

**CITY OF HAYS COMMISSION MEETING  
THURSDAY, JULY 11, 2013 – 6:30 P.M.  
AGENDA**

1. Call to order by Chairperson.
2. **MINUTES**: Consider approval of the minutes from the regular meeting held on June 27, 2013. (PAGE 1)
3. **CITIZEN COMMENTS**: (non-agenda items).
4. **CONSENT AGENDA**: (Items to be approved by the Commission in one motion, unless objections are raised).
  - A. **Mayoral Appointment for Approval**: Hays Area Planning Commission (PAGE 9)
  - B. **Mayoral Appointment Recommendations**: Hays Beautification Committee (PAGE 11)

**UNFINISHED BUSINESS**

(No business to review)

**NEW BUSINESS**

5. **RAG ADDITION FINAL PLAT**: Consider approving Resolution No. 2013-019 accepting the final plat known as the RAG Addition. (PAGE 17)
6. **REQUEST FOR REZONING (A-L TO C-2) – PROPOSED LUECKE ADDITION (ZONING CASE #13-05)**: Consider approving Ordinance No. 3867 rezoning a portion of the proposed Luecke Addition from A-L (Agriculture District) to C-2 (General Commercial and Service District). (PAGE 23)
7. **RECONSIDER REQUEST FOR REZONING (A-L TO C-2) – PROPOSED LUECKE ADDITION (ZONING CASE #13-01)**: Consider denying the proposed rezoning of a portion of the proposed Luecke Addition from A-L (Agriculture District) to C-2 (General Commercial and Service District). (PAGE 33)
8. **RECONSIDER REQUEST FOR REZONING (A-L TO R-3) – PROPOSED LUECKE ADDITION (ZONING CASE #13-02)**: Consider approving Ordinance No. 3868 rezoning a portion of the proposed Luecke Addition from A-L (Agriculture District) to R-3 (Two-Family Dwelling District). (PAGE 37)
9. **REPLAT OF LOT 2, BLOCK 9, GOLDEN BELT 8<sup>TH</sup> ADDITION – ENGINEERING SERVICES AGREEMENT**: Consider approving the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for the development of the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition. (PAGE 45)

10. **AMENDED ECONOMIC DEVELOPMENT POLICY – RURAL HOUSING IMPROVEMENT DISTRICT (RHID):** Consider approving the amended Economic Development Policy for the City of Hays containing the Rural Housing Improvement District Policy. (PAGE 55)
11. **ADDENDUM TO THE MEMORANDUM OF AGREEMENT WITH THE HAYS FRATERNAL ORDER OF POLICE (FOP) LODGE 48 INC. FOR 2014:** Consider approving the Addendum to the Memorandum of Agreement between the City of Hays and FOP Lodge 48 Inc. for 2014. (PAGE 75)
12. **REPORT OF THE CITY MANAGER** (PAGE 79)
13. **COMMISSION INQUIRIES AND COMMENTS**
14. **EXECUTIVE SESSION (IF REQUIRED)**
15. **ADJOURNMENT**

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

MINUTES OF A MEETING OF  
THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON JUNE 27, 2013

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, June 27, 2013 at 6:30 p.m.

Roll Call: Present: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Shaun Musil  
Ron Mellick

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

**2. MINUTES:** There were no corrections or additions to the minutes of the regular session held on June 13, 2013; the minutes stand approved as presented.

**3. FINANCIAL STATEMENT:** Finance Director Kim Rupp reported that month-to-date sales tax collections for the Sports Complex were \$241,082 which was a decrease of \$8,200 when compared to last year. Total year-to-date collections are \$1,219,772 and inception-to-date collections total \$11,145,621. This represents the total collections for the four year term of the sports complex sales tax. General Fund month-to-date sales tax collections were \$591,279 down \$19,955 or -3.26% as compared to last year. The six month running average on sales tax collections is down 1.98%.

The portfolio of certificates of deposit on May 31, 2013 totaled \$51,050,000 with a weighted average interest rate of .24%. The total balance of the Money Market account on May 31, 2013 was \$1,000,000 with a current yield of .20%. Total investments are up \$3,550,000 when compared to this time last year.

Ron Mellick moved, Henry Schwaller IV seconded, that the Financial Statement for the month of May 2013 be approved.

Vote: Ayes: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Shaun Musil  
Ron Mellick

**4. CITIZEN COMMENTS:** There were no comments.

**5. CONSENT AGENDA:** Henry Schwaller IV moved, Ron Mellick seconded that the following mayoral appointments be approved.

Hays Beautification Committee

Joni Phelps – 3-year term to expire August 1, 2016

Hays Public Library Board

Pamela Shaffer – 4-year term to expire April 30, 2017

Delbert Stanton – 4-year term to expire April 30, 2017

Lauren Lowry – unexpired term to expire April 30, 2014

Vote: Ayes: Kent Steward  
Henry Schwaller IV  
Eber Phelps  
Shaun Musil  
Ron Mellick

Mayor Steward presented the following proposed mayoral appointment, which will be voted upon for approval at the July 11, 2013 Commission meeting:

Hays Area Planning Commission

Travis Rickford – 3-year term to expire April 30, 2016.

**NEW BUSINESS**

**6. COMMERCIAL INSURANCE RENEWAL – 2013/2014:** The City's commercial insurance policy with Companion Commercial Insurance will expire

on July 1, 2013. Insurance Planning provides for critical insurance oversight for the City as the insurance broker. Requested quotes to various companies by Insurance Planning resulted in one responsive and responsible bid from our current carrier in the amount of \$196,523. The outcome of this effort translates into an increase in premium for the property and liability package of 2.6% or \$4,971.

Rich Kraemer and Dale Chaffin from Insurance Planning addressed the Commission regarding the changes from last year to this year. Mr. Chaffin stated this is a very good renewal rate in the current insurance market.

Henry Schwaller IV moved, Eber Phelps seconded that the City Manager be authorized to renew the 2013/2014 Commercial Insurance Policy with Companion Commercial Insurance for the coverage presented, with an annual premium total amount not to exceed \$196,523 to be funded from the Intergovernmental Insurance and Surety line item.

Vote: Ayes: Kent Steward

Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

**7. 13<sup>th</sup> STREET OVERLAY (VINE TO HARVEST) – AWARD OF BID:** Henry Schwaller IV moved, Shaun Musil seconded, that the City Manager be authorized to enter a contract with APAC-Kansas, Inc. in the amount of \$621,506.95 for the rehabilitation of 13<sup>th</sup> Street from Vine Street to Harvest Road including the restriping from Milner to Harvest from 4 lanes to 3 lanes, and funded from Financial Policy Projects.

Vote: Ayes: Kent Steward

Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

**8. 2012 AUDIT:** As required by Kansas statute, the City of Hays hires an outside firm to conduct an annual audit of City finances. The audit represents an unbiased opinion of business practices and the financial soundness of all City funds.

Ken Beran and Melissa Romme of Adams, Brown, Beran and Ball presented the 2012 Audit Report.

Henry Schwaller IV moved, Eber Phelps seconded, that the 2012 audit for the City of Hays as presented by Adams, Brown, Beran and Ball be accepted.

Vote: Ayes: Kent Steward

Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

**9. UPDATE ON CONCEALED GUN/KNIFE LEGISLATION:** The State of Kansas has made it legal to carry concealed weapons in public buildings. Beginning July 1, 2013 the only way a municipality can prohibit the concealed carry of handguns in its facilities is by installing electronic equipment and staffing entrances.

City Manager Toby Dougherty stated there is a provision in House Bill 2052 that allows Hays to exempt its facilities from the provisions of the modified concealed carry law, through January 1, 2014, by sending a letter to the Attorney General.

Eber Phelps moved, Henry Schwaller IV seconded, that the City Manager be authorized to send a letter to the Attorney General exempting the City of Hays facilities from the provisions of the modified concealed carry law through January 1, 2014.

Commissioner Steward stated failure to seek the exemption does not prevent us from taking further steps as this unfolds and does not feel it is necessary to request this exemption.

Commissioner Steward clarified the Mayor should be authorized to send the letter rather than the City Manager.

After amendment, a motion by Eber Phelps, seconded by Henry Schwaller IV, was adopted to authorize the Mayor to send a letter to the Attorney General exempting the City of Hays facilities from the provisions of the modified concealed carry law through January 1, 2014.

Vote: Ayes: Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

No: Kent Steward

**10. WATER CUSTOMERS OUTSIDE THE CITY LIMITS:** Properties outside the city limits of Hays have been allowed to connect to the City's water system. The only requirements placed on the connections were that the customers pay an outside city limit rate and the owner signs a pre-annexation agreement. City staff has evaluated this practice and recommends that it be stopped. Water is in short supply and every new customer creates more demand on the system.

City Manager Toby Dougherty recommended that customers outside the city limits not be allowed to connect to the City's water system unless a significant and quantifiable benefit can be demonstrated to the City Commission.

Henry Schwaller IV moved, Shaun Musil seconded, to approve a moratorium to eliminate all outside water service requests for individuals that are not residents of the City for a period of one year to review annually.

Vote: Ayes: Kent Steward

Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

**11. WATER RATE ADJUSTMENTS – 2<sup>ND</sup> CONSERVATION TIER:** Water rates in the City of Hays are designed to incentivize conservation through the implementation of two pricing tiers. While staff believes the current structure has served to limit outdoor watering, much waste still occurs. This is evident in 2012 residential usage among the top customers. An additional conservation tier is

proposed to curb the excess use of water among top residential users. This proposed system will not hinder those currently using water efficiently. Furthermore, it will financially encourage those who use water in excess to take measures to reduce usage.

Assistant City Manager Paul Briseno stated that 80% of our residential customers use water efficiently; however 20% of our residential customers use 44% of our residential water.

All water usage is billed using the base charge plus \$1.80 per 100 cubic ft. Currently, the conservation tier allows for unlimited use at a price of \$3.60 per 100 cubic ft. for usage over the average. Staff is proposing to add a 2<sup>nd</sup> conservation tier and limit the 1<sup>st</sup> tier to 1,000 cubic ft. at \$3.60 per 100 cubic ft. and the 2<sup>nd</sup> tier would charge \$5.40 per 100 cubic ft. for all usage exceeding the water average plus 1,000 cubic ft. In the event of a water warning or emergency, the second tier would be raised to \$7.20 per 100 cubic ft.

