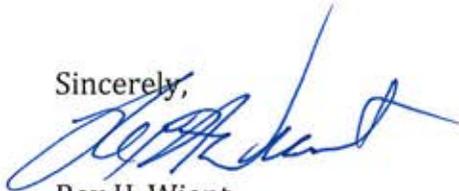
Employer Position: Wages only.

Union Position: No change.

Discussion: Wages and insurance are two sides of the same coin. It is money. To not talk about the money that pays for health insurance is like arguing which pocket the cash is going to come out to pay for dinner. It is going to be important that the parties have the flexibility to make changes in the future. In the next year the parties can be proactive in shaping solutions.

All Fact Finders want their recommendations to be accepted in toto. If this not possible, this Fact Finder hopes they can be used to shape a voluntary agreement. Voluntary agreements increase the likelihood that the next negotiations will result in a voluntary agreement.

Sincerely,



Rex H. Wiant

Fact Finder

Dated on September 24, 2015 in Kansas City, Missouri.

UNION'S MEMORANDUM

TO: CITY COMMISSION, CITY OF HAYS
FROM: HAROLD SCHLECHTWEG, FOR SEIU LOCAL 513
SUBJECT: MEMORANDUM OF AGREEMENT/PUBLIC HEARING TO
RESOLVE IMPASSE
DATE: OCTOBER 8, 2015

The City of Hays management negotiating team and the team representing employees in the SEIU bargaining unit in Public Works, Parks and Utilities, declared impasse June 3, 2015, after attempting to reach agreement on a new three year Memorandum of Understanding. The parties met under the auspices of a federal mediator June 16 but were unable to resolve differences. On July 24, 2016, a joint request for Fact Finding was filed with the State of Kansas. Subsequently, on Sept. 17, 2015, the parties met with a Fact Finder and the Fact Finder's Report and Recommendations were made available to the parties and the matter is now before the City Commission for final action.

The three issues before the Commission are addressed by Section 15 Health Insurance, Section 16. Paid Time Off (PTO) Policy, and Section 30 Termination. The Union urges the commission to adopt the Union's position on all three matters, rejecting the Fact Finder's Recommendation for Section 16, adopting the Fact Finder's Recommendation on PTO, the Short Term Disability benefit (Section 16, J., paragraph 3). It is unclear to the Union what the Fact Finder is recommending for Section 30. Termination, although he seems to be saying that since health insurance and wages are part of the total compensation package that an agreement to meet and confer over wages will necessarily include a calculation by employees of the increased costs of health insurance. In what follows, I address each of the three issues at impasse.

Section 15. Health Insurance

Language in the Memorandum of Agreement (MOA) that expires at the end of 2015 provides that the City will budget \$9500 per employee to provide health insurance. The Union requests that the City budget \$10,500 for 2016 and meet and confer with the SEIU bargaining committee next year and the year after to determine what the City's contribution will be for 2017 and 2018. The City's position is that the City's contribution for 2016, 2017 and 2018 will remain at \$9500 per employee and that the City will not agree to discuss this matter with employees for 2017 and 2018.

The Union raises the following points in support of its proposal to increase the cap to \$10,500:

- 1) The \$9500 cap on the City's contribution level has been in place since 2010—five years ago.
- 2) **During these five years, the cumulative increase in the cost of providing health care (not the cost of health insurance which can vary according to “experience” rating, work force demographics, and the profitability requirement for the insurance company) has been 16%.**
- 3) The Union's proposal to increase the cap is therefore for an increase (\$1,000 per employee) that is actually less than the increased cost of providing health insurance over the past five years.
- 4) One of two things have to happen over the next three years: either the cost will exceed the budgeted average of \$9500 per employee, or there will be a constant diminishment in the value of the benefit due to decreases in coverage or increases in deductibles, coinsurance and co-pays.

If the City Commission votes to maintain the cap at \$9500 we hope the Commission will allow the MOA to be re-opened (Section 30) to discuss how the increased costs will be allocated (require employees to pay a share of the premium or other adjustments).

Section 16. Paid-Time-Off (PTO) Policy, J. Short Term Disability Benefit, paragraph 3.

The MOA currently states, “3. Short Term Disability Benefit payments will total 100% of the employee's base pay and will be considered taxable income to the employee. Maternity leave will be considered a short term disability.” City management wants to drop this benefit to 70% of employee's base pay. The Union is asking there be no change to this benefit.

The Union raises the following points in support of its position of no-change to Section 16

- 1) When the Short Term Disability Benefit was negotiated 10 years ago, the parties' intent was that it would replace the Sick Leave Benefit then in place. Employees gave up their ability to accrue 880 hours of sick leave and in return were told that in place of sick leave—which paid wages at 100%--they would receive a short term disability benefit after 14 days off the job that would pay them at 100% just like sick leave. This bargain or trade-off went into place for the 2006 MOA. PTO was not intended to be a reduction in benefits.
- 2) While it is true that most employers provide only 2/3 or 70% of wages in fully-employer-paid disability policies, most of the employees of these employers have retained their sick leave. The disability only kicks in if the employee doesn't have sick leave to cover their absence.

3) The Union agrees with the Fact Finder who says:

“The 100% number was part of a quid pro quo to switch from a laundry list of leave options to PTO. Now the employer wishes to reduce that number to 70% and break that quid pro quo. This opens a new can of worms that neither side needs at this time.

“It is important to note that the Employer’s change does not get employees back to work any faster. The Employer has concerns about the misuse of PTO and that is reasonable. If they believe an employee is misusing PTO they may request the traditional Doctor’s note. If problems persists then further discipline may be appropriate.”

Section 30. Termination

The employer does not want to include a provision for re-opening the MOA to allow meet and confer if health insurance costs exceed what is budgeted. **The Union requests this “re-opener” to allow employees to have input on how the increased costs, beyond the cap, will be allocated.** We think this is particularly important if the \$9500 cap on expenditure per employee is maintained because it is sure to be breached in the next three years.

