

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON APRIL 11, 2002

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, April 11, 2002 at 7:30 p.m.

Roll Call: Present: Henry Schwaller IV
Larry Schmidt
Troy Hickman
Sunell Koerner
Dick Bedard

Mayor Schwaller declared that a quorum was present and called the meeting to order.

2. REORGANIZATION OF GOVERNING BODY: **A.** Commissioner Koerner stated it is the responsibility of the five Commissioners to vote on the person who will represent the City of Hays as Mayor. Traditionally, the number of votes received in the election determines who will be given the privilege of being Mayor. Circumstances and situations can occur during the course of a Commissioner's term that may cause anyone of the Commissioners to lose that privilege. At this time, it is in the best interest of the City of Hays to break from tradition.

Sunell Koerner moved that Henry Schwaller IV continue in the role of Mayor for six additional months followed by a reorganization the first meeting in October with Commissioner Troy Hickman finishing out the six months of that mayoral term.

Commissioner Schmidt stated that when the voters elected him three years ago to a four-year term, it was to keep things like this from happening. Commissioner Koerner was trying to usurp the will of the voters; she is putting herself above what the voters voted for three years ago. The voters spoke three years ago; they wanted him to be Mayor when his time came.

The motion died for lack of a second.

Commissioner Hickman stated this is an awkward situation for everyone. A lot of citizens in the community have expressed their will to the Commissioners. He feels the new City Manager has made some changes that have helped bring the Commissioners together as a body and he would hate to see this particular issue divide the Commission once again.

Commissioner Bedard stated he has received a lot of emails and phone calls on this issue and has come to the conclusion that the Commission should break from tradition.

Dick Bedard moved that Troy Hickman be elected to a one-year term as Mayor.

The motion died for lack of a second.

Commissioner Hickman asked if discussion on this issue could be delayed until the next meeting.

Mayor Schwaller stated he felt it would be best if there would be a simple, clean, quick cut. There will not be a unanimous vote and no one will be happy. Any protracted debate will further divide the community and prevent this Commission from conducting business.

Commissioner Koerner suggested that her motion be reconsidered.

Troy Hickman seconded the earlier motion made by Sunell Koerner that Henry Schwaller IV be appointed Mayor for a six-month term, followed by a reorganization at the first meeting in October and appointing Troy Hickman as Mayor for the remaining six months of the Mayoral term.

Commissioner Schmidt stated he heard from his supporters just like the other Commissioners heard from their supporters. The people who voted for him feel the succession should follow tradition; politics should stay out of this issue. There are individuals who don't like him because of the way he has voted on various issues. He voted the way he thought was right.

City Attorney John Bird stated the ordinance as it is written states that a presiding officer is chosen for one year. In the past under a "gentlemen's agreement" it was agreed that the Mayor would step down early. There wasn't

much controversy at that time and there wasn't much doubt about the circumstances leading up to that situation. This Commission only has the power to elect a Mayor tonight; it may include the action that the Mayor step down after six months, but that is not binding, should the Mayor decide not to step down. If a Mayor is not selected, the current Mayor holds the office until his successor is appointed. The motion is not out of order, but probably is not effective concerning the part about Commissioner Hickman becoming Mayor for the last six months of the term.

Mayor Schwaller stated if he were chosen to be Mayor he would serve for a period of six months, then step down.

Commissioner Schmidt stated Mayor Schwaller would be going against what the people voted for three years ago.

Mayor Schwaller stated the problem is not the vote that was held three years ago, but the matters that have transpired since then. The will of the people today is to move ahead.

Commissioner Schmidt stated he felt the will of the people is what was printed in the paper three years ago, not what was printed in the paper in the last two weeks.

The Mayor called for the vote.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

No: Larry Schmidt

Dick Bedard

B. Sunell Koerner moved, Henry Schwaller IV seconded, that Troy Hickman be appointed Vice-Mayor.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

No: Larry Schmidt

3. MINUTES: Commissioner Koerner made one correction to the March 28, 2002 meeting in #12 Add-On Items. She stated there is no left turn sign when exiting the west exit of the Walgreen parking lot.

Dick Bedard moved, Troy Hickman seconded, that the minutes of the March 28, 2002 regular meeting, as corrected, be approved.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

4. CITIZEN COMMENTS: Director of Fire and Inspection Services Roger Rife stated that Russell Fire Chief Earl Hemphill lost his life today in the line of duty. He offered condolences on behalf of the Hays Fire and Inspection Department to his family and the Russell community and offered assistance to the Russell community during this trying time.

5. CONSENT ITEMS: Troy Hickman moved, Sunell Koerner seconded, that a cereal malt beverage license be issued to Professor's, 521 East 11th Street.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

OLD BUSINESS

6. HALL STREET SETBACK DESIGN: The original field check plans for Hall Street show sidewalks on the west side of Hall being a setback sidewalk and the sidewalk on the east side being a curb sidewalk. After discussions between Kansas Department of Transportation (KDOT) representatives, design engineers with Cook, Flatt & Strobel, and City staff, it was decided to install setback sidewalks wherever possible.