Commissioner Mellick suggested the 2<sup>nd</sup> tier charge be doubled; stating the \$7.20 charge may keep us from going into the water warning.

Commissioner Schwaller stated that Big Creek wells within the city are stressed, and they're not being rejuvenated, there is no rain, and the Smoky has only been rejuvenated because of water release from Cedar Bluff and that only puts us back to last October. If this continues for another 12 months we will not have any water. He feels this rate structure needs to be implemented now.

After amendment, a motion by Henry Schwaller IV, seconded by Shaun Musil, was adopted to approve Ordinance No. 3866 amending Chapter 65 of the City of Hays, Kansas, Municipal Code, by modifying Article IV, Section 65-224, regarding rates inside and outside the city and adding the 2<sup>nd</sup> Conservation Tier, setting the 2<sup>nd</sup> conservation tier fee at \$7.20 per 100 cubic ft. and setting the 2<sup>nd</sup> conservation tier fee at \$10.00 per 100 cubic ft. during water warnings or water emergencies, to take effect August 1, 2013.

Vote: Ayes: Kent Steward

Henry Schwaller IV

Eber Phelps

Shaun Musil

Ron Mellick

**12. PROGRESS REPORT:** Assistant City Manager Paul Briseno presented a monthly report on projects and activities occurring in various City of Hays departments.

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

**14. COMMISSION INQUIRIES AND COMMENTS:** Commissioner Mellick wished everyone a Happy 4<sup>th</sup> of July and suggested everyone watch the Wild West Fest fireworks display; and reminded everyone that due to the holiday next week the work session will be held on Tuesday July 2<sup>nd</sup>, 2013.

Commissioner Musil wished everyone a Happy 4<sup>th</sup> of July and said he realizes the water situation is very controversial and hopes they are doing what is best for the City now and for the future.

Commissioner Phelps suggested putting the monitoring well reports on our website to make it more available to the public. He also asked if city customers can access their account or pay their bill on line.

Finance Director Kim Rupp stated we are working on that right now. The infrastructure for the software is in place, we still need to test it, but should be available soon.

Commissioner Schwaller requested city staff look into a ban on all outside watering.

Commissioner Mellick wished everyone a Happy Independence Day.

The meeting was adjourned at 8:28 p.m.

Submitted by: \_\_\_\_\_

Brenda Kitchen – City Clerk



# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 4A

MEETING DATE: 7-11-13

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**TOPIC:**

Mayoral Appointment for Approval

**ACTION REQUESTED:**

Consider approving a Mayoral appointment to the Hays Area Planning Commission.

**NARRATIVE:**

The following appointment was recommended by Mayor Steward at the June 27, 2013 City Commission meeting as a full term to expire on 4-30-16 but has been changed and is being presented for approval as an unexpired term to expire 4-30-14.

Hays Area Planning Commission

Travis Rickford – unexpired term to expire 4-30-14 (1<sup>st</sup> term)

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Mayor Steward

**ADMINISTRATION RECOMMENDATION:**

N/A

**COMMITTEE RECOMMENDATION(S):**

N/A

**ATTACHMENTS:**

Application

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

Email: [wtr150@yahoo.com](mailto:wtr150@yahoo.com)

Date: 6/19/2013

Name: Travis Rickford

Address: 4417 Newton Circle

Day Time Phone Number: 785-626-4103

Evening Phone Number: 785-626-4103

Place of Employment: Kansas Department of Health and Environment

How long have you been a Resident of Hays: Seven years.

Name of Board(s) you are interested in serving on: Hays Area Planning Commission

How much time could you devote per month: Evenings and any special sessions

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

If Yes, Explain:

Briefly describe why you are interested in serving on a Board/Committee for the City of Hays: In my current position as a Health Educator for KDHE, I work with communities to assess assets and needs in physical activity, nutrition, and tobacco prevention. This includes assessing physical environments such as zoning, pedestrian enhancements, and mixed land use. As a resident of Hays, I have been looking for opportunities to volunteer my knowledge and experience. As a member of the planning committee, I hope to provide a different perspective that will benefit all Hays residents.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: -Member: Ellis County Community Partnership -Former member: Community Emergency Response Team (CERT)

**CITY OF HAYS**  
**AGENDA ITEM COVER SHEET**

**COMMISSION AGENDA ITEM NO. 4B**

**MEETING DATE: 7-11-13**

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**TOPIC:**

Mayoral Appointment Recommendations

**ACTION REQUESTED:**

Receive Mayor Steward's proposed appointments to the Hays Beautification Committee.

**NARRATIVE:**

The following proposed appointments will be presented for approval at the July 25, 2013 City Commission meeting.

Hays Beautification Committee

Janis Lee – 3-year term to expire 8-1-16 (1<sup>st</sup> term)

Marcia Tacha – 3-year term to expire 8-1-16 (1<sup>st</sup> term)

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Mayor Steward

**ADMINISTRATION RECOMMENDATION:**

N/A

**COMMITTEE RECOMMENDATION(S):**

N/A

**ATTACHMENTS:**

Applications Received for this Board

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

Email: [leelj@ruraltel.net](mailto:leelj@ruraltel.net)

Date: 6/6/2013

Name: Lyn and Janis Lee

Address: 4604 Hoover

Day Time Phone Number: 785-476-5348 or 476-7000

Evening Phone Number: same

Place of Employment: retired

How long have you been a Resident of Hays: We have just built a house in Hays.

Name of Board(s) you are interested in serving on: Hays Beautification Committee

How much time could you devote per month: day or two a month

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

If Yes, Explain:

Briefly describe why you are interested in serving on a Board/Committee for the City of Hays: Want to become an active member of the community. We currently have a large beautiful yard on our farm and are interested in such activities. We feel that the physical appearance of the city is important in how others view the desirability of living in the community. Also Eber Phelps encouraged us to apply to serve on a committee.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: Served as State Senator for 22 years. Also served on church board and school board as well as fair board for several years before being elected to the Senate. have belonged to various service organization over the years.

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

Email: [mtacha@fhsu.edu](mailto:mtacha@fhsu.edu)

Date: 6/6/2013

Name: Marcia Tacha

Address: 524 W. 16th St.

Day Time Phone Number: 785-628-4206

Evening Phone Number: 785-650-7296

Place of Employment: FHSU University Relations

How long have you been a Resident of Hays: 2 yrs. 8 mos. (Ellis County almost 9 years)

Name of Board(s) you are interested in serving on: Northwest Kansas Community Corrections Board Hays Area Board of Zoning Appeals Hays Beautification Committee

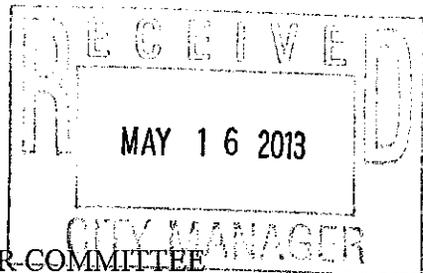
How much time could you devote per month: 3-4 hours

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

If Yes, Explain:

Briefly describe why you are interested in serving on a Board/Committee for the City of Hays: It is my belief it is important to serve one's community. It is my desire to get involved and feel more of a part of the city where I live and to give back to the community.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: FHSU Classified Senate (8 years) (and numerous committees during my 2-year tenure as president) FHSU Distinguished Service Committee (5 years) FHSU Staff Development Committee (3 years)



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

NAME: Carol J. Heiman

ADDRESS: 1319 Agnes Dr. Hays, KS

DAY TIME PHONE NUMBER: 785-678-3356 EVENING PHONE NUMBER: same

E-MAIL ADDRESS: heimancarol@gmail.com

PLACE OF EMPLOYMENT: Retired

HOW LONG HAVE YOU BEEN A RESIDENT OF HAYS? 14 yrs.

NAME OF BOARD(S) YOU ARE INTERESTED IN SERVING ON: \_\_\_\_\_  
Hays Beautification Committee

HOW MUCH TIME COULD YOU DEVOTE PER MONTH? \_\_\_\_\_

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

IF YES, EXPLAIN: \_\_\_\_\_

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

I have served on this committee for 5 yrs. and am asking to renew my term.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE: Carol Heiman DATE: 5-16-13

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

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

NAME: Doris Wing

ADDRESS: 1602 E. 28 St. Terrace

DAY TIME PHONE NUMBER: 785.625.2167 EVENING PHONE NUMBER: Same

E-MAIL ADDRESS: doriswing@aol.com

PLACE OF EMPLOYMENT: Retired

HOW LONG HAVE YOU BEEN A RESIDENT OF HAYS? 65 yrs.

NAME OF BOARD(S) YOU ARE INTERESTED IN SERVING ON: \_\_\_\_\_

Beautification Committee

HOW MUCH TIME COULD YOU DEVOTE PER MONTH? As much as required

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

IF YES, EXPLAIN: \_\_\_\_\_

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

I would like to have a part in keeping Hays an attractive and clean community. I enjoy seeing nicely landscaped areas throughout Hays.

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

I am active in Celebration Community Church and have been a CASA volunteer.

SIGNATURE: Doris Wing DATE: 6-18-2013

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



# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 5

MEETING DATE: 7-11-13

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**TOPIC:**

RAG Addition Final Plat

**ACTION REQUESTED:**

Approve Resolution No. 2013-019 accepting the final plat known as the RAG Addition.

**NARRATIVE:**

The owners of the proposed RAG Addition have submitted a final plat for consideration. The proposed plat will contain 5 commercial lots for development and is consistent with the Comprehensive Plan and Future Development Map while also complying with the City's Subdivision and Zoning regulations. The property is currently zoned C-2 (General Commercial and Service District). The Planning Commission, as well as staff, recommends approval of the final plat as submitted.

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Toby Dougherty, City Manager  
I.D. Creech, Director of Public Works

**ADMINISTRATION RECOMMENDATION:**

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

**COMMITTEE RECOMMENDATION(S):**

The Planning Commission recommends approval of this plat as submitted.