Memo

To: City Commission
From: Toby Dougherty, City Manager
Date: 9-30-15
Re: City of Hays/SEIU 2016 – 2018 Meet and Confer Sessions

Timeline

The current Memorandum of Agreement with the Service Employees International Union Local 513 expires December 31, 2015. The City of Hays meet and confer team began meeting with SEIU representatives on March 11, 2015 to negotiate a new contract. After three months of meet and confer sessions there were three sections that had not been tentatively agreed to by both parties. The three sections were Section 15 “Health Insurance”, Section 16-J “PTO/Short Term Disability Benefit” and Section 30 “Termination”. Impasse was declared on June 3, 2015. On July 21, 2015, a mediation session was held that did not produce an agreement.

At the conclusion of the unsuccessful mediation, both parties notified the Public Employee Relations Board that the dispute was still unresolved, and a Fact Finder was appointed. The State-appointed Fact Finder held a hearing on September 17, 2015 where both sides had an opportunity to present their issues. The Fact Finder then issued a report on September 28, 2015.

Unresolved Items

There are three sections of the contract that both parties have yet to reach agreement upon.

Section 15 – Health Insurance

The current language in the contract states that the City agrees to budget \$9,500 per employee to provide health insurance. The City’s position was to leave the language in place for the upcoming three-year agreement. The SEIU wanted to increase the

City's budget number to \$10,500, and if the annual cost to provide health insurance to the members of the bargaining unit exceeded \$10,500, meet and confer sessions would be held.

Section 16-J – PTO/Short Term Disability Benefit

Current language provides that, when on short term disability, the City will provide the employees 100% of their base pay. The City currently receives 70% of an employee's pay from our short term disability provider. The other 30% is made up from the City's coffers. City staff felt this provided a disincentive for some employees to come back to work after an injury, and therefore, suggested language stating that the benefit would be at 70% of the employee's base pay. The union wants no change.

Section 30 – Termination

In the "Termination" section, both sides can't agree to annual openers that can be opened unilaterally each year of the contract if a specific process is followed. The contract that is expiring has "Wages/Administration of the Pay Plan" and "Health Insurance" as unilateral openers. For the 2016 – 2018 contract, City staff has suggested that only "Wages/Administration of the Pay Plan" be an annual opener. The union would also like to include "Health Insurance" as an annual opener if the cost per employee in the bargaining unit exceeds \$10,500.

Report of the Fact Finder

On September 28, 2015, the Fact Finding Report was received. On page two (2) of the Fact Finding Report, the Fact Finder incorrectly states that the parties have agreed to a wage increase of \$2,500 to all employees. The parties had tentatively agreed to a wage increase of \$2,050 for all employees covered by the contract. This is the same pay increase that the other City of Hays employees are scheduled to receive. The Fact Finder's findings and recommendations are summarized below.

Section 15 – Health Insurance

- The Fact Finder makes an incorrect assumption that \$9,500 will cover next year's cost.
- The Fact Finder then goes on to state that employees should share in the cost of health insurance.
- The Fact Finder recommends no change.

Section 16-J – PTO/Short Term Disability Benefit

- The Fact Finder mentions a quid pro quo between the City of Hays and SEIU Local 513, but that was part of a previous agreement and not meant to be in place in perpetuity.
- The Fact Finder then goes on to speculate on the motivation of employees.
- The Fact Finder then talks about the use and perceived misuse of PTO. The use of PTO is not an issue and was not brought up by City's negotiating team at any time during the negotiations. The City of Hays meet and confer team's concerns were centered only on the "Short Term Disability Benefit" section of the "PTO Policy", and specifically, the percentage of base pay an employee utilizing short-

term disability would receive. It is uncertain why the Fact Finder chose to bring up the possible misuse of PTO other than a lack of understanding of the core issue.

- The Fact Finder recommended no change.

Section 30 – Termination

- The Fact Finder discusses the cost of health insurance and then goes on to hope for a voluntary agreement to be reached.
- There is no recommendation accompanying discussion of the section.

City Staff Recommendations

Section 15 – Health Insurance

City staff suggests the Commission continue the practice of budgeting \$9,500 per employee to provide health insurance for the term of the three-year agreement. \$9,500 is what has been agreed to by the International Association of Firefighters and the Fraternal Order of Police. It is also the number City staff will use over the next three years for the non-unionized employees.

Section 16-J – PTO/Short Term Disability Benefit

City staff suggests that the Governing Body authorize short term disability payments totaling 70% of the employee's base pay. This is the same amount agreed to by the Fraternal Order of Police and is the same percentage that will be utilized for the International Association of Firefighters and nonunionized employees.

Section 30 – Termination

City staff recommends that the "Termination" section provide annual unilateral openers for "Wages/Administration of the Pay Plan". This would mirror the opener language in the Fraternal Order of Police and International Association of Firefighter contracts.

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MEMORANDUM OF AGREEMENT

PREAMBLE

This agreement is entered into on this _____ day of _____ between the City of Hays, Kansas, hereinafter referred to as the City or Employer, and Hays Service Employees Union Local 513, AFL-CIO, hereinafter referred to as the Union.

It is the purpose of this agreement to promote, in a cooperative manner, harmonious relations between the Employer and the Union; to provide for an equitable and peaceful procedure for the resolution of differences relating to work and other conditions of employment.

The City Commission of the City of Hays, Kansas, agrees that through the City Manager and his designated representatives, it will meet and confer with the Hays Service Employees Union Local 513, AFL-CIO. The Employer recognizes the Union as the sole and exclusive meet and confer agent for the purpose of meeting and conferring regarding salaries, wages, hours of work and other conditions of employment for all paid, full-time personnel in the Public Works Department, Parks Department and Utilities Department, and all other non-supervisory employees in the above mentioned departments excluding all security, elected officials, confidential secretaries, secretaries, and supervisory personnel as defined in the Kansas Public Employer-Employee Relations Act.

The term "paid, full-time personnel" is applied without regard to sex, position (except as provided above), division or duty to personnel employed by the City of Hays, Kansas, Public Works Department, Parks Department, and Utilities Department.

SECTION 1. APPLICABILITY OF KANSAS STATUTES

The City of Hays and the Union specifically agree that all proceedings under this agreement shall be governed by the provisions of the Kansas Public Employer-Employee Relations Act (K.S.A. 75-4321 et. seq.) and amendments thereto.

Tentatively Agreed on March 25, 2015

No change.

SECTION 2. RECOGNITION

The City recognizes the Union as the exclusive agent for all full-time non-supervisory employees of the Public Works Department, Parks Department, and Utilities Department as certified by the Kansas Public Employees Relations Board number UE 1 1974 and 75-UDC-1-1990 as amended.

