

**CITY OF HAYS COMMISSION MEETING
THURSDAY, AUGUST 11, 2016 – 6:30 P.M.
AGENDA**

1. Call to order by Chairperson.
2. **MINUTES:** Consider approval of the minutes from the regular meeting held on July 28, 2016. (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 Recreation Commission Board (PAGE 5)
 - B. **Mayoral Appointment Recommendations:** Building Trades Board and Hays Public Library Board (PAGE 7)

UNFINISHED BUSINESS

(No business to review)

NEW BUSINESS

5. **2016 STREET MAINTENANCE – SUPPLEMENTAL DIAMOND GRINDING CONTRACT:** Consider authorizing the City Manager to enter a contract with West Fork LLC for diamond grinding services on Canterbury from 12th Street to 13th Street, and 27th Street from Vine to Sherman, to be funded out of Special Highway. (PAGE 11)
6. **LOTS 19 & 20, HAYS AIRPORT INDUSTRIAL PARK, HAYS MEDICAL CENTER – SURFACE NONDISTURBANCE AGREEMENT AND DECLARATION:** Consider approving the Surface Nondisturbance Agreement and Declaration with Hays Medical Center for Lots 19 and 20 in the Hays Airport Industrial Park. (PAGE 19)
7. **2017 BUDGET PUBLIC HEARING:** Conduct a public hearing for the 2017 Budget. (PAGE 27)
8. **2017 BUDGET RESOLUTION:** Consider approving Resolution No. 2016-004 authorizing the City to budget property tax revenues for 2017 in an amount exceeding the total dollars levied in the 2016 Budget. (PAGE 29)
9. **2017 BUDGET APPROVAL:** Consider approving the 2017 Budget. (PAGE 33)
10. **REPORT OF THE CITY MANAGER**
11. **COMMISSION INQUIRIES AND COMMENTS**

12. **EXECUTIVE SESSION (IF REQUIRED)**

13. **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 JULY 28, 2016

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, July 28, 2016 at 6:30 p.m.

Roll Call: Present: Eber Phelps

Shaun Musil

James Meier

Lance Jones

Absent: Henry Schwaller IV

Chairperson Phelps declared 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 July 14, 2016; the minutes stand approved as presented.

3. FINANCIAL STATEMENT: Finance Director, Kim Rupp, reviewed the financial summaries of the revenue and expenditure activities of the City of Hays for the month ended June 30, 2016.

Month-to-date general fund sales tax collections were at \$557,279 which is a decrease of \$65,887 as compared to last year. This is our largest decrease year-to-date and in fact our largest since November of 2015. Nine of the last twelve months experienced a notable decrease in sales tax receipts totaling -\$276,000 or a -3.71%. Year-to-date general fund collections are at \$3,517,582 down -\$183,290 or -4.95% as compared to this same time last year.

The Finance/City Clerk's Office invested \$8,000,000 of maturing or renewing certificates with an astonishing weighted average interest rate of .75%. The portfolio of certificates of deposit on June 30, 2016 totaled \$56,700,000 with a weighted average interest rate of .54% up .29% from a year ago. The total balance of the Money Market account on June 30, 2016 was \$800,000 with a

current yield of .20%. Total investments are up \$650,000 when compared to this time last year.

James Meier moved, Lance Jones seconded, that the Financial Statement for the month of June, 2016 be approved.

Vote: Ayes: Eber Phelps
Shaun Musil
James Meier
Lance Jones

4. CITIZEN COMMENTS: There were no comments.

5. CONSENT AGENDA: A. The following appointments were recommended at the July 14, 2016 City Commission meeting and are now being presented for approval.

Hays Beautification Committee

Andrew Doan – three year term to expire August 1, 2019 (1st term)

Carol Heiman – three year term to expire August 1, 2019 (4th term)

Marcia Tacha – three year term to expire August 1, 2019 (2nd term)

Hays Public Library Board

Patti Park – four year term to expire April 30, 2020 (1st term)

B. The following proposed appointment will be presented for approval at the August 11, 2016 City Commission meeting:

Hays Recreation Commission Board:

Mark Junk – four year term to expire August 1, 2020 (5th term)

Shaun Musil moved, Lance Jones seconded, to approve the consent agenda as presented.

