

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON FEBRUARY 10, 2000

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session, Thursday, February 10, 2000, at 7:30 p.m.

Roll Call: Present: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

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

2. MINUTES: Howard Rome moved, Wayne Billinger seconded, that the minutes of the regular session held on January 27, 2000, be approved.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

3. CITIZEN COMMENTS: There were no comments.

4. CONSENT ITEMS: A. NORTHWEST PASSAGE SUPPORT RESOLUTUION: City Manager Zacharias said this resolution modifies a previously passed resolution by deleting the cities of Alden and Raymond as they chose not to participate with Great Bend on the project.

Commissioner Schwaller stated he would be voting no because the Kansas Department of Transportation should decide where the Northwest Passage goes.

Wayne Billinger moved, Howard Rome seconded, that Resolution No. 325, being a resolution supporting the application, in cooperation with other cities

and counties, for a four-lane highway project west of Hutchinson and on to Great Bend through the Corridor Improvements Section of the System Enhancement Program, be approved.

Vote: Ayes: Troy Hickman

Larry Schmidt

Howard Rome

Wayne Billinger

No: Henry Schwaller IV

OLD BUSINESS

5. BUILDING CODE ORDINANCE: Henry Schwaller IV moved, Larry Schmidt seconded, that the language in the proposed ordinance revision regarding the definition of “contractor” in sub-section g-5 of Section 6-31 of the Book of Ordinances of the City of Hays, Kansas, be changed to allow any owner or his authorized agents or employees to perform alterations or additions to a building, provided that such alterations or additions do not create or affect the structural systems, the exiting or the life safety of the building, and further that Ordinance No. 3491, being an ordinance amending Sections 6-5 and 6-31 of the Book of Ordinances of the City of Hays, Kansas, be approved, with the above stated revision.

Vote: Ayes: Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome

Wayne Billinger

6. NOISE ORDINANCE: The proposed change to the Noise Ordinance would provide for an application for a permit for exemption from the provisions of the Ordinance.

Commissioner Schwaller stated he would like to see the Noise Ordinance addressed after studying what other communities do, rather than do it piecemeal.

Commissioner Schmidt stated he would like to see a decibel meter used to determine acceptable noise levels, rather than leave it up the police officer's discretion.

Wayne Billinger move, Howard Rome seconded, that Ordinance No. 3492, being an ordinance amending Chapter 19 of the Code of Ordinances of the City of Hays, Kansas, by modifying Sections 19-124 and 19-125, regarding noise nuisances, be approved.

Vote: Ayes: Troy Hickman

Howard Rome

Wayne Billinger

No: Henry Schwaller IV

Larry Schmidt

7. RESOLUTION TO VACATE LAND: City Attorney John Bird stated that after doing some research, he discovered it will not be necessary to pass a resolution to rededicate a 50 X 200 foot frontage road right-of-way east of Block 1, Lot 1, Juenemann First Addition back to Ken Wolf.

8. ALCOHOLIC BEVERAGE ORDINANCE: This proposed ordinance change would establish acceptable second forms of identification for patrons of Class B establishments. The first form of identification must be a current and valid driver's license. The second form of identification must have the same name and be on a separate document issued from an independent third party source such as a credit card, vehicle registration, hunting or fishing license, birth certificate, or similar document.

Henry Schwaller IV moved, Larry Schmidt seconded, that Ordinance No. 3493, being an ordinance amending Chapter 3 of the Code of Ordinances of the City of Hays, Kansas, by modifying Section 3-1, Subparagraph 14 and Section 3-30, Subparagraph 13, the definition of identification, be approved.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

9. HOSPITAL ANNEXATION ORDINANCE: The proposed ordinance would annex 46.4 acres of property adjacent to the Hays Medical Center St. Anthony Campus, into the corporate limits of the City of Hays.

Howard Rome moved, Wayne Billinger seconded, that Ordinance No. 3494, being an ordinance annexing land to the City of Hays, Kansas, be approved.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

10. FUEL BIDS: Three businesses met the bid specifications for fleet fueling of police vehicles. Coastal Mart was chosen because they have three locations in Hays, as well as numerous locations within the state.

Commissioner Schwaller stated he would prefer another business were selected.

Commissioner Schmidt stated he would rather have officers use a fleet card and fuel all over town, rather than use just one company.

