

# Memo

To: City Commission  
From: Toby Dougherty, City Manager  
Date: 6-28-13  
Re: July 2, 2013 Work Session

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Please find the attached agenda and supporting documentation for the July 2, 2013 Work Session.

Item 2 – RAG Addition Final Plat

Please refer to the attached memorandum from Planning, Inspection and Enforcement Superintendent Jesse Rohr regarding the RAG Addition Final Plat. This is the platting of a small area off of 22<sup>nd</sup> Street and General Hays Road.

Items 3, 4 & 5 – Proposed Luecke Addition – Requests for Rezoning: A-L – C-2 (Zoning Case #13-05), A-L to C-2 (Zoning Case #13-01) and A-L to R-3 (Zoning Case #13-02)

Items 3, 4 and 5 are all related to the rezoning of the Luecke Addition. Please refer to the attached memorandums for more information. A few meetings back, the City Commission entertained a request to rezone this property. The request was sent back to the Hays Area Planning Commission by the City Commission because, at that time, a small portion of the 41<sup>st</sup> Street frontage was left as Agriculture. The property owner has resubmitted the request to rezone creating two zoning designations with the frontage being C-2 and the rear of the property being R-3. These are compatible zonings as per the Comprehensive Plan.

Item 6 – Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition – Engineering Services Agreement

This item is self-explanatory.

Item 7 – Amended Economic Development Policy – Rural Housing Improvement District (RHID)

At the June 13, 2013 City Commission meeting, the Commission asked for a small change to the RHID policy. That policy is included in the packet with the changes redlined. The effect of the changes would mean the RHID policy could only be utilized for the development of low-income and income-qualified housing.

#### Item 8 – Addendum to the FOP Union Contract

Please refer to the attached information from Assistant City Manager Paul Briseno regarding the Addendum to the FOP Union Contract. The City is agreeing to provide a one percent (1%) merit increase for all personnel covered by this contract to be put into effect with the first payroll of 2014.

#### Item 9 – Staff Notification of Committee Attendance Requirements

Commissioner Schwaller would like the Commission to discuss the possibility of City staff sending notifications, via mail, to board and committee members that do not adhere to the attendance requirements for their respective positions. Currently, City staff notifies the Mayor and City Commission of the attendance levels for all board and committee members; however, since the board and committee appointments and oversight are the direct responsibility of the Mayor and Commission, City staff has not provided any other form of communication regarding attendance requirements.

City staff has no problem sending out notification letters to board and committee members that do not meet the stated attendance levels; however, we would like the City Commission's formal approval before doing so.

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**CITY OF HAYS**  
**CITY COMMISSION WORK SESSION**  
**TUESDAY, JULY 2, 2013 – 6:30 P.M.**  
**AGENDA**

1. **ITEM FOR REVIEW: June 20, 2013 Work Session Notes (PAGE 1)**  
DEPARTMENT HEAD RESPONSIBLE: Kim Rupp, Director of Finance
2. **ITEM FOR REVIEW: RAG Addition Final Plat (PAGE 7)**  
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
3. **ITEM FOR REVIEW: Request for Rezoning (A-L to C-2) – Proposed Luecke Addition (Zoning Case #13-05) (PAGE 13)**  
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
4. **ITEM FOR REVIEW: Reconsider Request for Rezoning (A-L to C-2) – Proposed Luecke Addition (Zoning Case #13-01) (PAGE 23)**  
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
5. **ITEM FOR REVIEW: Reconsider Request for Rezoning (A-L to R-3) – Proposed Luecke Addition (Zoning Case #13-02) (PAGE 27)**  
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
6. **ITEM FOR REVIEW: Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition – Engineering Services Agreement (PAGE 35)**  
DEPARTMENT HEAD RESPONSIBLE: I.D. Creech, Director of Public Works
7. **ITEM FOR REVIEW: Amended Economic Development Policy – Rural Housing Improvement District (RHID) (PAGE 45)**  
PERSON RESPONSIBLE: Paul Briseno, Assistant City Manager
8. **ITEM FOR REVIEW: Addendum to the FOP Union Contract (PAGE 49)**  
PERSON RESPONSIBLE: Paul Briseno, Assistant City Manager
9. **ITEM FOR REVIEW: Staff Notification of Committee Attendance Requirements (PAGE 53)**  
PERSON RESPONSIBLE: Commissioner Schwaller
10. **OTHER ITEMS FOR DISCUSSION**
11. **EXECUTIVE SESSION (IF REQUIRED)**
12. **ADJOURNMENT**

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



City of Hays  
City Commission  
Work Session Notes  
June 20, 2013

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

**Commercial Insurance Renewal**

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, an increase of 2.6% or \$4,971 in premium for the property and liability package.