**ATTACHMENTS:**

Staff Memo  
Resolution No. 2013-019  
Map of Area  
Final Plat

# Commission Work Session Agenda

## Memo

**From:** Jesse Rohr, PIE Superintendent  
**Work Session:** July 2, 2013  
**Subject:** RAG Addition Final Plat  
**Person(s) Responsible:** Toby Dougherty, City Manager  
I.D. Creech, Director of Public Works

### Summary

The owners of the proposed RAG Addition have submitted a final plat for consideration. The proposed plat will contain 5 commercial lots for development and is consistent with the Comprehensive Plan and Future Development Map while also complying with the City's Subdivision and Zoning regulations. The property is currently zoned C-2 (General Commercial and Service District). Access to all five lots will be from a single access point off of 22<sup>nd</sup> St. and is being provided by a private drive being platted as a utility and access easement. This private drive will not be a city maintained or city owned street. The Planning Commission, as well as staff, recommends approval of the final plat as submitted.

### Background

This property is along 22<sup>nd</sup> Street and is in a relatively highly desirable area for commercial development. The owners have had requests from potential business owners for some property and thought it would in the best interest of all to plat the property into lots for development.

### Discussion

The owners of the proposed RAG Addition have submitted a final plat for consideration. The proposed plat will contain 5 commercial lots for development and is consistent with the Comprehensive Plan and Future Development Map while also complying with the City's Subdivision and Zoning regulations. Staff has reviewed the proposed plat which has also been reviewed by the Utility Advisory Committee. On June 17, 2013 the final plat was reviewed and approved (8-0 vote) by the Hays Area Planning Commission. All parties recommend approval of the submitted plat.

## **Legal Consideration**

Upon being presented with proof that the owners of the property to be platted are the owners of record, there are no known legal obstacles to the proposed action.

## **Options**

Options include the following:

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

## **Recommendation**

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

## **Action Requested**

Approve the resolution accepting the final plat known as the RAG Addition.

## **Supporting Documentation**

Final Plat  
Resolution

**RESOLUTION NO. 2013-019**

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

WHEREAS, Gary and Sandra Haselhorst, husband and wife, and Ralph and Lois Augustine, husband and wife, have presented to the Governing Body of the City of Hays, Kansas, a certain plat of RAG ADDITION situated within the corporate limits of the City of Hays, Kansas, being lots, streets, alleys comprising the following described real estate, to-wit:

***That part of the Southwest Quarter of Section 34, Township 13 South, Range 18 West of the 6th Principal Meridian, Ellis County, Kansas, described as follows:***

***Commencing at the northwest corner of said Southwest Quarter; thence on an assumed bearing of South 89 degrees 53 minutes 23 seconds East, along the north line of said Southwest Quarter, a distance of 360.00 feet to the point of beginning of the land to be described; thence continuing South 89 degrees 53 minutes 23 seconds East, along the north line of said Southwest Quarter, a distance of 245.00 feet; thence South 00 degrees 20 minutes 55 seconds West, parallel with the west line of said Southwest Quarter, a distance of 500.00 feet; thence North 89 degrees 53 minutes 23 seconds West, parallel with the north line of said Southwest Quarter, a distance of 245.00 feet; thence North 00 degrees 20 minutes 55 seconds East, parallel with the west line of said Southwest Quarter, a distance of 500.00 feet to the point of beginning. This tract contains 2.812 acres.***

to be known as RAG ADDITION to the City of Hays, Kansas; and,

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS, that the City of Hays, Kansas, hereby approves the plat of RAG ADDITION to the City of Hays, Kansas, and the City Clerk is instructed to endorse such approval on said plat.

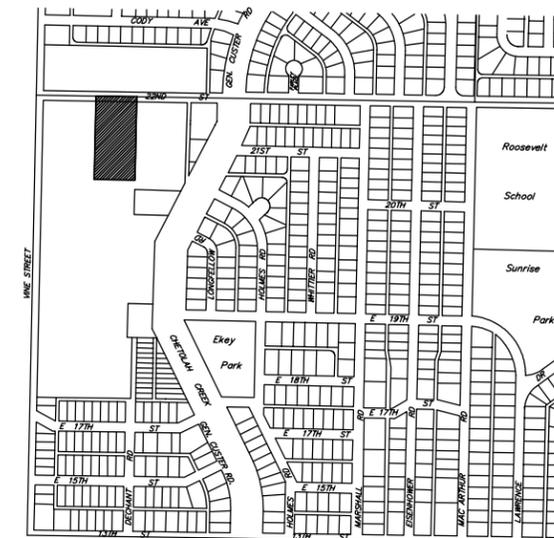
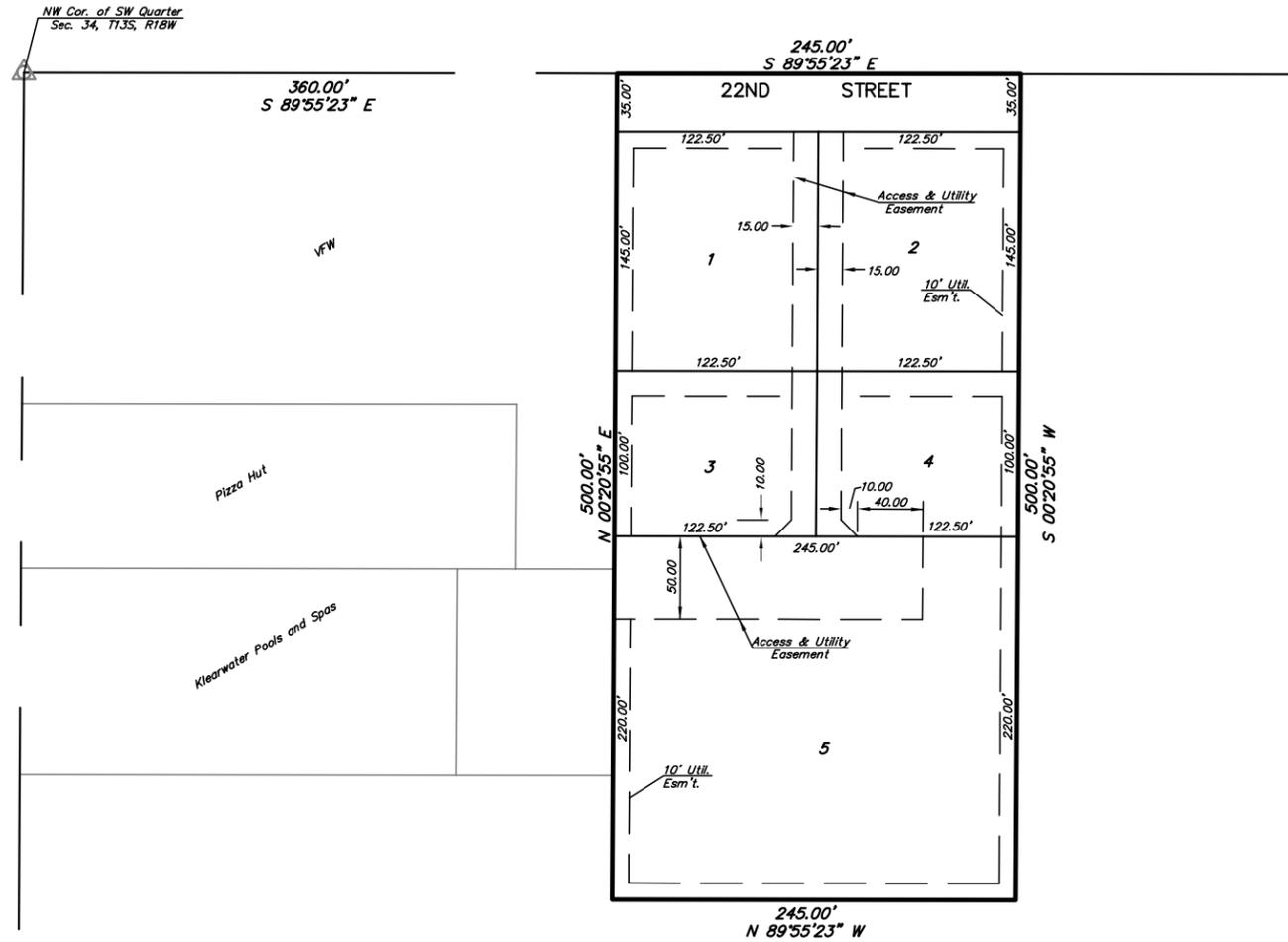
Passed and adopted by the Governing Body of the City of Hays, Kansas, this 11<sup>th</sup> day of July, 2013.

\_\_\_\_\_  
Kent L. Steward - Mayor

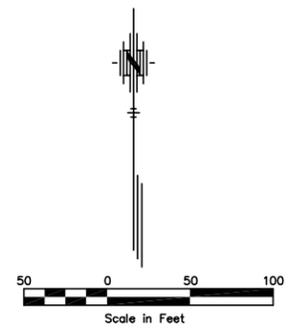
ATTEST:

BY \_\_\_\_\_  
Brenda Kitchen - City Clerk

# PLAT OF RAG ADDITION HAYS, KANSAS



Location Map



**APPROVALS:**

This plat, RAG Addition, has been submitted to and approved by the Hays Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY

The dedications shown on this plat accepted by the City Commission of the City of Hays, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_, City Clerk

John T. Bird, Attorney for the City of Hays

**OWNER'S CERTIFICATE:**

Know all men by these presents, that we, the undersigned property owners of the land above described have caused the same to be surveyed and platted into Lots, Streets and Easements, the same to be known as "RAG Addition", in Hays, Kansas. The Streets are hereby dedicated to and for the use of the public, and the easements as indicated on the accompanying plat are hereby granted to the public for the purpose of constructing, operating, maintaining, and repairing all public utilities, or for access as shown.

\_\_\_\_\_  
Gary Haselhorst (Husband)      \_\_\_\_\_  
Sandra Haselhorst (Wife)

\_\_\_\_\_  
Ralph Augustine (Husband)      \_\_\_\_\_  
Lois Augustine (Wife)

**NOTARY CERTIFICATE:**

State of Kansas, County of Ellis, ss:  
Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for said County and State, came Gary and Sandra Haselhorst, husband and wife, and Ralph and Lois Augustine, husband and wife, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal, the day and year above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**RECORDED:**

State of Kansas, County of Ellis, ss:  
This is to certify that this instrument was filed for record in the Register of Deeds Office on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in Book \_\_\_\_\_, Page \_\_\_\_\_.

