

Memo

To: City Commission
From: Toby Dougherty, City Manager
Date: 5-13-13
Re: May 16, 2013 Work Session

Please find the attached agenda and supporting documentation for the May 16, 2013 Work Session.

Item 2 – Sale and Use of Fireworks for 2013

Please refer to the attached memorandum regarding the sale and use of fireworks for 2013. At this time, City staff is recommending the Commission suspend the sale and use of fireworks for 2013. If you recall, last year the City Commission authorized the sale and use in May as conditions, while dry, were still conducive to the use of fireworks. Conditions immediately turned extremely hot and dry which led to a public outcry for the banning of fireworks. This led to a last-minute decision to ban the use of fireworks in the city limits which upset many people. To avoid the same for 2013, City staff is recommending the Commission suspend the sale and use of fireworks for 2013. If conditions are later conducive to the sale and use of fireworks, the City Commission could make that decision at its last regular meeting in June. City staff feels vendors will have no problem finding supply if the sale and use is allowed at the last minute.

Items 3 – Bickle-Schmidt Sports Complex Shade Structure

Please refer to the attached memorandum from Parks Director Jeff Boyle.

Items 4 and 5 – Air Service Carrier Recruitment /Airport Terminal Improvements – Hays Regional Airport

Please refer to the attached information from Public Works Director I.D. Creech regarding air service carrier recruitment and terminal improvements at the Hays Regional Airport. The air service carrier recruitment item is informational as I.D. will be updating the Commission on staff's efforts to recruit a different carrier to the Hays Regional Airport. Item 5 deals with several needed terminal improvements at the Hays Regional Airport. City staff has been working with FAA to determine what portions of the improvements would be eligible for grant funding and have finally received an answer. City staff would like to present the terminal improvement plan to the City Commission for consideration and ask for permission to apply for an FAA grant for the project.

Items 6 and 7 – Request for Rezoning (“A-L” to “C-2” and “A-L” to “R-3”) – Proposed Leucke Addition

After consultation with the City Attorney, staff is recommending the Commission deny the request and send the matter back to the Planning Commission for further consideration. Staff feels the proposed rezone does not meet the eight criteria outlined by the Kansas Supreme Court. Staff also feels that leaving the 41st Street frontage of the property as agricultural will cause problems down the road.

Item 8 – Funding of Additional Street Maintenance Project (Mill and Overlay of 13th Street – Vine to Harvest)

Please refer to the attached information from Assistant Public Works Director John Braun regarding the funding of an additional street maintenance project. When the street maintenance program was brought forward to the Commission a few months ago, the Commission asked that City staff prioritize another project for consideration. City staff evaluated all the available options as well as the monies available. At this time, we are recommending a mill and overlay of 13th Street from Vine Street to Harvest.

Item 9 – Sidewalk Repair Assessment Ordinance

Please refer to the attached information from City Clerk Doris Wing. As you recall, City staff caused to be repaired several sidewalks that were deemed to be unsafe. Most of the property owners have since paid the cost to repair these sidewalks; however, there are a few owners that have not paid. Therefore, City staff is recommending the City Commission authorize the assessment of these properties.

Item 10 – Resolution Setting Public Hearing for June 13, 2013 to Consider Special Assessments

This item is self-explanatory regarding the special assessments for two benefit districts.

Item 11 – RHID Policy

Please refer to the attached memorandum from Assistant City Manager Paul Briseno regarding the RHID policy. As you recall, several months ago, the City Commission asked City staff to develop a draft RHID policy for consideration. That policy is included with Paul's memorandum on the matter. The policy is brief and concise and fits in with the overall theme of the City's Economic Development Policy. Paul will have an in-depth presentation of the proposed policy at the work session on Thursday.

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CITY OF HAYS
CITY COMMISSION WORK SESSION
THURSDAY, MAY 16, 2013 – 6:30 P.M.
AGENDA

1. **ITEM FOR REVIEW: [May 2, 2013 Work Session Notes \(PAGE 1\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: [Sale and Use of Fireworks for 2013 \(PAGE 7\)](#)**
PERSONS RESPONSIBLE: City Commission
3. **ITEM FOR REVIEW: [Bickle-Schmidt Sports Complex Shade Structure \(PAGE 13\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Jeff Boyle, Director of Parks
4. **ITEM FOR REVIEW: [Air Service Carrier Recruitment – Hays Regional Airport \(PAGE 17\)](#)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
5. **ITEM FOR REVIEW: [Airport Terminal Improvements – Hays Regional Airport \(PAGE 25\)](#)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
6. **ITEM FOR REVIEW: [Request for Rezoning \(A-L to C-2\) Proposed Leucke Addition \(PAGE 37\)](#)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
7. **ITEM FOR REVIEW: [Request for Rezoning \(A-L to R-3\) Proposed Leucke Addition \(PAGE 57\)](#)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
8. **ITEM FOR REVIEW: [Funding of Additional Street Maintenance Project \(Mill and Overlay of 13th Street – Vine to Harvest\) \(PAGE 77\)](#)**
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
9. **ITEM FOR REVIEW: [Sidewalk Repair Assessment Ordinance \(PAGE 81\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
10. **ITEM FOR REVIEW: [Resolution Setting Public Hearing for June 13, 2013 to Consider Special Assessments \(PAGE 87\)](#)**
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
11. **ITEM FOR REVIEW: [RHID Policy \(PAGE 97\)](#)**
PERSON RESPONSIBLE: Paul Briseno, Assistant City Manager
12. **OTHER ITEMS FOR DISCUSSION**
13. **EXECUTIVE SESSION (IF REQUIRED)**
14. **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
May 2, 2013

Present: Kent Steward, Henry Schwaller IV, Eber Phelps, Shaun Musil, Ron Mellick, John Bird, Toby Dougherty

ITC Progress Report

Kim Goodnight and Christine Schmidt, representing ITC Great Plains, presented a progress report on the KETA project. The 200-mile transmission line that comes through Hays has been energized since December 2012.

Big Creek Levee Report

The Hays levee system was constructed in 1952-1953 and is approximately 2.5 miles long and includes all embankments, structures, and interior drainage systems. The levee system extends from approximately 650 feet north of 12th Street, south and east 1.9 miles to U.S. Highway 183 Bypass along Big Creek. The levee was constructed with the intention that upgrades would be completed in the future for known deficiencies. No upgrades have been made to date. Wilson & Co. was contracted in 2012 to complete an inspection of the levee system.

Doug Danaher and Matt Long, engineers with Wilson & Co., presented the findings of the levee inspection. The report lists a summary of 20 recommendations for actions related to repair and/or upgrades to the levee system. The cost of these recommended actions has not yet been calculated.

City Manager Toby Dougherty stated that staff will be combining this information with the Stormwater Master Plan information and prioritize a plan of action. With interest rates being as low as they are, staff may be recommending some very aggressive projects in the near future in order to take advantage of the low interest rates.

Elimination of Various School Zones

Certain school zones exist in locations that no longer have active schools. Those locations include the area around the former Kennedy Middle School at 14th and Fort and High Plains Baptist Church at 27th and Canterbury. To eliminate the school zones, it is necessary to pass an ordinance amending Section 62-109.

The Commissioners will be requested to approve the amended ordinance at the May 9, 2013 Commission meeting.

Airport Snow Blower Acquisition

The 2013 budget includes funds for the purchase of a snow blower for the Hays Regional Airport. The snow blower is eligible for FAA Airport Improvement Program funding, which covers 90% of eligible costs. FAA requires actual bids prior to awarding a grant to cover the costs. Bids were received on April 24th, and the total cost of the snow blower including administration and acquisition is \$89,891, with the City's share being \$9,080. The City's Airport Engineer, Burns & McDonnell, has prepared a grant application to be submitted to FAA to fund 90% of the cost of the snow blower. Staff requested authorization to apply for federal assistance in paying for the snow blower and acceptance of the bid from Kodiak America contingent on FAA grant funding.

The Commissioners will be requested to consider taking action on this matter at the May 9, 2013 Commission meeting.

Request for Rezoning (A-L to C-2) Proposed Leucke Addition

The owners of the property located along and south of 41st St. east of Home Depot (Proposed Leucke Addition) have submitted a request to rezone a portion of the property from A-L (Agriculture District) to C-2 (General Commercial and Service District). The property is currently outside of the city limits but the developer intends to annex the property into the city. The Planning Commission recommends approval of the rezoning request.

Commissioner Schwaller expressed concern about some existing agricultural buildings being mixed in with commercial development as well as residential housing so close to the interstate (see next agenda item).

City Manager Toby Dougherty stated that staff voiced similar concerns to the Planning Commission. It is staff's opinion that the property be developed as one contiguous parcel rather than in a piecemeal fashion. This would allow staff to review the development in total and provide input.

Further discussion on this issue will be held at the May 16, 2013 work session.

Request for Rezoning (A-L to R-3) Proposed Leucke Addition

The owners of the property located along and south of 41st St. east of Home Depot (Proposed Leucke Addition) have submitted a request to rezone a portion of the property from A-L (Agriculture District) to R-3 (Two-Family Dwelling District). The intention is to provide for a residential zoned area as well as commercial zoned area (see agenda item preceding this). The property is currently outside of the city limits but the developer does intend to annex the property into the city. The Planning Commission recommends approval of the rezoning request.

Further discussion on this issue will be held at the May 16, 2013 work session.

Lining of Metal Storm Sewer Award of Bid

Funds in the amount of \$180,000 are budgeted in 2013 for lining of metal storm sewers. This is the third year the City is aggressively rehabbing metal storm sewer pipe.

The Commissioners will be requested to formally approve a bid in the amount of \$175,735.50 from Utility Solutions, LLC for 1459 linear feet of existing corrugated metal storm sewer pipe at the May 9, 2013 Commission meeting.

ADD-ON ITEM

On September 20, 2012, the City of Hays issued \$13,000,000 of its Kansas Health Care Facility Revenue Bonds, Series 2012-A (St. John's Inc.) for the construction of the new St. John's care center located on Canterbury (now known as Via Christi Village Hays, Inc.) Via Christi Villages is a subsidiary of Via Christi Health, Inc. which since its formation in the mid 1990's has been co-sponsored by the Sisters of the Sorrowful Mother, Broken Arrow, OK, through its health care sponsorship entity known as 'Marion Health' and the Sisters of St. Joseph of Wichita, Wichita, KS through its health care sponsorship entity known as 'Ascension Health'.

Effective this April, Via Christi's sole member and owner has been changed to Ascension Health through the Sisters of St. Joseph sponsorship. Marion Health is no longer an owner/sponsor. Ascension Health has elected to retire and defease all outstanding indebtedness of Via Christi. Accordingly, Via Christi is exercising its option to purchase back St. John's under the Industrial Revenue Bond Lease and is requesting the City to hold a TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) public hearing to consider whether Ascension may use proceeds from its Wisconsin Health and Educational Facility Revenue Bonds to pay off all debt on St. John's.

Under the Internal Revenue Code, when tax-exempt bond proceeds are used in conjunction with a facility, the local government must approve that use. If approved at the public hearing, the City of Hays bonds will be defeased with Wisconsin bond proceeds and all monies necessary to pay the bondholders will be escrowed until the first available bond redemption date.

Finance Director Kim Rupp requested that the Commissioners, at the May 9, 2013 meeting, set the date for a public hearing to be held during the June 13, 2013 Commission meeting.

Other Items for Discussion

Utilities Director Bernie Kitten reported that the painting of two of the clarifiers at the Water Plant is almost complete and the 3rd clarifier at the Wastewater Plant will be painted in June.

The work session adjourned at 8:51 p.m.

Submitted by: _____

Doris Wing – City Clerk

Commission Work Session Agenda

Memo

From: Toby Dougherty, City Manager

Work Session: May 16, 2013

Subject: Sale and Use of Fireworks for 2013

Person(s) Responsible: Toby Dougherty, City Manager

Summary

According to Chapter 32 of the City of Hays Municipal Code, the City Commission will make a final determination as to whether or not to suspend the sale and use of fireworks at its final regular meeting in May. City staff recommends suspending the sale and use of fireworks for 2013. Staff feels fireworks could be allowed at the last minute if conditions are favorable. Doing it this way would cause fewer problems than last year.

Background

In August of 2012, the City Commission amended Chapter 32 of the Code of Ordinances dealing with the sale and use of fireworks. At this time, the sale and use of fireworks is limited to the 2nd, 3rd and 4th of July with the use being between the hours of 10:00 a.m. and 11:00 p.m. each day. The ordinance also gives the Commission the ability to suspend the sale and use of fireworks within the city limits if the weather conditions so require. One provision of the ordinance states that the City Commission will make a preliminary determination as to whether or not to suspend the sale and use of fireworks at its final regular meeting in May.

Discussion

The City of Hays is in the midst of a prolonged drought, though the year-to-date precipitation is normal, and the recent rains welcome. Last year the Commission allowed the sale and use of fireworks as conditions in mid-May were not too severe. Shortly after the sale and use was allowed, the weather turned extremely hot and it stopped raining. The severe conditions led to a last-minute decision to ban fireworks. This upset a lot of residents who expected to shoot off fireworks, as well as the vendors who purchased fireworks.

In an effort to avoid a repeat of last year, staff is recommending the Commission suspend the use and sale of fireworks for 2013. If the commission wanted to make a last minute

decision to allow at the last meeting in June it could still do so. The Police and Fire Chief sat in on a webinar hosted by the Kansas League of Municipalities specifically purposed to discuss fireworks. There were a lot of cities in the same situation as Hays last year, forced to ban the use at the last minute. Because of this, the League is recommending that those cities who are concerned about hot and dry condition on the 4th ban the use now. According the League, if a city chose to allow the sale and use immediately prior to the 4th, the vendors would have no problem obtaining supply.

Legal Consideration

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

Options

Option 1: Suspend the sale and use of fireworks within the city limits for 2013.

Option 2: Allow the sale and use of fireworks within the city limits for 2013.

Recommendation

Staff recommends suspending the sale and use of fireworks in the city limits for 2013.

Action Requested

Suspend the sale and use of fireworks in the city limits for 2013.

Supporting Documentation

Ordinance Approved August 2012 – Sec 32-76, City of Hays Code of Ordinances

Memo from Fire Chief Gary Brown and Police Chief Don Scheibler.

MEMO

To: All Members

From: Don Scheibler, Police Chief
Gary Brown, Fire Chief

Date: May 10, 2013

Re: FIREWORKS RECOMMENDATION 2013
Reference: City Code Section 32-76. Fireworks Sales

Because of the forecast of continuing drought, we recommend that the City Commission not permit the sale and use of consumer fireworks during the Independence Day holiday this year.

In making this recommendation, we suggest that it will be more effective and fair if the fireworks dealers and users be put on notice now. It will be more difficult for everyone involved if the decision to suspend the sale and use of consumer fireworks is made later because the drought conditions continue.

This recommendation is consistent with information presented in a recent League of Kansas Municipalities webinar regarding fireworks regulations. This recommendation may be reconsidered if the city experiences adequate rainfall over the next several weeks. We suggest that citizens will still be able to purchase fireworks if the City Commission changes this decision at a later time.

ORDINANCE NO. 3851

AN ORDINANCE AMENDING CHAPTER 32 OF THE CITY OF HAYS, KANSAS, MUNICIPAL CODE, BY MODIFYING ARTICLE II, DIVISION 3, SECTION 32-76, REGARDING FIREWORKS SALES.

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

Section 1. Chapter 32, Article II, Division 3, Section 32-76 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 32

FIRE PROTECTION AND PREVENTION

ARTICLE II. FIRE CODES AND STANDARDS

DIVISION 3. HAZARDOUS MATERIALS

Sec. 32-76. FIREWORKS SALES.

(a) The sale and use of common fireworks within the city limits will be permitted, as to type of fireworks, as provided by the laws of the state. The City Commission may suspend the sale and use of common fireworks within the city limits in any given year and will determine whether to suspend the sale and use of fireworks in a particular year at its final regular meeting in May of that year. If the sale and use of common fireworks within the city limits is permitted by the City Commission in a particular year, it shall be limited to sale on July 2, 3 and 4 only. Consumer use of fireworks within the city limits will be limited to July 2, 3 and 4, between the hours of 10:00 a.m. and 11:00 p.m. on each of those days. The intent of the city commission is to coordinate the use of fireworks with Ellis County for uniform enforcement. The City Commission reserves its right to suspend the sale and use of common fireworks within the city limits at any time, if weather conditions so require.

(b) In years when the sale and use of common fireworks within the city limits is permitted, at least one sign, two-foot by three-foot in size, on a contrasting background shall be posted at each entrance to a fireworks stand or sales area that shall read as follows:

THE HAYS CITY CODE ALLOWS FIREWORKS TO BE
DISCHARGED ONLY ON JULY 2, 3 AND 4 BETWEEN
THE HOURS OF 10:00 A.M. AND 11:00 P.M.
PERSONS USING FIREWORKS ARE RESPONSIBLE
FOR CLEANING UP ALL DEBRIS.

THOSE FOUND IN VIOLATION OF THE HAYS CITY CODE
MAY BE FINED UP TO \$500.00 AND 30 DAYS IN JAIL.

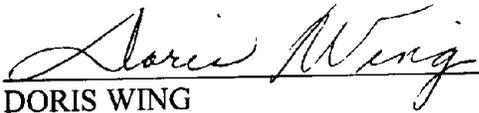
Section 2. The ordinance shall take effect and be in force from and after its passage and publication in the Hays Daily News, the official city newspaper.

PASSED by the Commission on August 23, 2012.



KENT STEWARD
Vice Mayor

ATTEST:



DORIS WING
City Clerk

(SEAL)



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Commission Work Session Agenda

Memo

From: Jeff Boyle, Director of Parks

Work Session: May 16, 2013

Subject: Bickle-Schmidt Sports Complex Shade Structure

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

Summary

The Bickle-Schmidt Sports Complex is in need of a shade structure for the southwest four-plex. The recommended shade structure was not part of the original construction project but has become one of the most requested items for the Bickle-Schmidt Sports Complex. An amount of \$26,900.00 is budgeted in the 2013 Bickle-Schmidt Sports Complex budget for this purpose. The low bid received meets all specification requirements as outlined in the Request for Bid. Approval of this structure will provide the same shade for visitors at the southwest four-plex that is available to visitors at the northeast four-plex and at the soccer concession area. The recommendation from City Staff is to approve the purchase of a 24'x50 shade structure from Athco in Lenexa, Ks for an amount of \$15,644.00 which is \$11,256.00 under budget. Funding for this project is budgeted in the Bickle-Schmidt Sports Complex Budget.

Background

The City of Hays sent out a Request for Bids for a 24'x50' shade structure for the southwest four-plex at the Bickle-Schmidt Sports Complex. This shade structure will match the existing shade structures that are located in the northeast four-plex and the one by the soccer concession building. The initial construction of the Bickle-Schmidt Sports Complex did not include a shade structure for the southwest four-plex.

Discussion

City Staff reviewed the needs of a shade structure for the southwest four-plex at the Bickle-Schmidt Sport Complex that was not part of the original construction project. Once the need was identified a Request for Bids was prepared with the following results:

Athco	\$15,644.00
Efficient Amenities	\$16,660.00
Sterling West	\$18,819.00

ABCreative	\$20,853.00
Recreation Resource	\$21,982.00
Shade Systems	\$22,853.00
Riggs Recreation	No Bid

The shade structure that the low bidder provided meets all specifications outlined in the Request for Bids and is \$11,256.00 below the 2013 budget amount of \$26,900.00.

Legal Consideration

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

Financial Consideration

An amount of \$26,900.00 is budgeted in the 2013 Bickle-Schmidt Sports Complex budget for the purchase of a shade structure for the southwest four-plex at the Bickle-Schmidt Sports Complex. The low bidder is Athco for an amount of \$15,644.00. This amount is \$11,256.00 below the 2013 budgeted amount.

Options

This agenda item will be presented at the May 16, 2013 City Commission meeting for action. The City Commission has the following options:

Option 1: Deny staff's recommendation to purchase a shade structure for the southwest four-plex at the Bickle-Schmidt Sports Complex.

Option 2: Approve staff's recommendation to purchase the shade structure for an amount of \$15,644.00 which is \$11,256.00 below budget.

Option 3: Direct staff to explore other options.

Recommendation

City Staff recommends approval to proceed with the purchase of a 24'x50' shade structure for the southwest four-plex at the Bickle Schmidt Sports Complex from Athco for an amount of \$15,644.00. This amount is \$11,256.00 under budget.

Action Requested

Approve the purchase of a 24'x50' shade structure for the southwest four-plex at the Bickle-Schmidt Sports Complex from Athco for the amount of \$15,644.00. Funding for this project is budgeted in the Bickle-Schmidt Sports Complex Budget.

Supporting Documentation

- Picture of existing shade structures



Commission Work Session Agenda

Memo

From: ID Creech, Director Public Works

Work Session: May 16, 2013

Subject: Air Service Carrier Recruitment

Person(s) Toby Dougherty, City Manager

Responsible: ID Creech, Director Public Works

Summary

Staff has been working to recruit a different carrier to provide passenger service at the Hays Regional Airport. The current carrier is not as reliable or responsive as is required for successful passenger service. This is an informational report on these efforts.

Background

The Hays Regional Airport receives passenger service through the Essential Air Service Program (EAS). This program is administered by the Department of Transportation. The DOT solicits proposals and chooses the carriers. Cities have very little direct input. Since 2007, the level of service provided by the current carrier, Great Lakes Airlines, has declined. Reliability is a constant issue and customer service is lacking. Options are limited when it comes to airlines willing to participate in the EAS program. City Staff has investigated the matter and initiated discussion with other carriers. Other EAS cities have tried this approach with some successes. Most notably is Garden City which recently switched to American Eagle to provide service to Dallas.

Discussion

Preparation for 2014 bid for Essential Air Service

Essential Air Service (EAS) is a U.S. government program enacted to guarantee that small communities in the United States, which, prior to deregulation, were served by certificated airlines, maintained commercial service. Currently, we are served by Great Lakes Airlines using a Beechcraft 1900D nineteen (19) passenger turboprop airplane. The subsidy is \$2,164,041 and expires on April 30, 2014.

There are two (2) factors that are very important to consider with the EAS program:

- 10,000 boardings
- Economic stability

The 10,000 boardings qualify the Airport for a \$1,000,000 allocation each year – otherwise, the Airport would receive \$150,000 for improvement projects.

To assist our efforts to provide the best quality air service possible, the Airport has commissioned and received a catchment study identifying who and where people fly in an area within a two (2) hour drive of the Hays Regional Airport. We used that study to prepared proposals to solicit bids for EAS to American Airlines and SkyWest Airlines at the Western Air Conference in April of this year. Specific data was prepared to show that the Hays region could – and would – support higher levels of commercial air service under certain conditions. The proposals were prepared using comparisons to Manhattan, Joplin and Garden City where our numbers are very similar prior to their receipt of regional jet service. We will continue to provide information to these airlines during the coming months on boardings, economic events and airport improvements as additional support for our recruitment of bid.

Staff has also researched the agreements from the above cities to assist our strategy development for recruiting commercial air service bids on the EAS program. In Manhattan, a subsidy type guarantee was acquired from the State of Kansas via the Economic Development Incentive Fund (EDIF) administered by the Kansas Department of Commerce.¹ Garden City used assistance from the Fair Fares Program administered by the REAP organization based in Wichita.² Each of these programs requires local capital infusion as well. EDIF is matter for the legislature. Fair Fares is an application to the administrating organization.

The discussion of economic stability is less apparent and more difficult to quantify. The State of Kansas Department of Transportation's most recent analysis posted \$24.6 million for Hays Regional Airport impact on our area. The only hard numbers one can derive from the information provided are the direct input portion. The other information relies on a belief in the assessment system used in economic models. Either way, the Airport is important to our business community.