At the June 27, 2013 Commission meeting, the Commissioners will be requested to approve authorizing the City Manager to renew the policy with Companion Commercial for 2013/2014, at a cost of \$196,523.

**13<sup>th</sup> Street Overlay (Vine to Harvest) – Award of Bid**

At the June 27, 2013 Commission meeting, the Commissioners will be requested to approve authorizing the City Manager to enter into a contract with APAC for the rehabilitation of 13<sup>th</sup> Street from Vine Street to Harvest Road and striping from Milner to Harvest, to be funded from the Financial Policy Projects in the amount of \$621,506.95.

**Presentation of Big Creek Study**

Brian Meier and Paul McCormick, engineers representing Burns and McDonnell, presented an overview of the recently completed study on the Big Creek Aquifer.

The primary objective of the study was to look at the overall condition of the wellfield. Mr. Meier summarized the study by stating the well spacing is relatively good, the proximity to the major sources of recharge is good, and the hydrology is complicated so it is important to monitor it, which the City is doing a good job of. There are only a few minor improvements to the wellfield that would provide some value.

### **Various Water Issues**

- Bernie Kitten, Director of Utilities, presented a report on the current status of the City's water supply.
- Toby Dougherty, City Manager, stated the Lowhead Dam Study, which is being done by the Corp of Engineers, is anticipated to be finished by October 2014.
- Nick Willis, Stormwater/Water Conservation Superintendent reviewed past water conservation measures taken by the City in the 1990's and previewed several proposals for the present and future years.
- Jeff Boyle, Parks Director, presented information about what the City is doing to reduce water usage in City parks and other landscape areas.
- Kim Rupp, Finance Director, presented a cost analysis of what it would cost to transport water from the R-9 Ranch in Kinsley to a point 68 miles away where the piping would connect with the City's transmission lines. He presented information about how much of an impact this would have on a City of Hays water customer's bill.

### **Water Customers Outside the City Limits**

In the past, properties outside the city limits of Hays have been allowed to connect to the City's water system. These customers pay an outside city limit rate and the owner must sign a pre-annexation agreement. The City has tended to accommodate these types of requests if they do not require any additional infrastructure. At this time, there are 47 water accounts for customers outside the city limits. These customers pay a rate that is approximately 1.7 times the

rate of customers inside the city limits. The practice has been in place for many years. A justification may have been that water is a utility and the more water sold means more revenue generated for the utility. When source is not limited, this line of thinking is valid.

As a result of the ongoing drought, City staff has seen an increase in properties outside the city limits wishing to connect to the City water supply. City staff recommended that this practice be stopped for many reasons, the main reason being the short supply of water. It is unknown when the drought will end. The addition of more customers means Hays will reach a crisis level sooner than if the City did not add customers. There may be times when the Commission feels it is in the community's best interest to provide water to customers outside the city limits. The positive effects of economic development expand beyond the city limits. Staff suggested that water be provided outside the city limits only when it is in the economic interest of Hays or for emergency situations.

The Commissioners will be requested to approve a policy change at the June 27, 2013 Commission meeting.

### **2<sup>nd</sup> Conservation Tier**

In the 1990's Hays enacted its first water rate structure designed to limit excessive consumption. Hays' current water rate structure was implemented in 2004. It contains a base tier and conservation tier meant to encourage efficient and wise use of potable water. Staff believes the current rate structure, particularly in times of drought, does not adequately reflect the fact that less resource is available; therefore staff proposed a 2<sup>nd</sup> tier to the conservation tier of charges.

To establish the parameters of an additional conservation tier staff considered three factors 1) the average customer who uses water efficiently, 2) not penalizing those who use their monthly average plus 1,000 cu ft, and 3) anything above the average usage plus 1,000 cu. ft. being considered excessive. Currently, the conservation tier allows for unlimited use at a price of \$3.60 per/100 cu. ft. for all usage over the average. Staff is proposing to add a 2<sup>nd</sup> tier

to the conservation tier and limit usage in the 1<sup>st</sup> tier to 1,000 cu. ft. at \$3.60 per/100 cu .ft. The proposed 2<sup>nd</sup> tier of the conservation tier would charge \$5.60 for all usage exceeding the water average + 1,000 cf. In the event of a water warning or emergency, the 2<sup>nd</sup> tier would be raised to \$7.20/per 100 cu. ft.