Vote: Ayes: Eber Phelps
Shaun Musil
James Meier
Lance Jones

NEW BUSINESS

6. 2017 BUDGET REVIEW/SCHEDULING OF PUBLIC HEARING FOR 2017

BUDGET: City Manager, Toby Dougherty, asked the Commissioners if there were any questions, clarifications, or changes to be made to the budget. He recommended the Commission set the public hearing date of August 11, 2016 for the 2017 budget with an associated mill levy of 25.

The Commissioners indicated they were pleased with the proposed budget.

James Meier moved, Lance Jones seconded, to set the public hearing for the 2017 budget on August 11, 2016.

Vote: Ayes: Eber Phelps
Shaun Musil
James Meier
Lance Jones

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

8. REPORT OF THE CITY MANAGER: The City Manager had nothing to report.

9. COMMISSION INQUIRIES AND COMMENTS: Commissioner Jones commented that it is good to see young people volunteering for positions on the various boards. He stated volunteerism within Hays is outstanding.

Commissioner Meier recognized city crews for all the work they did repairing the water leak on the July 4th holiday and the tree limb pickup from the recent storm.

Chairperson Phelps recognized Harold Bettis, Rod Roy, and the Downtown Development Group for the recent car show held in Hays.

The meeting was adjourned at 6:59 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk

CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 4A

MEETING DATE: 8-11-16

TOPIC:

Mayoral Appointment for Approval

ACTION REQUESTED:

Consider approving Mayor Phelps' proposed appointment to the Hays Recreation Commission Board.

NARRATIVE:

The following appointment was recommended at the July 28, 2016 City Commission meeting and is now being presented for approval.

Hays Recreation Commission Board

Mark Junk – 4-year term to expire 8-1-20 (5th term)

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Mayor Phelps

ADMINISTRATION RECOMMENDATION:

N/A

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Application

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

Email: mark@horizonappliance.com

Date: 7/18/2016

Name: Mark Junk

Address: 1002 West 38th

Day Time Phone Number: 785-628-6131

Evening Phone Number: 785-432-2499

Place of Employment: Horizon Appliance & Electronics

How long have you been a Resident of Hays: 32 years

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

How much time could you devote per month: 12 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: Currently a board member. We have several projects currently ongoing and would like to see the completion of these projects. I have enjoyed serving on the board and working with the community.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: HRC HHS Athletic Booster Club USD 489 Foundation Board Hays Soccer Club

CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 4B

MEETING DATE: 8-11-16

TOPIC:

Mayoral Appointment Recommendations

ACTION REQUESTED:

Receive Mayor Phelps' proposed appointments to the Building Trades Board and Hays Public Library Board.

NARRATIVE:

The following proposed appointments will be presented for approval at the August 25, 2016 City Commission meeting.

Building Trades Board

Robert Meier (Electrical Rep) – 4-year term to expire 8-27-20 (2nd term)

Jacob Proffitt (Plumbing/Mechanical Rep) – 4-year term to expire 8-27-16 (1st term)

Hays Public Library Board

Katherine Wolfe – 4-year term to expire 4-30-20 (2nd term)

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Mayor Phelps

ADMINISTRATION RECOMMENDATION:

N/A

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Applications

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

NAME: ROBERT J. MEIER
ADDRESS: 509 WEST 16TH ST., HAYS, KS 67601
DAY TIME PHONE NUMBER: 785-628-5879 EVENING PHONE NUMBER: 785-625-9536
E-MAIL ADDRESS: rjmeier@fhsu.edu
PLACE OF EMPLOYMENT: FORT HAYS STATE UNIVERSITY
HOW LONG HAVE YOU BEEN A RESIDENT OF HAYS? 42 YEARS
NAME OF BOARD(S) YOU ARE INTERESTED IN SERVING ON: TRADES BOARD (ELECTRICAL)

HOW MUCH TIME COULD YOU DEVOTE PER MONTH? 4 TO 6 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. _____

I AM CURRENTLY A MEMBER OF THE TRADES BOARD
AND I WOULD LIKE TO BE REAPPOINTED.