Mayor Hickman suggested that bids be reviewed annually.

Wayne Billinger moved, Howard Rome seconded, that the bid from Coastal Mart be accepted, and further that the process for determining fuel purchases for the Police Department be reviewed annually.

Vote: Ayes: Troy Hickman
Larry Schmidt
Howard Rome
Wayne Billinger
No: Henry Schwaller IV

NEW BUSINESS

ITEM 12 WAS DISCUSSED PRIOR TO ITEM 11.

12. ADDITIONAL POOL FEATURES AND EQUIPMENT: The Pool Task Force recommended funds be spent out of the contingency fund for these additional items:

Starburst Play Feature	\$24,660
Colorado Timing System	36,800
Starting Platforms	8,500
Decks	<u>17,926</u>
	\$87,886

The contingency fund has a balance of \$103,368. If the above items were to be approved, the contingency fund would have a balance of \$15,482. The architect, Jim Sullivan, does not foresee any more change orders; if there were, they would be very small.

Commissioner Billinger stated he would like to hold off on the Colorado Timing System so that there will be more money in the contingency fund for emergencies. The Timing System could be added into the project later on.

Commissioner Schmidt stated he felt the limited parking should be addressed. The addition of a new paved parking lot at the National Guard Armory should be considered.

City Manager Zacharias stated it his understanding the Pool Task Force thinks that all of items listed above, plus paved parking and deck level offices, should be eventually done, phasing them in over time.

Wayne Billinger moved, Henry Schwaller IV seconded, that the purchase of the Starburst Play Feature and the Decks, for a total amount of \$42,586, be approved.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Howard Rome
Wayne Billinger

No: Larry Schmidt

Henry Schwaller IV moved, Larry Schmidt seconded, that a parking lot at the National Guard Armory, not to exceed \$75,000, be added to the list of change orders.

City Manager Zacharias stated that if the City paved the parking lot, it would still be owned by the National Guard Armory. There are discussions with the Armory to relocate and there is the possibility the City would take over the existing building.

Henry Schwaller IV removed his motion from the floor until such time as more information is available.

City Manager Zacharias stated there is also parking available at the Reserve Center located to the southwest of the pool. Additional land to the north will be purchased as it becomes available. Once the facility is open, we will have a better idea of how much parking is needed. The vast majority of traffic is dropped off.

Troy Hickman moved, Wayne Billinger seconded, that the Starting Platforms, in the amount of \$8,500, be approved.

Vote: Ayes: Troy Hickman
Howard Rome
Wayne Billinger

No: Henry Schwaller IV
Larry Schmidt

Mark Hantla, Pool Task Force Chairman, stated the Task Force Committee wanted to make a recommendation that the Commission take no

action on the diversion of excess proceeds of pool sales tax funds until three items have been addressed:

1. The completion of the pool project
2. Operating history to better predict capital improvements
3. The retirement of the bonds

11. POOL SALES TAX BALLOT INITIATIVE: Various discussions have indicated there could be anywhere from \$300,000 to \$600,000 remaining after the pool is completed and the debt is retired.

Commissioner Schwaller recommends these funds be spent on an infrastructure project in the City we currently don't have the money for. The voters should have the final decision on where to spend these excess funds. The pool should be able to operate on its own merit. On going maintenance and capital improvements of the pool should not be paid for by excess sales tax funds. This could be put to the voters this fall.

Commissioner Billinger suggested this discussion be tabled until the January 2001. At that time we would have a better idea of which direction to go.

Commissioner Rome stated he would like to wait and see how the pool is operating before deciding what to do.

Mayor Hickman stated that for the sake of clarity, this issue should not be put before the voters until we have a better projection of what the excess revenue will be.

Commissioner Schwaller felt it is important to let the public know exactly what this pool will cost. Because the original ballot measure was unclear as to the dollar amount and the use of all the money, it is important to address the matter in November. We will have an understanding of what it cost to operate the pool the first season it is open.

Commissioner Schmidt stated it would not be necessary to put any dollar amount on the ballot measure. The voters could be asked if there is any money left, what should it be spent on? This could be done in November.

Wayne Billinger moved, Howard Rome seconded, that discussion on the pool sales tax ballot initiative to divert excess pool sales tax funds to other City projects be tabled until the first meeting of January 2001.

