

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON JUNE 28, 2001

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session Thursday, June 28, 2001, 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. MINUTES: Larry Schmidt moved, Troy Hickman seconded, that the minutes from the regular session held on June 14, 2001, be approved.

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

3. FINANCIAL STATEMENT: Henry Schwaller IV moved, Larry Schmidt seconded, that the Financial Statement for the month of May 2001, be approved.

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

4. CITIZEN COMMENTS: Carol and Steve Pfeifer, fixed based operators of Rich's Air Service at the Hays Municipal Airport, informed the Commission that

their competitors, Eagle Aviation, has ran out of fuel three times in the last 30 days. This is damaging the reputation of the Airport.

Commissioner Schmidt stated that a door at one of the hangars that housed a UPS plane needed to be repaired. When the door wasn't repaired within a week's time, Commissioner Schmidt informed the Pfeifers to get the door fixed and send the City the bill. The Airport manager gave the bill back to the Pfeifers. If the City is going to maintain and own buildings at the Airport, the City should take care of them in a timely fashion.

Commissioner Hickman stated the bill is small; the City should pay it and put this issue to rest.

City Manager Hannes Zacharias stated the Commission should hear from the Airport Manager first before making any decisions. The issue will be discussed at the next meeting.

John Heinrichs, 211 West 21st Street, commented on the South Russell County Water Project. He applauded the Commission about being aggressive in search of new water sources, but requested the Commission keep conservation and protection of water supplies as a critical priority. He also urged the Commission to avail themselves to the expert opinions of people in our community.

Lavern Squier, president of Public Wholesale Water Supply District #15, updated the Commission on recent developments. The South Russell County Project has scored enough points to warrant funding from the State Revolving Fund in the amount of \$16 million. Within the SRF there are no requirements for a secondary review, however, KDHE will support a review of the South Russell County Project. PWWSD#15 is considering hiring Bob Vincent, Groundwater Associates, Wichita, Kansas, as a potential consultant for the hydro-geologic portion of the Project. Additional costs will be passed back to the City as part of the overall project costs. Elected officials and the general public are invited to attend the next meeting on July 11th in the Russell City Hall Commission chambers.

Mayor Schwaller requested a resolution be passed that states the Commission wishes to seek an independent review of the scientific and hydro-geologic data of the South Russell County Water Project; that the Commission or its designated representative, in conjunction with PWWSD#15, shall choose a firm or individual to conduct an independent review; and that funding for this review shall come from the ½ cent sales tax designated for water exploration, in an amount not to exceed \$10,000.

Mayor Schwaller stated he thinks it is important the City work in conjunction with PWWSD#15. They have done a great job; he merely wants to study the data from a hydro-geological standpoint and proceed from there.

Commissioner Schmidt stated it is important for the City to be the one in charge of hiring and conducting the process. If the City doesn't take charge of the review, an independent citizen review group is willing to fund the review.

City Attorney John Bird stated that at the last Commission meeting, the vote was 3-2 to not have an independent review of the Project. The two no votes were from Mayor Schwaller and Commissioner Schmidt. This issue could only be discussed again if one of the Commissioners who voted in the majority would request a motion to reconsider. This could be placed on the agenda. To discuss this issue this evening would not give the public advance notice; the public thought the issue was laid to rest at the last Commission meeting.

Mayor Schwaller stated even though this issue was not on tonight's agenda, he felt that the Commission as a whole wanted to see the issue discussed again. It is time to come together and analyze the Project on its scientific merits. He feels this resolution is good compromise between the City and PWWSD #15.

Mr. Bird stated he felt PWWSD#15 is of a similar mind as the Commission; the only difference would be who would pay for the review.

Commissioner Koerner stated the motion was voted down because of the way it was presented and the strings attached to it, however, the desire of the Commission was to have some sort of review.

Commissioner Hickman stated that before the Commission considers this resolution, it might be beneficial for the Commissioners to attend the July 11th meeting.