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

HAYS MASONIC LODGE AND TRINITY LUTHERAN
CHURCH.

SIGNATURE: Robert J. Meier DATE: 3-18-16

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.

1bixeman @ haysksa.com

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

NAME: Jacob Proffitt

ADDRESS: 210 E 18th

DAY TIME PHONE NUMBER: 785-628-2833 EVENING PHONE NUMBER: 785-259-6978

E-MAIL ADDRESS: aumcoinc@ruraltel.net

PLACE OF EMPLOYMENT: Auman Company, Inc

HOW LONG HAVE YOU BEEN A RESIDENT OF HAYS? 20 plus years

NAME OF BOARD(S) YOU ARE INTERESTED IN SERVING ON: Plumbing/mechanical

Building Trades Board

HOW MUCH TIME COULD YOU DEVOTE PER MONTH? ANY

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 think everyone in the field needs to be included in codes and enforcement.

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

owner/operator Auman Co / co owner Munsch Fitness / co owner Taco Grande / co owner RJ Investments / co owner Smoothie Company / owner Keylan Investments / IPMO board member / co owner Team Proffitt MMA

SIGNATURE: Jacob Proffitt DATE: 3/10/16

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

Email: mrskatherineannewolfe@yahoo.com

Date: 7/29/2016

Name: Katherine Wolfe

Address: 4502 Larned Circle

Day Time Phone Number: 7856391567

Evening Phone Number: 7856391567

Place of Employment: home

How long have you been a Resident of Hays: 6 years

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

How much time could you devote per month: whatever is needed

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

If Yes, Explain:

Briefly describe why you are interested in serving on a Board/Committee for the City of Hays: I've been serving for two years and have immensely enjoyed the role. HPL is such a valuable resource to the entire community of Hays and I would love to continue helping keep it successful.

Please list any groups or activities that you participate in, or have previously participated in, that demonstrates your involvement in the community: MOMS Club- Vice Chairperson {3 years} Ellis County Home School Network - Chairperson {3 years}

CITY OF HAYS
AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 5

MEETING DATE: 8-11-16

TOPIC:

2016 Street Maintenance – Supplemental Diamond Grinding Contract

ACTION REQUESTED:

Authorize the City Manager to enter a contract with West Fork LLC in the amount of \$168,080.12 for Diamond Grinding Canterbury from 12th to 13th Street and 27th Street from Vine to Sherman to be funded out of Special Highway.

NARRATIVE:

In March, the City Commission approved bids for 2016 Street Maintenance Projects. Diamond Grinding sections of Canterbury and 27th Streets was included. The contractor hired to grind the bumps from the concrete streets has been unable to achieve the level of improvement expected by the City. Staff recommends awarding a contract to the next low bidder, West Fork LLC in the amount of \$168,080.12 to complete the project. Funding would come out of Special Highway.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Greg Sund, Director of Public Works

ADMINISTRATION RECOMMENDATION:

City staff recommends entering a contract with West Fork LLC to complete the Diamond Grinding Project.

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Staff Memo
Location Map
Diamond Grinding Bids

Commission Work Session Agenda

Memo

From: John Braun, Assistant Director of Public Works

Work Session: August 4, 2016

Subject: 2016 Street Maintenance – Supplemental Diamond Grinding Contract

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

Summary

In March, the City Commission approved bids for 2016 Street Maintenance Projects. Diamond Grinding sections of Canterbury and 27th Streets was included. The contractor hired to grind the bumps from the concrete streets has been unable to achieve the level of improvement expected by the City. Staff recommends awarding a contract to the next low bidder, West Fork LLC in the amount of \$168,080.12 to complete the project. Funding would come out of Special Highway.

Background

At the March 10, 2016 Regular Meeting, the City Commission accepted bids for various street maintenance projects authorizing the City Manager to enter contracts for execution. One of those was for diamond grinding the bumps off the concrete pavement on Canterbury between 12th and 13th Street and also on 27th Street from Vine to Sherman. The diamond grinding project was based on a prototype project accomplish in 2013 by West Fork, LLC (formerly Iowa Erosion Control) to grind Commerce Parkway between 22nd Street and the I-70 interchange, which was highly successful.