A requirement of the FAA for commercial jet service to our airport would be an environmental study. Contact with two (2) engineering firms for preliminary estimates place the cost of such assessment at \$50,000 and usually requires approximately six (6) months to complete the field work, write the report and acquire approval from the FAA.

Legal Consideration

Because this is an informational item, only, there are no legal issues to consider at this time.

Financial Consideration

While the amount will not be known until the bidding period, it is anticipated that a subsidy will be required in order to initiate jet service from the Hays Regional Airport. Estimates for an environmental study are \$50,000 and would be financed from the Airport Reserve Fund.

Options

No action is being requested at this time.

Recommendation

No action is being requested at this time.

Action Requested

None.

Supporting Documentation

¹ **Statute 74-50,151: Kansas economic opportunity initiatives fund (KEOIF); authorized uses; approval of expenditures; guidelines; review of proposed projects; estimates of receipts to state economic development initiatives fund; transfers to fund of amounts sufficient to fund budgeted transfers and expenditures therefrom; transfer of interest earnings; review panel, report.**(a) There is hereby created in the state treasury the Kansas economic opportunity initiatives fund. Subject to acts of the legislature applicable thereto, the moneys in the Kansas economic opportunity initiatives fund shall be used only for the purposes prescribed by this section.

(b) All expenditures made pursuant to this act shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the governor or the governor's designee. The governor may approve a warrant upon certification, by the secretary of commerce, that an economic emergency or unique opportunity exists which warrant funding for a strategic economic intervention by such state agency or agencies to address expenses involved in securing economic benefits or avoiding or remedying economic losses related to:

- (1) A major expansion of an existing Kansas commercial enterprise;
- (2) the potential location in Kansas of the operations of a major employer;
- (3) the award of a significant federal or private sector grant which has a financial matching requirement;
- (4) the departure from Kansas or the substantial reduction of the operations of a major employer; and
- (5) the closure or the substantial reduction of a major federal or state institution or facility.

(c) An intervention strategy may include financial assistance in the form of grants, loans or both. The department of commerce shall adopt written guidelines concerning the terms and conditions of any such loans. However, all repaid funds shall be credited to the Kansas economic opportunity initiatives fund. No intervention strategy approved pursuant to this act shall facilitate the moving of an existing Kansas firm to another location within the state unless such restriction is waived by the secretary of commerce. Every intervention strategy approved pursuant to this act shall identify the intended outcomes to be realized by the strategy for which funding is sought.

(d) The department of commerce and Kansas, Inc. shall make joint findings concerning the costs and benefits, on both a local and statewide basis, of projects proposed pursuant to this act. Prior to allocation of any funds pursuant to this act, the governor shall review the cost-benefit findings performed on each project.

(e) The director of the budget and the director of the legislative research department shall consult periodically and review the balance credited to and the estimated receipts to be credited to the state economic development initiatives fund during the fiscal year. During any period when the legislature is not in session, upon a finding by the director of the budget in consultation with the director of the legislative research department that the total of the unencumbered balance and estimated receipts to be credited to the state economic development initiatives fund during a fiscal year are insufficient to fund the budgeted expenditures and transfers from the state economic development initiatives fund for the fiscal year in accordance with the provisions of appropriation acts, the director of the budget shall make a certification of such finding to the governor. Upon approval by the governor, the director of accounts and reports shall transfer the amount of moneys from the Kansas economic opportunity initiatives fund to the state economic development initiatives fund that is required, in accordance with a certification by the director of the budget under this subsection, to fund the budgeted expenditures and transfers from the state economic development initiatives fund for the fiscal year in accordance with the provisions of appropriation acts, as specified by the director of the budget pursuant to such certification.

(f) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the state economic development initiatives fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas economic opportunity initiatives fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(g) A five member panel consisting of the secretary of commerce, the president of Kansas, Inc., the president of the Kansas technology enterprise corporation, the private sector chairperson of the board of Kansas, Inc., and the private sector chairperson of the Kansas technology enterprise corporation shall review annually the propriety of projects

funded under this section. The panel shall report its findings in writing to the governor, the new economy committee of the house of representatives, the senate commerce committee and the joint committee on economic development. The report to the new economy committee of the house of representatives, the commerce committee of the senate and the joint committee on economic development under this subsection shall be made either (1) by the panel by publishing such report on the internet and by notifying each member of the committees that the report is available and providing, as part of such notice, the uniform resource locator (URL) at which such report is available, or (2) by submitting copies of such report on CD-ROM or other electronically readable media to such committees.

History: L. 1994, ch. 258, § 1; L. 1996, ch. 205, § 9; L. 1998, ch. 149, § 1; L. 2000, ch. 157, § 7; L. 2002, ch. 151, § 5; L. 2003, ch. 154, § 57; July 1.

2

74-50,150. State affordable airfare fund; purpose and administration; duties of secretary of commerce; reports to legislature; study by legislative budget committee. (a) There is hereby established in the state treasury the \$5,000,000 state affordable airfare fund, which shall be known and referred to as the state affordable airfare fund and which shall be administered by the secretary of commerce. In accordance with the provisions of appropriation acts, moneys shall be transferred to the state affordable airfare fund from the state general fund or one or more special revenue funds in the state treasury as specified by appropriation acts. All expenditures from the state affordable airfare fund shall be for the program to provide more air flight options, more competition for air travel and affordable air fares for Kansas, including a regional airport in western Kansas. All expenditures from the state affordable airfare fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or the designee of the secretary.

The moneys credited to the state affordable airfare fund shall (b) be disbursed as an annual grant by the secretary of commerce to the regional economic area partnership (REAP) and shall be used for the development and implementation of a program to provide more air flight options, more competition for air travel and affordable air fares for Kansas, including a regional airport in western Kansas. Each annual grant shall be matched by moneys received by the regional economic area partnership (REAP) from local units of government or private entities on the basis of 75% from the state affordable airfare fund to 25% from local units of government or private entities.

Annually, beginning by January 15, 2008, at the beginning of (c) each regular session of the legislature thereafter, the regional economic area partnership (REAP) shall evaluate and present a report on the effectiveness of this program to the house of representatives committee on appropriations and the senate committee on ways and means. Commencing with the regular session in 2008, the regional economic area partnership (REAP) shall prepare and submit a report on the expenditures of the state annual grant and local matching moneys under the program and the results obtained for such expenditures to the legislature at the beginning of each regular session.

During the interim between regular sessions of the (d) legislature, commencing with the 2006 legislative interim period, the legislative budget committee shall study and review the activities of the regional economic area partnership (REAP) under the program to provide more air flight options, more competition for air travel and affordable air fares for Kansas, including a regional airport in western Kansas.

History: L. 2006, ch. 138, § 1; July 1.

**Five - Year Capital Improvement
Program (CIP)**

Airport Name: Hays Regional Airport Telephone No. 785-628-7350

Date Prepared: February 8, 2013

Project Description	Funding Source	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Terminal Building Rehab: Construction	Federal	\$ 1,000,000.00				
	State					
	Local	\$ 500,000.00				
	Total	\$ 1,500,000.00	\$ -	\$ -	\$ -	\$ -
Runway 4-22 Rehabilitation	Federal	\$ 471,803.00	\$ -			
	State	\$ -				
	Local	\$ 52,423.00	\$ -			
	Total	\$ 524,226.00	\$ -	\$ -	\$ -	\$ -
Apron Rehab-Drainage Improvements	Federal	\$ -	\$ 336,130.00			
	State					
	Local	\$ -	\$ 37,347.00			
	Total	\$ -	\$ 373,477.00	\$ -	\$ -	\$ -
New Fueling System	Federal	\$ -	\$ 534,394.00	\$ -		
	State					
	Local	\$ -	\$ 59,377.00	\$ -		
	Total	\$ -	\$ 593,771.00	\$ -	\$ -	\$ -
Wildlife & Fencing Improvements	Federal		\$ -	\$ 990,000.00	\$ -	
	State					
	Local		\$ -	\$ 110,000.00	\$ -	
	Total	\$ -	\$ -	\$ 1,100,000.00	\$ -	\$ -
Reconstruct Taxiway I	Federal				\$ 411,487.00	\$ -
	State					
	Local				\$ 45,720.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 457,207.00	\$ -
Parking Lot Improvements	Federal				\$ 90,000.00	\$ -
	State				\$ -	\$ -
	Local				\$ 10,000.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 100,000.00	\$ -
Acquire New Loader	Federal				\$ 135,000.00	\$ -
	State					
	Local				\$ 15,000.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 150,000.00	\$ -
Reconstruct Taxiway M: (From M2 - R/W 34): Design Only	Federal				\$ 222,833.00	\$ -
	State					
	Local				\$ 24,759.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 247,592.00	\$ -
Reconstruct Taxiway M: (From M2 - R/W 34): Construction & Construction Services	Federal				\$ -	\$ 3,063,956.00
	State				\$ -	\$ -
	Local				\$ -	\$ 340,440.00
	Total	\$ -	\$ -	\$ -	\$ -	\$ 3,404,396.00
	Federal				\$ -	\$ -
	State				\$ -	\$ -
	Local				\$ -	\$ -
	Total	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	Federal	\$ 1,471,803.00	\$ 870,524.00	\$ 990,000.00	\$ 859,320.00	\$ 3,063,956.00
	State	\$ -	\$ -	\$ -	\$ -	\$ -
	Local	\$ 552,423.00	\$ 96,724.00	\$ 110,000.00	\$ 95,479.00	\$ 340,440.00
	Total	\$ 2,024,226.00	\$ 967,248.00	\$ 1,100,000.00	\$ 954,799.00	\$ 3,404,396.00

**Long Range Needs Assessment
FFY 2019 - FFY 2023**

Airport Name: Hays Regional Airport

Telephone No. 785-628-7350

Date Prepared: February 8, 2013

Project Description	Funding Source	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Parallel Taxiway for Runway 4-22 (Design Only)	Federal	\$ 240,389.00	\$ -		\$ -	
	State					
	Local	\$ 26,710.00	\$ -		\$ -	
	Total	\$ 267,099.00	\$ -	\$ -	\$ -	\$ -
Parallel Taxiway for Runway 4-22 (Construction & C-Services)	Federal	\$ -	\$ 3,275,303.00	\$ -		\$ -
	State					
	Local	\$ -	\$ 363,923.00	\$ -		\$ -
	Total	\$ -	\$ 3,639,226.00	\$ -	\$ -	\$ -
Extend Runway 16-34	Federal	\$ -	\$ -	\$ 1,080,000.00	\$ -	
	State					
	Local	\$ -	\$ -	\$ 120,000.00	\$ -	
	Total	\$ -	\$ -	\$ 1,200,000.00	\$ -	\$ -
Apron Expansion	Federal		\$ -	\$ -	\$ 425,844.00	\$ -
	State					\$ -
	Local		\$ -	\$ -	\$ 47,160.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 473,004.00	\$ -
	Federal				\$ -	\$ -
	State					
	Local				\$ -	\$ -
	Total	\$ -	\$ -	\$ -	\$ -	\$ -
	Federal					\$ -
	State					
	Local					\$ -
	Total	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	Federal	\$ 240,389.00	\$ 3,275,303.00	\$ 1,080,000.00	\$ 425,844.00	\$ -
	State	\$ -	\$ -	\$ -	\$ -	\$ -
	Local	\$ 26,710.00	\$ 363,923.00	\$ 120,000.00	\$ 47,160.00	\$ -
	Total	\$ 267,099.00	\$ 3,639,226.00	\$ 1,200,000.00	\$ 473,004.00	\$ -

Commission Work Session Agenda

Memo

From: ID Creech, Director Public Works

Work Session: May 16, 2013

Subject: Airport Terminal Improvements

Person(s) Toby Dougherty, City Manager

Responsible: ID Creech, Director Public Works

Summary

Staff will seek an adopted motion to authorize City Manager to submit an application for federal assistance for the engineering of Airport Terminal Improvements for the Hays Regional Airport. A larger secured passenger area and rest room installations would address changes in service since the inception of passenger screening. Office space construction, rest room remodel and upgrade in older systems would provide opportunity for business location at the Airport.

Background

The existing terminal building was constructed in 1991 and requires multiple updates to be compliant with current code requirements. Improvements will include modernization of the existing heating/air conditioning (HVAC) system, utility closet and incorporating Americans with Disabilities Act (ADA) requirements to existing lavatory facilities. Many of these improvements will also result in less energy consumption and lower utility and maintenance costs.

In addition, it has been frequently observed that there is a significant loss of public use space during circumstances caused by airline delays or similar situations. During these occurrences, all of the passengers located in the Transportation Safety Administration's (TSA) dedicated sterile area are required to return to the public gathering area. This situation creates overcrowding and in some instances results in violation of the occupancy requirement. It is proposed to expand the terminal building to eliminate this ongoing and unscheduled event. Improvements will include additional enclosed public use space and applicable modernizations to comply with the local code requirements.

Discussion

The Airport receives allocations from the Federal Aviation Administration (FAA) based on the number of commercial boardings reported from the airport for improvement projects. It is important to understand that this is an allocation and not a competitive grant – the Airport will received authorization for either \$150,000 or \$1,000,000 each year based on each year’s boardings. To support the Airport, we need to support commercial boardings.

Should the Airport actively seek a commercial air service provider using aircraft with seating capacity over nineteen (19), the secured passenger area would not hold the flight capacity. Staged security clearance and boardings would have to be incorporated or a larger portion of the current lobby area would have to become part of the secure area.

The Airport was contacted in 2012 by an FAA service area seeking a location for their office and base operations at our Airport. Other events involving both EAS and other funding contractions also brought inquiry from TSA concerning more space for passenger screening and office area. Using these as starting point, Staff reviewed the current terminal building for upgrade/improvement potential including larger security area; rest room facilities; office space; baggage area; and, building maintenance items. A note is made that the current facility has the same HVAC; plumbing; and, roofing systems installed at initial construction in 1991. The maintenance cost for these major components is beginning to mount.

Rest room facilities in the Terminal building are limited and once a passenger enters the secured area, no facilities are available until the aircraft disembarks in Denver. An upgrade to existing facilities to the latest Americans with Disability Act guidelines and construction of additional facilities in the secure area are considered very important to future airport use.

The numbers of leaks in the roofing system are beginning to mount and the heating and air conditioning units are adaptations of the initial installation of 1991. Major expenses are projected for 2014 and 2015 to provide much needed maintenance to these systems.

Our review with FAA Regional engineers finds that parts of a major remodel and update project are eligible for the 90/10 funding match for the allocation money earned by boardings. Areas that are not eligible would require full local funding. Staff will recommend that those areas be fully recoverable from rental fees assessed to occupants of the space. A diagram of the current proposal is included for review.

Space allocations with corresponding preliminary cost estimates and eligibility are identified below:

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HAYS REGIONAL AIRPORT TERMINAL REMODEL/EXPANSION

	<i>Total Costs</i>	<i>FAA Eligible</i>	<i>ProRated Eligible</i>	<i>Local Obligation</i>
Expand/Remodel Passenger Screening	122,325	122,325		
Expand/Remodel Passenger Hold Area	226,800	226,800		
Toilet Rooms in Hold Area	39,375	39,375		
Lobby/Waiting Area	95,235	95,235		
Lobby/Waiting Area Remodel Toilet Rooms - ADAAG Compliance	63,000	63,000		
Replace HVAC Units	46,686		16,761	29,925
Replace Interior Lighting	106,968		38,403	68,565
Replace Roof System	137,601		49,401	88,200
Acquisition New Emergency Generator	90,486		32,486	58,000
Construct FAA Offices	242,550			242,550
Relocated Airport Administrative Office	5,985			5,985
	\$1,177,011	\$546,735	\$137,051	\$493,225

FAA Eligible	546,735	ProRated Eligible	137,051
FAA 90%	492,062	FAA 90%	123,346
Hays 10%	54,674	Hays 10%	13,705
		Local Obligation	493,225
		FAA 0%	
		Hays 100%	493,225

CONSTRUCTION

FAA	615,407
Hays	561,604
	<hr/>
	\$1,177,011

DESIGN

FAA	130,714
Hays	119,286
	<hr/>
	\$250,000

Legal Consideration

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

Financial Consideration

Preliminary estimates for the engineering are estimated by FAA at \$250,000 with the construction percentage eligibility applied. Thus, the City's portion of design is estimated at \$119,286 to be financed from the Airport Reserve Fund.

Should the project move forward, more accurate estimates would be made in the engineering phase. The percentages will be applied to the estimates for further bidding or application and then, again for any contract that might result. The portion allocated for the FAA offices would be financed in total by an "in-hand" lease agreement of sufficient amount to make debt service payments under whatever conditions would exist at the time of financing.

Assumptive in this discussion is the award of allotted funds from the FAA for qualified projects under the Airport Improvement Program.

Options

Options include the following:

1. Consider authorizing staff to submit an application for federal assistance for the engineering of Airport Terminal Improvements for the Hays Regional Airport.
2. Provide alternate direction to City Staff.
3. Do nothing.

Recommendation

Staff recommends motion authorizing the City Manager to submit an application for federal assistance for the engineering of Airport Terminal Improvements for the Hays Regional Airport.

Action Requested

Adopt motion to authorize City Manager to submit an application for federal assistance for the engineering of Airport Terminal Improvements for the Hays Regional Airport.

Supporting Documentation

Airport Capital Improvement Program
Terminal Concept Drawing

**Five - Year Capital Improvement
Program (CIP)**

Airport Name: Hays Regional Airport Telephone No. 785-628-7350

Date Prepared: February 8, 2013

Project Description	Funding Source	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Terminal Building Rehab: Construction	Federal	\$ 1,000,000.00				
	State					
	Local	\$ 500,000.00				
	Total	\$ 1,500,000.00	\$ -	\$ -	\$ -	\$ -
Runway 4-22 Rehabilitation	Federal	\$ 471,803.00	\$ -			
	State	\$ -				
	Local	\$ 52,423.00	\$ -			
	Total	\$ 524,226.00	\$ -	\$ -	\$ -	\$ -
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	State					
	Local	\$ -	\$ 37,347.00			
	Total	\$ -	\$ 373,477.00	\$ -	\$ -	\$ -
New Fueling System	Federal	\$ -	\$ 534,394.00	\$ -		
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	Local	\$ -	\$ 59,377.00	\$ -		
	Total	\$ -	\$ 593,771.00	\$ -	\$ -	\$ -
Wildlife & Fencing Improvements	Federal		\$ -	\$ 990,000.00	\$ -	
	State					
	Local		\$ -	\$ 110,000.00	\$ -	
	Total	\$ -	\$ -	\$ 1,100,000.00	\$ -	\$ -
Reconstruct Taxiway I	Federal				\$ 411,487.00	\$ -
	State					
	Local				\$ 45,720.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 457,207.00	\$ -
Parking Lot Improvements	Federal				\$ 90,000.00	\$ -
	State				\$ -	\$ -
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Acquire New Loader	Federal				\$ 135,000.00	\$ -
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	Local				\$ 15,000.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 150,000.00	\$ -
Reconstruct Taxiway M: (From M2 - R/W 34): Design Only	Federal				\$ 222,833.00	\$ -
	State					
	Local				\$ 24,759.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 247,592.00	\$ -
Reconstruct Taxiway M: (From M2 - R/W 34): Construction & Construction Services	Federal				\$ -	\$ 3,063,956.00
	State				\$ -	\$ -
	Local				\$ -	\$ 340,440.00
	Total	\$ -	\$ -	\$ -	\$ -	\$ 3,404,396.00
	Federal				\$ -	\$ -
	State				\$ -	\$ -
	Local				\$ -	\$ -
	Total	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	Federal	\$ 1,471,803.00	\$ 870,524.00	\$ 990,000.00	\$ 859,320.00	\$ 3,063,956.00
	State	\$ -	\$ -	\$ -	\$ -	\$ -
	Local	\$ 552,423.00	\$ 96,724.00	\$ 110,000.00	\$ 95,479.00	\$ 340,440.00
	Total	\$ 2,024,226.00	\$ 967,248.00	\$ 1,100,000.00	\$ 954,799.00	\$ 3,404,396.00

**Long Range Needs Assessment
FFY 2019 - FFY 2023**

Airport Name: Hays Regional Airport

Telephone No. 785-628-7350

Date Prepared: February 8, 2013

Project Description	Funding Source	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Parallel Taxiway for Runway 4-22 (Design Only)	Federal	\$ 240,389.00	\$ -		\$ -	
	State					
	Local	\$ 26,710.00	\$ -		\$ -	
	Total	\$ 267,099.00	\$ -	\$ -	\$ -	\$ -
Parallel Taxiway for Runway 4-22 (Construction & C-Services)	Federal	\$ -	\$ 3,275,303.00	\$ -		\$ -
	State					
	Local	\$ -	\$ 363,923.00	\$ -		\$ -
	Total	\$ -	\$ 3,639,226.00	\$ -	\$ -	\$ -
Extend Runway 16-34	Federal	\$ -	\$ -	\$ 1,080,000.00	\$ -	
	State					
	Local	\$ -	\$ -	\$ 120,000.00	\$ -	
	Total	\$ -	\$ -	\$ 1,200,000.00	\$ -	\$ -
Apron Expansion	Federal		\$ -	\$ -	\$ 425,844.00	\$ -
	State					\$ -
	Local		\$ -	\$ -	\$ 47,160.00	\$ -
	Total	\$ -	\$ -	\$ -	\$ 473,004.00	\$ -
	Federal				\$ -	\$ -
	State					
	Local				\$ -	\$ -
	Total	\$ -	\$ -	\$ -	\$ -	\$ -
	Federal					\$ -
	State					
	Local					\$ -
	Total	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	Federal	\$ 240,389.00	\$ 3,275,303.00	\$ 1,080,000.00	\$ 425,844.00	\$ -
	State	\$ -	\$ -	\$ -	\$ -	\$ -
	Local	\$ 26,710.00	\$ 363,923.00	\$ 120,000.00	\$ 47,160.00	\$ -
	Total	\$ 267,099.00	\$ 3,639,226.00	\$ 1,200,000.00	\$ 473,004.00	\$ -

ACIP DATA SHEET

AIRPORT	Hays Regional Airport	LOCID	HYS	LOCAL PRIORITY	1A
PROJECT DESCRIPTION	Terminal Building Rehab.: Construction			Identify FFY that you desire to construct (FFY: Oct 1 – Sept 30)	2014

SKETCH:



JUSTIFICATION:

The existing terminal building was constructed in 1991 and requires multiple updates to be compliant with current code requirements. Improvements will include modernization of the existing HVAC system, utility closet and incorporating ADA requirements to existing lavatory facilities. Many of these improvements will also result in less energy consumption and lower utility and maintenance costs.

In addition, it has been frequently observed that there is a significant loss of public use space during events caused by airline delays or similar situations. During these events all of the passengers located in the TSA's dedicated sterile area are required to return to the public gathering area. This situation creates overcrowding and in some instances results in violation of the occupancy requirement. It is proposed to expand the terminal building to eliminate this ongoing and unscheduled event. Improvements will include additional enclosed public use space and applicable modernizations to comply with the local code requirements.