\_\_\_\_\_  
REGISTER OF DEEDS      \_\_\_\_\_  
DEPUTY

**PLAT DESCRIPTION**

That part of the Southwest Quarter of Section 34, Township 13 South, Range 18 West of the 6th Principal Meridian, Ellis County, Kansas, described as follows:

Commencing at the northwest corner of said Southwest Quarter; thence on an assumed bearing of South 89 degrees 53 minutes 23 seconds East, along the north line of said Southwest Quarter, a distance of 360.00 feet to the point of beginning of the land to be described; thence continuing South 89 degrees 53 minutes 23 seconds East, along the north line of said Southwest Quarter, a distance of 245.00 feet; thence South 00 degrees 20 minutes 55 seconds West, parallel with the west line of said Southwest Quarter, distance of 500.00 feet; thence North 89 degrees 53 minutes 23 seconds West, parallel with the north line of said Southwest Quarter, distance of 245.00 feet; thence North 00 degrees 20 minutes 55 seconds East, parallel with the west line of said Southwest Quarter, a distance of 500.00 feet to the point of beginning. This tract contains 2.812 acres.

**STREETS & EASEMENTS:**

Streets, as shown on this plat and not heretofore dedicated to and for public use are hereby dedicated.  
Easements are hereby dedicated for public use, for access, or as utility easement right-of-way, which are shown as lying between the dashed lines in widths indicated and as set forth on this plat, and said easements may be employed for the purpose of installing, repairing and maintaining gas lines, electric lines, telephone lines, and all other forms and types of public utilities, now or hereafter used, by the public over, under and along the strips marked "Utility Esm't."

**REVIEW SURVEYOR'S CERTIFICATE:**

State of Kansas, County of Ellis, ss:  
I hereby certify that the review of this plat was found to be in compliance with the requirements of K.S.A. 58-2005. Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**SURVEYOR'S CERTIFICATE:**

I, Harvey Ruder, a Registered Land Surveyor in the State of Kansas, do hereby certify this Plat to be true and correct to the best of my knowledge.  
\_\_\_\_\_  
Harvey Ruder      \_\_\_\_\_  
Date

**RUDER ENGINEERING  
& SURVEYING, LLC**  
1376 Butterfield Trail Rd.  
Hays, Kansas 67601  
785-628-8134

# RAG Addition



# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 6

MEETING DATE: 7-11-13

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**TOPIC:**

Request for Rezoning (A-L to C-2) Proposed Luecke Addition (Zoning Case #13-05)

**ACTION REQUESTED:**

Approve Ordinance No. 3867 rezoning the described property from A-L to C-2 based on the recommendation of staff and the Planning Commission.

**NARRATIVE:**

The owners of the property located along and south of 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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 June 17, 2013 at the regular meeting of the Planning Commission., and by vote of 8-0, a recommendation was made by the Planning Commission to the City Commission to approve the rezoning as requested by the applicant. This application is a revised application from what the City Commission originally heard at the May 23, 2013 Commission meeting that removes the tract of agricultural zoned property from the development.

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Toby Dougherty, City Manager  
I.D. Creech, Director of Public Works

**ADMINISTRATION RECOMMENDATION:**

Staff concurs with the Planning Commission and recommends approval as submitted.

**COMMITTEE RECOMMENDATION(S):**

By a vote of 8-0, the Planning Commission recommends approving this rezoning request from A-L (Agriculture) to C-2 (General Commercial and Service District) based on the recommendation of staff which is one of the factors allowed to be considered per State Statute.

**ATTACHMENTS:**

Staff Memo  
Ordinance No. 3867  
Map(s)  
Planning Commission Findings of Fact

# Commission Work Session Agenda

## Memo

**From:** Jesse Rohr, PIE Superintendent

**Work Session:** July 2, 2013

**Subject:** Request for Rezoning (A-L to C-2)  
Proposed Luecke Addition (Zoning Case #13-05)

**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 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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 June 17, 2013 at the regular meeting of the Planning Commission., and by vote of 8-0, a recommendation was made by the Planning Commission to the City Commission to approve the rezoning as requested by the applicant. This application is a revised application from what the City Commission originally heard at the May 23, 2013 Commission meeting that removes the tract of agricultural zoned property from the development.

### Background

The owner/developer of the proposed Luecke Addition has started the platting process, as well as the rezoning process for the property located along and south of 41<sup>st</sup> 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 and has submitted a petition to do so.

### Discussion

The owners of the property located along and south of 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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 are primarily commercial and agricultural districts. A public hearing was conducted on June 17, 2013 at the regular meeting of the Planning Commission. All property owners within 1000' of the subject property were notified of the public hearing.

The Planning Commission voted in favor of the request by a vote of 8-0 based on the recommendation of staff which is one of the factors required to be considered in any rezoning case per *Golden V. City of Overland Park, 1978*.

The original request to zone this property was sent back to the Planning Commission by the City Commission due to the agricultural carve-out remaining in the development. That request was denied and this new one was then submitted by the developer for consideration. The development now has two different requested zoning districts, C-2 (Commercial) and R-3 (Two-Family Residential). No agricultural ground remains.

### **Legal Consideration**

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

### **Options**

Options include the following:

- 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
- Send the request back to the Planning Commission for further consideration with specific basis for doing so

### **Recommendation**

By a vote of 8-0, the Planning Commission recommends approving this rezoning request from A-L (Agriculture) to C-2 (General Commercial and Service District) based on the recommendation of staff which is one of the factors allowed to be considered per State Statute. Staff concurs with the Planning Commission and recommends approval as well.

### **Action Requested**

Approve the Ordinance rezoning the described property from A-L to C-2 based on the recommendation of staff and the Planning Commission.

### **Supporting Documentation**

Map(s)  
Planning Commission Findings of Fact  
Ordinance

**ORDINANCE NO. 3867**

**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 6<sup>TH</sup> 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 41<sup>ST</sup> 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 388.40 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 41<sup>ST</sup> 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 May 24, 2013 and May 26, 2013, and after a public hearing held in conformity with such notice on June 17, 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 6<sup>TH</sup> 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 41<sup>ST</sup> 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 388.40 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 41<sup>ST</sup> 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 41<sup>ST</sup> 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 388.40 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 41<sup>ST</sup> 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 11<sup>th</sup> day of July, 2013.

\_\_\_\_\_  
Kent L. Steward, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Kitchen, City Clerk

(SEAL)

**PLANNING COMMISSION FINDING OF FACT**

1. CASE NO.: **13-05Z** FILING FEE PAID: **Publication Fee of \$336.60**
  2. DATE FILED: **05-21-2013**
  3. DATE ADVERTISED FOR HEARING: **05-24-2013 and 05-26-2013**
  4. PUBLIC HEARING DATE: **06/17/2013**
  5. APPLICANT'S NAME: **Luecke Properties LLC**
  6. LOCATION OF PROPERTY: **East 41<sup>st</sup> Street East of Sherman Ave.**
  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.**

# Leucke





# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 7

MEETING DATE: 7-11-13

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**TOPIC:**

Reconsider Request for Rezoning (A-L to C-2) Proposed Luecke Addition (Zoning Case #13-01)

**ACTION REQUESTED:**

Deny the rezoning request from A-L to C-2 based on the recommendation of staff and the Planning Commission.

**NARRATIVE:**

The owners of the property located along and south of 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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. The City Commission sent the item back to the Planning Commission for further review based on concerns of the agricultural carve-out, and upon further review, the Planning Commission voted to deny the zoning request. The contributing factor in this new recommendation is the fact that the developer submitted a new zoning application which removes the agricultural carve-out adjacent to the commercial zoned area.

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Toby Dougherty, City Manager  
I.D. Creech, Director of Public Works

**ADMINISTRATION RECOMMENDATION:**

By a vote of 8-0, the Planning Commission recommends denying this rezoning request from A-L (Agriculture) to C-2 (General Commercial and Service District) based on the recommendation of staff which is one of the factors allowed to be considered per State Statute. Staff concurs with the Planning Commission and recommends denial as well.

**COMMITTEE RECOMMENDATION(S):**

By a vote of 8-0, the Planning Commission recommends denying this rezoning request from A-L (Agriculture) to C-2 (General Commercial and Service District) based on the recommendation of staff which is one of the factors allowed to be considered per State Statute.

**ATTACHMENTS:**

Staff Memo  
Map(s)

# Commission Work Session Agenda

## Memo

**From:** Jesse Rohr, PIE Superintendent

**Work Session:** July 2, 2013

**Subject:** Reconsider Request for Rezoning (A-L to C-2)  
Proposed Luecke Addition (Zoning Case #13-01)

**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 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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. The City Commission sent the item back to the Planning Commission for further review based on concerns of the agricultural carve-out, and upon further review, the Planning Commission voted to deny the zoning request. The contributing factor in this new recommendation is the fact that the developer submitted a new zoning application which removes the agricultural carve-out adjacent to the commercial zoned area.

### Background

The owner/developer of the proposed Luecke Addition has started the platting process, as well as the rezoning process for the property located along and south of 41<sup>st</sup> 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 and has submitted a petition to do so.

### Discussion

The owners of the property located along and south of 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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.

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*.

However, further discussion of this development was held at both the May 2 and May 16 City Commission Work Sessions and at the May 23 Regular Meeting. The City Commission voted in favor of sending the zoning request back to the Planning Commission for further consideration due primarily to the agricultural zoned carve-out remaining within the development.

The developer agreed to resubmit a new request for the commercial zoning that removes the agricultural zoned area and makes it all commercial. At the June 17, 2013 Planning Commission meeting, the Commissioners voted (8-0) to recommend denial of the original commercial zoning request based on the recommendations of staff and the fact a revised request had been submitted (handled under a separate agenda item).

### **Legal Consideration**

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

### **Options**

Options include the following:

- Deny the rezoning request from A-L to C-2 as recommended by the Planning Commission
- Approve the rezoning request from A-L to C-2

### **Recommendation**

By a vote of 8-0, the Planning Commission recommends denying this rezoning request from A-L (Agriculture) to C-2 (General Commercial and Service District) based on the recommendation of staff which is one of the factors allowed to be considered per State Statute. Staff concurs with the Planning Commission and recommends denial as well.