The low bidder for Diamond Grinding this year (2016) was APAC of Hays in the amount of \$164,603.20. West Fork LLC of Iowa also bid the project but they were about \$4,000 higher at 168,080.12. Subsequently, a contract was entered with APAC, and work began on July 6, 2016 on Canterbury between 12th and 13th Street. The contract documents specified, “The contractor will be expected to make two passes to achieve the desired ride quality improvement. Should more than two passes be required, the City and Contractor may negotiate a price for additional work.”

It took the contractor seven (7) days to finish two passes on Canterbury. On Monday, July 18th, they started grinding on 27th Street in the west bound lanes between Broadway and Sherman. It soon became apparent that the result of two passes of grinding was not producing the ride improvement desired.

City Staff brought this to the attention of the contractor on July 19th and had further discussion on site on July 20th. APAC's grinding subcontractor (Interstate Grinding of Garden City) admitted that they are not capable of accomplishing the desired results with the equipment they have, and that taking another pass would not make it much better. Interstate Grinding regularly does work for KDOT, and has done work in Hays before, most recently 41st Street west of Hall Street. The owner of Interstate Grinding stated this is only the second job in his 13 years of grinding that he has not been able to complete. On the morning of July 21st, City staff issued a suspension of any further work on the project.

Discussion

City Staff has contacted the next low bidder, West Fork, LLC in regards to accomplishing the work that APAC was not able to complete. West Fork has much larger equipment than Interstate Grinding, and they successfully accomplished this same work on Commerce Parkway in 2013. West Fork has agreed to honor their bid price of \$168,080.12, and could accomplish the work in October.

The areas ground by the current contractor would have to be redone to achieve the desired improvement. Therefore, it will take the full amount of West Fork's original bid to complete the job. Note that this project also includes a significant amount of pavement markings, which includes the entire intersections of 27th & Vine and 13th & Canterbury.

Staff is working with the City Attorney on terminating the contract with APAC, and determining due compensation.

Legal Consideration

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

Financial Consideration

Below is a summary of funds available for street maintenance:

FUNDING

Special Highway and Street Project Funding - approved at March 10, 2016 CC Meeting

Special Highway	\$ 1,122,237.00
Special Highway Contingency	\$ 50,000.00
Capital Reserve	\$ 802,338.70
Total	\$ 1,974,575.70

EXPENDITURES

Bid Projects	Awarded	Actual	Difference	
Concrete Patch	\$ 91,008.00	\$ 91,008.00	\$ -	\$2,049.75 overage paid out of contingency
Microsurfacing	\$ 410,396.00	\$ 331,840.16	\$ (78,555.84)	Complete
Preservative				
Seal	\$ 50,090.82	\$ 50,090.82	\$ -	Complete
Seal Coat	\$ 180,251.68	\$ 175,134.68	\$ (5,117.00)	Underway
Polypatch	\$ 43,470.00	\$ 43,470.00	\$ -	Underway

Curb and Brick	\$ 96,995.00	\$ 96,995.00	\$ -	Not Started
Mill and Overlay	\$ 757,761.00	\$ 757,761.00	\$ -	Not Started
Diamond Grinding	\$ 164,603.20	\$ 30,037.62	\$ (134,565.58)	Suspended
Total Projects	\$ 1,794,575.70	\$ 1,576,337.28	\$ (218,238.42)	

Other Special Highway	allocated	actual/anticipated		
Pavement Assessment	\$ 50,000.00	\$ 25,900.00	\$ (24,100.00)	Underway
Sidewalk	\$ 40,000.00	\$ 40,000.00	\$ -	
In-house	\$ 40,000.00	\$ 40,000.00	\$ -	
Contingency	\$ 50,000.00	\$ 50,000.00	\$ -	\$17,486 current remaining balance
Subtotal Other	\$ 180,000.00	\$ 155,900.00	\$ (24,100.00)	

Total Expenditures	\$ 1,974,575.70	\$ 1,732,237.28	\$ (242,338.42)
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Supplemental Diamond Grinding		\$ 168,080.12	\$ 168,080.12	Pending
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Total with Supplemental Grinding	\$ 1,974,575.70	\$ 1,900,317.40	\$ (74,258.30)
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Awarding a \$168,080.12 contract to West Fork LLC to finish the Diamond Grinding Project would still leave nearly \$75,000 in Special Highway to cover contingency and other yet identified street maintenance needs.