5. AWARDS AND RECOGNITIONS: The following businesses were recognized as recipients of Hays Beautification Awards for 2001:

Applebees Bar & Grill	Carlos O’Kelly’s Mexican Café
Dairy Queen	Gutierrez Mexican Restaurant
Emprise Bank East	Hays Veterinary Hospital
Oasis Car Wash	Pizza Hut Delivery
Sonic Drive-In	Taco Bell Restaurant
Wendy’s Restaurant	McDonalds Restaurant South & North

Special recognition was given for beautification of the following facilities:

Hays Aquatic Park	Mt. Allen Cemetery	TMP-Marian Grotto
-------------------	--------------------	-------------------

6. CONSENT ITEMS: Troy Hickman moved, Sunell Koerner seconded, that **(A.)** Main Street from 7th to 13th, 10th Street from Fort to Oak, and 9th Street from Fort to Oak, be closed on Saturday July 7, 2001, for the “Wild West Main Street Event” and that **(B.)** the following mayoral appointments be approved:

Library Board

Dave Brull – unexpired 4-year term ending 4-30-03

Convention and Visitors Bureau Advisory Committee

Kim Pears – unexpired 3-year term ending 12-1-03

Golf Course Advisory Committee

Les Munsch – 3-year term ending 7-1-04

Airport Advisory Committee

Mary Sprenkel – unexpired 3-year term ending 4-30-02

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

OLD BUSINESS

7. AUBEL-BICKLE RESTROOM: The restroom from the old Municipal Park area was moved to Aubel-Bickle Park and was to be installed near the intersection of 29th Street and Grant Street. Neighboring residents were opposed to the location chosen and requested the restroom be moved further back from the street. The Park and Recreation Steering Committee recommended the restrooms stay at that location, but finish the exterior to be more appealing to the neighborhood.

The low bid on the project was from Paul-Wertenberger in the amount of \$26,650.00. \$15,225.00 has been paid to Paul-Wertenberger for the work that has been completed to date. To finish the restroom as previously engineered would cost \$13,955.55. This is \$2,530.55 more than the original bid due to the project being delayed. Jeff Boyle, Park Director, recommended the restrooms be completed at a cost of \$13,955.55.

Commissioner Schmidt stated there is still approximately \$6,000 left that was set aside in the 2000 Budget for this project. These funds should be spent on exterior work on the restrooms.

Larry Schmidt moved, Troy Hickman seconded, that Paul-Wertenberger Construction be authorized to complete construction of the restroom at Aubel-Bickle Park for a total cost of \$13,955.55 and that any funds left of the \$36,000 budgeted for this project be spent on exterior improvements.

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

NEW BUSINESS

8. DOWNTOWN RESOLUTION: This resolution is a requirement for applying for federal funding. The resolution is not a condemnation of downtown Hays; it is a recognition of economic conditions that if allowed to persist would lead to severe deterioration.

Dick Bedard moved, Sunell Koerner seconded, that Resolution No. 370, being a resolution declaring the downtown area designated for revitalization to meet the criteria of slum and blighted, be approved.

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

9. HUD-EDI GRANTS APPLICATION: Haazim Rashed, financial consultant from the National Development Council, reviewed the proposal for the downtown development project proposed by Chuck Comeau and the Downtown Hays Development Corporation. Mr. Rashed has drafted an application for an Economic Development Initiative (EDI) grant in the amount of \$1,000,000 for submission to HUD by July 6th, 2001. A companion Section 108 loan guarantee request is for \$2,973,00. The EDI grant will be used to lower the interest costs of the Section 108 loan guarantee by reducing the amount borrowed, which is being sought as permanent financing for the project. The Section 108 loan, along with debt and equity provided by the developer, will provide funding to revitalize the

downtown and assist the community in restoring the downtown as an economic generator and help preserve the frontier heritage of the community.

The EDI grant is be applied for in two ways. The first way is through HUD, which requires a companion 108 loan from HUD, which the State of Kansas will not support. The second way is by asking the assistance of our congressional representative in getting a congressional discretionary EDI grant, which does not require a companion loan. The second option is the preference of the developer; that option would allow the developer to negotiate the best possible construction contract free and clear of many of the federal restrictions.