Staff feels that by allowing citizens to use an additional 1,000 cu .ft. over their water average at a reasonable cost would be adequate for efficient outdoor watering usage and would not adversely affect 82-85% of the residential customers. It is hoped that by adding a 2<sup>nd</sup> tier to the conservation tier, excess usage of water among the top residential users will be curbed and that efforts will be made to reduce usage by taking advantage of other landscaping measures.

The Commissioners will consider implementing a 2<sup>nd</sup> tier of charges to the conservation tier at the June 27, 2013 Commission meeting.

### **Amendment to Water Conservation Plan – Update to Drought Response Plan**

As part of the Comprehensive Water Plan, the City has had a Drought Response Plan in place for many years. The Drought Response Plan provides a clear and concise set of guidelines that, if followed, will extend Hays' water during periods of drought. The Drought Response Plan sets forth the conditions for how the City reacts to drought in three stages – "Water Watch", "Water Warning" and "Water Emergency". Each stage has progressively stronger administrative actions to reduce water usage.

When City staff reviewed the Drought Response Plan last summer, a few flaws were found in the plan that needs to be corrected. The plan language also needs to be updated to reflect the current operational procedures as well as our current source limitations. Therefore, City staff rewrote the Drought Response Plan with the intent of developing a plan that was clearer, more concise, with progressive restrictions throughout the stages. City staff also felt it was necessary to craft a plan where the City would lead by example rather than simply placing demands on its water customers.

City Manager Toby Dougherty reviewed the amended Drought Response Plan. The Plan will be reviewed by the Division of Water Resources and will be discussed again at a future work session.

**Other Items for Discussion**

Commissioner Mellick stated he would like staff to look at outside watering usage by commercial users.

City Manager Dougherty stated staff will be doing that soon.

**Executive Session**

Henry Schwaller moved, Ron Mellick seconded, that the Governing Body recess to executive session at 8:58 for 20 minutes to discuss labor negotiations, possible property acquisitions, and attorney-client privileged information. The executive session included the City Commissioner, the City Manager, the Assistant City Manager, and the City Attorney. K.S.A. 75-4319 authorizes the use of executive session to discuss the topics stated in the motion.

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

Chairperson Steward called the meeting back to order at 9:18 p.m. He stated no action was taken during executive session.

The work session adjourned at 9:18 p.m.