Options

The City Commission has the following options:

- Enter a contract with West Fork LLC to complete the Diamond Grinding Project.
- Provide alternate direction to City Staff
- Do nothing

Recommendation

Staff recommends entering a contract with West Fork LLC to complete the Diamond Grinding Project.

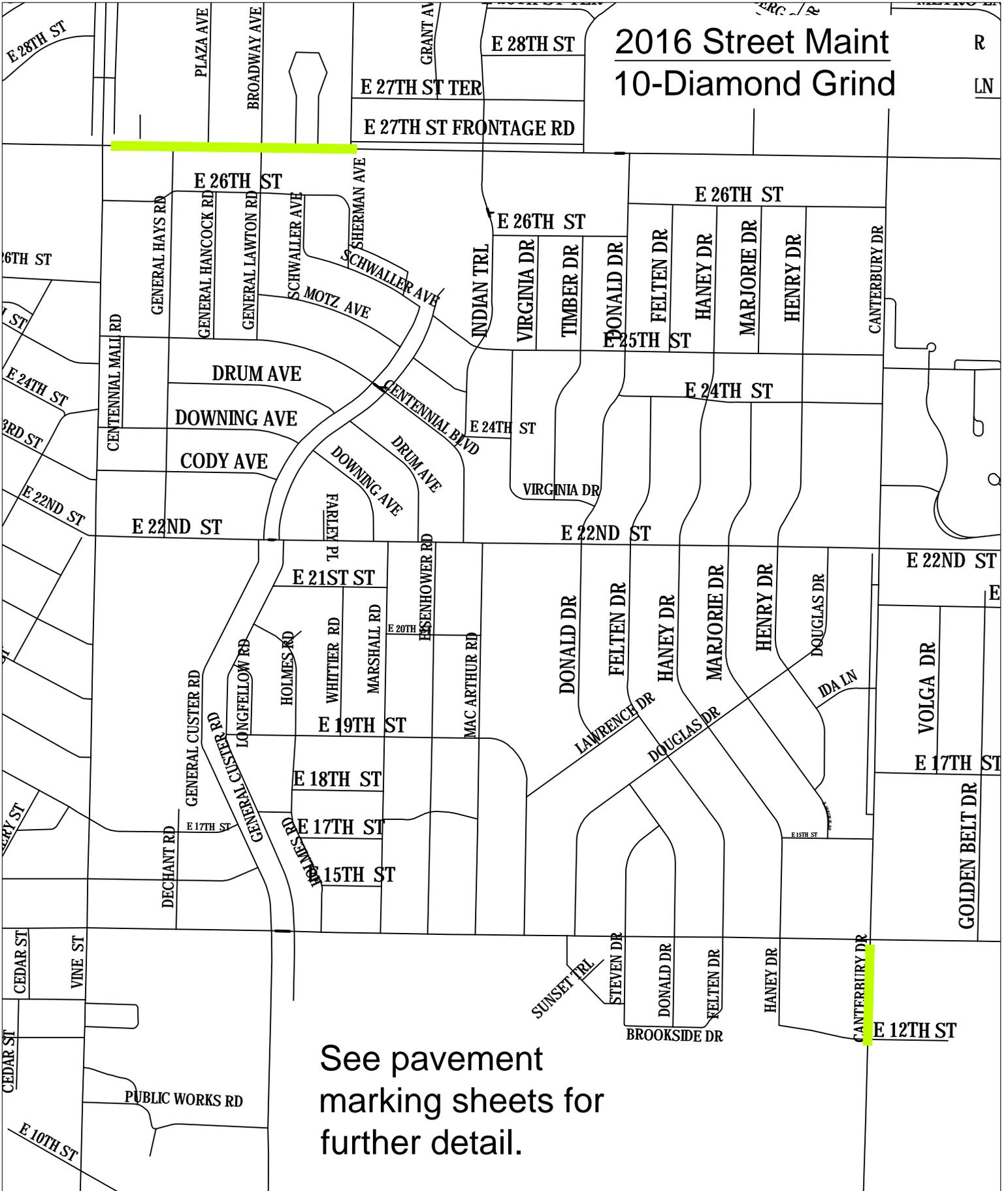
Action Requested

Authorize the City Manager to enter a contract with West Fork LLC in the amount of \$168,080.12 for Diamond Grinding Canterbury from 12th to 13th Street and 27th Street from Vine to Sherman to be funded out of Special Highway.