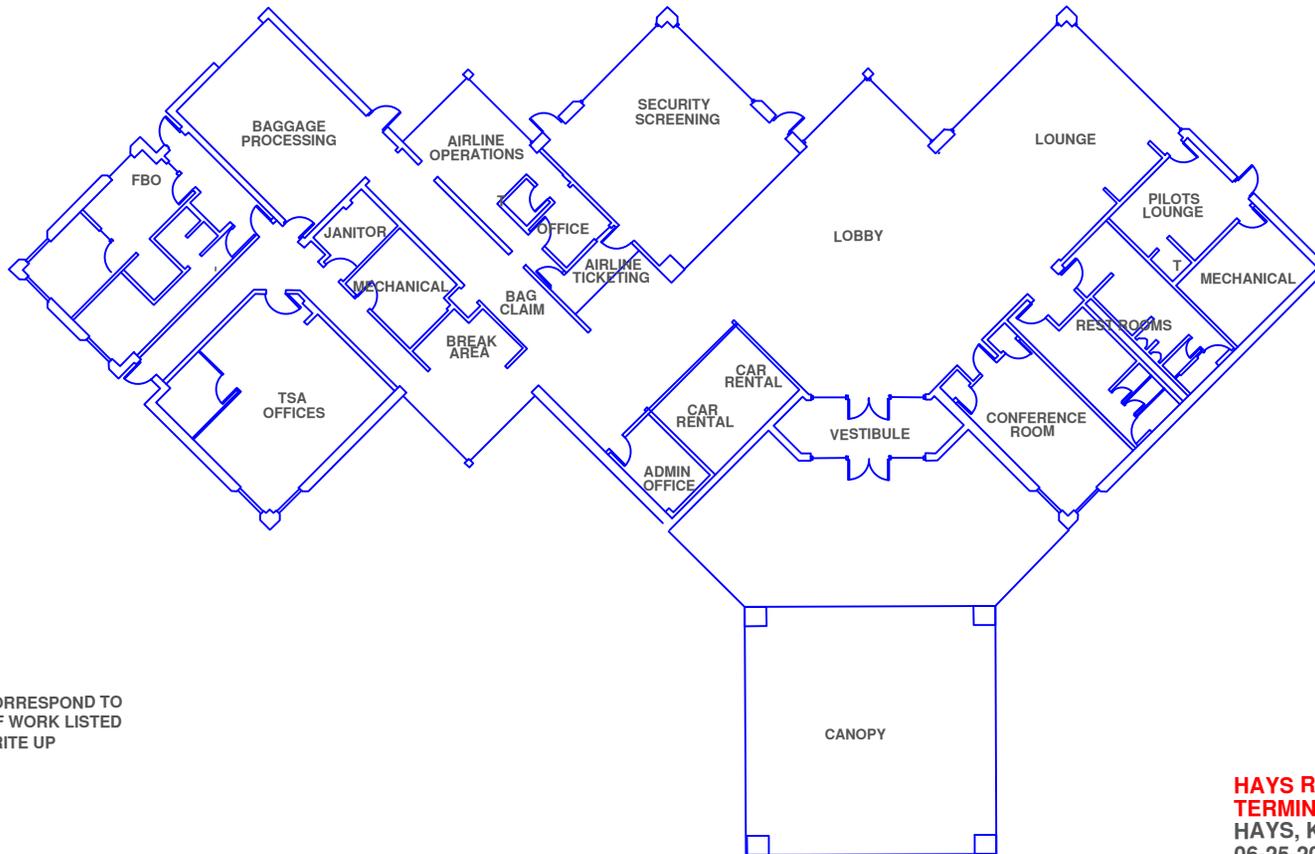
COST ESTIMATE: ()					
Federal	(90%)	\$ 1,000,000.	State	()%	\$ 0.00
Local	(10%)	\$ 500,000.	Total		\$ 1,500,000.

SPONSOR'S VERIFICATION:	Date	(See instruction sheet)
For each and every project as applicable	06-14-10	Date of approved ALP with project shown.
		Date of environmental determination (ROD, FONSI, CE) or cite CE paragraph # (307-312) in Order 1050.1E
		Date of land acquisition or signed purchase agreement
FAA USE ONLY		Date of pavement maintenance program
FAA Verification: (initial/date)		Snow removal equipment inventory & sizing worksheet (for SRE acquisition)
		Apron sizing worksheet (for apron projects)
		Revenue producing facilities (for fuel farms, hangars, etc.)
		Date statement submitted for completed airside development
		Date statement submitted for runway approaches are clear of obstructions

SPONSOR' SIGNATURE: _____	Date: _____
PRINTED NAME: I.D. Creech	Title: Public Works Director/Airport Manager
PHONE NUMBER: 785-628-7350	

FAA USE ONLY

PREAPP NUMBER	GRANT NUMBER	NPIAS CODE	WORK CODE	FAA PRIORITY	FEDERAL \$

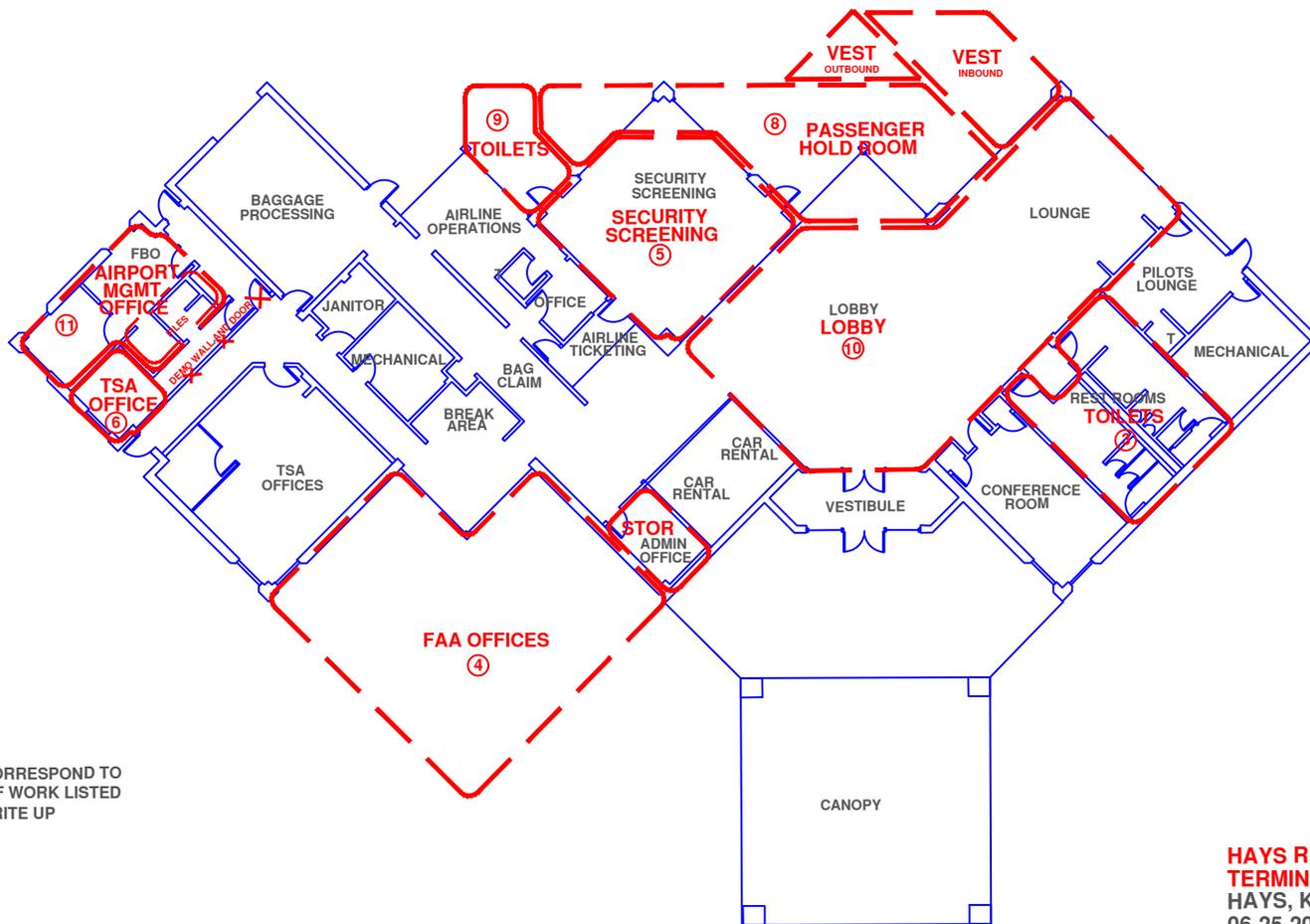


LEGEND

1 NUMBERS CORRESPOND TO
TO SCOPE OF WORK LISTED
LISTED IN WRITE UP

**HAYS REGIONAL AIRPORT
TERMINAL RENOVATION
HAYS, KANSAS
06-25-2012**

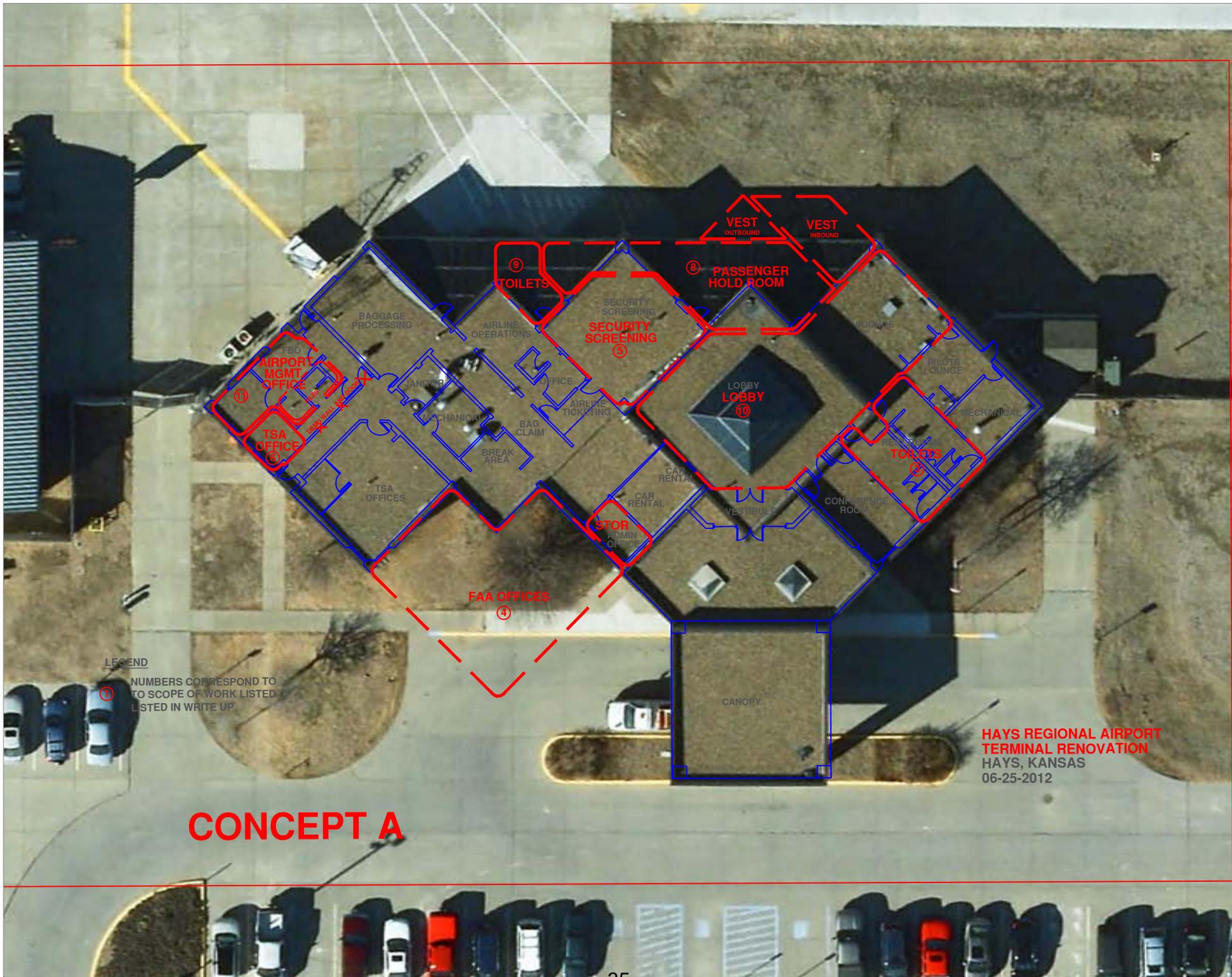
CONCEPT A



LEGEND
 ① NUMBERS CORRESPOND TO SCOPE OF WORK LISTED IN WRITE UP

**HAYS REGIONAL AIRPORT
 TERMINAL RENOVATION
 HAYS, KANSAS
 06-25-2012**

CONCEPT A

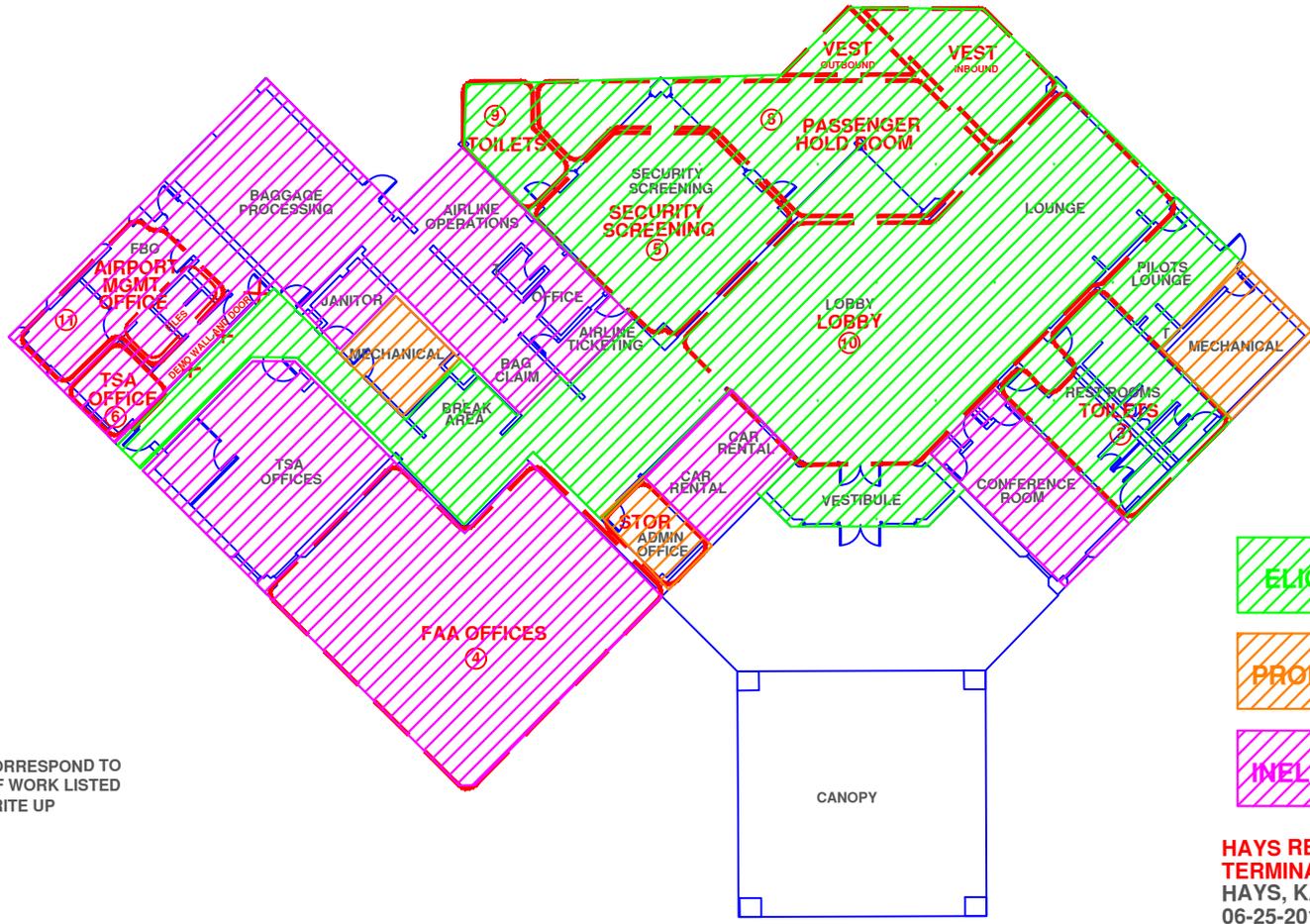


LEGEND

① NUMBERS CORRESPOND TO SCOPE OF WORK LISTED IN WRITE UP

CONCEPT A

**HAYS REGIONAL AIRPORT
TERMINAL RENOVATION
HAYS, KANSAS
06-25-2012**



LEGEND
 ① NUMBERS CORRESPOND TO TO SCOPE OF WORK LISTED IN WRITE UP

ELIGIBLE

PRORATED

INELIGIBLE

**HAYS REGIONAL AIRPORT
 TERMINAL RENOVATION
 HAYS, KANSAS
 06-25-2012**

CONCEPT A

Commission Work Session Agenda

Memo

From: Jesse Rohr, PIE Superintendent

Work Session: May 16, 2013

Subject: Request for Rezoning (A-L to C-2)
Proposed Leucke Addition

Person(s) Toby Dougherty, City Manager
Responsible: I.D. Creech, Director of Public Works

Summary

The owners of the property located along and south of 41st St. east of Home Depot (Proposed Leucke Addition) have submitted a request to rezone a portion of the property from A-L (Agriculture District) to C-2 (General Commercial and Service District) A public hearing was conducted on April 15, 2013 at the regular meeting of the Planning Commission., and by vote of 7-0, a recommendation was made by the Planning Commission to the City Commission to approve the rezoning as requested. HOWEVER, staff recommends sending this item back to the Planning Commission as allowed per State Statute on the basis that not all 8 factors set forth by the Kansas Supreme Court were properly considered, including the character of the neighborhood and the zoning and uses of nearby properties. The contributing factor in this recommendation is the failure of the developer to rezone the remaining Agriculture tract into a more suitable and compatible use with that of the requested rezoning.

Background

The owner/developer of the proposed Leucke Addition has started the platting process, as well as the rezoning process for the property located along and south of 41st St. east of Home Depot. The intention is to provide for a commercial zoned area as well as a residential zoned area. The residential zoning request has been requested under a separate agenda item. The property is also currently outside of the City limits but the developer does intend to annex the property into the City.

Discussion

The owners of the property located along and south of 41st St. east of Home Depot (Proposed Leucke Addition) have submitted a request to rezone a portion of the property from A-L (Agriculture District) to C-2 (General Commercial and Service District). (See attached map) Zoning of adjacent properties is primarily commercial and agricultural districts. A public hearing was conducted on April 15, 2013 at the regular meeting of the Planning Commission. All property owners within 1000' of the subject property were notified of the public hearing.

Two nearby property owners were present and made comments regarding the rezoning. They were concerned about the type of commercial uses that may be developed and were opposed to such uses as storage units. Draft minutes are attached.

The Planning Commission voted in favor of the request by a vote of 7-0 based on the consideration it meets the character of the neighborhood and the zoning of surrounding properties, both of which are factors required to be considered in any rezoning case per *Golden V. City of Overland Park, 1978*.

Legal Consideration

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

Financial Consideration

None identified at this time.

Options

Options include the following:

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

Recommendation

By a vote of 7-0, the Planning Commission recommends approving this rezoning request from A-L (Agriculture) to C-2 (General Commercial and Service District) as was submitted. HOWEVER, staff recommends sending this item back to the Planning Commission as allowed per State Statute on the basis that not all 8 factors set forth by the Kansas Supreme Court were properly considered, including the character of the neighborhood and the zoning and uses of nearby properties. The contributing factor in this recommendation is the failure of the developer to rezone the remaining Agriculture tract into a more suitable and compatible use with that of the requested rezoning.

Action Requested

Return the rezoning request back to the Planning Commission for additional consideration of all 8 factors required by the Kansas Supreme Court, including the character of the neighborhood and the zoning and uses of nearby properties and how they relate to the remaining Agricultural zoned property.

Supporting Documentation

Map(s)
Planning Commission Findings of Fact
Planning Commission Draft Minutes
Ordinance

PLANNING COMMISSION FINDINGS OF FACT

1. CASE NO.: **13-01Z** FILING FEE PAID: **\$200.00**
 2. DATE FILED: **03-11-2013**
 3. DATE ADVERTISED FOR HEARING: **03-22-2013 and 03-24-2013**
 4. PUBLIC HEARING DATE: **04-15-2013**
 5. APPLICANT'S NAME: **Luecke Properties LLC**
 6. LOCATION OF PROPERTY: **East 41st Street East of Sherman**
 7. DESCRIPTION OF PROPERTY: **Tract proposed to be lot for commercial use in the process to be platted on a tract of land in the NW/4 of Section 27-T13S-R18W, Ellis County, Kansas**
 8. PRESENT USE OF PROPERTY: **Private Hobby Buildings**
 9. PRESENT ZONING: **"A-L"** REQUESTED ZONING: **"C-2"**
-

1. CHARACTER OF THE NEIGHBORHOOD:
DIRECTION

NORTH: **Single Family Residence**

SOUTH: **Agricultural**

EAST: **City Park**

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

NORTH: **"A-L"**

SOUTH: **"A-L"**

EAST: **"A-L"**

WEST: **"C-2"**

3. CONSIDERATION OF THE RECOMMENDATIONS OF PERMANENT PROFESSIONAL STAFF:

Area is identified as Urban Reserve in the current adopted Comprehensive Plan; although with commercial land use directly to the west, the property would be well suited for commercial development.

 - A. DEDICATION OR RESERVATION NEEDED FOR:
 1. DRAINAGE: **Provided**
 2. STREETS: **Not Yet platted**
 3. UTILITY EASEMENTS:
 - a. ELECTRICITY: **Not yet platted**
 - b. GAS: **Not yet platted**
 - c. SEWERS: **Not yet platted**
 - d. WATER: **Not yet platted**
 4. SHOULD PLATTING BE REQUIRED: **Not Yet platted**
 - B. TRAFFIC CONDITIONS:
 1. CLASSIFICATION OF STREET ON WHICH PROPERTY FRONTS: **Arterial/Commercial**
 2. RIGHT-OF-WAY WIDTH: **100'**
 3. SIGHT DISTANCE: **OK**
 4. TURNING MOVEMENTS: **OK**
 5. COMMENTS ON TRAFFIC: **Local/Commercial**
4. THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED: **The property is suited for Agricultural ground, however with being located adjacent to an arterial street, this is an area of projected/anticipated commercial growth.**
5. THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: **Removal of the agricultural designation should not have a negative affect on the most nearby properties.**
6. THE LENGTH OF TIME THE SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED: **With the exception of agricultural uses, the property has been in it's current state since the adoption of 3-mile zoning regulations – 30 plus years.**
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: **Neighboring property values should tend to increase as development takes place and infrastructure is extended. The impact of the rezoning, if approved, should not be destructive to neighboring property and should actually enhance the surrounding area.**

8. THE CONFORMANCE OF THE REQUESTED CHANGE TO THE ADOPTED OR RECOGNIZED MASTER PLAN BEING UTILIZED BY THE CITY: **The property in question has been identified on the adopted Comprehensive Plan as Urban Reserve making it fitting for development once infrastructure is extended to the area.**

The request for the commercial zoning as presented does fit the overall scheme of the adopted Comprehensive Plan.

**DRAFT MINUTES
HAYS AREA PLANNING COMMISSION
CITY HALL IN COMMISSION CHAMBERS
APRIL 15, 2013
MINUTES
6:30 P.M.**

1. CALL TO ORDER: The Hays Area Planning Commission met in regular session Monday, April 15, 2013 at 6:30 p.m. in Commission Chambers at City Hall. Chairman Larry Gould declared that a quorum was present and called the meeting to order.

Present: Larry Gould Lou Caplan Jim Fouts Pam Rein
Paul Phillips Tom Denning Jake Glover Emery Jennings

Absent: Terry Claycamp

City Staff: John Braun, Assistant Director of Public Works, Jesse Rohr, Superintendent of Planning, Inspection and Enforcement, Nick Willis, Stormwater Superintendent and Administrative Secretary Linda K. Bixenman.