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

Doris Wing – City Clerk



# 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). 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.

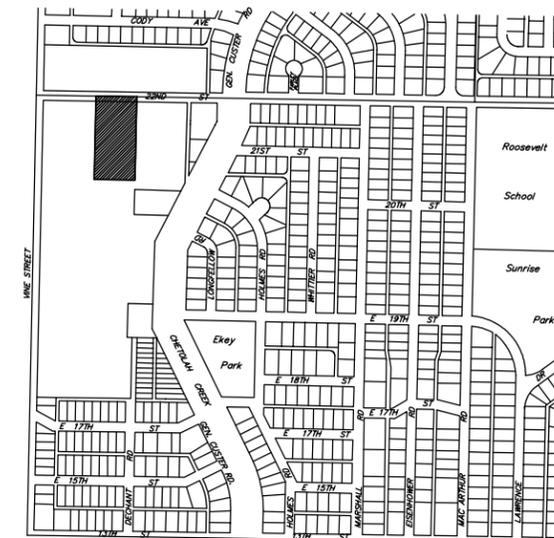
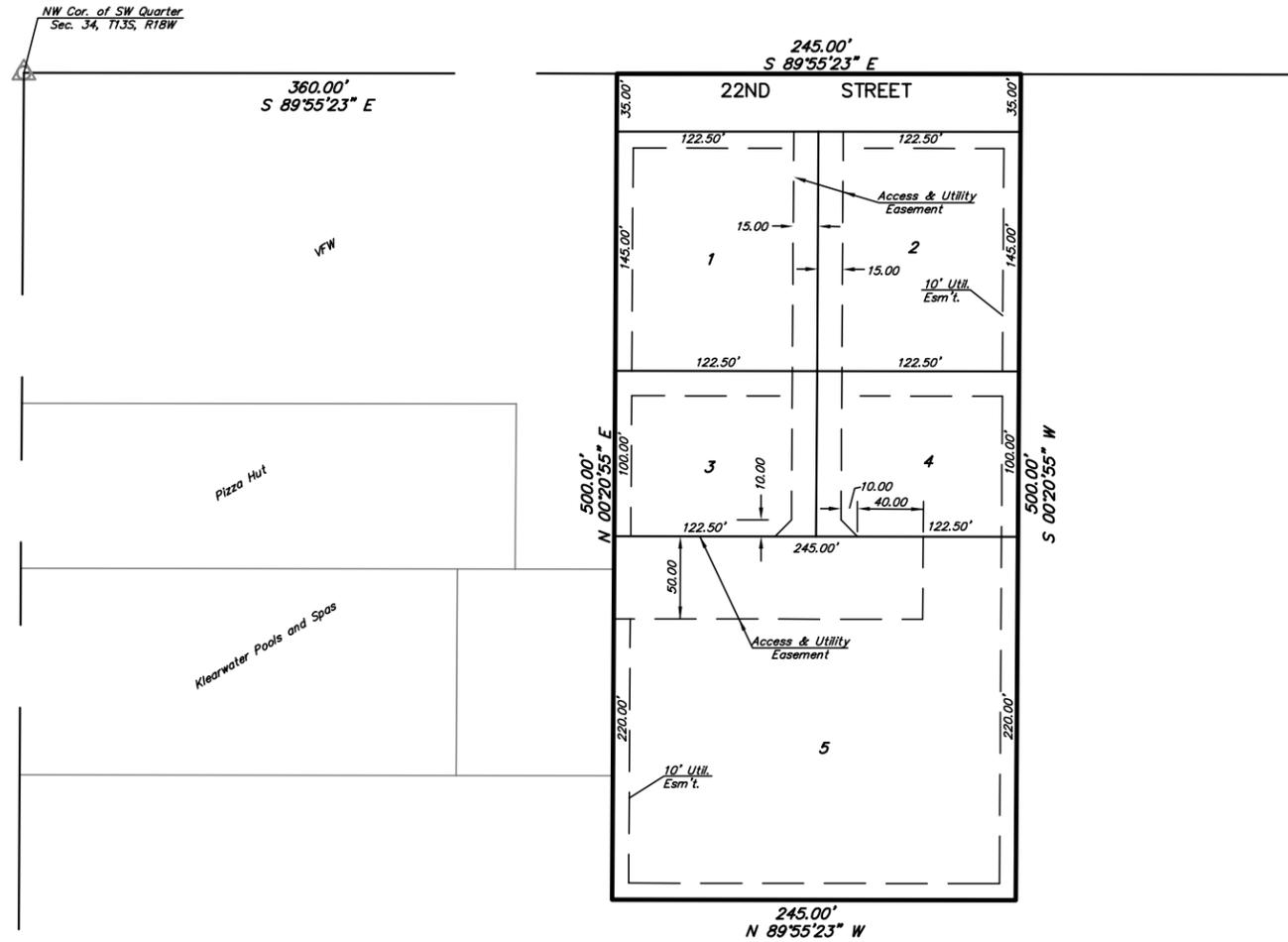
## **Action Requested**

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

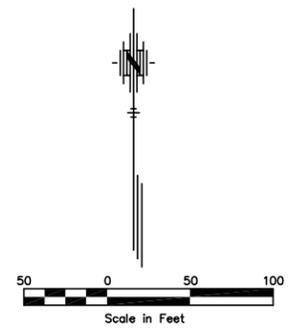
## **Supporting Documentation**

Final Plat  
Resolution

# 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

\_\_\_\_\_  
MAYOR

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

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



**RESOLUTION**

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 Steward - Mayor

ATTEST:

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



# 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

**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



**ORDINANCE NO.**

**AN ORDINANCE REZONING A TRACT OF LAND SITUATED ON A PART OF THE NORTHWEST QUARTER (NW/4) OF SECTION TWENTY-SEVEN (27), TOWNSHIP THIRTEEN (13) SOUTH, RANGE EIGHTEEN (18) WEST OF THE 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.