Supporting Documentation

Location Map
Diamond Grinding Bids

2016 Street Maint 10-Diamond Grind



City of Hays Project 2015-23
 2016 Street Maintenance
 Bid Tabs
 BID DATE: February 2, 2016

0.4246

		Apac 5		West Fork 7	
		Unit Price	Total	Unit Price	Total
10a Diamond Grind	12500 SY	\$ 5.66	\$ 70,750.00	\$ 7.25	\$ 90,625.00
10b Durable Pavement Marking - 4" Yellow	6328 LF	\$ 1.80	\$ 11,390.40	\$ 3.15	\$ 19,933.20
10c Durable Pavement Marking - 12" Yellow	159 LF	\$ 20.00	\$ 3,180.00	\$ 13.13	\$ 2,087.67
10d Durable Pavement Marking - 4" White	521 LF	\$ 1.80	\$ 937.80	\$ 3.15	\$ 1,641.15
10e Durable Pavement Marking - 6" White	2570 LF	\$ 4.00	\$ 10,280.00	\$ 4.20	\$ 10,794.00
Durable Pavement Marking - 24" White Stop Bar					
10f	273 LF	\$ 40.00	\$ 10,920.00	\$ 23.10	\$ 6,306.30
Durable Pavement Marking - 24" White Cross					
10g Walk	688 LF	\$ 40.00	\$ 27,520.00	\$ 23.10	\$ 15,892.80
Durable Pavement Marking - Bike Lane Symbols					
10h	4 EA	\$ 375.00	\$ 1,500.00	\$ 800.00	\$ 3,200.00
10i Durable Pavement Marking - Arrows - LEFT	25 EA	\$ 375.00	\$ 9,375.00	\$ 550.00	\$ 13,750.00
10j Durable Pavement Marking - Arrows - RIGHT	2 EA	\$ 375.00	\$ 750.00	\$ 550.00	\$ 1,100.00
10k Pavement Marking Removal	1 LS	\$ 18,000.00	\$ 18,000.00	\$ 2,750.00	\$ 2,750.00
Total Bid Item #10			\$ 164,603.20		\$ 168,080.12

CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 6

MEETING DATE: 8-11-16

TOPIC:

Lots 19 & 20, Hays Airport Industrial Park, Hays Medical Center – Surface Nondisturbance Agreement and Declaration

ACTION REQUESTED:

Approve the Surface Nondisturbance Agreement and Declaration and direct the Mayor to sign it on behalf of the City of Hays.

NARRATIVE:

Hays Medical Center is purchasing the surface rights in Lots 19 and 20 at Hays Airport Industrial Park from Heart of America Development Corporation. The City of Hays owns the minerals under these lots. Hays Medical Center has requested a Surface Nondisturbance Agreement and Declaration from the City of Hays to ensure that there will be no drilling for minerals on the property.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

John T. Bird, City Attorney

ADMINISTRATION RECOMMENDATION:

The City Attorney recommends that the Surface Nondisturbance Agreement and Declaration be approved and signed.

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Staff Memo
Aerial – Location
Surface Nondisturbance Agreement and Declaration

Commission Work Session Agenda

Memo

From: John T. Bird, City Attorney

Work Session: August 4, 2016

Subject: Lots 19 & 20, Hays Airport Industrial Park
Hays Medical Center – Surface Nondisturbance
Agreement and Declaration

Person(s) Responsible: John T. Bird, City Attorney

Summary

Hays Medical Center is purchasing the surface rights in Lots 19 and 20 at Hays Airport Industrial Park from Heart of America Development Corporation. The City of Hays owns the minerals under these lots. Hays Medical Center has requested a Surface Nondisturbance Agreement and Declaration from the City of Hays to ensure that there will be no drilling for minerals on the property.