If it becomes necessary to apply for a HUD 108 loan, there will be a battle from the State of Kansas. If the State submits the EDI on behalf of the City of Hays, they do not expect the City to draw down a HUD 108 loan. The HUD 108 loan requires the State to pledge future CDBG entitlement dollars to repay the HUD 108 loan if the developer defaults on the loan. If the City of Hays gets the EDI grant, the City will not apply for the 108 loan. To apply for the EDI grant, you have to tell them you will apply for the 108 loan, but you don't actually apply for the 108 loan.

The total site involves 13 buildings in downtown Hays, with 79,450 square feet of affected space. Renovation will improve 53,200 square feet for retail and a downtown hotel. The balance of the space will be in unfinished basement space. To date, the developer, Liberty Group LLC, has invested over \$300,000 in acquisition and demolition activities. The total project cost is estimated at \$6,282,000.

Troy Hickman moved, Henry Schwaller IV seconded, that the Mayor be authorized to sign a grant application for Housing and Urban Development, Economic Development Incentives funds for downtown Hays in the amount of \$1,000,000.

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

10. AIRPORT GRANTS: A. This grant offer is for the extension of Runway 16-34. The City's share of this project is \$130,684, which will come from two sources. \$9,489 will come from donated land given to the Airport by the Pauline Mosher Estate and \$121,195 will come from the Airport Improvement Fund.

Troy Hickman moved, Dick Bedard seconded, that the Mayor be authorized to sign grant offer AIP 3-20-0028-12 for the extension of Runway 16-34 in the amount of \$1,084,931.

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

B. This grant offer is for the construction of Crosswind Runway 4-22. The City's share of the project is \$78,577, which will come from the Airport Improvement Fund.

Dick Bedard moved, Troy Hickman seconded, that the Mayor be authorized to sign grant offer AIP 3-20-0028-13 for the construction of Crosswind Runway 4-22 in the amount of \$707,192.

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

11. ENGINEERING CONTRACT: At the request of adjacent property owners, the alley in Eastborough 2nd Addition will be paved and special assessed to the property owners.

Henry Schwaller IV moved, Troy Hickman seconded, that a contract be accepted with Bucher, Willis and Ratliff for engineering services associated with the construction of a concrete alley for Eastborough 2nd Addition for a total cost not to exceed \$4,900.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

12. INSURANCE BIDS: Two agencies responded to the “Request for Bid” process for the City of Hays liability, property, flood and workers compensation insurance. Insurance Planning, the City’s current agent submitted a bid for liability, property and workers compensation policies for the period of 2001-2002.

Romme Agency proposed their agency continue to handle the City’s flood insurance, which is not up for renewal until February 2002. Flood insurance rates are set by the National Flood Insurance Program, which are set by the U. S. Government, and are not competitive. The City currently pays \$2,827 for annual premiums for 2001-2002.

Rich Kraemer, agent with Insurance Planning, presented a detailed report of the various policies. Insurance Planning bid a total package of \$190,863. In comparison to the cost for coverage in 2000-2001 (\$187,040), this reflects an overall increase of \$3,823 or 2%. The new proposal does include the deletion of Builders Risk coverage for the Hays Aquatic Park construction.

A workers’ compensation quote was received from KMIT (Kansas Municipal Insurance Trust). KMIT is a member owned and funded workers’ compensation self-insurance pool. KMIT is managed and operated by its members through a board of trustees. If the KMIT proposal were accepted, it would be necessary to pass a resolution for admittance to the KMIT pool and be submitted to the KMIT Board of Trustees for approval.

Mr. Kraemer recommended the City consider insuring traffic lights. Over the past several years, more traffic lights have been added to the system and the

traffic lights are becoming more sophisticated and costly. To add \$100,000 in traffic light coverage, the increase in the premium would be approximately \$340.

Another area of concern is leased or rented equipment. Nearly all of the lease agreements call for the City to cover any damages done to the equipment while in the City's control. The liability policy would not respond to claims of this nature. \$50,000 of coverage for leased or rented equipment can be added for \$375.

Supplemental coverage designed to reduce the likelihood of lawsuits against insured because of minor injuries sustained while on an insured premise is available. This would increase the general liability premium by \$1,806. For this additional premium, the City would have a \$1,000 per occurrence limit to pay medical expenses, regardless of negligence, for accidents that occur on City premises. The general liability coverage will cover the City for liability claims of up to \$1,000,000 if the City is deemed to have been somehow negligent and caused injury to a third party.