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Kent Steward, Mayor

ATTEST:

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Brenda Kitchen, City Clerk

(SEAL)



# 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



# 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



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**ORDINANCE NO.**

**AN ORDINANCE REZONING A TRACT OF LAND SITUATED ON A PART OF THE NORTHWEST QUARTER (NW/4) OF SECTION TWENTY-SEVEN (27), TOWNSHIP THIRTEEN (13) SOUTH, RANGE EIGHTEEN (18) WEST OF THE 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 Steward, Mayor

ATTEST:

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Brenda Kitchen, City Clerk

(SEAL)



# 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 Bidemman

By Laverne W Schumacher  
Title Owner

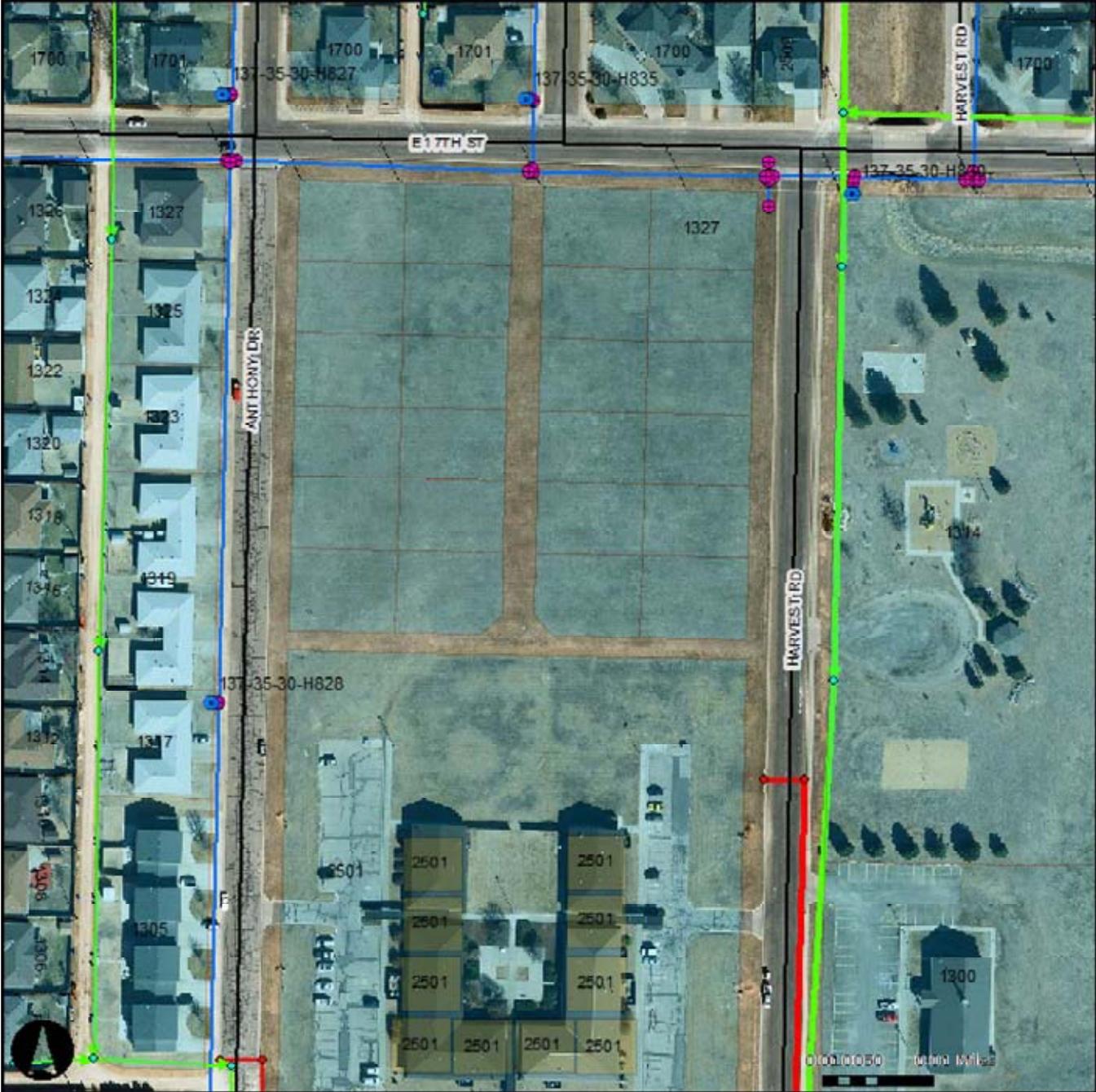
ATTEST:

RUDER ENGINEERING & SURVEYING, LLC

Linda Bidemman

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

# Golden Belt 8th Replat





## SECTION 10. RURAL HOUSING IMPROVEMENT DISTRICT POLICY

### A: POLICY STATEMENT

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

### B. CRITERIA

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

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

The Development Plan required by statute for each project must determine that the incremental ad valorem property tax revenues generated by the RHID, together with other funds committed by the Developer, will cover the estimated eligible costs of the project. All Development Plans must assume that the initial estimated incremental property tax revenues will remain flat over the term of the RHID (i.e., no plan may assume increasing incremental property tax revenues will be available to cover project costs).