Tentatively Agreed on March 25, 2015

No change.

SECTION 3. EMPLOYER'S RIGHTS

The City retains the right to manage and supervise its property and equipment, and the right, in accordance with applicable laws and regulations:

- A. To hire, promote, transfer, assign and retain employees and to suspend, demote, discharge or take other disciplinary action against employees for proper cause;
- B. Direct the work of its employees;
- C. To relieve employees from duties because of lack of work or for other legitimate reasons;
- D. To maintain the efficiency of the City operations entrusted to the Governing Body of the City;
- E. To determine the methods, means and personnel by which such operations are to be conducted;
- F. To take whatever other actions may be necessary to carry out the functions of the City in situations of emergency.

Tentatively Agreed on March 25, 2015
No change.

SECTION 4. PROHIBITED PRACTICES OF THE EMPLOYER

It shall be a prohibited practice for a public employer or its designated representative to willfully:

- A. Interfere, restrain or coerce public employees in the exercise of rights granted in this agreement and applicable to state statutes;
- B. Dominate, interfere or assist in the formation, existence or administration of any employee organization;
- C. Encourage or discourage membership in any employee organization, committee, association, or representation plan by discrimination in hiring, tenure, or other conditions of employment or by black listing;
- D. Discharge or discriminate against an employee because he has filed an affidavit, petition or complaint or given any information or testimony, or because he has formed, joined or chosen to be represented by any employee organization;
- E. Refuse to meet and confer in good faith with representatives of recognized employee organizations;
- F. Deny the rights accompanying certification or formal recognition;

- G. Deliberately or intentionally avoid mediation, fact-finding and arbitration endeavors;
- H. Institute or attempt to institute a lockout.

Tentatively Agreed on March 25, 2015
No change.

SECTION 5. PROHIBITED PRACTICES OF THE EMPLOYEE OR EMPLOYEE ORGANIZATION

It shall be a prohibited practice for public employees or employee organizations to willfully:

- A. Interfere with, restrain or coerce public employees in the exercise of rights granted in this agreement or state statutes;
- B. Interfere with, restrain or coerce a public employer with respect to management rights or with respect to selecting a representative for the purposes of meeting and conferring or the adjustment of grievance;
- C. Refuse to meet and confer in good faith with a public employer;
- D. Deliberately and intentionally avoid mediation, fact-finding, and arbitration efforts;
- E. It shall be a prohibited practice for an employee organization to endorse candidates, spend any of its income, directly or indirectly, for partisan or political purposes or engage in any kind of activity advocating or opposing the election of candidates for any public offices;
- F. During the Meet and Confer process to directly or indirectly contact any member of the Governing Body of the City of Hays for the purpose of discussing, influencing, or attempting to change any condition of employment pertaining to the employees or employee organization.

Tentatively Agreed on March 25, 2015
No change.

SECTION 6. DISCRIMINATION

The provisions of this agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, marital status, race, color, creed, religion, national origin, order affiliation, political affiliation, sex, physical handicap, or ancestry. The Union will use all reasonable efforts to report to the City an alleged discrimination which comes to the attention of the Union or its officers, in such a manner that the problem regarding discrimination will be dealt with as early as possible.

All references to employees in this agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

Tentatively Agreed on March 25, 2015
No change.

SECTION 7. REPRESENTATIVES AND MEET AND CONFER SESSIONS

Members of the bargaining unit selected to serve as the duly authorized representatives shall be certified in writing to the Director of Public Works, Director of Parks, Director of Utilities, and the City Manager **or his designee**. Meetings between the Union and City representatives shall be held at times mutually convenient for both. A maximum of three representatives and one alternate of the Union will receive their usual compensation when such meetings are held at the City's request during regular working hours of the employee.

Tentatively Agreed on March 25, 2015
Changes in red.

SECTION 8. CONTRACTING

Nothing in this agreement shall prohibit or restrict the rights of the City to contract out such work it deems necessary, provided that the City agrees that in contracting with third parties, in situations where employees of the City will be laid off by the City, the City shall include in any third-party contract a provision with said third-party that existing City employees shall be hired by said third party. The City shall have the right to discontinue any operations when it is in the best interests of the City. However, employees laid off shall be considered for employment in other City departments if job openings exist and the employee is qualified for work in those departments. Before a final decision is made to contract out a function or service of the City that would result in the layoff of employees covered by this agreement, the Union shall be notified and shall have the right to meet with the City Manager to discuss the proposed action.

Tentatively Agreed on March 25, 2015
No change.

SECTION 9. BULLETIN BOARDS

The Employer agrees to furnish bulletin board space to the Union in each City shop area where employees covered by this agreement are employed. The bulletin board shall be located in a convenient place in each work area and said bulletin board is to be used by the Union and the City. Notices posted shall bear the signature of the proper Union representative. No bulletins or notices shall contain anything derogatory or in any way reflect negatively upon the City, Union or any employee.

Tentatively Agreed on March 25, 2015
No change.

SECTION 10. VISITS BY UNION REPRESENTATIVES

Union officials will be permitted to visit with Union members during the Union members' regularly scheduled lunch period, provided that such activity does not interfere with the employee's regular work.

Tentatively Agreed on March 25, 2015

No change.

SECTION 11. GRIEVANCE PROCEDURES

Grievance, for the purpose of this agreement, shall mean any misunderstanding relating to interpretations arising from the specific language of the written agreement itself. Only matters involving whether the employer or employees are complying with the express provisions of this agreement shall constitute grievances under this section. For the purpose of this section, the SEIU Steward shall be designated, in writing, to the Department Head and City Manager by January 1 of each year.

The filing or pendency of any grievance under the provisions of this section shall in no way impede, delay or interfere with the right of the employer to take the action complained of, subject however, to a final decision on the grievance.

Grievances shall be processed as follows:

Step One: The complainant shall first orally present the matter to the employee's immediate supervisor. Normally, this will be done personally by the employee. Under circumstances where it is deemed necessary by the employee and the Union, the employee may request the presence of the SEIU Steward when presenting the matter to the immediate supervisor. It is not contemplated by the parties that this will be a frequent occurrence at this stage of the grievance procedure. This shall be done within 5 working days of the date the complainant knew or reasonably should have known of the incident or occurrence giving rise to the grievance or all rights enjoyed under this article shall be forfeited.