Henry Schwaller IV moved, Larry Schmidt seconded, that the bid from Insurance Planning for liability coverage in the amount of \$34,616; property coverage in the amount of \$53,898; and workers' compensation coverage in the amount of \$102,349, for a total cost of \$190,863, be accepted.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

Mayor Schwaller stated he would like to have a listing of traffic lights and information about what types of equipment is rented or leased before deciding whether to add additional coverage for those items.

13. DOWNTOWN PARKING LEASE: City Manager Zacharias has negotiated with Ken Gottschalk the possible lease of 10 parking stalls located on the north end of his property at 109 West 7th Street, which is directly adjacent to the alley immediately south of the Hays Post Office. The City would pay Mr. Gottschalk

one dollar per stall per day for a total annual lease of \$3,650. The City would be responsible for all maintenance and would maintain liability insurance on these 10 spaces. The 10 parking spaces would be available for public parking, limited to 20 minutes from the hours of 6 a.m. to 6 p.m. daily.

City Manager Zacharias stated he has visited with Tom Lippert, the Postmaster. Mr. Lippert indicated it was the Post Office's obligation to provide parking for their patrons. He would like to negotiate a lease with Mr. Gottschalk, however, the Post Office has put a hold on all lease transactions nationwide. Mr. Lippert suggested the City Manager write a letter to him stating it is their responsibility to provide parking; he would forward that letter to his superiors.

City Manager Zacharias stated that other entities downtown have contacted the City Manager's Office to have similar lease arrangements on their property. Whatever conditions the Commission chooses to accept on the leasing of these spaces will likely provide the basis for negotiations with other parking lot owners in the downtown area.

Commissioner Koerner stated she has some problems with the City leasing parking space. She can understand the need for additional parking in certain areas, however leasing spaces could set a precedence all over town. It would be better to own parking lots than leasing them.

Commissioner Schmidt stated the Post Office is different than most other businesses. All traffic through there is short term. If there were property available for purchase, he would agree to purchase the property, however, there is not any property available for sale in that area. This lease may be short-term for the City; hopefully the Post Office will eventually do the right thing and take over this lease. The City needs to help alleviate the parking situation in that area. This issue has been discussed for many years and there is still no parking.

Commissioner Bedard stated he didn't think the City should pay for public parking on property the City doesn't own.

Henry Schwaller IV moved, Troy Hickman seconded, that staff be directed to write a letter to the Post Office indicating that this is a serious situation and that action needs to be taken immediately; and the Traffic Advisory Committee

work in conjunction with the Hays-Ellis County Planning Commission to develop a long term parking strategy for the downtown corridor.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

No: Larry Schmidt

14. BIGCREEK/PRAIRIE ACRES SETTLEMENT OFFER: Bill Wierman, president of Prairie Acres Improvement District, and Duane Kuhn, president of Big Creek Improvement District, presented a proposal for payment of sewer treatment. The Districts receive only treatment from the City. The Districts pay for their own operation, maintenance, and repairs. The amount offered to pay by both Districts is \$1.88 per 100 cubic feet, which is equal to the amount charged to in-town commercial customers consuming over 500 cubic feet per month. This is the same amount that Big Creek has been paying the City for the last several years. It has been determined that actual cost of treatment is between \$1.03 and \$1.27 per 100 c.f. Under the original agreement of 1983 there was a multiplier of 1.5. Using the highest figure of \$1.27 times 1.5 would amount to \$1.91 per 100 c.f.

City Manager Zacharias stated the amount proposed by the Districts is less than what the residents of Hays pay. An in-town residence would pay \$14.66 for 700 c.f.; an outside city limits residence would pay \$24.93 for 700 c.f.; the Districts are proposing to pay \$13.16 for 700 c.f. A flat monthly charge for residences who do not have a water meter but are hooked to the City sewer system pay \$21.25 in town and \$36.10 for outside city limits.

City Manager Zacharias recommended the proposal be rejected. The proposal is in direct conflict with the existing contract. The intent of the contract drafted in 1983 was to have the Districts pay more than in-town residential customers, not less.