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

### C: ELIGIBLE COSTS

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

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

## D: METHOD OF FINANCING

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

## E: PROCESS

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

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

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

2. *Application Fee and Deposit.* The application fee and deposit as well as any costs and expenses required to be paid by the applicant pursuant to Section 6 of the Economic Development Policy are not reimbursable pursuant to the Rural Housing Incentive District Act. The applicant will pay all out of pocket costs incurred by the City related to the City's review of the application, all documents related to consideration of a RHID and the development agreement, including but not limited to the City's cost of legal counsel and financial advisors necessary to evaluate and create the proposed RHID.
3. *Timing of Submissions.* The application and other information required by this Policy must be submitted in sufficient time for staff to follow established procedures for publication of notice, to review the submitted documents and analyze the merits of the proposed RHID in the context of existing economic development policy.
4. *Secretary of Commerce Approval.* If the Governing Body determines that it is in the best interest of the City to approve the the Housing Needs Analysis and move forward with the proposed Development Plan, the Governing Body shall adopt a resolution approving the Housing Needs Analysis and submit such analysis to the Kansas Secretary of Commerce for approval. If the Secretary of Commerce agrees within the findings of the Governing Body set forth in such resolution, the Governing Body may proceed with the establishment of an RHID.

5. *Development Agreement.* Upon receipt of approval from the Secretary of Commerce, but before the Governing Body takes further action with respect to the creation of the RHID, the City and the Developer shall negotiate a development/performance agreement to implement the proposed Development Plan and including the requirements of this Policy, including particularly the requirements of Section 14 of this Policy related to Performance Agreements.
6. *Public Hearing.* When the Development Plan, a draft Development Agreement, and all additional information required by the RHID Act and this Policy are ready to be presented to the Governing Body the Governing Body will consider adopting a resolution ordering a public hearing on creation of the RHID and adoption of the plan. The Governing Body shall give such notice and hold such hearing in the manner required by the RHID Act.
7. *Governing Body Findings.* After the public hearing is conducted, if advisable, the Governing body may create an RHID district by adopting an ordinance creating the district, adopting the Development Plan, and approving the Development Agreement.

#### F: PAYMENT OF CERTAIN COSTS

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

#### G: AUTHORITY OF THE GOVERNING BODY

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

#### I: REVIEW

The RHID policy will be in place as long as there is a need for [low-income and income-qualified housing specific housing, as shown in the Current Housing Needs Assessment](#). The City expects the Housing Needs Assessment will be updated every three to five years.

## SECTION 11. JOB BOUNTY PROGRAM

The Job Bounty Program of the City is to encourage new and/or existing businesses to hire employees. To participate in the Job Bounty Program, a prospective employer must agree to hire at least ten (10) full-time employees at an hourly wage of no less than \$10.00/hr. For the purpose



# **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



SUBJECT	ISSUED BY	EFFECTIVE DATE	REVISION DATE
<b>COMMITTEE ATTENDANCE POLICY</b>	City Commission	1-1-95	

### **POLICY STATEMENT**

It is the intent of the City Commission of Hays, Kansas to encourage citizens appointed to various committees to attend such meetings of various committees on a regular and ongoing basis throughout their appointment period. In order to insure that appointees to various committees meet with their commitments, the City Commission hereby adopts the following policy to be used to remove individuals from various committees that do not attend committee meetings on a regular basis.

### **Procedures:**

- 1) City staff will keep track of the attendance of all committee members appointed by the City Commission using the recorded minutes of committee meetings as a guide.
- 2) City staff shall inform the Mayor regarding any committee members who are absent from 25% or more of the committee meetings held in a 12 month period.
- 3) Following the notification from City staff, the Mayor shall review the attendance record of the appointee and determine whether or not these absences were excused.
- 4) In the event the Mayor determines that the absences were unexcused, he/she shall present the same information to the City Commission at the next regularly scheduled meeting to determine if that committee member should be revoked of membership on the appropriate committee.
- 5) Following a vote from the City Commission, the committee member shall be removed from the appropriate committee, whereby, the Mayor would then be free to appoint another member in the committee member's absence.
- 6) This policy shall be enforced for all committee appointments, except those set forth and governed by State law, beginning January 1, 1995.