Vote: Ayes: Troy Hickman

Howard Rome

Wayne Billinger

No: Henry Schwaller IV

Larry Schmidt

13. 32ND/33RD GEOMETRIC IMPROVEMENT GRANT ACCEPTANCE: The City of Hays has been awarded a Geometric Improvement Grant from the Kansas Department of Transportation for \$800,000 for the 33rd Street extension. The total projected cost is approximately \$2,404,838; the City's share is estimated to be \$1,602,838. This project would be tentatively scheduled for 2003.

KDOT is requesting a letter of concurrence be signed and returned to them. This letter does not bind the City of Hays to do the project, but indicates the City is interested in receiving the \$800,00 to be used toward the project. Staff recommends the Mayor sign the letter by March 1st and direct City staff to work closely with the public and develop the project.

Commissioner Schwaller stated he doesn't think the mill levy will support this project. This would only be one year after Hall Street is completed. Commissioner Schwaller stated he realizes KDOT has a very short time frame, however, there is not enough time to discuss this as a community.

Commissioner Rome stated the Commission directed the Public Works Department to pursue the grant money and the City should follow through with it.

Commissioner Billinger stated discussions about 32nd/33rd Street have been going on for years and he is supportive of continuing that dialog. He suggested the issue be tabled until the next meeting to allow for more time to gather input.

City Manager Zacharias stated the Commission needed to decide whether the City should accept the money or not, and then work out the details, which the

Commission may not accept eventually. The City could back out any time it wanted to.

Commissioner Schmidt stated the City should pursue the grant money and 32nd/33rd Street needs to be straightened out, however, he doesn't want to see a repeat of what happened on Hall Street. There was not enough time for citizen input. 33rd Street will be just as volatile as Hall Street.

Commissioner Schwaller stated we needed to be very judicious about accepting these funds. The grant should not be the reason for the project. On the Hall Street project, many people said to use the funds or lose the funds; the City would look bad with KDOT if it turned down the grant money and not get anymore grant money in the future. He doesn't want to see the same thing happen this time.

Troy Hickman moved, Henry Schwaller IV seconded, that this item be tabled until the next meeting to allow more time to gather input.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

14. KDOT CONTRACTS REGARDING RECONSTRUCTION OF VINE

STREET: **A.** Henry Schwaller IV moved, Wayne Billinger seconded, that the Mayor be authorized to sign a Supplemental Agreement to the January 5, 1996 agreement with KDOT regarding the reconstruction of Vine Street from 27th north to I-70.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

B. Henry Schwaller IV moved, Wayne Billinger seconded, that Resolution No. 326, being a resolution relating to benefits obtainable by cities under program for

federal aid on highway construction, be approved. This resolution would authorize the Mayor to sign Contract Agreement No. 3-00 with the Kansas Department of Transportation outlining the terms and conditions to reconstruct Vine Street from 27th Street north to I-70.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

15. GENERAL SERVICES ENGINEERING AGREEMENT: Annually an agreement with Bucher, Willis and Ratliff is renewed to get a fixed rate on engineering services. The contract is not-to-exceed \$25,000. The City pays only for services requested and rendered. A new engineering department within the City is being created this year, however, there will be a transition period before the department is up and running. Staff recommends this agreement be signed.

Commissioner Schmidt and Commissioner Schwaller feel this should be put out for bid since BWR has been the City's exclusive engineering firm since 1995.

Requests for proposals for overall engineering services for 2000 will be discussed at the February 24th meeting.

16. SIDEWALK IMPROVEMENTS CHANGE ORDER: As a result of not doing additional curb cuts planned when 8th Street was being considered for street improvements, there is a deduct of \$82,147. These funds are not funds coming back to the City; the City will not have to bond as much.

Henry Schwaller IV moved, Howard Rome seconded, that Change Order No. 1, for a total deduct of \$82,147.19, be accepted.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

17. FINANCIAL ADVISOR SELECTION: Bids for financial advisory services for a three-year period were received from six firms. After a ranking process completed by a three-member committee, three firms were invited to make presentations before the committee. The firms interviewed were George K. Baum & Company, Piper Jaffray, and Stifel, Nicolaus & Company.

The committee recommends George K. Baum and Company be retained due to their experience in providing financial advisory services to Kansas cities on all types of financing. George K. Baum and Company have more experience with cities in financing areas than the other two finalists.