2. MINUTES: There were no additions or corrections to the minutes from the March 18, 2013 meeting that were approved by consensus.

3. CITIZEN COMMENTS: - None.

4. CITY/COUNTY COMMISSION ACTION & PLANNING & DEVELOPMENT ISSUE UPDATES: There were no updates from the City Commission meetings.

5. REZONING CASE # 13-01 - PUBLIC HEARING FOR A REQUEST OF CHANGE OF ZONING CLASSIFICATION FROM "A-L" AGRICULTURE TO "C-2" GENERAL COMMERCIAL & SERVICE DISTRICT ON A TRACT OF LAND IN THE NW/4 OF S27-T13S-R18W OF THE 6TH P.M. - LOCATION IS EAST 41ST ST EAST OF SHERMAN AVE (2.186 ACRES): Jesse Rohr presented the property location of the property requested to be rezoned as listed above on the overhead visual. He explained the first case was a rezoning request for "C-2" General Commercial and Service District and the second case would be a request for rezoning the southern part of property to "R-3" Two-Family Dwelling District.

Jesse Rohr explained that the L-shaped hatched area on the copy of the publication notice reflected the area to be rezoned consisting of 2.186 acres.

Chairman Larry Gould explained that because of the Open Meetings Act by Kansas Law, the first part of the hearing would be the public hearing on this request. After the public hearing, it will be closed for the commission members to discuss the issues relative to this request to make a substantive motion for a recommendation to the City Commission.

Emery Jennings recused himself from the public hearing since he was the representative of the applicant.

Emery Jennings, agent for the owner Luecke Family Trust, presented the application to request the change of zoning as listed above. He used an easel to display the L-shaped property for the rezoning request.

Paul Phillips asked if he was reserving a portion of the property to remain as agriculture. John Braun answered that the adjoining area would remain agriculture where he has his hobby buildings.

Larry Gould asked if there was anyone in the audience opposed to the request.

Leroy L Herrman, nearby property owner, came before the commission stating the importance to keep the land commercial to continue to attract nice commercial development as it has like Home Depot, I-hop and the motels. He was against any change of zoning for residential land use. He was fearful that would prevent nice commercial developments to continue to occur.

Mr. Herrman explained that per the history of commercial development in that area; they struggled a long time to get sewer and water to have everything the way they want to have it. Lewis Chrysler and Goodwill were two of the original commercial properties that were developed in that area. They sure do not want a housing project to move in there.

Darrell Unrein, business owner of 635 E 41st, came before the commission emphasizing the importance to keep the land commercial to attract nice clean commercial development like what is already in that area.

He was opposed to the residential rezoning request because he did not believe residents would want to see commercial businesses next door and he voiced concern people coming and going could increase the inherit risk for theft. He voiced concern that if it is not developed in a similar manner, there would be a decline in market value of properties in that area and it would kill the development that is there now.

He explained the history of how things developed around his property. He expressed gratitude of his location because he has good exposure to his business property. With the good things, there has also been the inherit risk of theft. He has to keep everything locked up.

Larry Gould explained to the audience that this respective case was the request to change from Agriculture to "C-2" General and Commercial and Service District; the next case would be the request for the "R-3" Two-Family Dwelling District. He explained that the commission had to consider all the uses and exceptions for the

"C-2" zoning classification. He pointed out that the potential land uses for agriculture are less restrictive.

Bill Luecke, representing his family that own the property, came before the board to ask his good neighbor Darrell Unrein how a commercial endeavor would impact the nearby businesses in a negative way.

Darrell Unrein stated that all the traffic in that area is business traffic. He asked that the land stay the same type of commercial land uses as is there now to continue to attract more similar commercial businesses as is there now.

Tom Denning noted the L shape of the subject property; he asked about access and width of the long strip and number of acres. Bill Luecke and Jesse Rohr answered that the long strip from east to west is 135 feet wide; there is a 60 foot street right of way to access at 41st Street.

Jim Fouts asked where the infrastructure stops from the west. Jesse Rohr answered that it stops on the west edge of Home Depot.

Jake Glover asked what designation of land use was identified for this area in the comprehensive plan. He also asked city staff if they had any concerns regarding how the new development would impact the new Vineyard Park. Jesse Rohr answered that the park would not be impacted in a negative way. Parks are to be used by people. The area is designated as 'Urban Reserve' in the Comprehensive Plan; it is reserved for development once the infrastructure is in place to sustain the development. Urban reserve includes a whole variety of mixed land uses of commercial and residential.

Larry Gould asked for staff findings of fact.

Jesse Rohr presented the staff findings of fact. The way the land lays with 41st Street (Arterial Street) for access to the north, Interstate 70 near the south border and the City Vineyard Park on the east border with commercial properties nearby lend itself to a commercial zoning classification.

Larry Gould closed the public hearing.

There was a motion by Jim Fouts with a second by Lou Caplan to concur with staff findings of fact.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

Recused: Emery Jennings Conflict of Interest

Larry Gould reopened the public hearing as a courtesy to those in the audience that had further comments.

Darrell Unrein acknowledged that Mr. Luecke is a good neighbor. He suggested to Mr. Luecke to make his prime area of land work for him without him having to do any work. There has been interest for properties in that area for commercial developments. There are good real estate agents in town that could match up a buyer without him ever having to put up a sign. He asked him to keep it a nice clean attractive area. With the type of development as being proposed, it would put Mr. Luecke's hobby items of pride and joy at risk of theft.

Jake Glover asked if there was a limit how small of an area could qualify for rezoning. Jesse Rohr answered that there are no state or city regulations that dictate the size of property requested to be rezoned.

Larry Gould closed the public hearing and asked for a substantial motion.

There was a motion by Jake Glover with a second by Lou Caplan to recommend to the City Commission to approve the request of the change of zoning classification from "A-L" Agriculture to "C-2" General Commercial and Service District on a tract of land in the NW/4 of S27-T13S-R18W (See Legal) 2.186 acres based on the consideration it meets the character of the neighborhood and the zoning of surrounding properties and the recommendation of Professional Staff.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

Recused: Emery Jennings Conflict of Interest

Jesse Rohr explained to the audience that this was a recommendation that will go before the City Commission for formal action if anyone would like to attend the City Commission meeting for that agenda item.

6. REZONING CASE # 13-02 - PUBLIC HEARING FOR A REQUEST OF CHANGE OF ZONING CLASSIFICATION FROM "A-L" AGRICULTURE TO "R-3" TWO-FAMILY DWELLING DISTRICT ON A TRACT OF LAND IN THE NW/4 OF S27-T13S-R18W OF THE 6TH P.M. - LOCATION IS EAST 41ST STREET EAST OF SHERMAN AVE (11.767 ACRES):

Jesse Rohr presented the property location and proposed plat of the property requested to be rezoned as listed above on the overhead visual. He explained that the hatched area on the copy of the publication notice reflected the area to be rezoned consisting of 11.767 acres.

Chairman Larry Gould explained that because of the Open Meetings Act by Kansas Law, the first part of the hearing would be the public hearing on this request. After the public hearing, it will be closed for the commission members to discuss the issues relative to this request to make a substantive motion for a recommendation to the City Commission.

Emery Jennings recused himself from the public hearing since he was the agent for the applicant.

Emery Jennings, agent for the owner Luecke Family Trust, presented the application to request the change of zoning as listed above. He displayed the proposed residential development on an easel.

Larry Gould asked if there were any comments from the Planning Commission.

Tom Denning asked about the entrance/exit reflected on east side. Emery Jennings answered that it would be an alley.

Larry Gould asked if there was anyone in opposition to the rezoning.

Darrell Unrein, business owner of 635 E 41st, came before the commission to state that he was against any change of zoning to residential land use. He also emphasized the importance to leave the land to attract nice clean commercial development so it can continue the same type of commercial development already in that area. He continued to say that his comments from the first case are the same for this case all the way. There is a better spot for residential; not this spot.

He asked everyone to rethink the land use for this property so it would remain attractive to bring more businesses to Hays similar to the ones already there.

He commented that the pedestrian traffic in the city park is people and their pets out to litter.

Larry Gould asked if there was anyone in favor of the rezoning. There was no response.

Larry Gould asked for Staff Findings of Fact.

Jesse Rohr presented the staff findings of fact. He stated that over the last three months, staff had looked at different proposals from this request that calls for opening up residential where there has never been residential. There were many staff meetings as well as meeting with City Management. Upon review of the comprehensive plan, and adjacent properties, staff recommends this property would be fitting to be rezoned to "R-3" Two-Family Dwelling District.

Jesse Rohr explained that they understand those property owners voicing their concern; it is a unique piece of land. The proposed development plans for homes or duplexes in the \$160,000.00 range.

Larry Gould asked for any comments to staff findings of fact.

Darrell Unrein came before the board to ask the commission to put their heads together and come out and see other nearby property owners before they make this recommendation. He has seen where it takes a petition before it is understood what is not wanted.

More importantly what would help Mr. Luecke would be for the City to concentrate on extending the infrastructure from the edge of Home Depot east to connect to Commerce Parkway to Interstate 70 so trucks making deliveries coming from the east would not crowd up the interstate exits to Highway 183/Vine and keep the bottleneck from occurring at the stop lights. He asked the Planning Commission "To make it Happen".

He emphasized the importance of keeping development for the clean commercial developments like the ones already there; developments that are good for Hays. They would like the property values to be maintained for what they worked hard to get.

He expressed to Mr. Luecke that he could find a buyer for a nice commercial development good for Hays. Having it residential would mean people being able to walk around and thru the business area and around his hobby building increasing the risk for theft.

He did not think residents would want to wake up to commercial businesses around them.

Jesse Rohr explained that there are screening requirements between residential and commercial properties. Because the commercial development is already there, it will be up to the residential developer to provide the screening required at time of development.

Pam Rein explained that notification was sent to nearby properties within 1,000 feet of the subject property. Darrell Unrein stated that in the future for them to knock on doors to get a census.

Larry Gould clarified as per the Kansas Open Meetings Act that the Planning Commission did not come up with this request. They cannot get together to discuss this request made by a citizen; they can listen and discuss it at a public hearing only. The Planning Commission represents the citizens of the City of Hays to balance their interest and make a recommendation to the City Commission.

Paul Phillips asked if fire protection has been considered for that area. Jesse Rohr answered that the Fire Chief did include a memo in the agenda packet of fire protection; the response time will be seven minutes.

He also asked about the proposed lot sizes, if they were comparable to the lots near the Fort Hays State University. Jesse Rohr answered that the proposed lots would be larger.

There was a motion by Pam Rein with a second by Lou Caplan to concur with staff findings of fact.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

Recused: Emery Jennings Conflict of Interest

Larry Gould explained that the next motion was a substantive motion. He closed the public hearing.

Jim Fouts commented that in most cases he can envision if the area is suited for the requested change of zoning; if it will work or not work. He stated that all he can envision is an isolated patch of houses with the city park to the east, commercial properties to the west and I-70 to the south. It is difficult for him to envision especially with all the commercial development up to that area.

He pointed out what about the possibility of a truck thoroughfare as from I-70/Commerce Parkway along 41st Street of how that would affect the growth of this area.

Paul Phillips pointed out that if there was a residential development to the east, it would be easier to envision this development; it could go residential or commercial to the east.

Pam Rein noted that there are residential developments behind commercial properties along Vine Street. The new comprehensive plan calls for mixed uses.

Lou Caplan stated that he did not believe a box store would develop that far east. He noted that there are residential behind commercial businesses all over town. He stated that there is a shortage of affordable housing; the problem is the location.

Larry Gould reopened the public hearing as a courtesy to those in the audience that had further comments.

Darrell Unrein came before the board pleading not to ruin the frontage. He asked what would they rather look at storage buildings or something similar to the beautiful Best Western that was formerly a location of storage units. Let us quit stacking and cluttering and do what is best for the citizens of Hays, Kansas. This is just not a good spot for residential. He emphasized to keep 41st Street clean on both sides for more commercial businesses or you will kill further nice commercial development such as restaurants and motels. The off ramp to the east brings in a tremendous amount of business.

He noted that he has been approached by potential commercial businesses of an interest in his property and that same potential is there for Mr. Luecke. He pointed out the motels combined have a total of 300 rooms and only two restaurants to accommodate them on that side of 41st Street. It is dangerous to cross Highway 183 to go to the restaurants to the west.

Leroy Herrman came before the board stating that he has lived on the east side of the town for 44 years. The growth for residential housing is to the south of Interstate 70 and to the east. They do not need any housing developments out here.

Larry Gould closed the public hearing.

Jake Glover stated that he grew up in a multi-family residential district, more condensed than the requested zoning district, next to some large box stores. Having a park nearby would have been fantastic.

He suggested that the City plan for pedestrian traffic across Highway 183 to Walmart and the restaurants to the west. With the growth of more businesses is the need for homes for people to live that work in the businesses.

Emery Jennings stated that a potential commercial entity had done a feasibility study of eight sites and placed this property at number eight because it is difficult to get to this property.

Emery Jennings stated that the large businesses would want their customers close by. This is an extension of Vine Street. Growth has to start somewhere. Hays needs affordable housing for a place for people to live that work in the commercial businesses. This is an extension of Vine Street. Darrell Unrein stated that local people go out of town to shop; out of town people come to Hays to shop.

Larry Gould pointed out that the issue is location versus needs. As per the housing needs assessment, there is a need for affordable residential housing.

Larry Gould closed the public hearing and asked for a substantial motion.

There was a motion by Lou Caplan with a second by Jake Glover to recommend to the City Commission to approve the request for the change of zoning classification from "A-L" Agriculture to "R-3" Two-Family Dwelling District on a tract of land in the NW/4 of S27-T13S-R18W (See Legal) 11.767 acres based on the consideration it meets the consistency with the comprehensive plan and ordinances of the city and the extent to which the zoning amendment does not detrimentally affect nearby property and the recommendation of professional staff.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

Recused: Emery Jennings Conflict of Interest

Jesse Rohr explained to the audience that this was a recommendation that will go before the City Commission for formal action if anyone would like to attend the City Commission meeting for that agenda item.

Submitted by: Administrative Secretary,
Planning, Inspection and Enforcement

DRAFT

Leucke



GENERAL HAYS RD

SHERMAN AVE

E 41ST ST

GENERAL HAYS RD

C-2

BROADWAY AVE

INTERSTATE 70

ORDINANCE NO. _____

AN ORDINANCE REZONING A TRACT OF LAND SITUATED ON A PART OF THE NORTHWEST QUARTER (NW/4) OF SECTION TWENTY-SEVEN (27), TOWNSHIP THIRTEEN (13) SOUTH, RANGE EIGHTEEN (18) WEST OF THE 6TH P.M. IN ELLIS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1,727.50 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 75.00 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 276.00 FEET; THENCE SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST A DISTANCE OF 320.96 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS EAST A DISTANCE OF 187.07 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 401.08 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 463.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET AND THE POINT OF BEGINNING;

FROM "A-L" AGRICULTURAL 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 March 22, 2013 and March 24, 2013, and after a public hearing held in conformity with such notice on April 15, 2013, 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 THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 18 WEST OF THE 6TH PRINCIPAL MERIDIAN, ELLIS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1,727.50 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF

60.00 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 75.00 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 276.00 FEET; THENCE SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST A DISTANCE OF 320.96 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS EAST A DISTANCE OF 187.07 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 401.08 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 463.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET AND THE POINT OF BEGINNING;

from "A-L" AGRICULTURAL 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 THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 18 WEST OF THE 6TH PRINCIPAL MERIDIAN, ELLIS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1,727.50 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 75.00 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 276.00 FEET; THENCE SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST A DISTANCE OF 320.96 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS EAST A DISTANCE OF 187.07 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 401.08 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 463.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET AND THE POINT OF BEGINNING;

FROM "A-L" AGRICULTURAL 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 23rd day of May, 2013.

Kent L. Steward, Mayor

ATTEST:

Doris Wing, City Clerk

(SEAL)

Commission Work Session Agenda

Memo

From: Jesse Rohr, PIE Superintendent

Work Session: May 16, 2013

Subject: Request for Rezoning (A-L to R-3)
Proposed Leucke Addition

Person(s) Toby Dougherty, City Manager
Responsible: I.D. Creech, Director of Public Works

Summary

The owners of the property located along and south of 41st St. east of Home Depot (Proposed Leucke Addition) have submitted a request to rezone a portion of the property from A-L (Agriculture District) to R-3 (Two-Family Dwelling District) A public hearing was conducted on April 15, 2013 at the regular meeting of the Planning Commission., and by vote of 7-0, a recommendation was made by the Planning Commission to the City Commission to approve the rezoning as requested. Staff's concerns and additional comments are noted in the Discussion Section below. HOWEVER, staff recommends sending this item back to the Planning Commission as allowed per State Statute on the basis that not all 8 factors set forth by the Kansas Supreme Court were properly considered, including the character of the neighborhood and the zoning and uses of nearby properties. The contributing factor in this recommendation is the failure of the developer to rezone the remaining Agriculture tract into a more suitable and compatible use with that of the requested rezoning.

Background

The owner/developer of the proposed Leucke Addition has started the platting process, Along with the rezoning process for the property located along and south of 41st St. east of Home Depot. The intention is to provide for a residential zoned area as well as a commercial zoned area. The commercial zoning request has been requested under a separate agenda item. The property is also currently outside of the City limits but the developer does intend to annex the property into the City prior to development.

Discussion

The owners of the property located along and south of 41st St. east of Home Depot (Proposed Leucke Addition) have submitted a request to rezone a portion of the property from A-L (Agriculture District) to R-3 (Two-Family Dwelling District). (See attached map) Zoning of adjacent properties is primarily commercial and agricultural districts. A public hearing was

conducted on April 15, 2013 at the regular meeting of the Planning Commission. All property owners within 1000' of the subject property were notified of the public hearing. Two nearby property owners were present and made comments regarding the rezoning. They were concerned about having any residential uses in the area for several reasons. Draft minutes are attached. Primarily, one property owner was concerned about people in the area that would possibly cause trouble for his business. In their words, "riff-raff" is a concern as people move into the area and the perceived risk of theft and vandalism increases.

Staff provided a recommendation to the Planning Commission which included the following language:

Staff has reviewed this addition during several recent meetings with the developer and does generally agree with the overall plan; so long as, during development, proper attention is given to aesthetics, ingress/egress, and other issues typical of development along commercial corridors. Furthermore, staff expects the entire property to be annexed and developed in its entirety rather than piece-meal. Failure of the developer to rezone, annex, and/or plat the entire existing tract is a major concern.

The Planning Commission voted in favor of the request by a vote of 7-0 based on the consideration it is consistent with the intent of the Comprehensive Plan, the extent to which it will NOT affect nearby property, and the recommendation of staff, all of which are some of the factors required to be considered in any rezoning case per *Golden V. City of Overland Park, 1978*. However staff feels the remaining Agriculture tract may present some compatibility concerns and issues in the future.

Legal Consideration

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

Financial Consideration

None identified at this time.

Options

Options include the following:

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

Recommendation

By a vote of 7-0, the Planning Commission recommends approving this rezoning request from A-L (Agriculture) to R-3 (Two-Family Dwelling District) as was submitted. HOWEVER, staff recommends sending this item back to the Planning Commission as allowed per State Statute on the basis that not all 8 factors set forth by the Kansas Supreme Court were properly considered, including the character of the neighborhood and the zoning and uses of nearby properties. The contributing factor in this

recommendation is the failure of the developer to rezone the remaining Agriculture tract into a more suitable and compatible use with that of the requested rezoning.

Action Requested

Return the rezoning request back to the Planning Commission for additional consideration of all 8 factors required by the Kansas Supreme Court, including the character of the neighborhood and the zoning and uses of nearby properties and how they relate to the remaining Agricultural zoned property.

Supporting Documentation

Map(s)
Planning Commission Findings of Fact
Planning Commission Draft Minutes
Ordinance

PLANNING COMMISSION FINDING OF FACT

1. CASE NO.: **13-02Z** FILING FEE PAID: **\$200.00**
 2. DATE FILED: **03-11-2013**
 3. DATE ADVERTISED FOR HEARING: **03-22-2013 and 03-24-2013**
 4. PUBLIC HEARING DATE: **04-15-2013**
 5. APPLICANT'S NAME: **Luecke Properties LLC**
 6. LOCATION OF PROPERTY: **East 41st Street East of Sherman Ave**
 7. DESCRIPTION OF PROPERTY: **Tract proposed to be platted to 35 residential lots on a tract of land in the NW/4 of S27-T13S-R18W of the 6th p.m.**
 8. PRESENT USE OF PROPERTY: **Vacant – Farm Ground**
 9. PRESENT ZONING: **"A-L"** REQUESTED ZONING: **"R-3"**
-

1. CHARACTER OF THE NEIGHBORHOOD:
DIRECTION

NORTH: **Privately owned hobby buildings**

SOUTH: **Right of Way (Interstate 70)**

EAST: **City Park**

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

NORTH: **"A-L"**

SOUTH: **Right of Way (Interstate 70)**

EAST: **"A-L"**

WEST: **"C-2"**

3. CONSIDERATION OF THE RECOMMENDATIONS OF PERMANENT PROFESSIONAL STAFF:

Area is identified as Urban Reserve in the current adopted Comprehensive Plan. Property is well suited for residential development; it would be the first residential area north of I-70. This residential area would be fronted by commercially zoned property. The proposed residential development should help provide some affordable housing options for Hays. Proper screening will be required between adjacent residential and commercial properties.

 - A. DEDICATION OR RESERVATION NEEDED FOR:
 1. DRAINAGE: **Completed**
 2. STREETS: **Not Yet platted**
 3. UTILITY EASEMENTS:
 - a. ELECTRICITY: **Not yet platted**
 - b. GAS: **Not yet platted**
 - c. SEWERS: **Not yet platted**
 - d. WATER: **Not yet platted**
 4. SHOULD PLATTING BE REQUIRED: **Platting is in process**
 - B. TRAFFIC CONDITIONS:
 1. CLASSIFICATION OF STREET ON WHICH PROPERTY FRONTS: **Local**
 2. RIGHT-OF-WAY WIDTH: **60'**
 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 property is suited for Agricultural ground, however this is an area of projected/anticipated growth.**
5. THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: **Removal of the agricultural designation should not have a negative affect on the most nearby properties including the adjacent City Park and adjacent Home Depot property.**
6. THE LENGTH OF TIME THE SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED: **With the exception of agricultural uses, the property has been in it's current state since the adoption of 3-mile zoning regulations – 30 plus years.**
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: **Neighboring property values should tend to increase as development**

takes place and infrastructure is extended. The impact of the rezoning, if approved, should not be destructive to neighboring property and should actually enhance the surrounding area.

8. THE CONFORMANCE OF THE REQUESTED CHANGE TO THE ADOPTED OR RECOGNIZED MASTER PLAN BEING UTILIZED BY THE CITY: **The property in question has been identified on the adopted Comprehensive Plan as Urban Reserve. It is suitable for development once utilities and other infrastructure are extended to serve the property.**

The request for the residential zoning as presented does fit the overall scheme of the adopted Comprehensive Plan.

**DRAFT MINUTES
HAYS AREA PLANNING COMMISSION
CITY HALL IN COMMISSION CHAMBERS
APRIL 15, 2013
MINUTES
6:30 P.M.**

1. CALL TO ORDER: The Hays Area Planning Commission met in regular session Monday, April 15, 2013 at 6:30 p.m. in Commission Chambers at City Hall. Chairman Larry Gould declared that a quorum was present and called the meeting to order.