### **Action Requested**

Deny the rezoning request from A-L to C-2 based on the recommendation of staff and the Planning Commission.

### **Supporting Documentation**

Map(s)

GENERAL HAYS RD

SHERMAN AVE

E 41ST ST

GENERAL HAYS RD

C-2

BROADWAY AVE

INTERSTATE 70

# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 8

MEETING DATE: 7-11-13

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**TOPIC:**

Reconsider Request for Rezoning (A-L to R-3) Proposed Luecke Addition (Zoning Case #13-02)

**ACTION REQUESTED:**

Approve Ordinance No. 3868 rezoning the described property from A-L to R-3 based on the recommendations of staff and the Planning Commission.

**NARRATIVE:**

The owners of the property located along and south of 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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. The City Commission sent the item back to the Planning Commission for further review based on concerns of the agricultural carve-out near the area of the commercial zoning request. Upon further review at the June 17, 2013 Planning Commission Meeting, the Planning Commission voted to still approve the zoning request. The contributing factor in this recommendation is the fact that the developer submitted a new zoning application which removes the agricultural carve-out adjacent to the commercial zoned area.

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Toby Dougherty, City Manager  
I.D. Creech, Director of Public Works

**ADMINISTRATION RECOMMENDATION:**

Staff concurs with the Planning Commission and recommends approval of this request.

**COMMITTEE RECOMMENDATION(S):**

By a vote of 8-0, the Planning Commission recommends approving this rezoning request from A-L (Agriculture) to R-3 (Two-Family Dwelling District) based on the recommendation of staff which is one of the factors allowed to be considered per State Statute.

**ATTACHMENTS:**

Staff Memo  
Ordinance No. 3868  
Map(s)

# Commission Work Session Agenda

## Memo

**From:** Jesse Rohr, PIE Superintendent

**Work Session:** July 2, 2013

**Subject:** Reconsider Request for Rezoning (A-L to R-3)  
Proposed Luecke Addition (Zoning Case #13-02)

**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 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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. The City Commission sent the item back to the Planning Commission for further review based on concerns of the agricultural carve-out near the area of the commercial zoning request. Upon further review at the June 17, 2013 Planning Commission Meeting, the Planning Commission voted to still approve the zoning request. The contributing factor in this recommendation is the fact that the developer submitted a new zoning application which removes the agricultural carve-out adjacent to the commercial zoned area.

### Background

The owner/developer of the proposed Luecke Addition has started the platting process, as well as the rezoning process for the property located along and south of 41<sup>st</sup> St. east of Home Depot. The intention is to provide for a commercial zoned area as well as a residential 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 and has submitted a petition to do so.

### Discussion

The owners of the property located along and south of 41<sup>st</sup> St. east of Home Depot (Proposed Luecke 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 are 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.

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, further discussion of this development was held at both the May 2 and May 16 City Commission Work Sessions and at the May 23 Regular Meeting. The City Commission voted in favor of sending the zoning request back to the Planning Commission for further consideration due primarily to the agricultural zoned carve-out remaining within the development, which mostly impacted the commercial zoning request.

The developer agreed to resubmit a new request for the commercial zoning that removes the agricultural zoned area and makes it all commercial. At the June 17, 2013 Planning Commission meeting, the Commissioners voted (8-0) to recommend approval of the original residential zoning request based on the recommendations of staff and the fact a revised request for the commercial area had been submitted (handled under a separate agenda item).

### **Legal Consideration**

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

### **Options**

Options include the following:

- 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

### **Recommendation**

By a vote of 8-0, the Planning Commission recommends approving this rezoning request from A-L (Agriculture) to R-3 (Two-Family Dwelling District) based on the recommendation of staff which is one of the factors allowed to be considered per State Statute. Staff concurs with the Planning Commission and recommends approval as well.

### **Action Requested**

Approve the Ordinance rezoning the described property from A-L to R-3 based on the recommendations of staff and the Planning Commission.

### **Supporting Documentation**

Map(s)

Ordinance

**ORDINANCE NO. 3868**

**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 6<sup>TH</sup> 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 41<sup>ST</sup> STREET; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 463.00 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 786.43 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 1,084.22 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 491.10 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 41<sup>ST</sup> STREET; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF**

463.00 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 786.43 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 1,084.22 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 491.10 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 41<sup>ST</sup> STREET; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 463.00 FEET TO THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE CONTINUING SOUTH 00 DEGREES 49 MINUTES 44 SECONDS WEST A DISTANCE OF 786.43 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 1,084.22 FEET; THENCE NORTH 89 DEGREES 10 MINUTES 16 SECONDS WEST A DISTANCE OF 491.10 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 11<sup>th</sup> day of July, 2013.

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Kent L. Steward, Mayor

ATTEST:

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Brenda Kitchen, City Clerk

(SEAL)



# Leucke



# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 9

MEETING DATE: 7-11-13

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**TOPIC:**

Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition Engineering Services Agreement

**ACTION REQUESTED:**

Approve the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for an amount not to exceed \$15,300 for the development of Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition.

**NARRATIVE:**

Laverne W. Schumacher has petitioned the City for Street, Storm Sewer, Water, and Sanitary Sewer Improvements to an area containing 24 lots within the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition. The resolution accepting the petition was previously approved by the City Commission. Ruder Engineering and Surveying, L.L.C. has now prepared a contract for engineering services to include engineering design, contractor solicitation, construction engineering, and warranty inspection. The contract is for a not-to-exceed amount of \$15,300. Staff recommends that the commission authorize the Mayor to sign the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for professional services related to improvements in the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition in an amount not to exceed \$15,300.

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Toby Dougherty, City Manager  
I.D. Creech, Director of Public Works

**ADMINISTRATION RECOMMENDATION:**

Staff recommends that the commission authorize the Mayor to sign the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for professional services related to improvements in the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition in an amount not to exceed \$15,300.

**COMMITTEE RECOMMENDATION(S):**

N/A

**ATTACHMENTS:**

Staff Memo  
Engineering Services Agreement

# Commission Work Session Agenda

## Memo

**From:** Jesse Rohr, PIE Superintendent

**Work Session:** July 2, 2013

**Subject:** Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition  
Engineering Services Agreement

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

### Summary

Laverne W. Schumacher has petitioned the City for Street, Storm Sewer, Water, and Sanitary Sewer Improvements to an area containing 24 lots within the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition. The resolution accepting the petition was previously approved by the City Commission. Ruder Engineering and Surveying, L.L.C. has now prepared a contract for engineering services to include engineering design, contractor solicitation, construction engineering, and warranty inspection. The contract is for a not-to-exceed amount of \$15,300. Staff recommends that the commission authorize the Mayor to sign the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for professional services related to improvements in the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition in an amount not to exceed \$15,300.

### Background

This particular plat was approved in 2012. There are 24 lots slated for two-family residential development.

### Discussion

Laverne W. Schumacher has petitioned the City for Street, Storm Sewer, Water, and Sanitary Sewer Improvements to an area containing 24 lots within the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition. The resolution accepting the petition was previously approved by the City Commission. Ruder Engineering and Surveying, L.L.C. has prepared a contract for engineering services to include engineering design, contractor solicitation, construction engineering, and warranty inspection. The contract is for a not-to-exceed amount of \$15,300.

## **Legal Consideration**

The transaction is a pass-through procedure for the City and there are no known legal obstacles to proceeding as recommended by City Staff.

## **Options**

Options include the following:

- Approve the Engineering Services Agreement
- Do not approve the Agreement

## **Recommendation**

Staff recommends that the commission authorize the Mayor to sign the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for professional services related to improvements in the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition in an amount not to exceed \$15,300.

## **Action Requested**

Approve the Engineering Services Agreement with Ruder Engineering & Surveying, LLC for an amount not to exceed \$15,300 for the development of Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition.

## **Supporting Documentation**

Engineering Services Agreement

## ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT, entered into on the 13th day of June, 2013, by the City of Hays, Kansas, party of the first part, hereinafter referred to as the "City", and Laverne W. Schumacher Revocable Living Trust, party of the second part, hereinafter referred to as the "Developer" and the firm of Ruder Engineering & Surveying, LLC, party of the third part, hereinafter referred to as the "Consultant".

### WITNESSETH:

That the City and the Developer plan to complete improvements to and within the Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition to the City of Hays. The improvements include the sanitary sewer lines, water lines and alley construction needed to serve the lots in said Addition.

These improvements will be hereinafter referred to as the "IMPROVEMENT".

That the City and the Developer require professional engineering services to assist them in implementing the IMPROVEMENT.

That the City and the Developer have selected Ruder Engineering & Surveying, LLC to perform these services;

NOW, THEREFORE, in consideration of these premises and the mutual covenants herein contained, the Parties hereto agree as follows:

### ARTICLE I SCOPE OF SERVICES

Ruder Engineering & Surveying, LLC shall be responsible for engineering services required by the various portions of the "IMPROVEMENT". The services required on the "IMPROVEMENT" are described as follows:

#### ***Engineering Design Phase:***

1. Perform field surveys to collect pertinent topographic and engineering data necessary to complete the design of the water lines, sewer lines and streets as listed above.
2. Prepare bid and construction documents in sufficient detail, using City's standards, where applicable, to allow competitive bids to be received. All portions of the project shall be included in the same set of the bid and construction documents.
3. Review documents and project budget and perform a field check of the project with City Staff and the Developer.

4. Prepare "Engineers Estimate of Probable Cost" to be used in evaluating bids.
5. Assist in obtaining necessary approvals and permits from KDHE.
6. Design a complete Stormwater Pollution Prevention Plan in accordance with KDHE General Construction Stormwater Permit. The Plan shall require that the contractor for the Improvements, shall maintain the sediment and erosion controls during the construction of the Improvements.

***Contractor Solicitation Phase:***

1. Assist the City and the Developer in soliciting interest from contractors by:
  - a. Preparing a Notice to Contractors, which can be published (at the City's expense) in appropriate newspapers.
  - b. Mailing the Notice to Contractors to approved contractors.
2. Provide bid documents to interested contractors and plan rooms.
3. Address contractor questions and issue appropriate addenda during the bid preparation period.
4. Attend the bid opening, tabulate the submitted bids, analyze the bids and make recommendations to the City and the Developer regarding award of the construction contracts.
5. Prepare contract documents and distribute for execution. Collect fully executed documents and distribute to the appropriate parties.