Step Two: If within 5 working days after oral presentation to the immediate supervisor the grievance still exists, the complainant, who may be assisted by the SEIU Steward, shall present to his Department Head, a written grievance stating all the facts of the incident in detail and the article or articles of this agreement which have been violated. At this step, and at any succeeding step, all parties shall have the right to make a record of the proceedings. The Department Head shall in all cases reduce his decision to writing, copies of which shall be given to all parties involved.

Step Three: If within 5 working days after presentation of the grievance to the Department Head the grievance still exists, the services of the Federal Mediation & Conciliation Services (FMCS) will be requested and both parties agree to jointly participate in grievance mediation.

Step Four: If, after participating in grievance mediation with FMCS, the grievance still exists, the grieving party can appeal to the City Manager for a grievance hearing. The City Manager or his designee shall make careful inquiry into the facts and circumstances of the grievance. The City Manager or his designee shall have access to

all documents related to the grievance. The decision as rendered by the City Manager or his designee shall be final and binding, subject to all statutory and constitutional rights relating to court review.

Tentatively Agreed on March 25, 2015
No change.

SECTION 12. PROBATION

All newly hired employees, promoted and rehired employees shall be considered probationary employees for a period of 6 consecutive months. If at any time during the 6-month period the employee's performance is found to be less than satisfactory, the employee's supervisor may recommend the employee's dismissal or demotion. However, based upon the demonstrated job performance of the employee, he may be considered for permanent appointment at any time during the probationary period, or his probationary period may be extended based on unsatisfactory performance. Any probationary employee may be discharged, without cause, and without recourse under any sections of this agreement.

Tentatively Agreed on March 25, 2015
No change.

SECTION 13. TEMPORARY EMPLOYEES

Temporary and/or part-time employees employed by the City to work during the summer months, or at any other time, shall not be covered by the terms of this agreement. Temporary and/or part-time employees will not receive paid-time-off (PTO), or health insurance benefits. However, Worker's Compensation is provided for temporary and/or part-time employees. Temporary and/or part-time employees, who may be employed as regular employees, shall acquire seniority from the date of their full-time regular employment with the City, subject to the City Manager's approval.

Tentatively Agreed on March 25, 2015
No change.

SECTION 14. SENIORITY

Seniority shall be defined and implemented as follows:

- A. City Seniority -- City seniority shall be defined as the length of service with the City measured from the employee's most recent date of hire by the City, or the date of rehiring by the City after previous termination.
- B. Classification Seniority -- Classification seniority shall be defined as the length of service, by an employee, in a specific position within a division (divisions being identified as the Service Division, Solid Waste Division, Parks Department, and Utilities Department).

- C. City seniority shall be a factor in the consideration of paid-time-off (PTO). PTO shall be scheduled by supervisors with due consideration being given to requests from employees which shall be determined among employees of equal rank by seniority; provided, however, that each employee shall be permitted to exercise his right of seniority only once each year prior to March 1.
- D. Division Seniority -- Division seniority shall be defined as the length of service, by an employee, in a specific division. Division seniority shall be considered in cases of layoffs and recalls, and in the filling of new jobs and permanent job vacancies. Employees temporarily transferred from one division to another shall retain and continue to accrue their divisional seniority in the division to which they are permanently assigned. An employee who permanently transfers from one division to another will be assigned a divisional seniority from the date of transfer.
- E. Loss of Seniority -- All seniority shall be lost and an employee shall cease to be an employee of the City upon the occurrence of any of the following:
1. If the employee resigns, quits, or is discharged;
 2. If the employee fails to report from a leave of absence;
 3. If the employee, while being on layoff, fails to return to work within 14 calendar days after mailing, by registered or certified mail, to the last known address of the employee, a notice for him to return to work.
- F. Vacancies and Job Openings – Job openings or vacancies in the Public Works Department, Parks Department, or Utilities Department will be posted on all City bulletin boards. The City will post the position, qualifications and salary range for any vacancies. All qualified applicants will be considered by the City in filling each opening or vacancy. Where qualifications are judged substantially equal by the City, priority for filling the position will be as follows:
1. Employees, with accrued seniority, within the department in which the vacancy occurs.
 2. Employees, with accrued seniority, within the City departments.
 3. Applicant from outside the City department.
- All written requests for promotion shall receive a written response from the City.
- G. Reduction in Force – The City shall have the right to discontinue any operations in part or entirely, and to lay off personnel when it is in the best interests of the City. Employees laid off shall be considered for employment in other City departments if job openings exist and the employee is qualified for the available position.
1. In the event of a layoff for any reason, employees shall be laid off in the inverse order of their position in seniority within the department.

2. Employees shall be called back from layoff according to position seniority in the department. No new employees shall be hired in any classification until all employees on layoff status in that classification have had an opportunity to return to work.
3. Employees being laid off shall be given at least 30 days advance written notice of the layoff.
4. Employees being called back to work shall be notified in writing by certified United States mail sent to the most recent address provided to the **Director** of Human Resources ~~Coordinator~~ by the employee. The employee shall be given 14 days from the date the certified letter was mailed to respond as to his intentions to return to his previous employment. If no response is received by the end of the 14th day, the hiring process will begin.

Tentatively Agreed on March 25, 2015

Changes in red.

SECTION 15. HEALTH INSURANCE

The City agrees to budget \$9,500 per average employee to provide family health insurance.

An employee who has at least 10 years of service with the City of Hays, and retires from employment with the City, shall be able to remain on the City's Health Insurance Program until he: (a) reaches the age of 65; or (b) fails to pay the monthly premium payments. The retiree may elect to have the same members of his family covered as he did during employment with the City. The retiree's monthly premium will be based on the COBRA rate, which is established prior to each contract year with the assistance of the Plan Administrator. Coverage for the retiree and his family members (if covered under the Plan), will be identical to the coverage experienced by active City employees. When a retired employee reaches the age of 65 and terminates health insurance coverage with the City of Hays, his dependents may continue coverage under COBRA if they are eligible.

City proposes April 22, 2015:

No Change

SEIU proposes March 25, 2015:

The City agrees to budget ~~\$9,500~~ **\$10,500** per average employee to provide family health insurance.