Present: Larry Gould Lou Caplan Jim Fouts Pam Rein
Paul Phillips Tom Denning Jake Glover Emery Jennings

Absent: Terry Claycamp

City Staff: John Braun, Assistant Director of Public Works, Jesse Rohr, Superintendent of Planning, Inspection and Enforcement, Nick Willis, Stormwater Superintendent and Administrative Secretary Linda K. Bixenman.

2. MINUTES: There were no additions or corrections to the minutes from the March 18, 2013 meeting that were approved by consensus.

3. CITIZEN COMMENTS: - None.

4. CITY/COUNTY COMMISSION ACTION & PLANNING & DEVELOPMENT ISSUE UPDATES: There were no updates from the City Commission meetings.

5. REZONING CASE # 13-01 - PUBLIC HEARING FOR A REQUEST OF CHANGE OF ZONING CLASSIFICATION FROM "A-L" AGRICULTURE TO "C-2" GENERAL COMMERCIAL & SERVICE DISTRICT ON A TRACT OF LAND IN THE NW/4 OF S27-T13S-R18W OF THE 6TH P.M. - LOCATION IS EAST 41ST ST EAST OF SHERMAN AVE (2.186 ACRES): Jesse Rohr presented the property location of the property requested to be rezoned as listed above on the overhead visual. He explained the first case was a rezoning request for "C-2" General Commercial and Service District and the second case would be a request for rezoning the southern part of property to "R-3" Two-Family Dwelling District.

Jesse Rohr explained that the L-shaped hatched area on the copy of the publication notice reflected the area to be rezoned consisting of 2.186 acres.

Chairman Larry Gould explained that because of the Open Meetings Act by Kansas Law, the first part of the hearing would be the public hearing on this request. After the public hearing, it will be closed for the commission members to discuss the issues relative to this request to make a substantive motion for a recommendation to the City Commission.

Emery Jennings recused himself from the public hearing since he was the representative of the applicant.

Emery Jennings, agent for the owner Luecke Family Trust, presented the application to request the change of zoning as listed above. He used an easel to display the L-shaped property for the rezoning request.

Paul Phillips asked if he was reserving a portion of the property to remain as agriculture. John Braun answered that the adjoining area would remain agriculture where he has his hobby buildings.

Larry Gould asked if there was anyone in the audience opposed to the request.

Leroy L Herrman, nearby property owner, came before the commission stating the importance to keep the land commercial to continue to attract nice commercial development as it has like Home Depot, I-hop and the motels. He was against any change of zoning for residential land use. He was fearful that would prevent nice commercial developments to continue to occur.

Mr. Herrman explained that per the history of commercial development in that area; they struggled a long time to get sewer and water to have everything the way they want to have it. Lewis Chrysler and Goodwill were two of the original commercial properties that were developed in that area. They sure do not want a housing project to move in there.

Darrell Unrein, business owner of 635 E 41st, came before the commission emphasizing the importance to keep the land commercial to attract nice clean commercial development like what is already in that area.

He was opposed to the residential rezoning request because he did not believe residents would want to see commercial businesses next door and he voiced concern people coming and going could increase the inherit risk for theft. He voiced concern that if it is not developed in a similar manner, there would be a decline in market value of properties in that area and it would kill the development that is there now.

He explained the history of how things developed around his property. He expressed gratitude of his location because he has good exposure to his business property. With the good things, there has also been the inherit risk of theft. He has to keep everything locked up.

Larry Gould explained to the audience that this respective case was the request to change from Agriculture to "C-2" General and Commercial and Service District; the next case would be the request for the "R-3" Two-Family Dwelling District. He explained that the commission had to consider all the uses and exceptions for the

"C-2" zoning classification. He pointed out that the potential land uses for agriculture are less restrictive.

Bill Luecke, representing his family that own the property, came before the board to ask his good neighbor Darrell Unrein how a commercial endeavor would impact the nearby businesses in a negative way.

Darrell Unrein stated that all the traffic in that area is business traffic. He asked that the land stay the same type of commercial land uses as is there now to continue to attract more similar commercial businesses as is there now.

Tom Denning noted the L shape of the subject property; he asked about access and width of the long strip and number of acres. Bill Luecke and Jesse Rohr answered that the long strip from east to west is 135 feet wide; there is a 60 foot street right of way to access at 41st Street.

Jim Fouts asked where the infrastructure stops from the west. Jesse Rohr answered that it stops on the west edge of Home Depot.

Jake Glover asked what designation of land use was identified for this area in the comprehensive plan. He also asked city staff if they had any concerns regarding how the new development would impact the new Vineyard Park. Jesse Rohr answered that the park would not be impacted in a negative way. Parks are to be used by people. The area is designated as 'Urban Reserve' in the Comprehensive Plan; it is reserved for development once the infrastructure is in place to sustain the development. Urban reserve includes a whole variety of mixed land uses of commercial and residential.

Larry Gould asked for staff findings of fact.

Jesse Rohr presented the staff findings of fact. The way the land lays with 41st Street (Arterial Street) for access to the north, Interstate 70 near the south border and the City Vineyard Park on the east border with commercial properties nearby lend itself to a commercial zoning classification.

Larry Gould closed the public hearing.

There was a motion by Jim Fouts with a second by Lou Caplan to concur with staff findings of fact.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

Recused: Emery Jennings Conflict of Interest

Larry Gould reopened the public hearing as a courtesy to those in the audience that had further comments.

Darrell Unrein acknowledged that Mr. Luecke is a good neighbor. He suggested to Mr. Luecke to make his prime area of land work for him without him having to do any work. There has been interest for properties in that area for commercial developments. There are good real estate agents in town that could match up a buyer without him ever having to put up a sign. He asked him to keep it a nice clean attractive area. With the type of development as being proposed, it would put Mr. Luecke's hobby items of pride and joy at risk of theft.

Jake Glover asked if there was a limit how small of an area could qualify for rezoning. Jesse Rohr answered that there are no state or city regulations that dictate the size of property requested to be rezoned.

Larry Gould closed the public hearing and asked for a substantial motion.

There was a motion by Jake Glover with a second by Lou Caplan to recommend to the City Commission to approve the request of the change of zoning classification from "A-L" Agriculture to "C-2" General Commercial and Service District on a tract of land in the NW/4 of S27-T13S-R18W (See Legal) 2.186 acres based on the consideration it meets the character of the neighborhood and the zoning of surrounding properties and the recommendation of Professional Staff.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

Recused: Emery Jennings Conflict of Interest

Jesse Rohr explained to the audience that this was a recommendation that will go before the City Commission for formal action if anyone would like to attend the City Commission meeting for that agenda item.

6. REZONING CASE # 13-02 - PUBLIC HEARING FOR A REQUEST OF CHANGE OF ZONING CLASSIFICATION FROM "A-L" AGRICULTURE TO "R-3" TWO-FAMILY DWELLING DISTRICT ON A TRACT OF LAND IN THE NW/4 OF S27-T13S-R18W OF THE 6TH P.M. - LOCATION IS EAST 41ST STREET EAST OF SHERMAN AVE (11.767 ACRES):

Jesse Rohr presented the property location and proposed plat of the property requested to be rezoned as listed above on the overhead visual. He explained that the hatched area on the copy of the publication notice reflected the area to be rezoned consisting of 11.767 acres.

Chairman Larry Gould explained that because of the Open Meetings Act by Kansas Law, the first part of the hearing would be the public hearing on this request. After the public hearing, it will be closed for the commission members to discuss the issues relative to this request to make a substantive motion for a recommendation to the City Commission.

Emery Jennings recused himself from the public hearing since he was the agent for the applicant.

Emery Jennings, agent for the owner Luecke Family Trust, presented the application to request the change of zoning as listed above. He displayed the proposed residential development on an easel.

Larry Gould asked if there were any comments from the Planning Commission.

Tom Denning asked about the entrance/exit reflected on east side. Emery Jennings answered that it would be an alley.

Larry Gould asked if there was anyone in opposition to the rezoning.

Darrell Unrein, business owner of 635 E 41st, came before the commission to state that he was against any change of zoning to residential land use. He also emphasized the importance to leave the land to attract nice clean commercial development so it can continue the same type of commercial development already in that area. He continued to say that his comments from the first case are the same for this case all the way. There is a better spot for residential; not this spot.

He asked everyone to rethink the land use for this property so it would remain attractive to bring more businesses to Hays similar to the ones already there.

He commented that the pedestrian traffic in the city park is people and their pets out to litter.

Larry Gould asked if there was anyone in favor of the rezoning. There was no response.

Larry Gould asked for Staff Findings of Fact.

Jesse Rohr presented the staff findings of fact. He stated that over the last three months, staff had looked at different proposals from this request that calls for opening up residential where there has never been residential. There were many staff meetings as well as meeting with City Management. Upon review of the comprehensive plan, and adjacent properties, staff recommends this property would be fitting to be rezoned to "R-3" Two-Family Dwelling District.

Jesse Rohr explained that they understand those property owners voicing their concern; it is a unique piece of land. The proposed development plans for homes or duplexes in the \$160,000.00 range.

Larry Gould asked for any comments to staff findings of fact.

Darrell Unrein came before the board to ask the commission to put their heads together and come out and see other nearby property owners before they make this recommendation. He has seen where it takes a petition before it is understood what is not wanted.

More importantly what would help Mr. Luecke would be for the City to concentrate on extending the infrastructure from the edge of Home Depot east to connect to Commerce Parkway to Interstate 70 so trucks making deliveries coming from the east would not crowd up the interstate exits to Highway 183/Vine and keep the bottleneck from occurring at the stop lights. He asked the Planning Commission "To make it Happen".

He emphasized the importance of keeping development for the clean commercial developments like the ones already there; developments that are good for Hays. They would like the property values to be maintained for what they worked hard to get.

He expressed to Mr. Luecke that he could find a buyer for a nice commercial development good for Hays. Having it residential would mean people being able to walk around and thru the business area and around his hobby building increasing the risk for theft.

He did not think residents would want to wake up to commercial businesses around them.

Jesse Rohr explained that there are screening requirements between residential and commercial properties. Because the commercial development is already there, it will be up to the residential developer to provide the screening required at time of development.

Pam Rein explained that notification was sent to nearby properties within 1,000 feet of the subject property. Darrell Unrein stated that in the future for them to knock on doors to get a census.

Larry Gould clarified as per the Kansas Open Meetings Act that the Planning Commission did not come up with this request. They cannot get together to discuss this request made by a citizen; they can listen and discuss it at a public hearing only. The Planning Commission represents the citizens of the City of Hays to balance their interest and make a recommendation to the City Commission.

Paul Phillips asked if fire protection has been considered for that area. Jesse Rohr answered that the Fire Chief did include a memo in the agenda packet of fire protection; the response time will be seven minutes.

He also asked about the proposed lot sizes, if they were comparable to the lots near the Fort Hays State University. Jesse Rohr answered that the proposed lots would be larger.

There was a motion by Pam Rein with a second by Lou Caplan to concur with staff findings of fact.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

Recused: Emery Jennings Conflict of Interest

Larry Gould explained that the next motion was a substantive motion. He closed the public hearing.

Jim Fouts commented that in most cases he can envision if the area is suited for the requested change of zoning; if it will work or not work. He stated that all he can envision is an isolated patch of houses with the city park to the east, commercial properties to the west and I-70 to the south. It is difficult for him to envision especially with all the commercial development up to that area.

He pointed out what about the possibility of a truck thoroughfare as from I-70/Commerce Parkway along 41st Street of how that would affect the growth of this area.

Paul Phillips pointed out that if there was a residential development to the east, it would be easier to envision this development; it could go residential or commercial to the east.

Pam Rein noted that there are residential developments behind commercial properties along Vine Street. The new comprehensive plan calls for mixed uses.

Lou Caplan stated that he did not believe a box store would develop that far east. He noted that there are residential behind commercial businesses all over town. He stated that there is a shortage of affordable housing; the problem is the location.

Larry Gould reopened the public hearing as a courtesy to those in the audience that had further comments.

Darrell Unrein came before the board pleading not to ruin the frontage. He asked what would they rather look at storage buildings or something similar to the beautiful Best Western that was formerly a location of storage units. Let us quit stacking and cluttering and do what is best for the citizens of Hays, Kansas. This is just not a good spot for residential. He emphasized to keep 41st Street clean on both sides for more commercial businesses or you will kill further nice commercial development such as restaurants and motels. The off ramp to the east brings in a tremendous amount of business.

He noted that he has been approached by potential commercial businesses of an interest in his property and that same potential is there for Mr. Luecke. He pointed out the motels combined have a total of 300 rooms and only two restaurants to accommodate them on that side of 41st Street. It is dangerous to cross Highway 183 to go to the restaurants to the west.

Leroy Herrman came before the board stating that he has lived on the east side of the town for 44 years. The growth for residential housing is to the south of Interstate 70 and to the east. They do not need any housing developments out here.

Larry Gould closed the public hearing.

Jake Glover stated that he grew up in a multi-family residential district, more condensed than the requested zoning district, next to some large box stores. Having a park nearby would have been fantastic.

He suggested that the City plan for pedestrian traffic across Highway 183 to Walmart and the restaurants to the west. With the growth of more businesses is the need for homes for people to live that work in the businesses.

Emery Jennings stated that a potential commercial entity had done a feasibility study of eight sites and placed this property at number eight because it is difficult to get to this property.

Emery Jennings stated that the large businesses would want their customers close by. This is an extension of Vine Street. Growth has to start somewhere. Hays needs affordable housing for a place for people to live that work in the commercial businesses. This is an extension of Vine Street. Darrell Unrein stated that local people go out of town to shop; out of town people come to Hays to shop.

Larry Gould pointed out that the issue is location versus needs. As per the housing needs assessment, there is a need for affordable residential housing.

Larry Gould closed the public hearing and asked for a substantial motion.

There was a motion by Lou Caplan with a second by Jake Glover to recommend to the City Commission to approve the request for the change of zoning classification from "A-L" Agriculture to "R-3" Two-Family Dwelling District on a tract of land in the NW/4 of S27-T13S-R18W (See Legal) 11.767 acres based on the consideration it meets the consistency with the comprehensive plan and ordinances of the city and the extent to which the zoning amendment does not detrimentally affect nearby property and the recommendation of professional staff.

Vote: Ayes	Larry Gould	Tom Denning	Jake Glover	Paul Phillips
	Jim Fouts	Lou Caplan	Pam Rein	

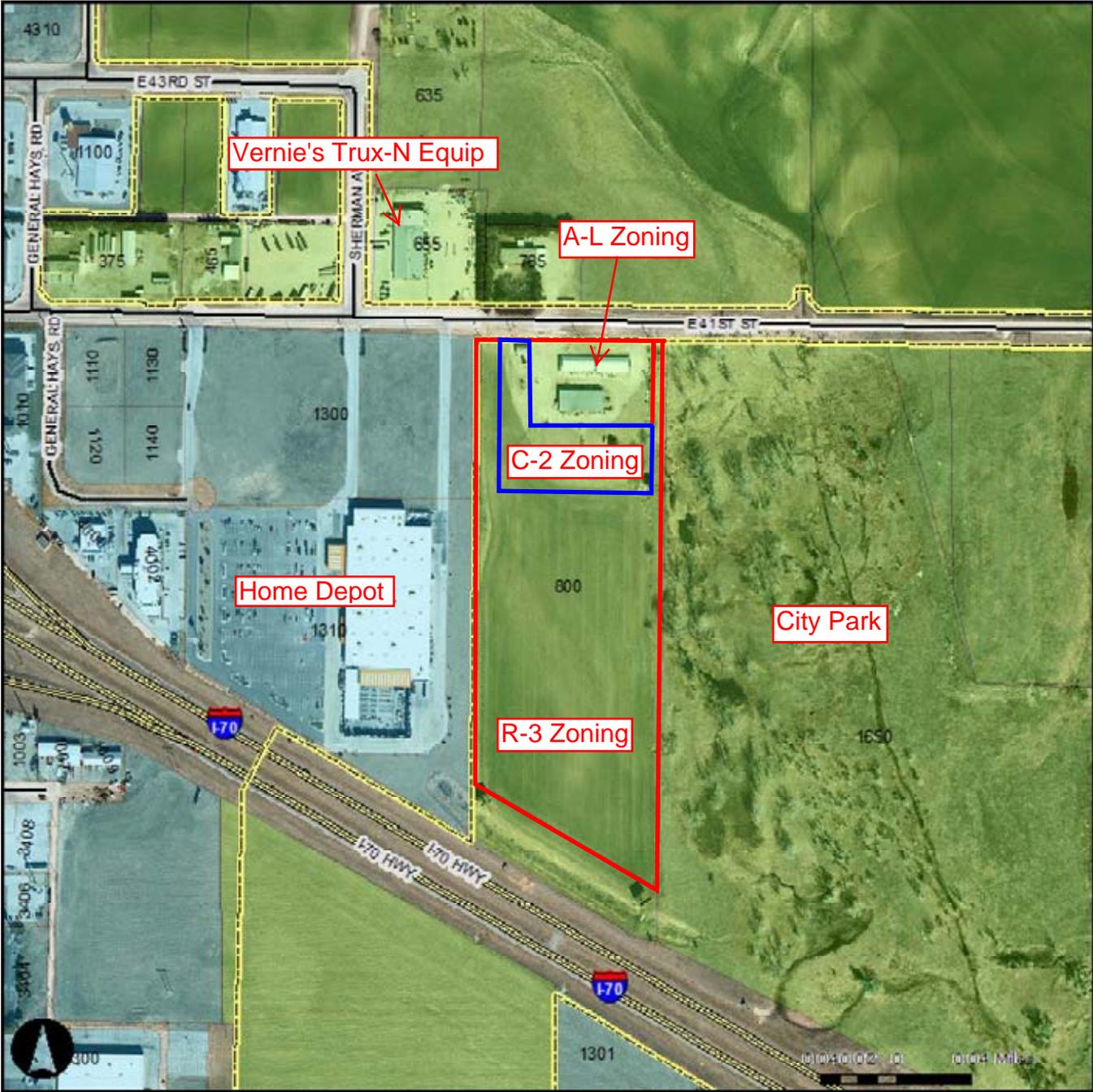
Recused: Emery Jennings Conflict of Interest

Jesse Rohr explained to the audience that this was a recommendation that will go before the City Commission for formal action if anyone would like to attend the City Commission meeting for that agenda item.

Submitted by: Administrative Secretary,
Planning, Inspection and Enforcement

DRAFT

Leucke



GENERAL HAYS RD

SHERMAN AVE

E 41ST ST

GENERAL HAYS RD

R-3

BROADWAY AVE

INTERSTATE 70

ORDINANCE NO. _____

AN ORDINANCE REZONING A TRACT OF LAND SITUATED ON A PART OF THE NORTHWEST QUARTER (NW/4) OF SECTION TWENTY-SEVEN (27), TOWNSHIP THIRTEEN (13) SOUTH, RANGE EIGHTEEN (18) WEST OF THE 6TH P.M. IN ELLIS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1,727.50 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET AND THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 1,249.43 FEET; THENCE SOUTH 59 DEGREES 26 MINUTES 40 SECONDS EAST A DISTANCE OF 599.72 FEET; THENCE NORTH 00 DEGREES 44 MINUTES 27 SECONDS WEST A DISTANCE OF 1,547.39 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 30.01 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS EAST A DISTANCE OF 463.17 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 401.08 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 463.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;

FROM "A-L" AGRICULTURAL DISTRICT TO "R-3" TWO-FAMILY DWELLING DISTRICT.

WHEREAS, the Hays Area Planning Commission, after due and legal notice published in the Hays Daily News, the official city newspaper, on March 22, 2013 and March 24, 2013, and after a public hearing held in conformity with such notice on April 15, 2013, 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 THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 18 WEST OF THE 6TH PRINCIPAL MERIDIAN, ELLIS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1,727.50 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY

LINE OF 41ST STREET AND THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 1,249.43 FEET; THENCE SOUTH 59 DEGREES 26 MINUTES 40 SECONDS EAST A DISTANCE OF 599.72 FEET; THENCE NORTH 00 DEGREES 44 MINUTES 27 SECONDS WEST A DISTANCE OF 1,547.39 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 30.01 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS EAST A DISTANCE OF 463.17 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 401.08 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 463.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;

from "A-L" AGRICULTURAL DISTRICT to "R-3" TWO-FAMILY DWELLING 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 THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 18 WEST OF THE 6TH PRINCIPAL MERIDIAN, ELLIS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 10 MINUTES 16 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1,727.50 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET AND THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 1,249.43 FEET; THENCE SOUTH 59 DEGREES 26 MINUTES 40 SECONDS EAST A DISTANCE OF 599.72 FEET; THENCE NORTH 00 DEGREES 44 MINUTES 27 SECONDS WEST A DISTANCE OF 1,547.39 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 30.01 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 27 SECONDS EAST A DISTANCE OF 463.17 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 401.08

FEET; THENCE NORTH 00 DEGREES 49 MINUTES 44 SECONDS EAST A DISTANCE OF 463.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 41ST STREET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;

FROM "A-L" AGRICULTURAL DISTRICT to "R-3" TWO-FAMILY DWELLING 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 23rd day of May, 2013.

Kent L. Steward, Mayor

ATTEST:

Doris Wing, City Clerk

(SEAL)

Commission Work Session Agenda

Memo

From: John Braun, Assistant Director of Public Works

Work Session: May 16, 2013

Subject: Additional Street Maintenance (Mill and Overlay of 13th – Vine to Harvest)

Person(s) Toby Dougherty, City Manager
Responsible: I.D. Creech, Director of Public Works

Summary

Staff requests authorization to solicit bids for the mill and overlay of 13th Street from Vine Street to Harvest Road. The mill and overlay would correct failures of the existing pavement. The estimated cost of the project is \$750,000 to be funded from Financial Policy Projects.

Background

In February 2013, staff brought forward bids for this year's Street Maintenance projects, which totaled \$389K to be paid out of the Special Highway Fund. At that time, the Commission expressed interest in adding another project to the list. Staff suggested bringing forward additional street maintenance at a later date after an analysis of the road conditions and the financial situation.

Discussion

In considering projects for additional street maintenance, staff looked at projects that are large enough to bid on their own, would provide a high return on investment, would be visible to a majority of the public, and would align with the newly updated Comprehensive Plan. 13th Street from Vine to Harvest stood out as a project that met all those criteria.

The plan for 13th Street would be to repair all areas of curb & gutter and full-depth patch all areas of failed pavement, correcting any subgrade problems. The edges and any high spots would be milled, sanitary sewer manholes would be adjusted, and the entire surface would receive a new asphalt overlay giving the road a like-new appearance.

The Hays Bike Plan calls for 13th Street to be reduced to 3-lanes (Road Diet) with bike lanes added to each side. Prior to restriping, it would be beneficial to have a fresh new surface to apply the new pavement markings designating the change in lane

configuration. The Hays Bike Plan has been submitted for Transportation Enhancement Grant consideration, and award is expected by the end of May 2013. Regardless of grant funding, \$300K was included in the 2013 Budget – Special Park & Recreation Fund for the Hays Bike Plan, and that money would be used to restripe 13th Street.

Improving 13th Street would be a highly visible project that would provide a benefit to a large portion of the City and regional population.

If authorized, staff would solicit bids for construction and bring bids back to the City Commission for approval later this summer.

Legal Consideration

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

Financial Consideration

The estimated cost to repair and resurface 13th Street from Vine Street to Harvest Road is \$750,000. New pavement markings would cost an additional \$85,000. The new pavement markings would be paid out of the Special Parks and Recreation Fund or through the Transportation Enhancement Grant if awarded. The \$750,000 to resurface 13th Street would be funded by City Commission Financial Policy Projects.

