

MINUTES OF A MEETING OF
THE GOVERING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON AUGUST 14, 2003

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, August 14, 2003, at 7:30 p.m.

Roll Call: Present: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger
Henry Schwaller IV

Chairperson Hickman stated that a quorum was present and called the meeting to order.

2. MINUTES: Commissioner Koerner stated that she would like a statement she made at the Special Meeting held on July 31, 2003 included in the minutes. She would like the Resolution for Distribution of Funds for Outside Agencies to include her comment that it is very important for the City Commission to do very good due diligence on this process.

The minutes of the July 24, 2003 regular meeting, the July 31, 2003 Special Meeting for the 2004 Budget public hearing, and the July 31, 2003 Called Meeting to schedule a public hearing for the special assessment process, were approved as corrected.

3. CITIZEN COMMENTS: Glen Teel requested the Commission consider changing the zoning for property he owns at 717 East 7th Street. This is further discussed in the consent agenda.

4. CONSENT AGENDA: **A.** Cereal Malt Beverage Licenses: City Manager Randy Gustafson stated The Outdoor Edge is opening before the next Commission meeting and the City is trying to accommodate them by approving their license contingent upon the fire code inspection. Some minor remodeling is

still in process. The Deputy Fire Chief indicated he wouldn't have a problem signing off on the inspection once the remodeling is completed.

Commissioner Steward stated he would not vote to approve this application until all requirements are met. He would rather call a special meeting to approve the license.

City Manager Gustafson stated that if they did not meet the fire code the license would not be issued and they would not be allowed to open.

Henry Schwaller IV moved, Sunell Koerner seconded that Cereal Malt Beverage Licenses be approved for the following:

(a) The Outdoor Edge – 1005 East 37th Street – contingent upon the fire code inspection.

(b) Knights of Columbus at Municipal Park for a Ford Motor and Harley Davidson event.

Vote: Ayes: Troy Hickman

Sunell Koerner

Wayne Billinger

Henry Schwaller IV

No: Kent Steward

B. Nuisance Abatement Proceedings: (a) Complaints were filed on June 6, 2003 about inoperable vehicles, junk, and trash deposited on the property at 717 East 7th St. Staff has followed all the proper procedures to abate the nuisance, but to no avail. Staff requested approval of a resolution to abate the nuisance.

City Manager Gustafson said the property is zoned I-1. That zoning designation states that no inoperable autos or materials are to be held on the site unless they are in an enclosed building.

Commissioner Schwaller commented that an inoperable vehicle is defined as a vehicle that is untagged, junked, not in running condition, and is not moved for a period of 30 days.

Glen Teel, owner of the property at 717 East 7th Street, stated he was misinformed and thought the property was classified as C-2. The tenant built a fence around the property to conceal the vehicles in order to meet the requirements of C-2. Today, he learned that the property is classified I-1.

City Manager Gustafson stated that if it is the Commission's intent, the ordinance could be revised to allow for a fence in the I-1 classification.

Commissioner Schwaller stated in his opinion this is not an industrial district. Perhaps the property should be rezoned.

City Attorney John Bird stated the ordinance defines Light Industrial as providing for automobile repair and body shops, providing all work is done within an enclosed building and no inoperable autos or materials are held or stored on the site unless in an enclosed building. These designations have been in place since the 70's. Over time things change, maybe the time has come to request a change in zoning. Until that is done the City doesn't have much choice. Mr. Teel will have to ask the Hays-Ellis County Planning Commission to rezone the property. He suggested this item be tabled to give Mr. Teel time to apply for rezoning.

Wayne Billinger moved, Sunell Koerner seconded, that further action on this issue be tabled until staff has a chance to research and study the issue.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger
Henry Schwaller IV

Commissioner Steward commented that most likely other businesses are violating the Light Industrial classification by working on vehicles outside. He requested staff review the regulations and possibly consider making changes.

(b) Complaints were filed on June 5, 2003 about inoperable vehicles, automotive junk, and other items and debris deposited on and around the property at 730 East 8th St. Staff has followed all the proper procedures to abate the nuisance, but to no avail.

City Manager Gustafson stated this property is zoned I-1 in the rear of the business which faces 7th Street and C-2 in the front of the business which faces 8th St.

Jim Unrein, owner of Jimbo's Body Shop at 730 East 8th Street, stated all of his vehicles are operable and in the process of restoration. He has cleaned up the property and used a weed eater to cut down the weeds right up to the cars, but not under the cars. He plans to request a change in zoning for the back half of his property from I-1 to C-2.

Chairperson Hickman stated that if Mr. Unrein can show that all of the cars are operable in the next 10 days it would not be necessary to abate.