An employee who has at least 10 years of service with the City of Hays, and retires from employment with the City, shall be able to remain on the City's Health Insurance Program until he: (a) reaches the age of 65; or (b) fails to pay the monthly premium payments. The retiree may elect to have the same members of his family covered as he did during employment with the City. The retiree's monthly premium will be based on the COBRA rate, which is established prior to each contract year with the

assistance of the Plan Administrator. Coverage for the retiree and his family members (if covered under the Plan), will be identical to the coverage experienced by active City employees. When a retired employee reaches the age of 65 and terminates health insurance coverage with the City of Hays, his dependents may continue coverage under COBRA if they are eligible.

SECTION 16. PAID-TIME-OFF (PTO) POLICY

In recognition of the varying work schedules of City employees and each employee’s diverse need for time away from work, the City provides a general leave policy of paid- time-off (PTO). PTO shall be accrued by full-time employees to use for vacations, illness, on or off the job injuries, medical/dental appointments, personal business, child care problems, pregnancies, for care of immediate family members, funerals, or for any other valid absence as determined by the employee’s supervisor.

A. PTO Accrual Rate and Process

Employees shall accrue the following amount of PTO on a biweekly basis:

Months of Service	Pay Period Accrual Rate	Max Annual Accrual Hours	Max Annual Amount of Accrual Days
0 – 47	7.4	192.4	24
48 – 107	8	208	26
108 – 167	8.6	223.6	28
168 – 227	9.3	241.8	30
228+	9.9	257.4	32

PTO accrual shall increase to the next level with the beginning of the payroll period in which the employee’s service (the date he started working full time for the City of Hays most recently) date falls, and the employee meets the appropriate years of service in accordance with the above schedule.

B. PTO Accrual During Absence

Employees will no longer accrue PTO after two weeks of absence from the job, or during any time during which Short Term Disability (STD) or Worker’s Compensation is being paid to the employee.

C. Eligibility for PTO

Employees shall accrue PTO hours immediately upon employment, however, an employee may not use these hours until after three full months of employment, or as approved by their Director or his designee.

In the event that an employee must be off the job but is not eligible for or does not have a sufficient amount of PTO time available, he may submit a leave request for leave without pay. The approval or non-approval of such request will be determined by the employee’s Director or his designee.

D. Maximum Accumulation of PTO

Employees shall have a maximum amount of PTO accrual equal to the number of hours they accrue during their anniversary year. Employees who exceed the accrual maximum shall not be credited with further PTO accrual until their accruals are reduced below the maximum accrual level. A waiver of the maximum accumulation rule may be granted under special circumstances with the permission of the City Manager.

E. Computing Scheduled or Unscheduled General Leave

Any absence for a fraction or part of a day shall be charged in increments of not less than one-half ($\frac{1}{2}$) hour.

F. Scheduling of PTO

PTO shall be distinguished between scheduled and unscheduled time off.

1. Scheduled PTO:

- (a) The scheduling of time off shall be at the discretion of the supervisor based upon operational considerations. Every effort will be made to accommodate the employee's requested dates for PTO.
- (b) Scheduled leave should be submitted to the supervisor no later than three (3) days in advance of the requested leave unless otherwise directed by the employee's supervisor. The supervisor shall have the option of denying or rescheduling the leave to another date and/or time based upon operational or business considerations.
- (c) Scheduled PTO must have the prior approval of the employee's supervisor.

2. Unscheduled PTO:

In the event the employee is unable to work due to unforeseen personal illness or injury, or for other unforeseen reasons, the following provisions shall apply:

- (a) If an employee is unable to report to work for any reason, he shall communicate this fact to his supervisor in accordance with his department/division rules and regulations. Such notification shall be made each time a scheduled work shift shall be missed unless authorization has been granted by the supervisor covering a prolonged absence of specified duration. Unless an employee can show good cause, failing to comply with this provision shall be considered an unscheduled absence without pay. Absences not

reported in accordance with these provisions shall be subject to disciplinary action.

- (b) The employee may be required to furnish medical verification or other proof that unscheduled use of PTO was unavoidable to his supervisor.
- (c) The unscheduled use of PTO which is considered to be excessive by the supervisor shall be investigated and the employee may be subject to disciplinary action. Supervisory personnel will document the reasons for initiating an investigation and the conclusion of their investigation.

G. Family Medical Leave.

The City will comply with state and federal law in all respects as pertains to Family and Medical Leave Act.

While on Family and Medical Leave, the City will continue to provide the employee's health care coverage under the same provisions as prior to the leave for up to, but not exceeding 6 months as long as the employee remains employed by the City of Hays. Where the employee fails to return from leave, the City can recover the premium(s) that have been paid on behalf of the employee to maintain health care coverage.

H. Worker's Compensation

The City will comply with state and federal law in all respects as pertains to Worker's Compensation.

At no time shall an employee use PTO and receive Worker's Compensation benefits simultaneously. An employee that is injured on the job and is eligible for Worker's Compensation benefits will not be eligible to collect Short Term Disability benefits.

If the injured employee is on the City's Health Insurance Program at the time of the injury, the City will continue to provide the injured employee's health care coverage under the same provisions as prior to the leave for up to, but not exceeding 6 months as long as the employee remains employed by the City of Hays.

I. Payment for PTO at Separation

Upon separation from employment with the City of Hays, employees who terminate in good standing and give a two-week notice of resignation will be paid for accrued but unused PTO on their final paycheck at their current rate of pay. In the event of death, the employee's heirs shall be entitled to payment for any accrued PTO.

J Short Term Disability Benefit

1. Full-time employees are eligible for and shall be covered by a Short Term Disability Benefit following three full months of employment. After three months of employment, and following two weeks of continuous illness or injury, an employee will be eligible to apply for Short Term Disability leave. The first two weeks of illness or injury leave must be charged to PTO. If the employee has no PTO time available, he may apply for leave from work without pay.
2. The Short Term Disability Benefit shall provide coverage for the period of disability in excess of the first two weeks for a maximum period of 24 weeks.
3. Short Term Disability Benefit payments will total 100% of the employee's base pay and will be considered taxable income to the employee. Maternity leave will be considered a short term disability.
4. Any employee incurring an illness or injury which will prevent the employee's return to work in excess of two weeks shall contact his supervisor to request Short Term Disability leave. The request shall be submitted in writing and shall be accompanied by a signed statement to the City from a duly licensed medical doctor verifying: (1) that the employee is medically unable to perform assigned duties; (2) the medical condition involved; and (3) the anticipated length of the required absence. The City reserves the right to require an employee to submit to an examination by one or more City designated physicians at any time during the duration of the Short Term Disability leave to confirm the disability.
5. While on Short Term Disability, if the employee is on the City's health insurance program at the time of his injury or illness, the City will continue to provide the employee's health care coverage under the same provisions as prior to the leave for up to, but not exceeding 6 months as long as the employee remains employed by the City of Hays.
6. Any employee who makes a false claim for Short Term Disability leave or who misrepresents the reasons for requesting Short Term Disability leave, shall be subject to disciplinary action up to and including dismissal.