The reasons for the setback sidewalks are lower construction costs, better safety for pedestrians, and easier snow removal. The setback sidewalks would increase the right-of-way purchase from three properties and there would also be parking issues with nine properties along Hall Street that have driveways accessing Hall Street that would have to be resolved.

Commissioner Hickman stated that one of the major concerns about this project was the taking of property from landowners. He favors going with the original field check design.

Commissioner Schmidt stated that a lot of property would be ruined with the additional right-of-way purchases. Property acquisition should be kept to a minimum. He is not in favor of changing.

Troy Hickman moved, Dick Bedard seconded, that the original design be kept, that design showing the sidewalks on the west side being a setback sidewalk and the sidewalk on the east side being a curb-side sidewalk.

John Watson, 509 West 12th Street, requested the City abandon the right-of-way in front of his property. He would then willingly take care of the sidewalk.

City Manager Randy Gustafson stated he had no objections but he would rather make certain that the City is completely correct before doing so and he asked Mr. Watson to allow the City to deal with this issue administratively and report back at a later date. If at all possible, he would like to accommodate Mr. Watson.

City Attorney John Bird stated that before any land is acquired he will be meeting with the City Engineer, the City Manager and whoever else is involved in the design to determine what kind of property should be acquired in each area. The Commission will then be informed and a recommendation will be given on each tract of land.

The Mayor called for the vote.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

NEW BUSINESS

7. SALE OF GENERAL OBLIGATION BONDS: A. Dave Arteberry, representing the City's financial advisor, George K. Baum and Co., stated these bonds in the amount of \$2,940,000 will be used to pay off an existing \$1,965,000 Temporary Note that matures May 1, 2002 and finance new projects. The new projects will be bonded directly without the issuance of a Temporary Note. The following bids were received:

	<u>Net Interest Cost</u>	<u>True Interest Cost</u>
Gold Capital Management	\$1,158,638.00	4.58944%
U.S. Bancorp Piper Jaffray	1,148,360.11	4.554199%
George K. Baum & Co.	1,126,865.33	4.459279%
Morgan Stanley Dean Witter	1,140,382.00	4.515435%
Commerce Bank	1,159,168.67	4.585508%
Country Club Bank	1,128,767.81	4.460039%
UMB Bank	1,132,887.89	4.477891%

Mr. Arteberry stated the bid from George K. Baum and Co. was verified as being mathematically correct and it meets all of the typical bidding parameters.

Mayor Schwaller stated he has a concern about receiving bids electronically. Traditionally, bids are received by facsimile or phone. Additionally, he is concerned about our financial advisor winning the bid.

City Clerk Susie Berger stated it is typical for financial advisors to bid. In the past, they have bid on almost all of our issues. George K. Baum and Co. have only received the bid one other time on a small project. It is not unusual.

City Attorney John Bird stated it is not illegal.

Mr. Arteberry stated that historically George K. Baum and Co. have bid on bonds that cities have for public sale. The resolution that sets the bond sale date has a provision that specifically allows his company to submit a bid. It is a

common practice. The official statement that is distributed to investors mentions that his firm has received permission to bid on the bonds, so all bidders are made aware that George K. Baum and Co. will be bidding. He has never had any instance where any other bidder expressed reservations about his firm submitting a bid.

Mr. Arteberry stated the electronic bidding process is one that is set up and done through an independent company called Thompson Financial. It is called the Parity Bidding System. The resolution that was passed did include a provision allowing the City to receive bids by facsimile, phone, or electronically. The notice of bond sale also included a discussion of the electronic provision. The electronic bidding platform is a blind platform where bidders prepare their bids and then submit them to a central data base; there is no way anyone could access that bid until the bid opening.

Larry Schmidt moved, Troy Hickman seconded, that the bid from George K. Baum and Co. in the amount of \$1,126,865.33 (net interest cost) with a true interest rate of 4.459279%, be accepted and that Ordinance No. 3583, being an ordinance authorizing the issuance and delivery of \$2,940,000 principal amount of General Obligation Internal Improvement Bonds, Series 2002-A, of the City of Hays, Kansas; providing for the levy and collection of an annual tax and special assessments for the purpose of paying the principal of and interest on said bonds as they become due; and making certain covenants with respect thereto, be approved.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

B. Troy Hickman moved, Dick Bedard seconded, that Resolution No. 402, being a resolution prescribing the form and detail of and authorizing the delivery of \$2,940,000 principal amount of General Obligation Internal Improvement Bonds, Series 2002-A, of the City of Hays, Kansas, previously authorized by Ordinance

No. 3583 of the City; and making certain covenants with respect thereto, be approved.

Vote: Ayes: Henry Schwaller IV
Larry Schmidt
Troy Hickman
Sunell Koerner
Dick Bedard

8. LIBRARY PROPOSAL TO PROVIDE TAX CREDITS TO CONTRIBUTORS:

As part of the Hays Public Library Trust's efforts to raise \$700,000 for the 1911 Carnegie Library Replication, the Library is applying to the Kansas Department of Commerce and Housing's Community Service Program which provides tax credits as incentives for eligible donations. The Library is seeking the City's endorsement.