Wayne Billinger moved, Kent Steward seconded, that Resolution No. 441, being a resolution authorizing the City of Hays or its designated agent to abate nuisances located on the property at 730 East 8th Street, be approved.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger

No: Henry Schwaller IV

C. Business Resolutions: Sunell Koerner moved, Wayne Billinger seconded, that the following resolutions expressing appreciation for establishing a new business in the City of Hays be approved:

Resolution No. AR – 09	beond Salon & DaySpa – 4333 Vine Suite 50
Resolution No. AR – 10	WestCoast Fashions – 806 Main Street
Resolution No. AR – 11	Hays Aircraft, L.L.C. – 3950 East 8 th Street
Resolution No. AR – 12	Larry's Car & Truck Repair – 1031 E. Hwy 40
Resolution No. AR – 13	Bed Quarters & Sofa Exp. – 3012 Broadway

Vote: Ayes: Troy Hickman
Sunell Koerner

Kent Steward
Wayne Billinger
Henry Schwaller IV

NEW BUSINESS

5. SPECIAL ASSESSMENT PUBLIC HEARING: Chairperson Hickman opened the public hearing to hear comments concerning the levying of special assessments against property owners located in 41st Plaza 4th Addition, Lewis First Addition and Marvin F. Braun Addition.

There were no comments.

Henry Schwaller IV moved, Sunell Koerner seconded, that the public hearing be closed.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger
Henry Schwaller IV

Henry Schwaller IV moved, Sunell Koerner seconded, that Ordinance No. 3611, being an ordinance levying assessments on lots, pieces and parcels of land in the City of Hays, Kansas, for the purpose of paying all of the costs for improvements consisting of the installation of water lines, sewer lines, storm sewer and the grading, paving, curbing and guttering improvements to 44th Street and Smoky Hill Drive located within 41st Street Plaza Fourth Addition to the City of Hays, Ellis County, Kansas; the installation of a public water main adjacent to Lewis First Addition to the City of Hays, Ellis County, Kansas and Marvin F. Braun Addition to the City of Hays, Ellis County, Kansas; and the installation of a public sanitary sewer line adjacent to Lewis First Addition to the City of Hays, Ellis County, Kansas; and further providing for the payment of said assessments and for the certification of unpaid assessments to the County Clerk of Ellis County, Kansas, be approved.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger
Henry Schwaller IV

6. PUBLIC HEARING FOR NUISANCE ABATEMENT: Ray Kobler requested in writing a public hearing regarding being in violation of City Ordinances 8.32, 8.16.010 through 8.16.070, and 8.24. Mr. Kobler has tall weeds, inoperable vehicles and junk on his property at 604 East 8th Street and East 7th Street. The property is zoned C-2. Zoning regulations stated that “no inoperable vehicles or materials are held or stored on the site unless within an enclosed building, or otherwise totally screened from view.” This property has approximately 50 vehicles on site.

An initial letter was sent to Mr. Kobler on June 12, 2003, followed by a certified letter on July 15, 2003, stating he had 10 days from the date of receipt of the letter to comply with the ordinances. The certified return receipt indicated that Mr. Kobler received the letter on July 16, 2003. Mr. Kobler called the Public Works Director on July 23, 2003 requesting a time extension. He was granted a one-week extension. His letter addressed to Arlen Flax, Code Enforcer, requesting a public hearing was delivered on July 25, 2003 to the Public Works building. Mr. Flax was on vacation and did not open the letter until July 28th.

City Manager Gustafson stated there are not any zoning issues on this property. Numerous complaints have been received about this property. He recommended the Commission abate the nuisance.

Commissioner Schwaller commented that in his short time on the Commission, this is the fourth time that this property has come before the Commission for abatement. This is an on going problem.

Henry Schwaller IV moved, Sunell Koerner seconded, that Resolution No. 442, being a resolution authorizing the City of Hays or its designated agent to abate nuisances located on the property at 604 East 8th Street, be approved.

Arden Kobler, co-owner and manager of CAR Corp., which is the business located on the property, requested a 60-day extension to clean up the property.

Commissioner Billinger stated some of the debris on the ground could have been cleaned up prior to this evening. The nuisance on this property has been an issue before; extensions have been given but it is time to enforce the ordinances. We need to consider the rest of the citizenry and have a more esthetically pleasing and safe environment.

The Chairperson called for the vote.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger
Henry Schwaller IV

7. KANSAS DEPARTMENT OF TRANSPORTATION (KDOT) AGREEMENT –

GENERAL HAYS ROAD: The original Agreement between the City and KDOT dated December 12, 2002, for the General Hays Road extension project placed a \$173,000 cap on KDOT's share of construction. The revised Agreement based on updated construction cost estimates raises the cap on KDOT's participation to \$194,000 for construction. The grant for right of way acquisition remains unchanged with KDOT's share at a maximum of \$67,000.

Sunell Koerner moved, Kent Steward seconded, that the revised agreement with KDOT for the extension of General Hays Road be approved.

Commissioner Schwaller stated he would not be voting due to a conflict of interest.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger
Abstain: Henry Schwaller IV

8. FOX THEATER PROPOSALS: In reviewing the option presented to the City in March 2003 involving proposed ownership of the Fox Theater, the City

Commission directed staff to enter into an RFP process requesting written proposals on usage. These proposals were to include all aspects detailing the intended use of the building, and include financial resources and obligations. Proposals were originally due May 28, 2003. In June, this deadline was extended to August 8, 2003. Two proposals have been received to date and include one proposal suggesting this facility be used as a youth facility. The other proposal submitted by the Downtown Hays Development Corporation (DHDC) is suggesting this facility be used as multi-use facility for arts, community, and retail.