City proposes April 22, 2015:

In recognition of the varying work schedules of City employees and each employee's diverse need for time away from work, the City provides a general leave policy of paid- time-off (PTO). PTO shall be accrued by full-time employees to use for vacations, illness, on or off the job injuries, medical/dental appointments, personal business, child care problems, pregnancies, for care of immediate family members, funerals, or for any other valid absence as determined by the employee's supervisor.

A. PTO Accrual Rate and Process

Employees shall accrue the following amount of PTO on a biweekly basis:

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PTO accrual shall increase to the next level with the beginning of the payroll period in which the employee's service (the date he started working full time for the City of Hays most recently) date falls, and the employee meets the appropriate years of service in accordance with the above schedule.

B. PTO Accrual During Absence

Employees will no longer accrue PTO after two weeks of absence from the job, or during any time during which Short Term Disability (STD) or Worker's Compensation is being paid to the employee.

C. Eligibility for PTO

Employees shall accrue PTO hours immediately upon employment, however, an employee may not use these hours until after three full months of employment, or as approved by their Director or his designee.

In the event that an employee must be off the job but is not eligible for or does not have a sufficient amount of PTO time available, he may submit a leave request for leave without pay. The approval or non-approval of such request will be determined by the employee's Director or his designee.

D. Maximum Accumulation of PTO

Employees shall have a maximum amount of PTO accrual equal to the number of hours they accrue during their anniversary year. Employees who exceed the accrual maximum shall not be credited with further PTO accrual until their accruals are reduced below the maximum accrual level. A waiver of the maximum accumulation rule may be granted under special circumstances with the permission of the City Manager.

E. Computing Scheduled or Unscheduled General Leave

Any absence for a fraction or part of a day shall be charged in increments of not less than one-half (½) hour.

F. Scheduling of PTO

PTO shall be distinguished between scheduled and unscheduled time off.

1. Scheduled PTO:

- (a) The scheduling of time off shall be at the discretion of the supervisor based upon operational considerations. Every effort will be made to accommodate the employee's requested dates for PTO.
- (c) Scheduled leave should be submitted to the supervisor no later than three (3) days in advance of the requested leave unless otherwise directed by the employee's supervisor. The supervisor shall have the option of denying or rescheduling the leave to another date and/or time based upon operational or business considerations.
- (c) Scheduled PTO must have the prior approval of the employee's supervisor.

2. Unscheduled PTO:

In the event the employee is unable to work due to unforeseen personal illness or injury, or for other unforeseen reasons, the following provisions shall apply:

- (a) If an employee is unable to report to work for any reason, he shall communicate this fact to his supervisor in accordance with his department/division rules and regulations. Such notification shall be made each time a scheduled work shift shall be missed unless authorization has been granted by the supervisor covering a prolonged absence of specified duration. Unless an employee can show good cause, failing to comply with this provision shall be considered an unscheduled absence without pay. Absences not reported in accordance with these provisions shall be subject to disciplinary action.
- (d) The employee may be required to furnish medical verification or other proof that unscheduled use of PTO was unavoidable to his supervisor.
- (e) The unscheduled use of PTO which is considered to be excessive by the supervisor shall be investigated and the employee may be subject to disciplinary action. Supervisory personnel will document the reasons for initiating an investigation and the conclusion of their investigation.

G. Family Medical Leave.

The City will comply with state and federal law in all respects as pertains to Family and Medical Leave Act.

While on Family and Medical Leave, the City will continue to provide the employee's health care coverage under the same provisions as prior to the leave for up to, but not exceeding 6 months as long as the employee remains employed by the City of Hays. Where the employee fails to return from leave, the City can recover the premium(s) that have been paid on behalf of the employee to maintain health care coverage.

H. Worker's Compensation

The City will comply with state and federal law in all respects as pertains to Worker's Compensation.

At no time shall an employee use PTO and receive Worker's Compensation benefits simultaneously. An employee that is injured on the job and is eligible for Worker's Compensation benefits will not be eligible to collect Short Term Disability benefits.

If the injured employee is on the City's Health Insurance Program at the time of the injury, the City will continue to provide the injured employee's health care coverage under the same provisions as prior to the leave for up to, but not exceeding 6 months as long as the employee remains employed by the City of Hays.

I. Payment for PTO at Separation

Upon separation from employment with the City of Hays, employees who terminate in good standing and give a two-week notice of resignation will be paid for accrued but unused PTO on their final paycheck at their current rate of pay. In the event of death, the employee's heirs shall be entitled to payment for any accrued PTO.

J. Short Term Disability Benefit

1. Full-time employees are eligible for and shall be covered by a Short Term Disability Benefit **the first of the month** following three full months of employment. After **the first of the month following** three months of employment, and following two weeks of continuous illness or injury, an employee will be eligible to apply for Short Term Disability leave. The first two weeks of illness or injury leave must be charged to PTO. If the employee has no PTO time available, he may apply for leave from work without pay.

7. The Short Term Disability Benefit shall provide coverage for the period of disability in excess of the first two weeks for a maximum period of 24 weeks.