The City Commission Financial Policy Projects Fund contains sufficient funds for this item and an amount remains to keep the levy at 25 mils for the next 5 years. This also meets the goals of the City Commission financial policy of utilizing excess funds as well as paying as you go.

Options

The Commission has the following options:

Option 1: Authorize staff to solicit bids for the rehabilitation of 13th Street from Vine Street to Harvest Road to be funded from Financial Policy Projects.

Option 2: Provide alternate direction to staff.

Recommendation

City staff recommends proceeding with Option 1.

Action Requested

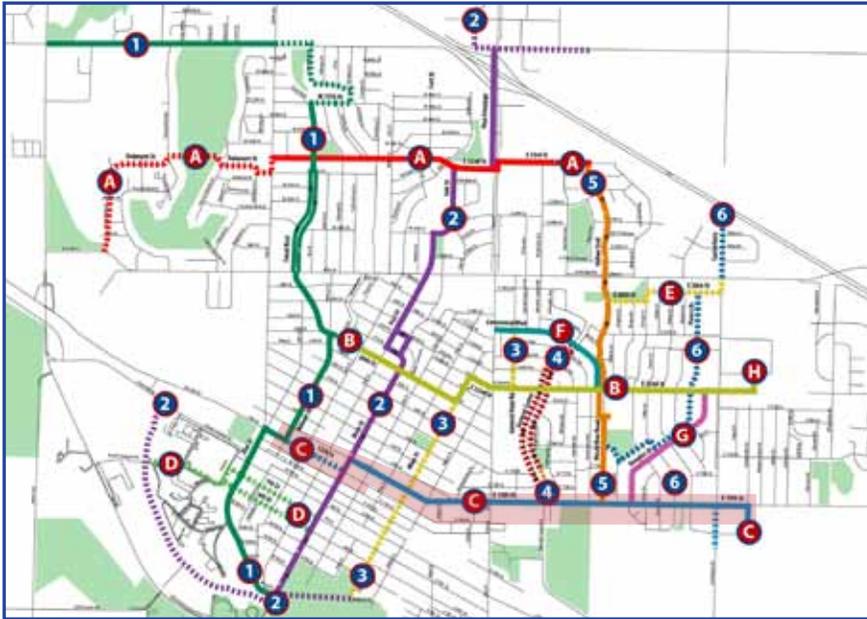
Consider authorizing staff to solicit bids for the rehabilitation of 13th Street from Vine Street to Harvest Road to be funded from Financial Policy Projects.

Supporting Documentation

Page 66 of Hays Bike Plan
Map



13TH/ SOUTHSIDE



This important east-west line links the south side of Hays using 12th and 13th Streets, and serves the campus area, Downtown, and the high school. A major infrastructure element is a lane reconfiguration of 13th Street, including a reduction from four lanes to a three lane section, including a center left-turn lane. This configuration appears adequate to handle average daily traffic, provides safer left-turn movements, and provides room for bike lanes on this important corridor.

Phase 1a segments are highlighted in table.

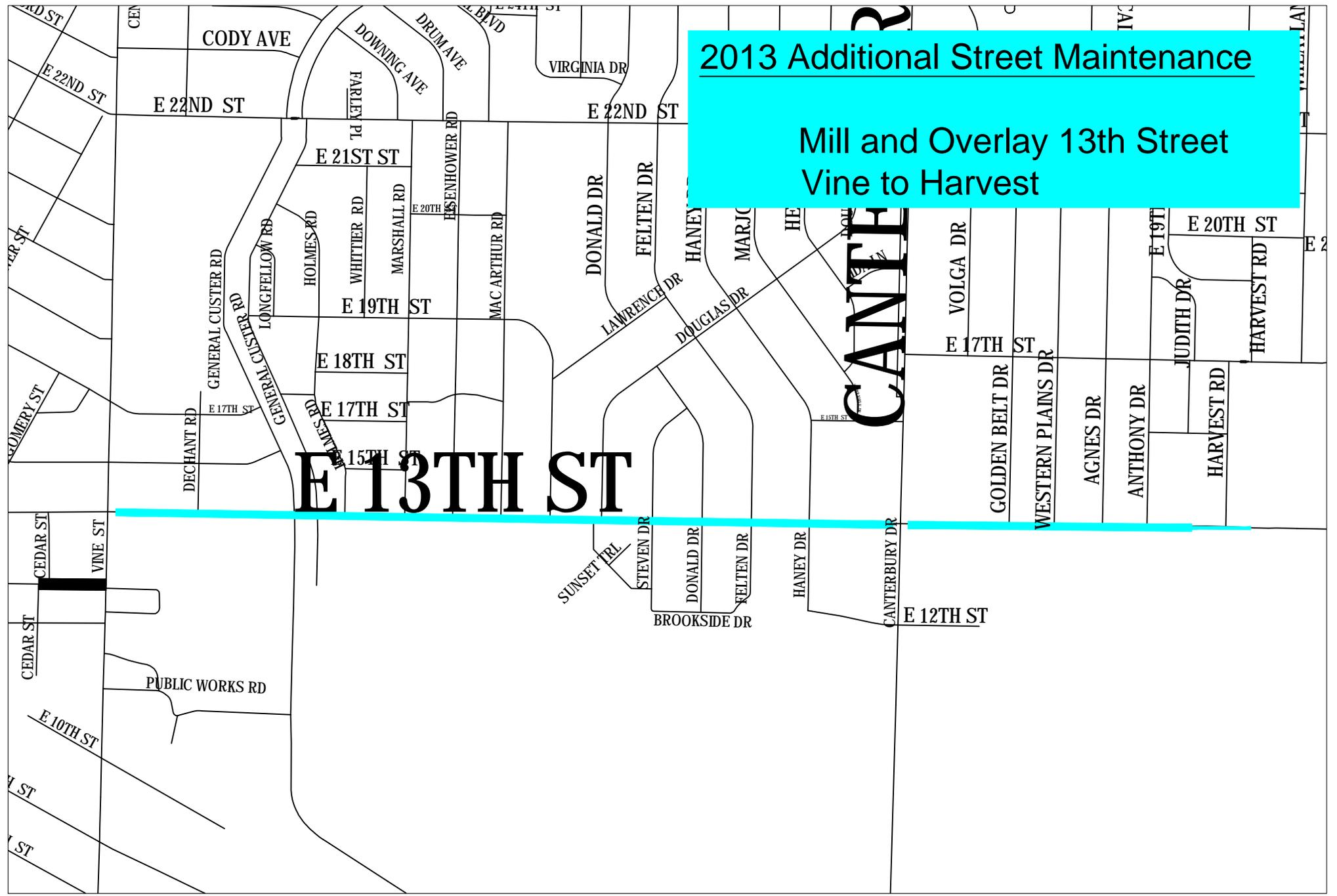
Route	Segment	Length (Miles)	Bikeway Facility Treatment	Cost/Mile	Phase 1a Cost	Phase 1b Cost	Comments
A	12th, Elm-Main	0.38	Type 2, sharrows/parking lanes	\$12,000		\$4,560	
	13th, Main-Milner	0.38	Type 5 bike lanes	20,000	\$7,600		
	13th, Milner to Golden Belt	1.42	Type 8, 4 to 3-lane road diet with 2-side bike lanes	60,000	85,200		
	Canterbury, 13-Recreation Center	0.20	Sidepath	150,000	30,000	30,000	
	Total	2.18			\$92,800	\$34,560	

2013 Additional Street Maintenance

Mill and Overlay 13th Street Vine to Harvest

E 13TH ST

CANTON



Commission Work Session Agenda

Memo

From: Doris Wing, City Clerk

Work Session: May 16, 2013

Subject: Sidewalk Repair Assessment Ordinance

Person(s) Responsible: Kim Rupp, Director of Finance

Summary

City Ordinances provide for the City Manager, through staff, to give notice to property owners of non-compliant sidewalks, and then to have the sidewalks repaired, if the owner does not. After the work has been done and the costs determined, the City Clerk will present a special assessment ordinance, levying the costs against the abutting property, and if those costs are not paid according to the Ordinance, then the costs will be assessed against the property and collected along with the taxes.

Background

Sidewalk repairs were completed for seven properties last fall per Commission approval. Four of the properties have paid and it is now necessary to assess the other three.

Discussion

If the ordinance is approved, notices will be sent to the three property owners, giving them 30 days after publication of the ordinance to pay. If they fail to pay, the sidewalk assessment plus four percent interest will be levied to be paid in one installment or in not more than five installments at the discretion of the commission.

Legal Consideration

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

Financial Consideration

The City spent \$6,025.00 on sidewalk repairs to the seven properties. The outstanding three property assessments total \$1919.09:

- Jason McDaneld
421 West 5th St.
\$370.84

- Lawrence, John, Janet, and Kirkland Bradshaw, and Charles & Loretta Wilson
307 West 6th St.
\$445.01
- James C. Wacker and Zeshan Haq
217 West 6th St.
\$1103.24

Options

- Approve Ordinance No. XXXX
- Not approve Ordinance

Recommendation

Staff recommends approval of Ordinance No. XXXX assessing the cost of sidewalk repairs.

Action Requested

Approval of Ordinance No. XXXX assessing the cost of sidewalk repairs to 421W 5th, 307 W 6th, and 217 W 6th totaling \$1,919.09

Supporting Documentation

Ordinance No. XXXX

ORDINANCE NO. _____

AN ORDINANCE ASSESSING THE COST OF SERVICES RENDERED BY THE CITY BENEFITTING THE PROPERTIES LOCATED AT 421 W. 5th STREET, 307 W. 6th STREET, AND 217 W. 6th STREET.

WHEREAS, it is the duty of the owners of real property in the City of Hays to keep the sidewalks abutting their property in repair, and

WHEREAS, the City of Hays, Kansas, has authorized its City Manager to make all necessary repairs to sidewalks in need of such repair, upon proper notice given to the property owner, with the costs assessed against the owner of the property abutting the sidewalk, and

WHEREAS, the City of Hays, Kansas, repaired, constructed or reconstructed sidewalks abutting the properties located at 421 W. 5th Street, Hays, Kansas; 307 W. 6th Street, Hays, Kansas; and 217 W. 6th Street, Hays, Kansas, in compliance with the ordinances of the City of Hays, Kansas, at significant cost to the City. The repair, construction or reconstruction of sidewalks provided a benefit to the abutting properties.

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

Section 1. The Governing Body finds that all acts and notices prerequisite to the assessment of costs relating to the properties described herein have been done and given in the manner and form required by law.

Section 2. For the purpose of paying the costs of the benefits provided, there is hereby levied, assessed and charged against the following described real properties situated in the City of Hays, County of Ellis and State of Kansas:

421 W. 5th Street, more particularly described as Lots Nine (9), Ten (10), and Eleven (11), in Block Three (3), in NORMAL COURT ADDITION to Hays City, now the City of Hays, Ellis County, Kansas, located on a portion of Lots Five (5) of Section Five (5), Township Fourteen (14) South, Range Eighteen (18) West of the 6th P.M. and that portion of Lots Seven (7) and Nine (9) in Block Three (3) in C.W. REEDER'S ADDITION to Hays, Kansas, lying North of Section line between Section Thirty-two (32), Township Thirteen (13) South, Range Eighteen (18) West and South of the Alley in said Block, adjoining the Lots first herein before described on the North side thereof, being located on a portion of Lots Three (3) and Four (4) of Section Thirty-two (32), Township Thirteen (13) South, Range Eighteen (18) West of the 6th P.M., Ellis County, Kansas, the sum of \$370.84, which shall become

a perpetual lien thereon and collected in the manner set forth in the Code of Ordinances of the City of Hays, Kansas.

307 W. 6th Street, more particularly described as Lot Eleven (11), partly in Fractional Block West of Block Eight (8), in H.P. Wilson's Addition to Hays, Kansas, and partly in Fractional Block South of Block Thirty (30), in the Original Town of Hays City, now the City of Hays, Kansas and partly in an unplatted triangular tract in the Northeast corner of Section Five (5), Township Fourteen (14) South, Range Eighteen (18) West of the 6th P.M., Ellis County, Kansas, more particularly described as follows: Beginning at a point on the Northerly line of Wilson Avenue (now 6th Street) 150 feet Northwesterly of the point of intersection of the Northerly line of Wilson Avenue (now 6th Street) with the Westerly line of Ash Street; thence Northwesterly along the Northerly line of Wilson Avenue (now 6th Street) a distance of 50 feet; thence Northeasterly at right angles with the Northerly line of Wilson Avenue (now 6th Street) and parallel with the Westerly line of Ash Street a distance of 125 feet to the Southerly line of the Alley; thence Southeasterly at right angles and along the Southerly line of said alley and parallel with the Northerly line of Wilson Avenue (now 6th Street) a distance of 50 feet; thence Southwesterly at right angles and parallel with the Westerly line of Ash Street a distance of 125 feet to the Northerly line of Wilson Avenue (now 6th Street) and the place of beginning, the sum of \$445.01, which shall become a perpetual lien thereon and collected in the manner set forth in the Code of Ordinances of the City of Hays, Kansas.

217 W. 6th Street, more particularly described as Lot One (1) in Block Eight (8), Hill P. Wilson's Addition to the City of Hays City, now the City of Hays, Kansas, the sum of \$1,103.24, which shall become a perpetual lien thereon and collected in the manner set forth in the Code of Ordinances of the City of Hays, Kansas.

Section 3. Said assessments shall become due and payable 30 days after publication of this ordinance. At the expiration of such 30 day period, a copy of this ordinance shall be certified by the City Clerk to the County Treasurer of Ellis County for collection.

Section 4. This Ordinance shall take effect upon its publication in the Hays Daily News, the official City newspaper.

Passed by the Commission on the _____ day of _____, 2013.

KENT STEWARD
Mayor

ATTEST:

DORIS WING
City Clerk

X:\GBBS Client Files\City of Hays\Ordinances\Sidewalk Assessment Ordinance (13-01-31).docx

Commission Work Session Agenda

Memo

From: Kim Rupp, Director of Finance

Meeting: May 16, 2013

Subject: Special Assessment Proceedings

Person(s) Responsible: Kim Rupp, Director of Finance

Summary

Special assessments for two Special Improvement Districts within the City of Hays are ready to be finalized and assessed to the property owners. To begin the Special Assessment Proceedings a resolution must be approved setting a Public Hearing for June 13, 2013 to consider the proposed assessments.

Background

The statement of final costs for each of the two districts is summarized below as prepared by Bond Counsel, Gina Riekhof with Gilmore and Bell.

**GOLDEN BELT ESTATES FOURTH ADDITION –
WATER, SANITARY SEWER, STORM SEWER & STREETS
GRADING, PAVING, CURBING AND GUTTERING**

RESOLUTION NO. 2011-019

ENGINEERING	\$35,800.00
CONSTRUCTION	431,210.05
COSTS OF ISSUANCE	9,107.83
<i>TOTAL</i>	<i><u>\$476,117.88</u></i>
<i>City Share</i>	<i><u>\$0.00</u></i>
<i>Amount to be Assessed</i>	<i><u>\$476,117.88</u></i>

**REPLAT OF 46TH STREET FIRST ADDITION –
WATER, SANITARY SEWER, STORM SEWER & STREETS
GRADING, PAVING, CURBING AND GUTTERING**

RESOLUTION NO. 2011-002

ENGINEERING	\$9,200.00
CONSTRUCTION	139,718.60
COSTS OF ISSUANCE	1,947.21
LESS UP-FRONT PAYMENT BY DEVELOPER	(43,896.78)
<i>TOTAL</i>	<u><i>\$106,969.03</i></u>
<i>City Share</i>	<u><i>\$0.00</i></u>
<i>Amount to be Assessed</i>	<u><i>\$106,969.03</i></u>

Discussion

This resolution providing for the notice of public hearing is the first step in properly assessing the improvements to these two areas. As we continue we will also be requiring an ordinance and then approval of the entire bond process as state statute requires these costs to be bonded. Golden Belt Estates Fourth Addition will be a fifteen year assessment split equally among 21 lots. Replat of 46th Street First Addition will be assessed for fifteen years with costs shared equally among the 7 lots.

Legal Consideration

Bond Counsel for the City has approved all documents and proceedings and there are no known legal obstacles to proceeding as recommended by staff.

Financial Consideration

All costs for the improvements to these developments along with the legal fees and costs of issuance will be included in the assessment to the property owners. There are no financial or budgetary considerations for the City other than those identified as “City Share” in the statement of final costs above.

Options

Option 1: The City Commission can approve the requested resolution calling for a public hearing to be held on June 13, 2013 with respect to the proposed assessments.

Option 2: The City Commission can decline the resolution and provide alternate guidance to staff.

Recommendation

City staff recommends approving the resolution providing for a notice of public hearing to consider the proposed special assessments as listed above.

Action Requested

Approval of Resolution XXXX-XXX a resolution providing for a notice of public hearing to be held on June 13, 2013 to consider proposed special assessments.

Supporting Documentation

Resolution XXXX-XXX
Notice of Public Hearing
Assessment Roll

RESOLUTION NO. _____

RESOLUTION PROVIDING NOTICE OF A PUBLIC HEARING TO CONSIDER PROPOSED ASSESSMENTS AS TO THE PUBLIC IMPROVEMENTS FOR: GOLDEN BELT ESTATES FOURTH ADDITION (WATER, SANITARY SEWER, STORM SEWER AND STREETS); REPLAT OF 46TH STREET FIRST ADDITION (WATER, SANITARY SEWER, STORM SEWER AND STREETS).

WHEREAS, the City of Hays, Kansas (the “City”) has previously authorized certain internal improvements (the “Improvements”) to be constructed pursuant to K.S.A. 12-6a01 *et seq.* (the “Act”); and

WHEREAS, the total final costs of such Improvements has been determined and a Statement of Final Costs for each project is on file with the City Clerk; and

WHEREAS, the Assessment Roll for each of such Improvements has been determined and is on file with the City Clerk; and

WHEREAS, the governing body desires to call a public hearing with respect to the proposed assessments.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the City of Hays, Kansas:

Section 1. A public hearing shall be conducted by the Governing Body of the City of Hays, Kansas, at the City Commission Meeting Room, 1507 Main Street, Hays, Kansas, on June 13, 2013 at 6:30 p.m., to consider proposed assessments as to the Improvements described in the notice of public hearing attached hereto as Exhibit A, the total costs of which have been determined. The proposed assessments rolls have been or will be placed on file with the office of the City Clerk and open for public inspection, all in accordance with K.S.A. 12-6a09, as amended.

Section 2. The City Clerk is hereby directed to provide notice of the public hearing (in the form attached hereto as Exhibit A) by publication at least once, not less than 10 days prior to such hearing, and to further mail to the owners of the property proposed to be made liability for these assessments at their last known post office address, a notice of the hearing and a statement of the costs proposed to be assessed against the land owned and assessed.

PASSED AND RESOLVED by the Governing Body of the City of Hays, Kansas, on this 23rd day of May, 2013.

Mayor

[SEAL]

City Clerk

EXHIBIT A

NOTICE OF PUBLIC HEARING

(Published in the *Hays Daily News*, on May 30, 2013)

NOTICE OF PUBLIC HEARING

TO: RESIDENTS OF THE CITY OF HAYS, KANSAS

You and each of you are hereby notified that the governing body of the City of Hays, Kansas (the “City”) will meet for the purpose of holding a public hearing, as provided by K.S.A. 12-6a01 *et seq.*, at City Hall, 1507 Main Street, on June 13, 2013 at 6:30 p.m.. Said public hearing is for the purpose of hearing any and all oral or written objections to proposed assessments in connection with the following described improvements:

GOLDEN BELT ESTATES FOURTH ADDITION – Water, Sanitary Sewer, Storm Sewer & Streets

Resolution No. 2011-019

The installation of water lines, sewer lines, storm sewers, and grading, paving, curbing and guttering of Larned Circle and Tam Court.

Property Description:

Lot 1 through Lot 5, Block 1; Lot 1 through Lot 16, Block 2; all in Golden Belt Estates 4th Addition to City of Hays, Ellis County, Kansas.

Cost of Improvements:

\$476,117.88. 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large

REPLAT OF 46TH STREET FIRST ADDITION – Water, Sanitary Sewer, Storm Sewer & Streets

Resolution No. 2011-002

The installation of water lines, sewer lines, storm sewers and grading, paving, curbing and guttering for Hoover Drive and Jefferson Drive, all in the Replat of 46th Street First Addition.

Property Description:

Lot 6, Block 1; Lots 2, 3, 12 and 13, Block 3; and Lots 2 and 3, Block 4, all in the Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.

Cost of Improvements:

\$106,969.03. 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

An Assessment Roll prepared in accordance with the referenced Resolutions approved by the governing body is on file in the Office of the City Clerk and may be examined by any interested party. At the conclusion of the public hearing, the governing body will consider an Ordinance levying such special assessments.

DATED May 23, 2013.

/s/Doris Wing, City Clerk

ASSESSMENT ROLL CERTIFICATION

The undersigned having been designated by the City of Hays, Kansas (the “City”), to determine the amounts of the respective assessments and to prepare the proposed Assessment Roll herefore in connection with certain internal improvements heretofore authorized by the governing body hereby reports that each and all of said respective assessments have been determined to be as shown on the Schedule attached hereto and made a part hereof by reference as though fully set out herein.

Dated May 2, 2013.

CITY OF HAYS, KANSAS

By: John Braun, Assistant Director of Public Works

SCHEDULE I

ASSESSMENT ROLL

**GOLDEN BELT ESTATES FOURTH ADDITION –
WATER, SANITARY SEWER, STORM SEWER & STREETS**

RESOLUTION NO. 2011-019

<u>Description of Property</u>	<u>Amount of Proposed Assessment</u>
Lot 1, Block 1, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 2, Block 1, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 3, Block 1, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 4, Block 1, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 5, Block 1, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 1, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 2, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 3, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 4, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 5, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 6, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 7, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 8, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 9, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 10, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 11, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 12, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 13, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 14, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28

Lot 15, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
Lot 16, Block 2, in the Golden Belt Estates 4th Addition to the City of Hays, Ellis County, Kansas.	\$22,672.28
TOTAL ASSESSMENTS =	\$476,117.88
CITY-AT-LARGE SHARE =	0.00
TOTAL COST =	\$476,117.88

**REPLAT OF 46TH STREET FIRST ADDITION –
WATER, SANITARY SEWER, STORM SEWER & STREETS**

RESOLUTION NO. 2011-002

<u>Description of Property</u>	<u>Amount of Proposed Assessment</u>
Lot 6, Block 1, in the Replat of Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.	\$15,281.29
Lot 2, Block 3, in the Replat of Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.	\$15,281.29
Lot 3, Block 3, in the Replat of Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.	\$15,281.29
Lot 12, Block 3, in the Replat of Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.	\$15,281.29
Lot 13, Block 3, in the Replat of Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.	\$15,281.29
Lot 2, Block 4, in the Replat of Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.	\$15,281.29
Lot 3, Block 4, in the Replat of Replat of 46th Street First Addition to the City of Hays, Ellis County, Kansas.	\$15,281.29
TOTAL ASSESSMENTS =	\$106,969.03
CITY-AT-LARGE SHARE =	0.00
TOTAL COST =	\$106,969.03

Commission Work Session Agenda

Memo

From: Paul Briseno, Assistant City Manager

Work Session: May 16, 2013

Subject: Rural Housing Improvement District (RHID) Policy

Person(s) Responsible: Paul Briseno, Assistant City Manager

Summary

A proposed Rural Housing Improvement District (RHID) Policy is presented for consideration and guidance. If approved future RHID applicants have to demonstrate a need to the Commission and State. The State governs much of the process. The policy has additional requirements/processes specific to Hays.

Staff recommends approval of the Rural Housing Improvement District Policy.