***Construction Engineering Phase:***

1. Conduct a pre-construction conference.
2. Review all shop drawings and submittals.
3. Review contractor schedules.
4. Provide on-site inspection to maintain compliance with the construction and contract documents.
5. Review and submit periodic Contractor pay estimates to the City and the Developer for payment.
6. Prepare change orders as necessary.
7. Conduct a final inspection of every part of the work prior to acceptance of the work by the City and the Developer.
8. Prepare record drawings.

9. Inspect stormwater controls in accordance with a schedule as listed on the Stormwater Pollution Prevention Plan and ensure that the Contractor maintains the erosion and sediment controls.

***Warranty Inspection Phase:***

1. Conduct a warranty inspection approximately one year from the date of acceptance of the project and monitor repair of any deficient items.

**ARTICLE II  
TIME SCHEDULE**

The services listed in the above scope of services shall be completed as shown on the following schedule:

<b>Task</b>	<b>Proposed Date of Completion</b>
Notice to Proceed	<u>7-11-13</u>
Review Plans	<u>8-8-13</u>
Final Review Due	<u>8-15-13</u>
Send out for bids	<u>8-19-13</u>
Pre-bid meeting	<u>8-28-13</u>
Open bids	<u>9-4-13</u>
City Work Session	<u>9-19-13</u>
Award bids	<u>9-26-13</u>
Construction Engineering Phase	<u>50</u> Working Days
Warranty Inspection	<u>20</u> Working Days

**ARTICLE III  
COMPENSATION**

**Water Line:**

Engineering Design Phase	Not-to-Exceed	\$2,100.00	
Contractor Solicitation Phase	Not-to-Exceed	\$300.00	
Construction Engineering Phase	Not-to-Exceed	\$2,100.00	
Warranty Inspection	Not-to-Exceed	<u>\$200.00</u>	
		<i>Water Line Subtotal</i>	<b>\$4,700.00</b>

**Sewer Line:**

Engineering Design Phase	Not-to-Exceed	\$3,100.00	
Contractor Solicitation Phase	Not-to-Exceed	\$300.00	
Construction Engineering Phase	Not-to-Exceed	\$3,100.00	
Warranty Inspection	Not-to-Exceed	<u>\$200.00</u>	
		<i>Sewer Line Subtotal</i>	<b>\$6,700.00</b>

**Streets:**

Engineering Design Phase	Not-to-Exceed	\$1,700.00	
Contractor Solicitation Phase	Not-to-Exceed	\$300.00	
Construction Engineering Phase	Not-to-Exceed	\$1,700.00	
Warranty Inspection	Not-to-Exceed	<u>\$200.00</u>	
		<i>Streets Subtotal</i>	<b>\$3,900.00</b>

**GRAND TOTAL NOT-TO-EXCEED      \$15,300.00**

The Consultant shall submit an invoice to the City on a monthly basis. The invoice shall show the percentage complete for each phase as shown above. The sum of all invoices submitted for each phase shall not exceed the amount listed above for the applicable phase.

The Consultant will submit invoices within 20 days after the last day of each month during which work on the Project has been in progress. The City will pay the Consultant within thirty days after receipt of the Consultant's statement.

**ARTICLE IV  
MISCELLANEOUS PROVISIONS**

1. **Change in Scope.** The scope of the work described in Article I, Scope of Services shall be subject to modification or supplement upon the written agreement of the contracting parties. Any such modifications in the scope of the work shall be incorporated by supplemental agreement. At the time of such modification of work, equitable adjustments will be made by the parties in the time of performance and the compensation to be paid on the project.

2. **Conferences.** Representatives of the City and the Developer may arrange for such conference and visits as may be deemed necessary or desirable during the progress of the work.

3. **Termination.** The City and the Developer reserve the right to terminate this Agreement at any time, upon written notice, in the event the services of the Consultant are unsatisfactory, or upon failure to prosecute the work with due diligence or to complete the work within the time limits specified; provided, however, that in any such case, the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement.

4. **Binding Upon Successors.** This Agreement shall be binding upon the undersigned parties, their successors, partners, assigns, and legal representatives.

5. **Liability and Indemnification.**

a. **General.** Having considered the potential liabilities that may exist during performance of the Services, the benefits of the Project, and the Consultant's fee for the Services, and in consideration of the promises contained in this Agreement, the Agreement Parties agree to allocate and limit such liabilities in accordance with this Article.

b. **Indemnification.** The Agreement Parties each agree to defend, indemnify, and hold harmless each other, its agents and employees, from and against legal liability for all claims, losses, damages and expenses to the extent such claims, losses, damages or expenses are caused by its negligent acts, errors or omissions. In the event such claims, losses, damages or expenses are caused by the joint or concurrent negligence of the Agreement Parties, they shall be borne by each party in proportion to its own negligence.

c. **Employee Claims.** Each party of the Agreement shall indemnify the other parties against legal liability for damages arising out of claims by said party's employees.

d. **Survival.** Upon completion of all Services, obligations and duties provided for in this Agreement, or if this Agreement is terminated for any reason, the terms and conditions of this article shall survive.

6. **Opinions of Cost and Schedule.** Since the Consultant has no control over the cost of labor, materials or equipment furnished by others, or over the resources provided by others to meet Project schedules, the Consultant's opinion of probable costs and of Project schedules shall be made on the basis of experience and qualifications as a professional engineer. The Consultant does not guarantee that proposals, bids, or actual Project costs will not vary from the Consultant's opinion of probable costs or that actual schedules will not vary from the Consultant's projected schedules.

7. **Reuse of Documents.** All documents, including, but not limited to, drawings, specifications, and computer software prepared by the Consultant pursuant to this Agreement are instruments of service in respect to a Project. They are not intended or represented to be suitable for reuse by the City or others on extensions of a project or on any other project. Any reuse without prior written verification or adaptation by the Consultant for the specific purpose intended will be at the City's

sole risk and without liability or legal exposure to the Consultant. The City shall defend, indemnify, and hold harmless the Consultant against all claims, losses, damages, injuries, and expenses, including attorneys' fees, arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle the Consultant to additional compensation at rates to be agreed upon by the involved parties.

**8. Ownership of Documents and Intellectual Property.** Except as otherwise provided herein, engineering documents, drawings, and specifications prepared by the Consultant as part of the Services shall become the property of the Developer, provided, however, that the Consultant shall have the unrestricted right to their use. The Consultant shall retain its rights in its standard drawing details, specifications, databases, computer software and other proprietary property. Rights to intellectual property developed, utilized or modified in the performance of the Services shall be the joint property of the Consultant and the Developer, provided that the Consultant shall have the right to use said property in its ordinary course of business.

IN WITNESS WHEREOF, said parties have caused this Agreement to be signed by their duly authorized officers in four counterparts, each of which shall be deemed an original, on the day and year first written.

ATTEST:

CITY OF HAYS, KANSAS

\_\_\_\_\_  
Hays City Clerk

\_\_\_\_\_  
Mayor

ATTEST:

Laverne W. Schumacher Revocable Living Trust

Linda Bideman

By Laverne W Schumacher  
Title Owner

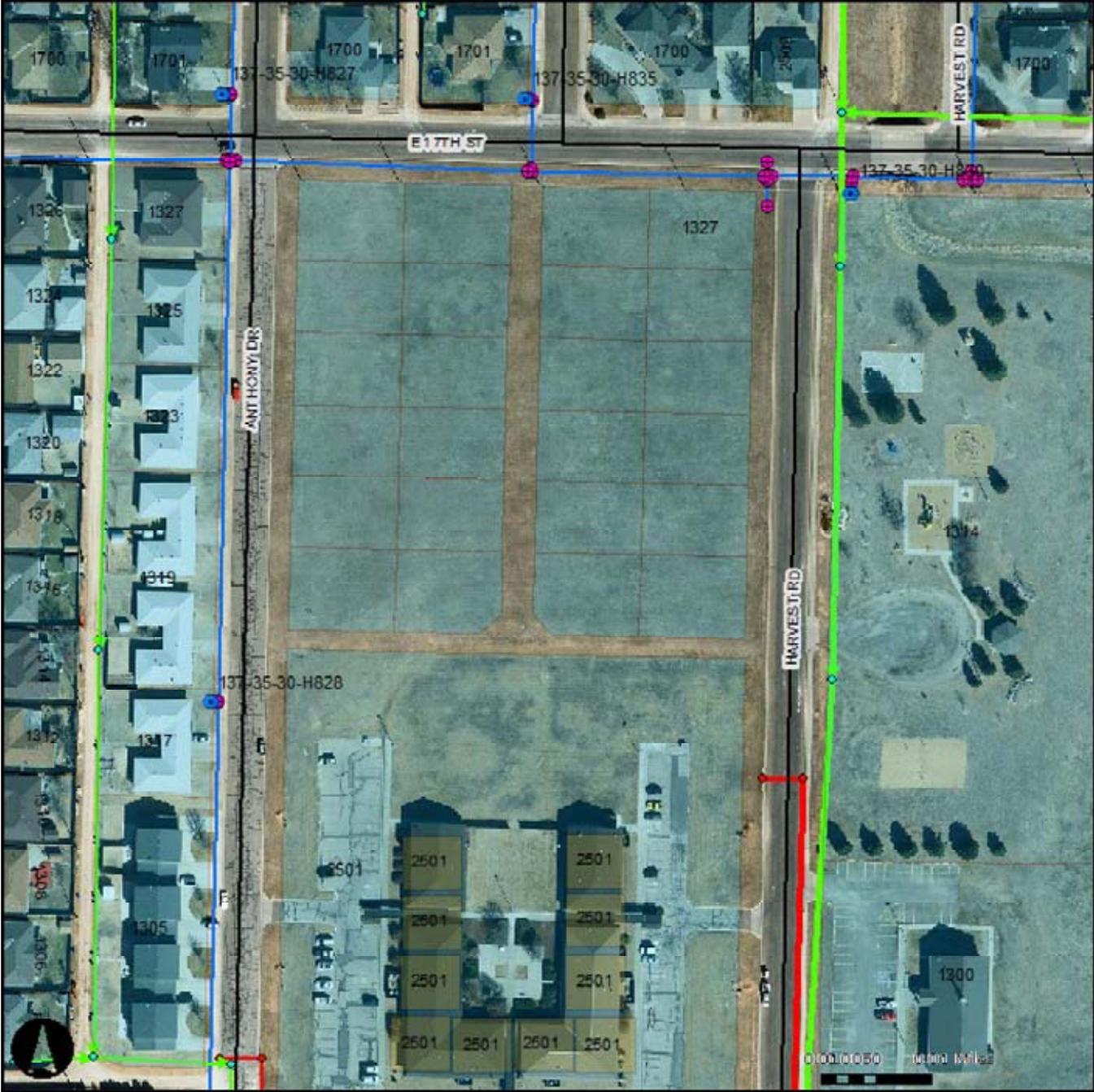
ATTEST:

RUDER ENGINEERING & SURVEYING, LLC

Linda Bideman

Harvey Ruder 6-18-13  
Harvey Ruder, PE, RLS

# Golden Belt 8th Replat



# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 10

MEETING DATE: 7-11-13

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**TOPIC:**

Economic Development Policy – Rural Housing Improvement District (RHID) Policy

**ACTION REQUESTED:**

Consider approving the amended Economic Development Policy for the City of Hays containing Rural Housing Improvement District language.