Mayor Schwaller stated the City would not be obligated to fund or will be held responsible to carry out this project.

Dick Bedard moved, Sunell Koerner seconded, that the Mayor be authorized to complete the "Local Government Endorsement" portion of the application to the Kansas Department of Commerce & Housing – Community Service Program on behalf of the Hays Public Library, which would enable the Library to offer tax credits as incentives for eligible donations to the Library renovation project.

Vote: Ayes: Henry Schwaller IV
Larry Schmidt
Troy Hickman
Sunell Koerner
Dick Bedard

9. PARADIGM 2000 ORGANIZATIONAL ASSESSMENT:

The 2002 Budget earmarked \$35,000 to conduct an objective management assessment of every department in the City organization, but that amount is only sufficient for an assessment of the police and fire departments. The other City departments may have a management assessment done in 2003 if funding is approved by the

Commission during the budget process. This assessment should be completed by the time 2003 budget preparations are being conducted, so the finished product will be available for review and comment.

City Manager Gustafson stated he felt the assessment would be helpful to the Commission, the departments, to himself and ultimately to the community.

Commissioner Schmidt stated there are many staff changes that will be occurring in the Police and Fire Departments within the next year and felt the assessment should wait until the staff changes have been in place for one year. Departments change under new leadership.

City Manager Gustafson stated he felt an assessment would be very valuable to a new police chief or fire chief. This assessment would provide a snapshot of the organization and allow them to concentrate on needed changes.

Dick Bedard moved, Sunell Koerner seconded for the purposes of discussion, that a contract with Organizational Development Services in the amount of \$35,000 to conduct an organizational assessment for the Police and Fire Departments be approved.

Discussion was held about the process that will be followed by Organizational Development Services while the assessment is being conducted. The City Manager was directed to get more information about the process and report back at the next Commission meeting.

Dick Bedard withdrew his motion; Sunell Koerner withdrew her second.

10. ANNEXATION AGREEMENT: Carrico Real Estate (John Deere Implement) has requested connection to the City's public water supply for property that is currently outside the city limits. The agreement provides for annexation at the City's discretion. Provisions within the agreement will require the applicant and subsequent owners of the property to participate in any future Special Assessment Districts that might be formed for the purpose of providing additional public infrastructure. The applicant will also be required to comply with land use regulations and City building code regulations for all improvements commenced after the adoption of the agreement. The City will provide water at the established outside city limit rate of 1.7 times the inside city limit rate.

Troy Hickman moved, Sunell Koerner seconded, that the Agreement for Annexation and Provisions of Public Water Services between Carrico Real Estate, LLC and the City of Hays be approved.

Mayor Schwaller stated he would vote for the annexation with one clarification. Carrico wants to be annexed and have agreed to all the provisions set out by the City. This annexation agreement does not follow City policy in that the applicant will be required to comply with land usage regulations and building code regulations for future improvements. This is not City policy. Other annexations have been approved in the past with these same provisions; however, it is not City policy.

City Manager Gustafson stated the Development Policy is being studied and will be presented to the Commission at a future meeting.

The Mayor called for the vote.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

11. 2002 POLYPATCH PROJECT: A. & B. Director of Public Works Elden Hammerschmidt recommended the City Manager approve the purchase of Polypatch material from PMSI in the amount of \$34,983 for the purchase of 50,700 pounds of Polypatch materials for the 2002 Polypatch Project. PMSI is a sole source supplier of the product.

One bid was received from Stripe and Seal, Hays, Kansas, in the amount of \$52,998 for labor and equipment to apply the Polypatch. Mr. Hammerschmidt recommended Stripe and Seal be awarded the contract.

Troy Hickman moved, Sunell Koerner seconded, that the City Manager be authorized to approve the purchase of materials from PMSI in the amount of \$34,983 for the 2002 Polypatch Project.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman
Sunell Koerner
Dick Bedard

Sunell Koerner moved, Troy Hickman seconded, that the bid from Stripe and Seal in the amount of \$52,998 for the labor and equipment for the 2002 Polypatch Project be approved.

Vote: Ayes: Henry Schwaller IV
Larry Schmidt
Troy Hickman
Sunell Koerner
Dick Bedard

12. COMMISSIONAL INFORMATIONAL MEMORANDUM: City Manager Gustafson stated he, on behalf of the City of Hays, has offered the City of Russell any assistance that may be needed due to the death of their fire chief.

13. ADD-ON ITEMS: Commissioner Koerner expressed concern about possible legislation concerning city sales tax on new vehicle purchases.

City Manager Gustafson stated he receives regular emails on this issue that contain some analysis. He will forward the emails to the Commissioners to keep them updated.

Mayor Schwaller requested that a copy of the agenda packet be delivered to the Hays Public Library. This will give the public access to the information.

Mayor Schwaller recognized the artwork placed in the Commission chambers by the elementary, middle school and high school students in Hays and invited the public to stop by the chambers to see the artwork.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board