City Manager Gustafson stated the DHDC proposal includes two options for consideration. Option 1 would have the City sign a five-year management contract with Liberty Group, Inc. to manage lease agreements, maintain and operate the facility. If necessary, facility renovation and major repairs would be completed by the City through the issuance of TDD or STAR Bonds. Option 2 would have the City donate the facility to a new non-profit entity called "Friends of the Fox". This group will include 20 or more individuals with an investment in the entity. The City would transfer ownership to the entity. City Manager Gustafson recommended Option 2.

Commissioner Schwaller stated there is broad community support throughout the arts organizations and the downtown merchants to investigate what can be done to preserve this building in one form or another. It may take until the end of the year or even longer to fully develop a plan for the facility. He stated he would not be able to vote on this because he was involved in developing the DHDC proposal.

Commissioner Steward stated that once the City takes possession of the building it goes off the tax rolls and will have maintenance expenses. He questions whether anybody will ever buy it. He is willing to be supportive of saving the building. If someone has a vision he is happy to get behind them; however, he is not optimistic.

Commissioner Koerner stated she is not opposed to taking possession of the building. Even if the private sector doesn't come through, there are other

uses for the building. The building could be torn down and replaced with a parking lot and park area.

Troy Hickman moved, Sunell Koerner seconded, that the City of Hays take possession of the Fox Theater property on or before December 31, 2003.

Commissioner Schwaller again stated he would not vote due to a conflict of interest.

Commissioner Billinger stated that he hopes the City will never resort to making that area a parking lot. The core area of a downtown should not have gaps in it. He is supportive of this facility being used for the arts. He likens this to giving the DHDC money to proceed with restoring and maintaining our historic downtown.

Commissioner Steward stated he hopes this project succeeds. He is not opposed to putting some public money into the project. As a fallback position, the City should consider this area for a parking lot. Three million dollars have been spent on the library addition and we know there is not sufficient parking. He requested staff find out how much it would cost to demolish the building and construct a parking lot.

Commissioner Koerner agreed with Commissioner Steward. Ideally, she would like to see the DHDC proposal work. However, if that doesn't come to fruition, a parking lot and park area could be beneficial.

The Chairperson called for the vote.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger

Abstain: Henry Schwaller IV

9. REPORT OF THE CITY MANAGER: City Manager Gustafson stated the Fly Hays Committee is working with the airlines about reducing fares and introducing holiday promotions in order to increase boardings at the Hays Municipal Airport.

10. COMMISSION INQUIRIES AND COMMENTS: Commissioner Billinger asked if KDOT has reconsidered the traffic light situation at 32nd/33rd and Vine Street. Two lights are in close proximity of each other and cause confusion.

City Manager Gustafson said KDOT has not issued any statement indicating they will reconsider the situation. He has asked the Public Works staff to check into changing some of the lenses on the signal lights.

Commissioner Steward requested City staff keep the Commission informed about the progress being made to eliminate obstructions in the alley rights-of-ways.

Commissioner Koerner mentioned the construction debris that litters Hall Street and is coming from trucks on their way to the landfill. She asked if there were some way that the ordinances could be enforced in order to help keep this area cleaner.

City Manager Gustafson stated he asked the Police Department to patrol the area more frequently.

City Manager Gustafson stated the City is installing new signal lights along Vine Street. As part of that project, the school signal lights at 18th Street will be coming down.

11. EXECUTIVE SESSION: Wayne Billinger moved, Sunell Koerner seconded, that the Governing Body recess to executive session at 9:15 p.m. for 20 minutes to discuss attorney client privileges and property acquisition for the Hall Street Project. The executive session will include the Commissioners, the City Manager, the Assistant City Manager, the City Attorney, the Public Works Director, and the Assistant Public Works Director.

Chairperson Hickman acknowledged that the Hays Daily News objects to executive sessions.

Vote: Ayes: Troy Hickman

Sunell Koerner

Kent Steward

Wayne Billinger

Abstain: Henry Schwaller IV

Commissioner Schwaller stated he did not vote due to a conflict of interest. He left the meeting at this time.

Chairperson Hickman called the meeting back to order at 9:35 p.m. He stated no action was taken during executive session.

Wayne Billinger moved, Sunell Koerner seconded, that Resolution No. 443, being a resolution declaring the necessity to appropriate certain private real property for the use of the City of Hays, Kansas, and authorizing a survey and description of the land and interest to be appropriated and filed with the City Clerk, be approved.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger

Wayne Billinger moved, Kent Steward seconded, that Ordinance No. 3612, being an ordinance authorizing and providing for the acquisition of real estate and interests therein by eminent domain proceedings pursuant to K.S.A. 26-201, Et Seq. And K.S.A. 26-501, Et Seq., be approved.

Commissioner Steward commented that the process of taking property is not a pleasant task but is an important one because of the Hall Street Project. Staff will continue in good faith efforts to effect a settlement that is fair to the taxpayers and to the property owners.

The Chairperson called for the vote.

Vote: Ayes: Troy Hickman
Sunell Koerner
Kent Steward
Wayne Billinger

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board