Background

In February Commission requested the development of a Rural Housing Improvement District (RHID) policy. The use of an RHID was noted in the Economic Development Coalition/Realtors Association Housing Needs Assessment as a mechanism to reduce housing costs. Staff developed a proposed policy based on noted concerns that also encompasses the current Economic Development Policy.

An RHID captures 100% of incremental real property taxes created by the development to pay for permitted uses that reduce the overall cost. These uses are detailed below.

- Acquisition of property within the RHID
- Payment of relocation assistance
- Site Preparation
- Sanitary and storm sewers and lift stations
- Drainage conduits, channels and levees
- Street grading, paving, curbs and gutters
- Street lighting
- Underground public and limited private utilities, all located within the public right-of-way
- Sidewalks
- Water mains and extensions

Prior to the submission of a Rural Housing Improvement District (RHID) application a policy must be created. The State governs the RHID process and requires specific needs identified and financial considerations. Each community can have further requirements.

Discussion

In collaboration with Gina Riekhof of Gilmore and Bell, staff has developed a proposed policy for City Commission consideration. Once the policy is created each application will be presented separately to the Commission for determination on their individual merits. The policy:

- Consistent with current Economic Development Policy including
 - Claw backs, Development Agreements, Fees, etc.
- Each applicant presents a Housing Needs Assessment **demonstrating the need**
- Developer Pays for all City incurred costs
- Pay as you go only financing option
 - Developer responsible for securing financing and is only reimbursed through the increment
- Allows for single family or multifamily units
- Minimized impact on water source
- But For Clause/Assurances
- Requires Development and Business Plan
- Allows City Commission to deviate from the process if desired

Legal Consideration

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

Financial Consideration

There are no financial considerations at this time with the proposed policy. If approved future application costs will be covered by the developer and RHID benefit identified.

Options

- 1) Approve the Rural Housing Improvement District Policy as presented.
- 2) Give staff further guidance.
- 3) Take no action.

Recommendation

Staff recommends approval of a Rural Housing Improvement District Policy based on recommendations of the City Commission.

Action Requested

Approval of a Rural Housing Improvement District Policy.

Supporting Documentation

Rural Housing Improvement District Proposed Policy
Rural Housing Improvement District White Paper
Rural Housing Improvement District Examples

SUBJECT	ISSUED BY	LAST REVISION DATE	CURRENT EFFECTIVE DATE
ECONOMIC DEVELOPMENT POLICY	City Commission	4- 8-10 <u>26</u> -12	4-26-12 - - <u>13</u>

SECTION 1. INTRODUCTION

The City of Hays is interested in encouraging economic activity and the creation of jobs, thereby broadening its tax base and improving the quality of life for its citizens. Further, the use of public funds to stimulate business growth may be necessary or desirable in certain cases. The decision to provide incentives to a business is guided by the expectation that the financial benefits to the City will produce a sufficient return on the City’s investment and that the business will be a good fit for the community. All proposed incentives are subject to a public hearing. Governmental agencies are not eligible for financial incentives under this policy. No elected or appointed officer, employee or committee of the City, Hays Area Chamber of Commerce or Ellis County Coalition for Economic Development employee, board, or other public or private body or individual, shall be authorized to speak for and/or commit the City Commission to the granting of an incentive. This policy is meant to encourage the following:

- A. Research and development-based businesses
- B. High-tech businesses
- C. Environmentally friendly businesses
- D. Expansion of existing industry
- E. Business start-ups
- F. Recruitment of new companies from out-of-state
- G. The retention of businesses which are good corporate citizens that will add to the quality of life in Hays through their leadership and support of local civic and philanthropic organizations.
- H. Training and development of Hays area employees
- I. The establishment of businesses that will be good stewards of the City of Hays’ water sources.

The City Commission reserves the right to deviate from this policy when, in the opinion of the Commission, it is in the best interests of the City to do so.

SECTION 2. DEFINITIONS

“City” means the City of Hays, Kansas.

"Economic development purposes" shall mean the establishment of a new business or the expansion of an existing business, which:

- A. is or will be primarily engaged in any one or more of the Kansas basic industries; or
- B. is or will be primarily engaged in the development or production of goods or the provision of services for out-of-state sale; or
- C. is or will be primarily engaged in the production of raw materials, ingredients or components for other enterprises which export the majority of their products; or

- D. is a national or regional enterprise which is primarily engaged in interstate commerce; or
- E. is or will be primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the city; or
- F. is the corporate or regional headquarters of an enterprise, which is primarily engaged in out-of-state business activities.

“Environmentally friendly businesses” shall mean:

- Firms with programs or activities that reduce the impact of activities on the environment.
- Businesses that are not damaging to the environment, or directed at preventing environmental damage.

“High-Tech Businesses” shall mean both manufacturing and non-manufacturing businesses that have a great dependence on science and technology innovation that leads to new or improved products or services. High-Tech Business involves intensive use of new scientific and technical knowledge. It is often characterized by reliance on significant inputs of knowledge, depending more on having access to the knowledge produced in universities and other educational institutions. It tends to hire and keep personnel who have advanced skills. High-Tech Businesses are more sensitive to the quality of local universities and other educational institutions as providers of knowledge and education of high-skilled workers and may be more sensitive to local quality of life, encouraging high-skilled workers from elsewhere to be hired. High-Tech Business often has special infrastructure needs, such as broadband communications. Goods and services produced by High-Tech Businesses frequently require a longer development time than ordinary goods and services, requiring some ability to generate equity capital or other “maturing” capital.

“Kansas basic industry” shall mean:

- Agriculture;
- Mining;
- Manufacturing;
- Interstate transportation;
- Wholesale trade which is primarily engaged in multi-state activity or which has a major import supplanting effect within the state;
- Financial services which are primarily engaged in providing such services for interstate or international transactions;
- Business services which are primarily engaged in providing such services to out-of-town markets;
- Research and development of new products, processes or technologies;
- Tourism activities, which are primarily engaged in for the purpose of attracting out-of-state tourists.

As used in these subsections, “primarily engaged” means engagement in an activity by an enterprise to the extent that not less than 51% of the gross income of the enterprise is derived from such engagement.

SECTION 3. INDUSTRIAL ECONOMIC DEVELOPMENT

The City will be selective as to the kinds of industrial businesses (i.e., businesses that are not retail businesses) that are recruited and assisted. In general, the primary objective of the City’s industrial Economic Development Policy is to target new and expanding businesses that are environmentally sound, strengthen our local economy, and demonstrate a need for public financial support in order to locate or expand in Hays. Additionally, the City favors industry that creates high-caliber

employment, such as high-skill, high-wage jobs with increased employee benefits and superior working conditions.

When considering proposals brought before the City, City staff and the City commission shall be cognizant of the investment being made by the business, the risk involved in doing business, and the reputation of the City which is created by decisions that are made.

Examples of available incentives that may be available to industrial businesses may include; Property Tax Abatement, Industrial Revenue Bonds, Job Bounty Program, Tax Increment Financing (TIF), Transportation Development Districts (TDD), Community Improvement District (CID), or other available programs as approved by the Kansas Legislature.

SECTION 4. RETAIL DEVELOPMENT

The purpose of this section is to establish the official policy and procedures of the City for the granting of incentives for new and expanding retail businesses not otherwise addressed within this policy.

The primary objectives of the City in granting incentives to retail businesses for development include the expansion of the sales tax base, general enhancement of quality of life, development as the regional hub for goods and services in northwestern Kansas, and the expansion of the property tax base.

Examples of available incentives that may be available to retail businesses may include; Job Bounty Program, Tax Increment Financing (TIF), Transportation Development Districts (TDD), Community Improvement District (CID), Sales Tax and Revenue Bonds (STAR Bonds), or other available programs as approved by the Kansas Legislature.

A single development requesting additional assistance must also meet all of the following criteria:

- A. The development must be at least 50,000 square feet
- B. Generate \$10,000,000/yr. in retail sales
- C. Employ twenty five (25) or more employees

SECTION 5. ECONOMIC DEVELOPMENT APPLICATION

New or existing businesses that seek financial incentives from the City must file an *Application for Economic Incentives* before their request can be considered. The application shall contain the following information:

- A. Specific information on incentives being requested
- B. Company profile including longevity of company, principal officers, stockholders and clients
- C. Audited financial statements – last five (5) years or since date of incorporation if company has not been in existence for five (5) years
- D. Completed (attached) *Application for Economic Incentives* and *Supplemental Questionnaire*
- E. Business Plan as it relates to the proposed business to be located in Hays
- F. Cost Benefit Analysis (See Section 14)

The City will not consider the granting of any incentive unless the business submits a full and complete application, and provides additional information as may be requested by the City

Commission. The accuracy of the information provided in the application shall be verifiable by the applicant. Any misstatement of or error in fact may render the application null and void and may be cause for the repeal of any resolution adopted in reliance on said information. Applications will not be considered after the issuance of building permits. Refer to Section 6 for application and renewal fee information.

SECTION 6. FEE SCHEDULE

Any individual business requesting any incentive shall pay to the City a nonrefundable application fee of \$1000 plus a deposit of \$5,000.00 to be retained by the City to pay for the City's out of pocket costs associated with the City's review of the application and other actions and agreements associated with the proposed incentive, including but not limited to the City's cost of legal counsel, financial advisors and consultants necessary to evaluate the application and administer the incentive. In the event that costs for third-party services incurred by the City exceed the fee collected, the applicant shall reimburse the City for such additional cost, immediately upon request, but no later than prior to final consideration of the incentive by the Governing Body. The application fee and deposit shall be submitted at the same time the *Application for Economic Incentives* is submitted. At its discretion, the City Commission may consider waiving a portion of the fee or deposit upon request, based upon need. In addition, any business which has been granted an incentive shall pay an annual nonrefundable renewal fee in the amount of \$100.00.

The City requires the use of its designated Bond Counsel and its designated Financial Advisor. The City reserves the right to approve the selection of other necessary participants in the administration of an incentive, including but not limited to, the underwriter and trustee/fiscal agent. The City, at its discretion, may retain additional independent advisors to assist the City in analyzing the merits of the application and in making a determination of its approval at the applicant's expense. Examples of additional advisors include economic or environmental specialists, or a certified public accountant.

SECTION 7. PROPERTY TAX ABATEMENT POLICY

A. Policy.

The grant of property tax abatement will be considered for real and personal property being added to the tax rolls by "Kansas basic industry," in accordance with the provisions set by Article 11, Section 13 of the Constitution of the State of Kansas and the provisions of K.S.A. 12-1740 *et seq.* and K.S.A. 79-201a.

The City may approve for economic development purposes a property tax abatement on real and personal property used exclusively in the following business activities:

- Conducting research and development;
- Manufacturing articles of commerce;
- Storing goods that are sold or traded in interstate commerce;
- Corporate or regional headquarters of a multi-state enterprise which is primarily engaged in activities that take place outside of Kansas;
- High-tech businesses.

B. Abatement Amount and Term.

While Kansas law permits an exemption up to 100 percent of the qualified investment for up to 10 years, it shall be the policy of the City to normally provide property tax abatement and require payments in lieu of taxes (PILOTs) as set forth in the following schedule for portions of a project that meet the economic development goals of the City set forth in Sections 1 and 3 and that qualify for abatement under Kansas law. The abatement level is based on the **higher of the capital investment AND job creation.**

<u>Abatement Level</u>	<u>Capital Investment¹</u>	<u>Job Creation²</u>
<u>Matrix for High-Tech Businesses and Research and Development-Based Businesses</u>		
50% abatement for 10 years	Minimum: \$500,000 Maximum: \$3,750,000	Minimum: 25 Eligible Net New Jobs Maximum: 50 Eligible Net New Jobs
100% abatement for 10 years	>\$3,750,000	>50 Eligible Net New Jobs
<u>Matrix for All Other Business Types</u>		
25% abatement for 10 years	Minimum: \$500,000 Maximum: \$2,500,000	Minimum: 25 Eligible Net New Jobs Maximum: 50 Eligible Net New Jobs
50% abatement for 10 years	Minimum: \$2,500,001 Maximum: \$10,000,000	Minimum: 51 Eligible Net New Jobs Maximum: 125 Eligible Net New Jobs
75% abatement for 10 years	Minimum: \$10,000,001 Maximum: \$30,000,000	Minimum: 126 Eligible Net New Jobs Maximum: 250 Eligible Net New Jobs
100% abatement for 10 years	>\$30,000,000	>250 Eligible Net New Jobs

¹ Capital Investment will be determined by increase in appraised value from the appraised value of the property on the date of the application compared to the appraised value on the January 1 after completion of improvements, all as determined by tax appraisal from the Ellis County Appraiser’s office.

² “Eligible Net New Jobs” means each full-time equivalent job created above the monthly average full-time equivalent employee count for the 12-month period preceding the date of application. In order for a job to qualify as a “Eligible Net New Job,” each job must pay wages greater than 100% of the Region 1 wage average based on the applicant’s 4-digit NAICS code. The number of Eligible Net New Jobs must be reported annually pursuant to Section 15, and if the actual number of Eligible Net New Jobs in any year during the abatement term is less than the Eligible Net New Jobs set forth in the application, the abatement level for the remaining abatement term will be reduced in accordance with the table above.

The abatement term for projects considered under the authority of Article 11, Section 13 of the Constitution of the State of Kansas shall begin in the calendar year after the calendar year in which the business commences its operations locally. The abatement term for projects considered under the authority of K.S.A. 12-1740 *et seq.* and K.S.A. 79-201a shall begin in the calendar year after the calendar year in which industrial revenue bonds are issued.

C. Procedure.

1. **Action by the City.** The City shall consider granting a tax exemption pursuant to this Policy after receipt of a complete application from the applicant in a form prescribed by the City together with the application fee and deposit. The application shall be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the

project's preliminary site plans and building elevations, to prepare a cost benefit analysis, and to contact the county and the unified school district within which the property proposed for exemption is located. The project's site plans and building elevations are subject to final approval to ensure that they are similar to the preliminary plans and elevations submitted.

Based on each application and such additional information as may be requested by the City, the City shall prepare or cause to be prepared a cost benefit analysis of the proposed exemption on the city and state of Kansas, which analysis shall be used by the Governing Body in considering the request for abatement, and shall be sufficient to meet statutory requirements for obtaining property tax abatement. In making its decision, the Governing Body may also consider any fiscal and/or economic impact analyses performed by the county and the unified school district within which the property proposed for exemption is located.

Prior to formal action on each resolution of intent, the Governing Body shall conduct a public hearing thereon, to be scheduled at least seven days after publication of notice. Notice of the hearing shall also be sent to the Ellis County Clerk's Office and the unified school district within which the property proposed for exemption is located.

Any grant of property tax abatement shall be accompanied by Performance Agreement as set forth in Section 13 of this Policy, and continuing abatement shall be subject to annual review as set forth in Section 15 of this Policy.

All documents necessary to consider granting a tax exemption, including the cost benefit analysis, notice of hearing, and any resolutions or ordinances, shall be prepared or reviewed by the City's Bond Counsel.

2. Action by the State Court of Tax Appeals. If the abatement request is granted, the applicant shall prepare and submit to the City by each February 1, a copy of the abatement application required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property. The City Clerk shall submit such application and statement to the County Appraiser, who will forward to the Court of Tax Appeals. The City Clerk shall provide a copy of the ordinance, as published in the official city newspaper, granting an abatement from taxation to the applicant for use in filing an initial request for tax abatement as required by K.S.A. 79-213, and by K.S.A. 79-210 for subsequent years. The City expressly notes to applicants that no abatement can be provided without the approval of the State Court of Tax Appeals.

D. Payment of PILOTs.

Any payment in lieu of taxes, which shall be required of a business granted a property tax abatement of less than 100% for 10 years, shall be paid to the County Treasurer, with notice of the amount and date paid provided to the City. The County Treasurer is directed to apportion the payment, under the provisions of subsection (3) of K.S.A. 12-148, to the general fund of all taxing subdivisions, excluding the state, which levy taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes by each of the applicable taxing subdivisions. The specific provisions for payment of PILOTs shall be set forth in the Performance Agreement between the City and the applicant.

SECTION 8. INDUSTRIAL REVENUE BOND POLICY

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A. Policy.

It shall be the policy of the City to consider the issuance of industrial revenue bonds pursuant to K.S.A. 12-1740 *et seq.* (the "IRB Act") for the purposes set out in Section 1 of this Policy, and the IRB Act. Industrial revenue bonds may also be issued for the purpose of property tax abatement, as set forth in Section 7 of this Policy.

B. Sales Tax Exemption for Construction Materials.

Labor and materials, as well as equipment purchased with IRB proceeds may be exempt from State and local sales tax. The City reserves the right to grant or deny such sales tax exemption in connection with the issuance of IRBs, to be determined on a case-by-case basis.

C. Cost Reimbursement/Issuance Fee.

The applicant shall reimburse the City for all costs associated with the issuance of bonds, including but not limited to, the cost-benefit analysis, all legal publication notices, application fees to the Court of Tax Appeals, the City's bond counsel fees and all other miscellaneous costs.

For projects requesting tax abatement in connection with the issuance of industrial revenue bonds, the City shall receive an issuance fee of (i) 25 basis points (.0025) of the first \$10 million par amount of bonds being issued or the amount of constitutional tax abatement being requested, plus (ii) 20 basis points (.002) of the par amount of the second \$10 million of bonds being issued or the amount of constitutional tax abatement being requested, plus (iii) 10 basis points (.001) of the par amount in excess of \$20 million of bonds being issued or the amount of constitutional tax abatement being requested. In no event shall the issuance fee be less than \$1,500 or more than \$100,000. The fee shall be due and payable at the time the bonds are issued.

SECTION 9. COMMUNITY IMPROVEMENT DISTRICT POLICY

A: POLICY STATEMENT

It is the policy of the City to consider the establishment of CIDs for reimbursable expenses in the amount of \$250,000 or greater in order to promote economic development and tourism within the City. An applicant may petition the City to utilize special assessments or a special sales tax to fund projects eligible under the CID statutes. In considering the establishment of a CID, the Governing Body shall consider whether the proposed CID will achieve the economic development purposes outlined in Section 1 of this Policy.

It is the further policy of the City that a CID shall only be established for projects where the applicant/developer pays for the cost of eligible CID improvements (at no cost to the City) and agrees to be reimbursed on a pay-as-you-go basis for such costs from the City's receipt of CID sales tax revenues or CID special assessment revenues.

The use of CIDs should not alter the requirements of the City's Economic Development Policy in regard to the development paying for public infrastructure or meeting building codes. When

establishing a CID, special consideration will be given to public benefits. These benefits may include, but are not limited to, strengthening economic development and employment opportunities, reducing blight, enhancing tourism and cultural amenities, upgrading older retail real estate and commercial neighborhoods, and promoting sustainability and energy efficiency.

B: CRITERIA

It shall be the policy of the City to create a CID, if, in the opinion of the Governing Body, it is in the best interest of the City to do so. The Governing Body shall consider the following factors when creating a CID:

1. The project meets the City's economic development goals by expanding existing businesses or develops new businesses described in Section 1 of this Policy, and/or strengthens economic development and employment opportunities, reduces blight, enhances tourism and cultural amenities, upgrades older retail real estate and commercial neighborhoods, and promotes sustainability and energy efficiency.
2. The project uses higher standards for the design of improvements and materials used in making improvements within the CID, compared to the minimum requirements set forth in the City's current design guidelines.
3. The project extends public infrastructure to parts of the City that are not currently served by such infrastructure.

C: PROJECT ELIGIBILITY

1. It is the intent of the City to allow only projects involving capital investment and improvements to qualify for reimbursement. Purchase of consumables, and items or property considered to be operating expenses shall not qualify for reimbursement.

The following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, equip or extend shall be eligible for reimbursement out of the proceeds of the community improvement district sales tax:

- a. Public buildings, structures and facilities, and private not-for-profit museums;
- b. Sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heating and electrical services and connections located within or without the public right-of-way, water mains and extensions and other site improvements;
- c. Parking garages;
- d. Streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers;
- e. Parks, lawns, trees and other landscape;
- f. Communication and information booths, bus stops and other shelters, stations, terminals, hangers, rest rooms and kiosks;
- g. Outdoor cultural amenities, including but not limited to, sculptures and fountains;
- h. Private buildings, structures and facilities;
- i. To produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, decoration of any public place in the district,

- promotion of such activity and special events;
- j. To support business activity and economic development, including, but not limited to, development, retention, and the recruitment of developers and businesses;
- k. To provide or support training programs for employees of businesses.

2. Generally, projects not listed in the foregoing eligibility section shall not be eligible for reimbursement out of the proceeds of a Community Improvement District sales tax. Additionally, the following projects within the district to acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend shall be ineligible for reimbursement out of the proceeds of a community improvement district sales tax:

- a. Airports, railroads, light rail and other mass transit facilities;
- b. Lakes, dams, docks, wharfs, lakes or river ports, channels and levies, waterways and drainage conduits.
- c. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons for public property, buildings and outdoor spaces.
- d. To provide or contract for cleaning, maintenance and other services to public property, buildings and outdoor spaces;
- e. To contract for or conduct economic impact, planning, marketing or other studies related to the district.
- f. Indoor cultural amenities, including but not limited to, paintings, murals and display cases, which are not located in a private not-for-profit museum;
- g. To operate or to contract for the provision of music, news, child-care, or parking lots or garages, and buses, minibuses or other modes of transportation;
- h. To provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons inside private buildings;
- i. To provide or contract for cleaning, maintenance and other services to private property;
- j. The purchase of inventory and/or supplies for use or resale.
- k. To purchase interior furnishings.
- l. To purchase advertising or participation and any promotional expenses.
- m. Any other projects not permitted by state statute, as amended from time to time.

D: METHOD OF FINANCING

The governing body will consider creation of a CID where (1) the costs of CID improvements will be financed on a pay-as-you-go basis from CID sales tax revenues or (2) the costs of CID improvements consisting only of public infrastructure improvements will be financed from CID special assessments. In the instance where public infrastructure CID improvements will be financed from CID special assessments, the City will consider the issuance of special obligation CID special assessment bonds. The City will not issue special obligation or general obligation bonds for CID improvements, other than the limited circumstances set forth in this section. The proposed method of financing will be clearly shown in the petition.

E: PROCESS

The process for creation of a CID shall be as follows:

1. *Petition and Supplemental Information.* An applicant requesting that the City create a CID shall first submit a petition to the City. Such petition shall contain all of the information required by K.S.A. 12-6a26 *et seq.* and shall contain all of the required signatures of property owners as set forth in the Community Improvement District Act. Such petition shall

also contain an agreement by the applicant to pay all out of pocket costs incurred by the City related to the City's review of the petition, including but not limited to the City's cost of legal counsel and financial advisors necessary to evaluate the petition. In addition to the information required by K.S.A. 12-6a26 *et seq.*, applicants must file (a) an Application for Economic Incentives and Supplemental Questionnaire, as provided by the City's Economic Development Policy, (b) a site plan for all public and private improvements to be located within the proposed CID, and (c) a business plan evidencing that the applicant has the financial ability to complete the proposed project in a timely manner and operate the project for the term of the proposed CID. The applicant shall furnish such additional information as requested by the City in order to clarify the petition or to assist staff or the Governing Body with the evaluation of the petition.