**NARRATIVE:**

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. If approved, the RHID policy, in its current written form, can only be used for low-income or income-qualified rental units.

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Toby Dougherty, City Manager  
Paul Briseno, Assistant City Manager

**ADMINISTRATION RECOMMENDATION:**

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

**COMMITTEE RECOMMENDATION(S):**

N/A

**ATTACHMENTS:**

Amended Economic Development Policy

SUBJECT	ISSUED BY	LAST REVISION DATE	CURRENT EFFECTIVE DATE
<b>ECONOMIC DEVELOPMENT POLICY</b>	City Commission	4-26-12	<b>7-11-13</b>

**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 Investment<sup>1</sup></u>	<u>Job Creation<sup>2</sup></u>
<b><u>Matrix for High-Tech Businesses and Research and Development-Based Businesses</u></b>		
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
<b><u>Matrix for All Other Business Types</u></b>		
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

<sup>1</sup> 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.

<sup>2</sup> “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**

### **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 renter occupied low-income or income-qualified units. 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 low-income and income-qualified housing. 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 12. 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 13. 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 14. 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 15. 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 16. 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 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 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 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 20. AMENDMENTS**

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

## **SECTION 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 22. MANDATORY REVIEW**

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



# CITY OF HAYS

## AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 11

MEETING DATE: 7-11-13

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**TOPIC:**

Addendum to the Memorandum of Agreement with the Hays Fraternal Order of Police (FOP) Lodge 48 Inc. for 2014

**ACTION REQUESTED:**

Staff requests that the Hays City Commission authorize the Mayor, City Manager, and Police Chief to sign the 2014 Addendum to the 2013 thru 2015 FOP Lodge 48 Contract.

**NARRATIVE:**

The FOP contract contains annual openers for Section 10, Health Insurance, if conditions are met, and Section 16, Wages and Administration of the Pay Plan. The City of Hays and the Fraternal Order of Police Lodge 48 Inc. have an agreement for fiscal year 2014, Wages and Administration of the Pay Plan. The agreement states the City will provide members of the FOP bargaining unit with a 1% merit increase starting the first payroll in 2014, and the City will continue the current pay ranges.

**PERSON/STAFF MEMBER(S) MAKING PRESENTATION:**

Toby Dougherty, City Manager  
Paul Briseno, Assistant City Manager

**ADMINISTRATION RECOMMENDATION:**

City staff recommends that the City Commission approve the Addendum to the contract for 2014 with the Hays Fraternal Order of Police Lodge 48 Inc.

**COMMITTEE RECOMMENDATION(S):**

N/A

**ATTACHMENTS:**

Staff Memo  
Addendum to Agreement between the City of Hays and the FOP Lodge 48 Inc.

# Commission Work Session Agenda

## Memo

**From:** Paul Briseno, Assistant City Manager

**Work Session:** July 2, 2013

**Subject:** Addendum to the FOP Union Contract

**Person(s)** Paul Briseno, Assistant City Manager

**Responsible:** Toby Dougherty, City Manager

### Summary

The City of Hays and the Fraternal Order of Police Lodge 48 Inc. have an agreement for fiscal year 2014 Wages, and Administration of the Pay Plan. The agreement states the City will provide members of the FOP bargaining unit with a 1% Merit increase with the first payroll in 2014 and the City will continue the current pay ranges.

### Background

The FOP contract contains annual openers for Section 10 Health Insurance, if conditions are met, and Section 16 Wages and Administration of the Pay Plan.

### Discussion

The City and FOP began the meet and confer process in April of 2013 to discuss the openers for the 2014 contract. Three meetings were held. Both parties tentatively agree to the attached proposal.

### Legal Consideration

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

### Financial Consideration

The City of Hays will budget a 1% merit increase with the first payroll in 2014 and the City will continue the current pay ranges.

### Options

The City Commission has the following options;

1. Adopt the agreement between the City of Hays and the FOP, Fraternal Order of Police Lodge 48 Inc.
2. Reject the agreement between the City of Hays and the FOP, Fraternal Order of Police Lodge 48 Inc. and give staff further direction
3. Take no action

### **Recommendation**

Staff recommends the agreed upon language for the 2014 addendum between the City of Hays and FOP Fraternal Order of Police Lodge 48 Inc.

### **Action Requested**

Staff requests that the Hays City Commission authorize the Mayor, City Manager, and Police Chief to sign the 2014 Addendum to the 2013 thru 2015 Union Contract.

### **Supporting Documentation**

Addendum to Agreement between the City of Hays and the FOP

**ADDENDUM TO AGREEMENT**

**BETWEEN**

**CITY OF HAYS  
AND  
FRATERNAL ORDER OF POLICE LODGE 48 Inc.**

This addendum to agreement executed on this 11th day of July, 2013, between the City of Hays, Kansas, hereinafter referred to as the "City", and Fraternal Order of Police Lodge 48 Inc., hereinafter referred to as the "FOP", is intended to be attached to and made a part of the existing Memorandum of Agreement between the City and the FOP that expires December 31, 2015. This addendum is in effect from January 1, 2014 through December 31, 2014. All portions of this agreement are incorporated therein by reference unless specifically altered or changed by the provisions of this Addendum.

**Section 16. WAGES / ADMINISTRATION OF THE PAY PLAN**

For fiscal year 2014 the City will make the following adjustments: the City will provide members of the FOP bargaining unit with a 1% Merit increase with the first payroll in 2014 and the City will continue the current pay ranges.

IN WITNESS WHEREOF, the City and the FOP have hereunto set their hand this 11th day of July, 2013.

FOR THE FOP

FOR THE CITY

\_\_\_\_\_  
President and Business  
Representative

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Vice-President

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Secretary-Treasurer

\_\_\_\_\_  
Chief of Police

## COMMISSION INFORMATIONAL MEMORANDUM

TO: City Commission  
FROM: Toby Dougherty, CPM  
City Manager  
DATE: July 3, 2013

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Attached are the following items:

1. The minutes of the May 29, 2013 meeting of the **Hays Housing Authority Board**.
2. The minutes of the June 3, 2013 meeting of the **Fort Hays Municipal Golf Course Advisory Board**.
3. The **Great Lakes On-Time Report** for June 2013.

If you have any questions regarding this information, please do not hesitate to contact me.

ab



**Hays Housing Authority  
May 29, 2013**

The Board of Commissioners of the Public Housing Authority of the City of Hays met in the Community Room for the monthly meeting Wednesday, May 29, 2013.

Commissioners Present:     Sue Rouse, Chair  
                                  Gloria Funk, Vice-Chair  
                                  Al Klaus  
                                  Daron Jamison

HHA Staff Present:         Kathy Nelson, Executive Director

Gloria Funk presided over the meeting until Review of Public Housing Financials when Sue Rouse arrived.

**MINUTES**

- Al Klaus moved to approve the minutes of the April 29, 2013 meeting as presented, Daron Jamison seconded the motion. All commissioners voted “Aye” – motion carried.

**AGENDA**

There were no changes or additions to the agenda.

**SECTION 8 FINANCIALS**

- April 2013 Section 8 financial reports prepared by the fee accountant were presented to the Commissioners. Daron Jamison moved to accept the reports as presented, Al Klaus seconded the motion. All commissioners voted “Aye” – motion carried. Housing Assistance payments were made on behalf of 64 families for the month of May. Five new vouchers have been issued and one more briefing is scheduled. Notification of 2013 funding has just been received. 2013 eligibility was calculated at \$233,608.00, however, a 93.9% pro-ration was applied so the Housing Authority will receive \$219,535.00 for 2013 Housing Assistance Payments.

**BILLS AND COMMUNICATIONS**

- April 2013 Public Housing financial reports prepared by the fee accountant were presented to the Commissioners. Gloria Funk moved to accept the reports as presented, Daron Jamison seconded the motion. All commissioners voted “Aye” – motion carried.

Hays Housing Authority  
May 29, 2013

**OLD BUSINESS**

- **Capital Fund Program** – Commissioners were provided with spreadsheets for the open capital fund grants. New computers, monitors and software have been ordered and should be installed soon.

**NEW BUSINESS**

- There is still one open position on the board.
- A two-bedroom apartment will be vacated at the end of May.
- Kathy Nelson will attend Housing Quality Standards (HQS) inspection recertification training June 4, 2013.
- The audit report for the period ending December 31, 2012 was distributed to Commissioners for their review. It will be listed on the agenda for the June meeting for approval.

Next meeting will be held Monday, June 24, 2013.