Background

The City of Hays owns the mineral rights under the property but by virtue of an avigation easement in conjunction with the airport cannot drill for minerals. The Plat and Dedication of The Hays Airport Industrial Park filed in 1986 and the replat of Lots 9-20 filed in 1996, are of surface rights only and both reserve a right of flight for the passage of aircraft in the airspace above the surface of subject property.

Discussion

Hays Medical Center is seeking assurance that The City of Hays will not go upon the surface to drill for minerals. Because of the avigation easement required by the FAA the City of Hays cannot drill for minerals on these lots and dedicated only surface rights to ensure that mineral production and exploration would not occur in the Hays Airport Industrial Park. The Surface Nondisturbance Agreement and Declaration would be filed of record to reiterate the City's intent with regard to minerals and make the non-utilization of the surface of the land purchased by Hays Medical Center a covenant running with the land.

Legal Consideration

There are no legal obstacles to proceeding with any of the options listed by City Attorney.

Financial Consideration

There is no financial impact in executing the Surface Nondisturbance Agreement and Declaration since the City of Hays is subject to the avigation easement that restricts it from going upon the surface to produce the minerals it retains.

Options

The City Commission has the following options:

- Approve the Surface Nondisturbance Agreement and Declaration as presented
- Reject the Surface Nondisturbance Agreement and Declaration
- Request changes to the Surface Nondisturbance Agreement and Declaration before it is approved

Recommendation

The City Attorney recommends that the Surface Nondisturbance Agreement and Declaration be approved and signed.

Action Requested

Approve the Surface Nondisturbance Agreement and Declaration and direct the Mayor to sign it on behalf of the City of Hays.

Supporting Documentation

Aerial - Location
Surface Nondisturbance Agreement and Declaration



DRIVE A

COMMERCE

DRIVE B

NEW

RESERVATION

H1072

RUNWAY 16-34

M2

SURFACE NONDISTURBANCE AGREEMENT AND DECLARATION

This Surface Nondisturbance Agreement and Declaration (“Declaration”) is made and entered into this ____ day of _____, 2016, by the City of Hays, Kansas, a municipal corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Kansas (the "City").

WHEREAS, the City owns minerals underlying the following described property:

Lots Nineteen (19) and Twenty (20), REPLAT OF LOTS 9-20 OF THE HAYS AIRPORT INDUSTRIAL PARK to the City of Hays, Ellis County, Kansas

(the “Property”); and

Hays Medical Center, Inc., a Kansas corporation (“HMC”), has contracted to purchase the Property from Heart of America Development Corporation, a Kansas corporation (“HOA”) **which consists of solely the surface rights in and to the Property;** and

To assist HMC in the purchase of the Property from HOA, City agrees that City shall have no right to use the surface of the Property to produce the minerals thereunder or for any other purpose whatsoever, without written consent in advance from HMC or its successor in title.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the City agrees as follows:

1. Nondisturbance. The City, its lessees, agents, contractors, successors and assigns (“the City Parties”) will not utilize the surface of the Property to produce the minerals thereunder or for any other purpose whatsoever. The City may produce the minerals underlying the Property only by directional or horizontal drilling not

located on the Property, or by inclusion of the minerals underlying the Property in a unit.

2. Mineral Ownership. City represents and warrants that it owns the minerals underlying the Property, that it has made no transfers of the minerals underlying the Property, and that no other entity has any ownership interest in said minerals.
3. Default. If any of City's successors in interest default on the terms of this Declaration, such defaulting successor will indemnify and hold harmless HMC and each of its officers, members, managers, successors and assigns from and against any and all damages, losses, obligations, liabilities, claims, actions and costs and expenses (including but not limited to court costs and attorneys' fees) suffered, sustained, incurred or required to be paid due to such default. This provision shall not, under any circumstances, apply to City.
4. No Transfer of Minerals. The parties agree that this Declaration does not transfer or assign any ownership interest in said minerals to any third party.
5. Covenant Running With the Land. This Declaration shall constitute a covenant running with the land.
6. Recording. This Declaration shall be recorded in the real property records of Ellis County, Kansas, at the office of the Register of Deeds.