Henry Schwaller IV moved, Larry Schmidt seconded, that the City of Hays contract financial advisory services with George K. Baum & Company ending December 31, 2002.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

18. BOUNDARY RESOLUTION: This resolution reflects the addition of the Wal-Mart property in 1999.

Henry Schwaller IV moved, Larry Schmidt seconded, that Resolution No. 327, being a resolution re-defining the boundaries or corporate limits of the City of Hays, Kansas, as required by Section 12-517 of Kansas Statutes Annotated, be approved.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

19. NUISANCE ABATEMENT: The nuisance complaint has been resolved and no action was necessary.

20. COMMISSION INFORMATIONAL MEMORANDUM: City Manager Zacharias spoke on a community promotion jointly administered by the Ellis County Coalition, the Hays Chamber of Commerce, and the Convention and Visitors Bureau. As part of that campaign, the Hays Municipal Pool will be featured as a community attraction. A promotion offering a free one-time admittance to the Pool is being requested for marketing purposes.

Henry Schwaller IV moved, Howard Rome seconded, that the City of Hays enter into an agreement with the Ellis County Coalition, the Hays Chamber of Commerce, and the Convention and Visitors Bureau to allow for a free one-time admittance to the Hays Municipal Pool as part of its promotional package.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

The Ellis County Coalition has developed a region-wide promotion to recognize and show our appreciation to the citizens of western Kansas who have positively impacted our economy. The promotion developed is slated to begin February 25, 2000 and end on Labor Day 2000. Various forms of media coverage are being considered for distribution of this message. The Coalition is requesting additional funds to maximize the benefit for the City of Hays.

Henry Schwaller IV moved, Howard seconded, that \$15,000 in seed money be given to the Ellis County Coalition for Economic Development for the region-wide promotion.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

21. ADD-ON ITEMS: City Manager Zacharias stated the City Attorney has advised the LINK lawsuit not be appealed and the City pay the plaintiff attorney fees amounting to \$62,611.91, as directed in Judge William Madden's decision.

City Attorney John Bird stated Judge Madden also ordered the City enforce the Disabled Act, which the City is doing and was doing at the time the lawsuit was initiated. He further ordered the City of Hays to develop procedures designed to raise the issue of accessibility prior to the granting of a permit. The City already does that and will continue to do that.

Judge Madden ordered the City of Hays to develop procedures for determining if efforts at compliance are sufficient in a particular case, including obtaining advisory opinions from agencies. This also is something we were doing and will continue to do. Procedures also need to be developed for notice and opportunity to be heard for persons found not in compliance, and acting on complaints of not being in compliance. The City of Hays also must provide to Judge Madden written reports on a quarterly basis detailing our enforcement efforts.

Mr. Bird stated the City of Hays won the lawsuit filed by Mr. Keane Wurm claiming discrimination against him at the Hays Municipal Airport. Part of the settlement was that, instead of litigating the issue of damages, the City would agree to post a \$12,000 damage judgement in favor of Mr. Wurm and submit to an independent arbitrator to expedite the process. A decision was received last week in our favor; the plaintiff failed to demonstrate his claim for damages.

City Manager Zacharias presented an agreement with Bucher, Willis and Ratliff for engineering inspection services for improvements to the new Wal-Mart property, costing \$18,480. Wal-Mart will reimburse the City of Hays for the expense.

Henry Schwaller IV moved, Wayne Billinger seconded, that the Mayor be authorized to sign the Agreement for Services with Bucher, Willis and Ratliff for sewer, waterline and street improvement inspection services to the Wal-Mart property, in the amount of \$18,480, subject to receipt of the check from Wal-Mart.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

Commissioner Schwaller requested that a discussion on sidewalks on developed property be placed on a future agenda. Standards are not being met and this issue should be discussed.

Mayor Hickman stated the Kansas League of Municipalities has requested a resolution be adopted supporting equal treatment of all sales transactions whether that transaction is done in person, on the telephone, by mail, or on the Internet, in relation to sales tax collections.

Wayne Billinger moved, Howard Rome seconded, that Resolution No. 328, being a resolution in partnership with six national organizations representing state and local governments adopting a joint statement of principles for making electronic commerce fair, be approved.

Vote: Ayes: Troy Hickman
Henry Schwaller IV
Larry Schmidt
Howard Rome
Wayne Billinger

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board