8. Short Term Disability Benefit payments will total **400%- 70%** of the employee's base pay and will be considered taxable income to the employee. Maternity leave will be considered a short term disability.
9. Any employee incurring an illness or injury which will prevent the employee's return to work in excess of two weeks shall contact his supervisor to request Short Term Disability leave. The request shall be submitted in writing and shall be accompanied by a signed statement to the City from a duly licensed medical doctor verifying: (1) that the employee is medically unable to perform assigned duties; (2) the medical condition involved; and (3) the anticipated length of the required absence. The City reserves the right to require an employee to submit to an examination by one or more City designated physicians at any time during the duration of the Short Term Disability leave to confirm the disability.
10. While on Short Term Disability, if the employee is on the City's health insurance program at the time of his injury or illness, the City will continue to provide the employee's health care coverage under the same provisions as prior to the leave for up to, but not exceeding 6 months as long as the employee remains employed by the City of Hays.
11. Any employee who makes a false claim for Short Term Disability leave or who misrepresents the reasons for requesting Short Term Disability leave, shall be subject to disciplinary action up to and including dismissal.

SEIU proposes March 25, 2015:
No Change

SECTION 17. REST BREAKS AND LUNCH BREAKS

Rest breaks are a privilege that should be arranged so as not to interfere with City business. One 15-minute break in the morning and one in the afternoon is allowed. Employees shall take their rest break at the work site.

A 20 minute paid lunch break shall be included in the 8-hour workday. Employees will be required to take their lunch and rest breaks at the work site. Employees who are required to work overtime shall receive additional rest and lunch breaks in excess of:

- 2 hours - one additional 15 minute break
- 4 hours - one additional 20 minute lunch break
- 6 hours - one additional 15 minute break

Rest breaks and lunch breaks for employees in the Wastewater Treatment Plant and the Water Treatment Plant shall be determined by the Plant Superintendents and based upon the needs of the Plants.

Tentatively Agreed on March 25, 2015

No change.

SECTION 18. CIVIC LEAVE

- A. Employees who are to report for jury duty are to notify their supervisor as soon as possible. The supervisor is to modify the employee's work schedule as required for the employee to properly serve on jury duty. Time spent on jury duty is counted as leave with pay, and is not to be used to qualify for overtime pay. Such time will not be deducted from the employee's accumulated PTO.
- B. Employees who are required to serve as a witness or advisor to the court as part of their duties of employment with the City are to immediately notify their supervisor. The supervisor shall modify the employee's work schedule as needed for these duties. Time spent as a witness or advisor to the court on behalf of the City shall count as hours worked.
- C. Employees who are required to appear in court or for other legal proceedings not related to their City employment are to use PTO or leave without pay as needed to meet this legal requirement.
- D. Employees who receive fees for jury duty, or for serving as a witness or advisor services related to their duties with the City, are required to turn these payments over to the City.

Tentatively Agreed on March 25, 2015

No change.

SECTION 19. LENGTH OF SERVICE BONUS

Upon termination of employment, the bonus will be paid to the eligible employees calculated in accordance with the FLSA, and based on the salary earned to the date of termination.

The City agrees to pay a bonus to eligible employees based upon the City seniority (length of service) of said employee with the City of Hays. The bonus shall be calculated and paid bi-weekly on any overtime earned by an employee that is eligible for the longevity bonus. At the end of the payroll year, the bonus amount on the base pay for eligible employees for the preceding year will be ascertained. The bonus on the base pay for eligible employees for each payroll year, which will coincide with the time period covered by employees' W-2 Wage and Tax Statement for each fiscal year, will be paid no later than January 15 of the following year. Eligibility for bonuses shall be determined by anniversary dates occurring before January 1st of each contract year.

Upon termination of employment, the bonus on base earnings will be paid to eligible employees, and determined by the salary earned to the date of termination.

Longevity bonuses based on length of service shall be paid on the basis of the following percentages:

After 5 years service, 2%
After 8 years service, 3%
After 10 years service, 4%
After 15 years service, 5%
After 20 years service, 6%
After 25 years service, 7%

Tentatively Agreed on March 25, 2015
No change.

SECTION 20. HOLIDAYS

The following days shall be recognized and observed as paid holidays:

New Year's Day - January 1st
Memorial Day - last Monday in May
Independence Day - July 4th
Labor Day - first Monday in September
Veterans Day - November 11th
Thanksgiving Day - 4th Thursday in November
Friday after Thanksgiving
Christmas - December 25th
Christmas Eve – December 24th

Any day designated by the City Manager on which any other City employees are given a holiday.

Holidays will not be charged against an employee's PTO when they occur during regular scheduled vacation periods.

Determination of holiday for shift personnel shall be based on the actual date of the holiday. For employees who normally work Monday-Friday schedules, holidays falling on a Saturday or Sunday shall be observed either on the Friday before the holiday or the Monday immediately following.

Tentatively Agreed on March 25, 2015
No change.

SECTION 21. HOURS OF WORK

- A. Schedules for shift personnel shall be prepared and posted two weeks prior to the effective date of the schedule. The schedule shall cover days on and days off for the next month. The supervisor may require employees to work hours above and beyond the posted schedule as the needs of the department/division require. Scheduled changes due to PTO requests after the monthly schedule has been posted, shall be made at the discretion of the supervisor.

- B. Shift personnel shall be notified as soon as possible when they are required to work overtime. Except in emergencies, employees shall not be required to work more than 16 hours without an 8 hour break.
- C. Employees assigned to standby status are to be compensated at a rate of one-fourth of the employee's basic hourly rate of pay. Standby pay is to be in affect when the employee is told to be on standby until he is advised that he has been taken off of standby.
- D. Overtime work shall be distributed fairly among the employees covered by this agreement capable of performing the work in their respective departments and classifications.
- E. All weekend and holiday work for shift personnel will be rotated to the extent possible so that all employees share equal numbers on weekends and holidays off.

Tentatively Agreed on April 22, 2015

No change.

SECTION 22. HOLIDAY COMPENSATION AND CALL BACK PAY

An employee whose regularly scheduled work day falls on any City recognized holiday shall receive his regular pay for the scheduled hours of work. This employee shall receive additional holiday compensation at the rate of one and one-half times (1½) his regular rate of pay as holiday compensation for any hours worked on the holiday, not to exceed his regular scheduled hours of work. Any hours worked as overtime, which is time exceeding the regularly scheduled work hours, shall be compensated at the rate of one and one-half (1 ½) times his regular rate of pay. No additional holiday compensation will be paid for these overtime hours.

An employee whose scheduled day off falls on any City recognized holiday shall receive, in addition to his day off, regular pay as holiday compensation equal to the amount of hours the employee would regularly be scheduled for work. Celebrated holiday hours shall be counted as time worked to meet FLSA requirements.