IN WITNESS WHEREOF, this Declaration is made and executed as of the date set forth above.

CITY OF HAYS, KANSAS

By: _____

Title: Mayor _____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
ELLIS COUNTY)

BE IT REMEMBERED, that on this ____ day of _____, 2016, before me, a Notary Public within and for the County and State aforesaid, came _____, Mayor of the City of Hays, Kansas, who is personally known to me to be the same person who executed the foregoing instrument as Mayor, and said person duly acknowledged to me his/her execution of the same as and for his/her free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at Hays, Kansas, the date last above written.

Notary Public

My Appointment Expires:

CITY OF HAYS
AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 7

MEETING DATE: 8-11-16

TOPIC:

2017 Budget Public Hearing

ACTION REQUESTED:

Conduct a public hearing for the approval of the 2017 Budget.

NARRATIVE:

The City Manager will review highlights of the 2017 Budget with the public hearing following.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Toby Dougherty, City Manager

ADMINISTRATION RECOMMENDATION:

Hold a public hearing for the 2017 Budget.

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

Budget Certificate

CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 8

MEETING DATE: 8-11-16

TOPIC:

2017 Budget Resolution

ACTION REQUESTED:

Consider approving Resolution No. 2016-004 authorizing the City to budget property tax revenues for 2017 in an amount exceeding the total dollars levied in the 2016 Budget.

NARRATIVE:

The 2017 budget total tax levy in dollars exceeds the 2016 levy. This is adjusted upward by the 2015 CPI for all urban consumers as well as revenue in the current year attributable to the taxation of new improvements to real property, annexed territory, increased personal property valuation (except oil and gas leasehold and mobile homes) and property which has changed in use. Therefore an authorizing resolution must be adopted prior to adoption of the budget.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Toby Dougherty, City Manager
Kim Rupp, Director of Finance

ADMINISTRATION RECOMMENDATION:

Staff recommends approving the resolution.

COMMITTEE RECOMMENDATION(S):

NA

ATTACHMENTS:

Resolution No. 2016-004

RESOLUTION NO. 2016-004

**A RESOLUTION EXPRESSING THE PROPERTY TAXATION
POLICY OF THE CITY OF HAYS, KANSAS, WITH RESPECT
TO FINANCING THE ANNUAL BUDGET FOR 2017**

WHEREAS, K.S.A. 79-2925b, as amended, provides that a levy of property taxes to finance the 2017 budget of the City of Hays, Kansas, exceeding the amount levied to finance the 2016 budget of the City of Hays, Kansas, as adjusted to reflect changes in the Consumer Price Index for All Urban Consumers for calendar year 2015, be authorized by a resolution adopted in advance of the adoption of a budget supported by such levy; and

WHEREAS, K.S.A. 79-2925b, as amended, also provides that current year revenue that is produced and attributable to the taxation of (1) new improvements, (2) increased personal property valuation other than increased valuation of oil and gas leaseholds and mobile homes, (3) property located within added jurisdictional territory, and (4) property which has changed in use shall not be considered when determining whether revenue produced from property tax has increased from the preceding year; and

WHEREAS, the City of Hays, Kansas, provides essential services to protect the citizens of the City of Hays, Kansas; and

WHEREAS, the cost of providing these services continues to increase.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS, that a levy of property taxes in support of the 2017 budget exceeding the amount levied in 2016, as adjusted pursuant to K.S.A. 79-2925b, as amended, is hereby approved.

This resolution shall be effective upon its passage.

RESOLUTION NO. 2016-004
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Adopted by the Commission on the 11th day of August, 2016.

EBER PHELPS
Mayor

ATTEST:

BRENDA KITCHEN
City Clerk

(SEAL)

CITY OF HAYS
AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 9

MEETING DATE: 8-11-16

TOPIC:

2017 Budget Approval

ACTION REQUESTED:

Consider approving the 2017 Budget for the City of Hays.

NARRATIVE:

N/A

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Toby Dougherty, City Manager

ADMINISTRATION RECOMMENDATION:

Approval

COMMITTEE RECOMMENDATION(S):

N/A

ATTACHMENTS:

None