2. *Application Fee and Deposit.* The application fee and deposit, as well as any costs and expenses required to be paid by the applicant pursuant to Section 6 may be deemed costs of the improvements, and may be reimbursable to the extent permitted by the Community Improvement District Act and as authorized by the Governing Body.
3. *Timing of Submissions.* The petition and all additional information required by this Policy must be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the project's site plans, and to analyze the merits of the proposed CID in the context of existing economic development and infrastructure projects.
4. *Public Hearing.* Upon receipt of the petition and all additional information required by this Policy, the Governing Body may order a public hearing on the creation of a CID and the imposition of a CID sales tax. The Governing Body shall give public notice and hold such hearing in the manner required by the Community Improvement District Act.
5. *Governing Body Findings; Development Agreement Required.* After the public hearing is conducted, the Governing Body shall determine the advisability of creating a CID pursuant to the Community Improvement District Act. If advisable, the Governing Body may create a CID by adopting an ordinance. Contemporaneously with the adoption of an ordinance creating a CID, the Governing Body shall consider a Development Agreement between the City and the applicant setting forth the specific terms and conditions under which the City will reimburse the applicant on a pay-as-you-go basis for the costs of certain CID Improvements.

F: APPLICANT REQUIREMENTS

1. The applicant shall provide a tax clearance letter from the State of Kansas Department of Revenue to determine and ensure the applicant is compliant with all primary Kansas Tax Laws. An annual submission of the tax clearance from the State of Kansas Department of Revenue is required.
2. If a CID is created, the applicant must complete an annual report by March 1 of each year covering the previous calendar year.
3. If a CID is created, the applicant must agree in the Development Agreement to pay to the City an annual administrative fee equal to 0.5% of the annual CID revenue generated within the CID, to cover the administration and other City costs related to the CID. This fee is in lieu of the annual renewal fee of \$100.00 set forth in the City's Economic Development Policy for other economic development incentives.

G: PAYMENT OF CERTAIN COSTS

The City shall require the applicant to enter into a funding agreement or other evidence of the applicant's agreement to pay costs incurred by the City for additional legal, financial and/or planning consultants, or for direct out-of pocket expenses and other costs relating from services rendered to the City to review, evaluate, process and consider the petition for a CID, as well as the continued maintenance of the escrow account for CID revenues and for the processing of payments of CID eligible costs. Such costs and expenses may be deemed costs of the project, to the extent permitted by the Community Improvement District Act.

H: AUTHORITY OF GOVERNING BODY

The Governing Body reserves the right to deviate from any policy when it considers such action to be of exceptional benefit to the City or extraordinary circumstances prevail that is in the best interests of the City. Additionally, the Governing Body, by its inherent authority, reserves the right to reject any proposal or petition for creation of a CID at any time in the review process when it considers such action to be in the best interests of the City.

SECTION 10. RURAL HOUSING IMPROVEMENT DISTRICT POLICY

A: POLICY STATEMENT

It is the policy of the City to consider the establishment of a RHID for a development containing a minimum of ten owner occupied units or ten renter occupied units, all of which will help address a housing need identified in the Hays Housing Assessment most recently presented to and approved by the City Commission (the "Current Hays Housing Assessment"). It is the further policy of the City that a RHID shall only be established for projects where the applicant/developer pays for the cost of eligible RHID improvements (at no cost to the City) and agrees to be reimbursed on a pay-as-you-go basis for such costs from the City's receipt of RHID revenues.

B. CRITERIA

It shall be the policy of the City to create a RHID, if, in the opinion of the Governing Body, it is in the best interest of the City to do so. The Governing Body shall consider the following factors when creating a RHID:

1. Assure taxpayers that the City is not financing an already viable project.
2. Assure taxpayers that the City is not financing an unreasonably high profit margin for developers. Each developer will be required to submit a detail of development costs and net operating income including an Internal Rate of Return to be compared to the market for reasonableness.
3. Assure taxpayers that the development provides the City safeguards committing the developer to complete the project.

The Development Plan required by statute for each project must determine that the incremental ad valorem property tax revenues generated by the RHID, together with other funds committed by the Developer, will cover the estimated eligible costs of the project. All Development Plans must assume that the initial estimated incremental property tax revenues will remain flat over

the term of the RHID (i.e., no plan may assume increasing incremental property tax revenues will be available to cover project costs).

All development requests must utilize drought tolerant landscaping and water efficient fixtures in order to minimize impact on water resources. City staff will provide the necessary guidance.

C: ELIGIBLE COSTS

It is the intent of the City to allow only the following development expenditures within a RHID to qualify for reimbursement out of RHID revenues:

1. Acquisition of property within the RHID
2. Payment of relocation assistance
3. Site Preparation
4. Sanitary and storm sewers and lift stations
5. Drainage conduits, channels and levees
6. Street grading, paving, curbs and gutters
7. Street lighting
8. Underground public and limited private utilities, all located within the public right-of-way
9. Sidewalks
10. Water mains and extensions

D: METHOD OF FINANCING

The governing body will consider creation of a RHID where eligible costs will be financed on a pay-as-you-go basis from incremental ad valorem tax revenues generated within the RHID. The City will not issue special obligation bonds for RHID improvements.

E: PROCESS

The process for the creation of an RHID District shall be as follows:

1. *Application and Supplemental Information.* An applicant requesting that the City create a RHID must file:
 - a. an Application for Economic Incentives and Supplemental Questionnaire, as provided by the City's Economic Development Policy,
 - b. a Housing Needs Analysis meeting the requirements of K.S.A. 12-5244(a) and the guidelines of the Kansas Department of Commerce, and incorporating the findings contained in the Current Hays Housing Assessment,
 - c. a Development Plan meeting the requirements of K.S.A. 12-5245, and
 - d. a business plan evidencing that the applicant has the financial ability to complete the proposed project in a timely manner and that the project meets the criteria for establishment of a RHID, as set forth in this Policy.

The applicant shall furnish such additional information as requested by the City in order to clarify the application or to assist staff or the Governing Body with the evaluation of the application.

2. *Application Fee and Deposit.* The application fee and deposit as well as any costs and expenses required to be paid by the applicant pursuant to Section 6 of the Economic Development Policy are not reimbursable pursuant to the Rural Housing Incentive District Act. The applicant will pay all out of pocket costs incurred by the City related to the City's review of the application, all documents related to consideration of a RHID and the development agreement, including but not limited to the City's cost of legal counsel and financial advisors necessary to evaluate and create the proposed RHID.
3. *Timing of Submissions.* The application and other information required by this Policy must be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the submitted documents and analyze the merits of the proposed RHID in the context of existing economic development policy.
4. *Secretary of Commerce Approval.* If the Governing Body determines that it is in the best interest of the City to approve the the Housing Needs Analysis and move forward with the proposed Development Plan, the Governing Body shall adopt a resolution approving the Housing Needs Analysis and submit such analysis to the Kansas Secretary of Commerce for approval. If the Secretary of Commerce agrees within the findings of the Governing Body set forth in such resolution, the Governing Body may proceed with the establishment of an RHID.
5. *Development Agreement.* Upon receipt of approval from the Secretary of Commerce, but before the Governing Body takes further action with respect to the creation of the RHID, the City and the Developer shall negotiate a development/performance agreement to implement the proposed Development Plan and including the requirements of this Policy, including particularly the requirements of Section 14 of this Policy related to Performance Agreements.
6. *Public Hearing.* When the Development Plan, a draft Development Agreement, and all additional information required by the RHID Act and this Policy are ready to be presented to the Governing Body the Governing Body will consider adopting a resolution ordering a public hearing on creation of the RHID and adoption of the plan. The Governing Body shall give such notice and hold such hearing in the manner required by the RHID Act.
7. *Governing Body Findings.* After the public hearing is conducted, if advisable, the Governing body may create an RHID district by adopting an ordinance creating the district, adopting the Development Plan, and approving the Development Agreement.

F: PAYMENT OF CERTAIN COSTS

The City shall require the applicant to enter into a funding agreement or other evidence of the applicant's agreement to pay costs incurred by the City for additional legal, financial and/or planning consultants, or for direct out-of pocket expenses and other costs relating from services rendered to the City to review, evaluate, process and consider the request for RHID. Such costs and expenses are the applicant's sole responsibility, and are not generally reimbursable pursuant to the RHID Act.

G: AUTHORITY OF THE GOVERNING BODY

The Governing Body reserves the right to deviate from any policy when it considers such action to be of exceptional benefit to the City or extraordinary circumstances prevail that is in the best interests of the City. Additionally, the Governing Body, by its inherent authority, reserves the right to reject any proposal or request for the creation of an RHID at any time in the review process when it considers such action to be in the best interest of the City or whenever, in the opinion of the City Commission sufficient properties are already available for the type of development being considered.

I: REVIEW

The RHID policy will be in place as long as there is a need for specific housing, as shown in the Current Housing Needs Assessment. The City expects the Housing Needs Assessment will be updated every three to five years.

SECTION 11. JOB BOUNTY PROGRAM

The Job Bounty Program of the City is to encourage new and/or existing businesses to hire employees. To participate in the Job Bounty Program, a prospective employer must agree to hire at least ten (10) full-time employees at an hourly wage of no less than \$10.00/hr. For the purpose of this program, a full-time employee is one that works forty (40) hours per week or two thousand eighty (2080) hours per year. Anything below these levels will be considered part-time and will not be eligible for benefits under this program.

For those employers creating ten (10) or more full-time jobs paying no less than \$10.00/hr., the Job Bounty Program, subject to the City's budgetary limitations, shall receive the following:

1. For each full-time position created paying no less than \$10.00/hr. base salary, not including employee benefits, tips, commissions, bonuses, or other incentives, the City will pay to the employer \$1,000 per job provided that funds shall be paid in 20% increments over a five (5) year period. The employer will be required to provide, at the end of each year, in order to receive Job Bounty funds for that year, an audited payroll showing those ten (10) or more jobs were filled throughout the one year period.
2. For full-time jobs exceeding \$15.00/hr base salary, not including employee benefits, tips, commissions, or other incentives, the City will pay \$1500 per job on the same basis as noted previously including creation of a minimum of ten (10) jobs per company per agreement.

No Job Bounty proceeds will be paid for the creation of jobs that do not meet established hour and wage requirements as outlined above. It is specifically noted that an employer will apply for a specified number of jobs with the initial application. If the employer creates less than the number of jobs included in the application, no Job Bounty funds will be distributed. Job Bounty funding is allocated on a one-time occurrence per company. Retroactive funding activities, as stated in Section 17 of this policy, are not allowed under this policy.

No jobs may be created, or employees hired, under Job Bounty application until formal review by the City Manager's Office and formal approval has been given by the City Commission subject to all of the activities contained in this policy.

SECTION 412. MEMORANDUM OF UNDERSTANDING

Authority to issue memorandums of understanding to consider requests for economic development incentives shall lie only with the City Commission. Such memorandums of understanding shall only be issued by the City Commission, and as an expression of good faith intent, but shall not in any way bind the City to the granting of an incentive. Such memorandums of understanding shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of memorandums of understanding.

SECTION 423. NOTICE AND HEARING

No incentive shall be granted by the City prior to a public hearing thereon. Notice of the public hearing shall be published at least seven days prior to the hearing in the official city newspaper, giving the time and place, and the hearing may be held at a regular or special meeting of the City Commission. The City Manager shall thereupon notify the Ellis County Commissioners, the superintendent of the appropriate school district, and the clerk of any taxing jurisdiction, excluding the state, which derives or could derive property taxes from the affected business advising them of the scheduled public hearing and inviting their review and comment. Upon request, the City Manager shall provide any such public agency with a copy of the application, which shall remain confidential unless released by the City Commission. The applicant business shall be invited, but not required, to attend the public hearings.

SECTION 434. PERFORMANCE AGREEMENT

Any incentive granted pursuant to this policy shall be accompanied by a Performance Agreement between the applicant and the City, which shall include provisions governing the situation if an applicant fails to meet the wage, number of jobs, and/or capital investment projections set forth in the original application. Each incentive shall be reviewed annually. The City Commission shall receive the annual review report, and if the City Commission determines that a business or project is not in compliance with the provisions of the Performance Agreement, then the incentive may be modified pursuant to the Performance Agreement as the City Commission deems appropriate. Modifications to the incentive may include, but are not limited to, termination of the incentive, reduction of any incentive (including but not limited to reductions in tax abatement due to failure to meet requirements as set forth in Section 7) and claw-back of any existing incentive. To the extent necessary, the County Appraiser and the State Court of Tax Appeals shall be notified of appropriate actions to modify any incentive.

SECTION 445. COST BENEFIT ANALYSIS

The Cost Benefit Analysis will offer a wide spectrum of information as it pertains to development, the adequacy, or inadequacy of, financial incentives, and finally, the net gain, current and future, of entering into these types of endeavors on behalf of the citizens of the City. The Cost Benefit Analysis should address the following items:

1. **DIRECT COSTS TO THE CITY.** Any identified direct cost should be included in the analysis. Examples of these types of costs include municipal infrastructure to the business site, and costs of providing city emergency services such as fire and police protection.
2. **BENEFIT TO THE CITY.** Direct benefits include wages/salaries/benefits paid to employees, any taxes collected (property, sales, franchise fees), purchases of products/services from local vendors.
3. **COST VERSUS BENEFIT.** From a community perspective, incentives are used because a net benefit is expected. A desired benefit to cost ratio must be at least in the 1.25:1 ratio. Proposed economic development projects that achieve this benchmark traditionally employ a higher proportion of local labor, including managers, at an above-average hourly wage.

This analysis should identify the particulars involving the developer's proposal. This should include confirmation of the size of the store, financial information, number of employees, pay scale, tax collections, and other areas involving development. The developer is responsible for the development of this analysis including any cost incurred.

SECTION 1516. ANNUAL REVIEW FOR COMPLIANCE

All incentives granted shall be subject to an annual review to ensure that the ownership, use of property, and the economic performance of the business, including the capital investment, employment, and wages, are pursuant to requirements and criteria of this policy, the application, and the conditions of the granting of incentives. The review shall also include a comprehensive review of the entire incentive period for the business (if applicable), including milestones and project phases for the business. The annual review shall provide an opportunity for the company receiving the incentive to describe their achievements, especially in the areas of environmentally sound practice, community engagement and services, and job training. If the business:

- A. no longer qualifies for the incentive pursuant to law or this policy;
- B. substantially fails to meet the expectations set forth in the application for an incentive, including failure to meet employment, wage, or capital investment plans in the application; or
- C. substantially fails to meet the criteria or objectives of this policy;

the City Commission, after notice and a public hearing, may modify any incentive by ordinance or resolution.

The City reserves the right to issue any level of penalties that it deems necessary. These may include; 1) rescissions, which is a complete cancellation of the incentive, 2) penalties, which are fines charged when the business does not meet a certain level of performance or relocates, and finally, 3) recalibrations, which are the provisions for changing the incentive in some manner in order to accommodate an evolving economic climate. The use of these tools will provide a safety net to the community, ensuring that its investment in the business will result in the positive benefits it expects.

Each business receiving an incentive shall be required to complete an annual report by March 1. The information in the report will cover the time period of January 1 through December 31 of the previous year. The annual report will be reviewed by May 1.

By May 1 of each year, an annual report listing all financial incentives that remain in effect will be presented to the City Commission. The annual report shall include information regarding when the incentive was granted, when the incentive expires, current property taxes paid for the property, in lieu of tax payments, amount of any industrial revenue bonds issued, the assessed value of the property, number of employees, salary and payroll of employees, and any additional information concerning the operation of the business receiving the incentive, and other information as requested by the City Commission.

The failure of a business (a) to provide accurate and timely information to the City in the preparation of the annual report or (b) to comply with the performance standards set forth in the Performance Agreement, shall be grounds for the modification or revocation of the incentive granted.

The City may require an annual renewal application to be filed or other information necessary to assure the continued qualification of the exempt business. Any material omission or misstatement of fact in information provided to the City in any such statement or renewal application may be cause for repeal of any incentive ordinance adopted, renewed or extended in reliance thereon.

SECTION ~~46~~17. TRANSFER OF OWNERSHIP OR USE

Incentives granted by the City may be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application, along with the renewal fee, for an incentive. The City shall be notified by the business of any change in ownership and any substantive change in the use of a tax exempt property.

SECTION ~~47~~18. RETROACTIVE GRANTING OF INCENTIVES; “BUT FOR” PRINCIPLE

No incentives, including the granting of Job Bounty funding, will be distributed on a retroactive funding basis. Incentives will be granted pursuant to the guidelines of this policy and effective on the date indicated and approved by the City Commission.

Each application for incentive shall demonstrate that the incentive will make such a difference in determining the decision of the business to locate, expand or remain in the City that the business would not otherwise be established, expanded or retained without the availability of the abatement.

SECTION ~~48~~19. WAIVER OF STATEMENT REQUIREMENTS

The City Commission reserves the right to grant or not to grant an incentive under circumstances beyond the scope of this Statement, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the City Commission that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest.

SECTION ~~49~~20. AMENDMENTS

The City Commission of the City retains the right to amend any portion of this policy as needed.

| **SECTION ~~20~~21. TAX CLEARANCE CERTIFICATION**

Any person, company, or entity receiving economic incentives under this policy must provide a Tax Clearance Certificate from the State of Kansas Department of Revenue on an annual basis prior to December 31. The Tax Clearance Certificate requirement will be in effect until such time that incentives are no longer being utilized.

| **SECTION ~~24~~22. MANDATORY REVIEW**

This policy will be subject to a mandatory review by the City Commission every three years.

Memo

To: City Commission
From: Paul Briseno, Assistant City Manager
Date: 5/16/2013
Re: Rural Housing Incentive District (RHID)

A Rural Housing Improvement District (RHID) development captures 100% of incremental real property taxes created by the development to pay for permitted uses detailed below.

A summary of an RHID is detailed below as allowed by the state. The information was gathered from a Gilmore and Bell presentation.

Background

- Created in 1998
- Authorized for any city in Kansas with a population less than 40,000
- Defined by the City or County establishing the District
- City must demonstrate by a housing needs analysis:
 - Shortage of quality housing
 - Shortage is expected to persist
 - Shortage is a substantial deterrent to future economic growth
 - Development of quality housing dependent on incentives
- Secretary of Commerce must agree with findings
- Must adopt a redevelopment plan, including:
 - Public hearing must be held
 - School District and County have a veto like TIF
- Special Obligation Bonds may be issued

Permitted Use

- Acquisition of property (**eminent domain prohibited**)
- Payment of relocation assistance
- Site preparation
- Sanitary and storm sewers and lift stations
- Drainage conduits, channels and levees

- Street grading, paving, curbs and gutters
- Street lighting
- Underground public or private utilities
- Sidewalks
- Water mains and extensions

How it Works

- Captures 100% of incremental real property taxes created by a housing development project
- All taxing districts included
- Property tax increment diverted for up to 15 years (TIF is 20 yrs)

Funding Methods

- Developer Reimbursement
 - Developer finances approved RHID costs and reimbursed as increment is received
- Bond Financing
 - Special Obligation Revenue Bonds
 - Issued by creator of District
 - Limited obligation
 - May be purchased or guaranteed by developer and re-sold once valuation established
 - Full faith and credit (general obligation) bonds **prohibited**

Effect on Taxing Districts

- All taxing jurisdictions held harmless at Base property tax level
- When RHID bonds are retired, total valuation (including increment) restored to all taxing jurisdictions

District Formation Procedure

- Preparation of Housing Need Analysis
- Resolution finding shortage of quality housing
- Secretary of Commerce approves findings
- Negotiation of Development Agreement
- District boundaries identified and development Plan prepared
- Resolution Calling Public Hearing on District creation and adoption of Plan
 - Hearing date not less than 30 days nor more than 70 days following adoption of Resolution
- Notice delivered to Planning Commission, School District and County/City
- Published Notices
 - Notice published not less than 1 week nor more than 2 weeks prior to hearing
- Public Hearing on District Creation and adoption of Plan
- Ordinance/Resolution creating District and adopting Plan
- 30-day Protest Period
 - School District or County/City finding that District will have adverse effect

MULTIFAMILY EXAMPLE

32 Apartments

PRIOR DEVELOPMENT

Property Appraised Value - \$26,720

Total Tax Revenue - \$382

AFTER DEVELOPMENT

Property Appraised Value - \$790,300

Total Tax Revenue- \$10,150

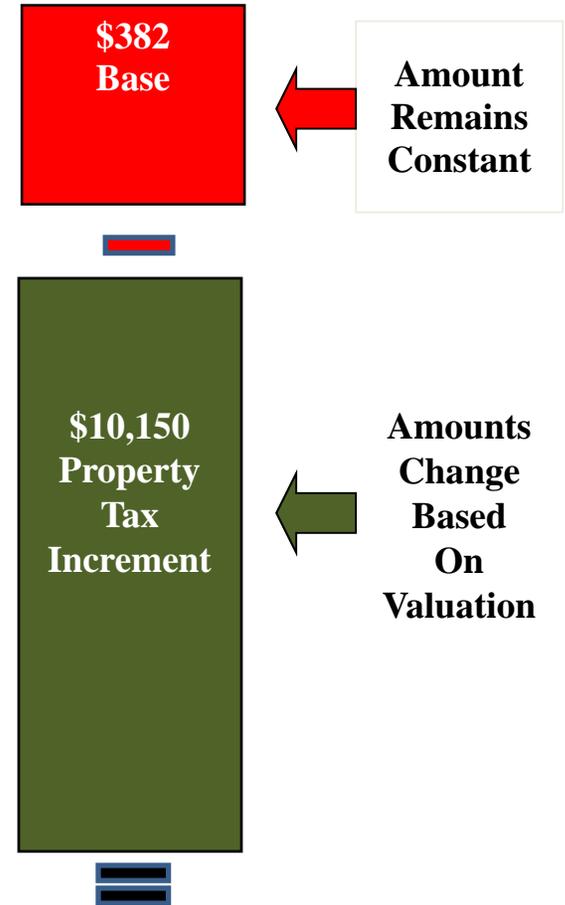
PROPERTY TAX INCREMENT

PRIOR TAX REVENUE - \$382

AFTER DEVELOPMENT TAX REVENUE - \$10,150

ANNUAL PROPERTY TAX INCREMENT -

TOTAL PROPERTY TAX INCREMENT X15 YR = \$146,520



\$9,768

SINGLE FAMILY EXAMPLE

46th Street 1st Addition

PRIOR TO DEVELOPMENT

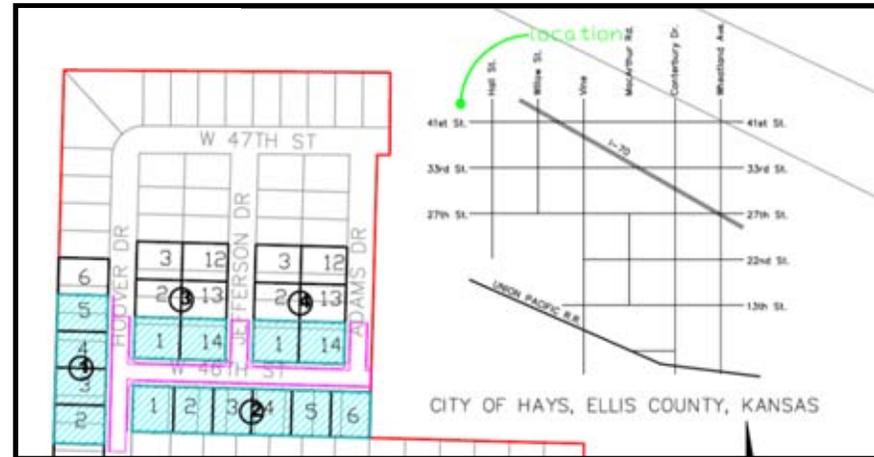
Property Appraised Value - \$13,660

Total Tax Revenue - \$151

AFTER DEVELOPMENT (AVG)

Property Appraised Value - \$218,520

Total Tax Revenue - \$2,773



PROPERTY TAX INCREMENT

PRIOR TAX REVENUE - \$151

AFTER DEVELOPMENT TAX REVENUE - \$2,773

ANNUAL PROPERTY TAX INCREMENT - \$2,622

Total Development x 14 Lots \$36,708

TOTAL PROPERTY TAX INCREMENT X15 YR = \$550,620