An employee who is required to work his regularly scheduled day off, or is called to work a portion thereof, as overtime on a holiday, shall receive one and one-half (1½) rate of pay for hours worked. An employee called back to duty on a holiday shall receive a minimum of 2 hours pay.

Call back to duty other than holidays shall receive not less than 1 hour of pay at the employee's regular hourly rate of pay unless such time is worked in excess of 40 hours that work week. Employees working "scheduled" overtime shall receive not less than one-half hour's pay. Scheduled overtime includes work activities that are planned and scheduled in advance, but performed at times other than regular work hours. Determination of holidays for shift personnel shall be based on the actual date of the holiday beginning from 00:01 o'clock the day of the holiday.

Tentatively Agreed on March 25, 2015
No change.

SECTION 23. OVERTIME

Overtime will be paid in accordance with the Fair Labor Standards Act (FLSA). Approval to work overtime shall be given by the employee's supervisor. PTO shall be considered as time worked for the purpose of computing overtime.

Tentatively Agreed on March 25, 2015
No change.

SECTION 24. WORK ASSIGNMENT IN HIGHER CLASSIFICATION

During routine operations, when an employee is specifically assigned by the Director of Public Works, Director of Utilities, or Director of Parks to fulfill the duties and responsibilities of a higher job classification for a period of more than fourteen (14) consecutive days, the employee shall be compensated by computing the percentage difference between his current range and the range in which he is serving. The employee's current pay will then be increased by that percentage difference to derive the new rate of pay. The pay increase shall be retroactive after the employee has served more than fourteen (14) consecutive days in the higher classification. This additional compensation shall remain in effect until such time as the additional duties are reassigned to another employee when, the employee will revert back to their original pay.

Tentatively Agreed on March 25, 2015
No change.

SECTION 25. STRIKES AND LOCKOUTS

The Union or any employee shall not engage in a strike, slowdown or other work stoppage, or otherwise engage in prohibited practices as defined and prohibited by Kansas Statute or this agreement. The Union will not encourage, recognize or condone any such activities on the part of City employees. Should City employees engage in strikes, slowdowns, work stoppages, or other prohibited practices, they shall be subject to disciplinary action.

The City will not engage in a lockout or other practice prohibited by Kansas Statute or this agreement.

Tentatively Agreed on March 25, 2015
No change.

SECTION 26. CLOTHING

The City will arrange for uniforms on a fit-to-size basis. All employees provided a uniform will be required to wear said uniform to, from, and during work for the City and while representing the City of Hays. Employees are prohibited from wearing City uniforms after working hours. Coveralls, on a need basis as determined by departmental supervisors, will be provided.

Tentatively Agreed on March 25, 2015
No change.

SECTION 27. PAYROLL DUES DEDUCTION

The City agrees, during the term of this agreement, that it will deduct the local union membership fee once each month from the pay of each employee who authorizes such deduction in writing. Authorization cards signed by the employee shall be furnished to the City by the Union. All sums deducted shall be remitted by the City within 10 days of such deduction to the Service Employees Union Local 513 by check made payable to the Service Employees International Union Local 513.

For the Services provided, the Union agrees to pay to the City, an annual fee of \$25.00 prior to February 1st of each year.

Tentatively Agreed on March 25, 2015
No change.

SECTION 28. SAFETY AND HEALTH

The Employer and the Union agree to cooperate to the fullest extent in the promotion of safety. The Employer has established a Safety Committee comprised of both management and workforce employees to make all reasonable efforts to correct unsafe working conditions. The ~~Director of Human Resource~~ ~~Coordinator~~ and the City's Risk Management Consultant provide directive and guidance for the committee's functions. The employees agree to notify their supervisor and/or departmental committee representatives in writing of any safety hazard of which they are aware.

Tentatively Agreed on March 25, 2015
Changes in red.

SECTION 29. WAGES / ADMINISTRATION OF THE PAY PLAN

For fiscal year 2016 the City will make the following adjustments: the City will provide employees of the SEIU bargaining union with a \$2,050 pay adjustment effective with the first payroll in 2016 and the City will increase the beginning of the present pay grades by \$1,500.

Tentatively Agreed on June 3, 2015
Changes in red.

SECTION 30. TERMINATION

The termination date of this Memorandum of Agreement shall be December 31, 2015. However Section 29 "Wages / Administration of Pay Plan" may be reopened on an annual basis if notice of intention to do so is received in writing by the other party prior to March 1 of each succeeding year.

In preceding year, if health insurance exceeds \$9,500 per average employee, in the following year either party can ask for Section 10 "Health Insurance" to be reopened. Additional items may be reopened, if mutually agreed upon in writing by both parties.

City proposes April 22, 2015:

The termination date of this Memorandum of Agreement shall be December 31, ~~2015~~ 2018. However Section 29 "Wages / Administration of Pay Plan" may be reopened on an annual basis if notice of intention to do so is received in writing by the other party prior to March 1 of each succeeding year.

~~In preceding year, if health insurance exceeds \$9,500 per average employee, in the following year either party can ask for Section 10 "Health Insurance" to be reopened.~~ Additional items may be reopened, if mutually agreed upon in writing by both parties.

SEIU proposes March 25, 2015:

The termination date of this Memorandum of Agreement shall be December 31, ~~2015~~ 2018. However Section 29 "Wages / Administration of Pay Plan" may be reopened on an annual basis if notice of intention to do so is received in writing by the other party prior to March 1 of each succeeding year.

In preceding year, if health insurance exceeds ~~\$9,500~~ \$10,500 per average employee, in the following year either party can ask for Section 10 "Health Insurance" to be reopened. Additional items may be reopened, if mutually agreed upon in writing by both parties.

SECTION 31. SAVINGS CLAUSE

Should any section or portion thereof of this contract be held unlawful and unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific section, or portion thereof, directly specified in the decision, upon the issuance of such a decision. The parties agree to immediately negotiate a substitute, if possible, for the invalidated section or portion thereof.

Tentatively Agreed on March 25, 2015

No change.

IN WITNESS WHEREOF, the City and the Union have hereunto set their hands this _____ day of _____, _____.

FOR THE UNION

FOR THE CITY

Unit Chairman

Mayor

Unit Vice-Chairman

City Manager

Business Representative

Director of Public Works

Director of Parks

Director of Utilities