  
Kathy Nelson, Executive Director

  
Sue Rouse, Chairperson



## Fort Hays Municipal Golf Course Advisory Board Meeting June 3, 2013

**In Attendance:**

Bill Bieker, President (absent)  
 Jim Krob, Vice President  
 Karen Schueler, Secretary  
 Doug Huston  
 Ron Speier  
 Ron Augustine, Men’s Association  
 Janet Schmidt, Ladies Association (absent)

Jeff Boyle, Director, Parks Department  
 Travis Haines, Parks Superintendent (absent)  
 Mike Cure, Golf Course Superintendent  
 (absent – involved with aeration)  
 (open position) Historical Fort Hays  
 Rich Guffey, ProShop Manager, Tournament Chair

Guests: Dan McMillan, FHGC member; Ron Mellick, City of Hays

The meeting was called to order at 5:30 pm by Vice President Jim Krob

**1. Approval of the minutes from May, 2013 meeting:** Approved as written.

**2. Board membership:** current status - appointed members (3 year terms)

*Bill Bieker 07/01/15 (4<sup>th</sup> term)*

*Ron Speier, 07/01/13 (1<sup>st</sup> term)*

*Karen Schueler 07/01/15 (5<sup>th</sup> term)*

*Doug Huston 7/01/14 (4<sup>th</sup> term, non consecutive)*

*Jim Krob 07/01/14 (1<sup>st</sup> term)*

**3. Historical Fort Hays:** (open position)

**4. Old Business:** The fee structure will be reviewed by the City of Hays in August, for 2014. No changes will be made this year.

**5. New Business:** none

**6. Pro-Shop report:** Rich Guffey provided the following for May:

	Rounds Played 2013	Rounds Played 2012	Rounds Played 2011	Year-to-Date Rounds Played	Green Fees Current Month	Green Fees 2012	Total Green Fees for Year
May	3190	3203	3279		\$16,327.00	\$17,221.00	
April	1912	2564	2578		\$ 11,577.00	\$ 15,313.00	
March	897	2139	1313				
February	489	474	0				
January	456	23					

Rounds played for the month of May were down, probably due to the very windy conditions throughout the month. Junior golf will start this week on Thursday, and will be every Thursday in June.

**7. Tournament report:** Rich submitted a written report on the 2-Man Senior Scramble held Thursday, May 16<sup>th</sup>, for ages 55 and older. Turnout was low with 20 teams. Another report on the 3-Person Scramble on May 26<sup>th</sup> indicated a full tournament of 35 teams (105 players). The event was sponsored by The United Way of Ellis County, who raised funds by selling hole sponsors and having a raffle for a door prize basket. Karen Schueler was there for the day, sitting on #3 as a Hole-in-One witness. She described the tournament as a good event for the golf course; players appeared to have a lot of fun, even with the extremely windy conditions. There were a lot of players from out-of-town.

Rich reported that the Lymphoma and Leukemia Society have been added as sponsors for the October 6<sup>th</sup> tournament. Their request came through the Greg Gottschalk family, who recently lost a son to the illness, and have become involved with that group. Greg is a long-time member at FHGC.

Rich reported that The Friends of the Hays Dog Park have requested to do a 9-hole fundraiser on the evening of Saturday, August 17<sup>th</sup>, beginning at 5:30pm. The course is usually not very busy at that time. Karen advised that the policy is to not allow any more tournaments on the weekends. In addition, the board was not open to adding it to the current 2013 schedule on any other date. Doug moved to NOT approve this request; Karen seconded; motion carried unanimously. The group suggested that the Friends be advised to make a request in February of 2014, for next season. And also that some of these fund raising groups be advised that a golf tournament is not necessarily a good way to raise money; there is a lot of work involved in having enough teams. Funds are raised by selling hole sponsors and raffle tickets, and not through the money that players pay to play. The players entry fees are paid back in flight prizes. Also, there are so many fund raising tournaments that local merchants are not able to support all the requests that they get for sponsorships.

Rich provided a revised tournament schedule that shows the deletion of the August 16<sup>th</sup> Law Enforcement Tournament, and the addition of the previously approved Coffeyville Resources on Wednesday, July 24<sup>th</sup>, starting at 11:00 am.

**8. Course report:** The monthly report (presented by Jeff Boyle) indicated that the greens, tee-boxes, fringes and fairways are looking better every day; sodding has been done in some of the bad areas. Aeration is taking place on all of the greens today. Dead trees are being removed on both the front and back nines.

Jeff explained that the aeration is designed especially to improve the edges of the greens where the black layer is already increasing. Jeff continues to have consults with experts regarding how to deal with this issue. The greens are actually very healthy in the middle, where the affluent water does not accumulate. They plan to re-sod the bad areas on #6 green, and elsewhere as needed. The affluent water is a problem; Ron Mellick advised that the water treat plant continues to work on upgrades to the system.

There was discussion regarding the new flags and cups; the extremely windy conditions this past month whips the flags and eventually bends the cups up out of the holes.

There was discussion regarding the length of the rough. There had been a lot of complaints about the 3 inch height. Jeff reported that the intermediate cut will be cut a little shorter; he has checked with other courses on what length is most common. Rich said the pace of play is "just fine" right now, in spite of the grass.

The grass is growing really well right now. Jeff explained that it is very difficult to find enough good, seasonal help, and so they can't always keep up with the mowing. They could use a couple more reliable people to help mow; he would like to have a couple more retired seniors who would be willing to put in the time. Grass growth will slow down when the weather gets hotter.

The bump in the cart path going from #5 green to #6 tee-box needs to be shaved down again. The restrooms need to be pumped out.

Karen had a request from two senior ladies who, even with a decent drive off the tee-box, can't get the ball to the fairway on several of the holes, particularly those on the back. They feel that the grass needs to be mowed down more in that area. Rich says this is a problem for all the seniors, and that the course needs forward tees on several holes.

Karen also had a request from several lady golfers who would like to take over the triangle flower garden by the pro-shop. They feel it is unattractive and they would like to improve the appearance, especially since it is the entry area to the course. They are asking that they be allowed to do this yet this year, and if that is not possible, then to allow them to redo it in the spring of 2014. Jeff said that the responsibility for that flower garden is with the staff hired by the City, and that he could not give permission for the lady golfers to redo it.

Karen reported that she had talked with both Jeff and Michael about volunteering her time to help pull weeds where needed on the course, and trim dead branches out of bushes. (And if they will get a little John Deer riding lawn mower, she would help mow!) Board members suggested that the flower gardens in front of #12 and #14 tee boxes be eliminated, or be made into a rock garden.

**9. Parks Department update:** Jeff reported that they need to do some more patching on cart paths.

Golf Course improvement Balance - 5/21/13

*Cart Path Trail Fees: \$42,394.54*

*Donation Money: \$1,525.85 includes*

- *Putting Green (Men's Association): \$1,224.00*
- *Trees: \$ 226.41*
- *Carry over from previous tournament funds: \$75.44*

**10. Ladies' Association report:** Janet Schmidt (absent). Rich reported that, in spite of threatening weather, there were 20 ladies out on Tuesday evening to play, and enjoy the end-of-the-month FHLGA supper.

**11. Men's Association report:** Ron Augustine reported that they were unable to play this week on Wednesday due to the flags being removed because of extreme wind.

**Add-ons:**

Rich: should a daily cart trail fee be considered? He occasionally has people bring their own carts, and the policy is that they must have a trail fee sticker, which is only available for an annual fee of \$85. The daily fee was discontinued several years ago because it resulted in other problems. The board felt that an acceptable solutions is that carts are available to rent for \$20. And that people should call ahead to find out about this before they bring their own cart.

Adjourned: 6:45 pm.

*Submitted by Karen Schueler, Secretary*

*June 4, 2013*



Great Lakes Airlines On-Time Report

Jun-13	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	Under 15 Min On-Time	15-44 Min Late	45-74 Min Late	75 -104 Min Late	105 Min Late or more	Canceled	
Mon-Fri																																					
630			L	x	x	x	x			x	x	x	x	x			C	x	x	x	x			x	x	x	x	x			90%	5%				5%	
645			L	x	x	x	x			x	x	x	x	x			x	x	x	x	x			x	x	x	x	x			95%	5%					
1016			x	C	L	x	x			x	x	x	x	L			x	x	x	x	x			x	x	x	x	x			85%	10%				5%	
1026			L	C	L	L	x			x	x	L	L	L			L	x	x	L	x			x	L	x	x	x			50%	40%	5%			5%	
1311			x	x	x	x	x			L	x	x	L	x			x	L	x	x	x			x	x	x	x	x			85%	5%	5%			5%	
1321			x	x	x	x	x			L	L	x	L	L			x	L	x	x	x			L	x	x	x	x			70%	20%		5%		5%	
1425			x	x	x	x	x			C	x	x	C	x			x	L	x	x	x			L	x	x	x	x			80%	10%				10%	
1435			x	x	x	x	x			C	x	x	C	x			x	L	x	x	x			L	x	x	x	L			75%	15%				10%	
1626			L	x	x	x	x			x	L	x	x	x			L	L	x	x	L			x	x	x	x	x			75%	10%	5%			10%	
1636			L	x	x	x	L			x	L	x	x	x			L	L	x	x	L			L	x	x	x	x			65%	20%	5%			10%	
2156			x	x	x	x	x			x	x	x	L	L			x	x	x	x	x			x	x	x	x	x			90%	10%					
2206			x	x	x	x	x			x	x	x	L	L			x	x	x	x	x			x	x	x	x	x			90%	10%					
Saturday																																					
715	x							x							x								x								100%						
725	x							x							x								x								100%						
1250	x							x							x								x								100%						
1300	x							x							x								x								100%						
1406	x							x							x								x								100%						
1416	x							x							x								x								100%						
1931	x							L															L								20%	20%	40%	20%			
1941	x							L							C								L								20%	20%	20%	20%		20%	
Sunday																																					
845	x							x							C								x								L	60%		20%			20%
855	x							x							x								x								L	80%		20%			
1250	x							L							x								x								L	60%		20%			20%
1300	x							L							x								x								L	60%		20%			20%
1626	x							x							L								L								L	40%		60%			
1636	x							x							L								L								L	40%		60%			
2156	x							x							L								L								x	60%		20%			20%
2206	x							x							C								L								x	60%	20%				20%

No time logged =na  
Late=L  
On Time=x  
Canceled=C

<b>Average</b>	<b>77%</b>	<b>11%</b>	<b>6%</b>	<b>1%</b>	<b>3%</b>	<b>3%</b>
<b>Total Flights - 320</b>	<b>245</b>	<b>35</b>	<b>18</b>	<b>3</b>	<b>9</b>	<b>10</b>
<b>Percentage of flights delayed or canceled</b>	<b>23%</b>					

On time means <= 15 minutes