Commissioner Schmidt stated the Districts are only getting sewage treatment. They have installed all of their own lines; the other outside city limit

customers did not pay for the main sewer line they are hooked up to. They maintain their own system. The Water and Sewer Fund also funds a lot of other things. To ask the Districts to help pay for those other things is not fair.

City Manager Zacharias stated residents of Stonewood Estates pay 1.7 even though they maintain their own system. They did a special assessment to finance the sewer lines in their subdivision. There are several trailer parks that maintain their own infrastructure as well. Fort Hays State University financed their own internal sewer structure but were charged 1.7 times the in-town rate until they were annexed into the city limits. If the Commission makes this concession for the Districts, they need to be prepared to adjust all the ordinances to be summarily reduced.

Commissioner Schmidt stated the difference is these are EPA funded sewer districts; they should all be treated the same.

City Manager Zacharias stated the trailer parks, Fort Hays State University, and Yuasa did not get federal tax money for their sewer lines. The sewer line to Yuasa was paid by EDA funds from the Department of Commerce and Housing. The City match was very small. The City maintains the line. The Districts got free money to help build their sewer infrastructure. No one from the City got free money, but had to pay by using the special assessment method.

Commissioner Schmidt stated the Districts are willing to pay 1.5 for treatment charges. What they are not willing to pay for are salaries and other sewer lines.

City Attorney John Bird stated the residents to the Districts don't pay city taxes and that is the trade-off. They made the choice to live outside of the city limits. The contract allows the City to recoup that part of the charges that are attributable to the sewer treatment system. The reason certain expenses are allocated to the Water and Sewer Fund is because that fund ends up absorbing a huge amount of revenue. It is not out of proportion to allocate expenses from the Water and Sewer Fund. If the Commission were to accept the Districts' terms, which are based on actual treatment costs plus a multiplier, then it would be

necessary to consider how this would affect other contracts. A significant loss of revenue from other sewer customers could be expected.

Mr. Bird stated the Districts have had some expenses that other property owners may not have on an on-going basis. There may be some room to allow for those expenses, however, to say that the Districts are only to pay for treatment costs plus a premium is not equitable. Mr. Bird suggested the budget for the Water and Sewer Fund be studied to determine a core amount that is necessary for treatment costs and for operation and maintenance of the Sewer Plant. From that core amount, perhaps an equitable charge could be calculated. Another option would be to pay a flat rate with a surcharge for being outside the city limits. Mr. Bird agreed with the City Manager's recommendation to not accept the proposal. He suggested staff prepare a counter proposal in a timely fashion and bring it back to the Commission before it is submitted to the Districts.

Henry Schwaller IV moved, Dick Bedard seconded, that the proposal from Prairie Acres Improvement District and Big Creek Improvement District for sewer treatment charges be declined and that staff be directed to develop a counter offer.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

15. COMMISSION INFORMATIONAL MEMORANDUM: City Manager Zacharias stated that correspondence was received from KDOT stating the System Enhancement program development, which was suspended in April by the Secretary of Transportation, is being continued along with all other projects currently included in the Comprehensive Transportation Program.

16. EXECUTIVE SESSION: Henry Schwaller IV moved, Troy Hickman seconded, that the Governing Body adjourn to executive session for 15 minutes at 11:00 p.m. to discuss the purchase of real property and to discuss attorney/client privileged information. The executive session will include the City

Commission, the City Manager, the Assistant City Manager, the City Engineer, and the City Attorney.

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

Mayor Schwaller called the meeting back to order at 11:15 p.m. He stated no action was taken during executive session.

Henry Schwaller IV moved, Troy Hickman seconded, that the purchase of real property in the 3100 block of East 13th from Roy Rathburn in the amount of \$11,948 and property from Leslie and Krista Kinderknecht in the amount of \$34,000, be approved.

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

17. ADD-ON ITEMS: Commissioner Schmidt requested that the Schoenchen Rehabilitation project be placed on the next agenda.

Mayor Schwaller stated the Kansas Department of Commerce and Housing announced \$3.7 million in housing tax credits for Meadowlark Apartments in Hays to provide equity for construction of 72 units for family and elderly housing.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board