

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON MARCH 27, 2003

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, March 27, 2003 at 7:30 p.m.

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

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

2. MINUTES: Dick Bedard moved, Sunell Koerner seconded, that the minutes of the regular meeting held on March 13, 2003 be approved.

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

3. FINANCIAL STATEMENT: City Clerk Susie Berger stated that pages showing the schedule of investments and balance sheets for every fund have been added to the Financial Statement.

Dick Bedard moved, Sunell Koerner seconded, that the Financial Statement for the month of February 2003 be approved.

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

4. CITIZEN COMMENTS: There were no comments.

5. CONSENT ITEMS: Henry Schwaller IV moved, Dick Bedard seconded, that the following consent items be approved:

A. That Resolutions No. AR-03 through AR-07, being resolutions expressing appreciation for establishing a new business in the City of Hays, be approved and presented to Scott McGrath – Plains Trader; Judy Rohr – Curves; Brenda Slater – Tiger Tan; and Kim Day – Main Stop Liquor & Convenience.

B. That a park lease be approved for High Plains Street Machines Car Club to utilize Municipal Park on July 12, 2003.

C. That the bid from High Plains Roofing in the amount of \$25,718 (bond included) for the roof replacement at the Water Plant be accepted.

D. That the bid from Commercial Builders in the amount of \$10,592 for door replacement at the Wastewater Treatment Plant be accepted.

Vote: Ayes: Troy Hickman

Sunell Koerner

Dick Bedard

Larry Schmidt

Henry Schwaller IV

NEW BUSINESS

6. REFINANCING ORDINANCE – ASSISTED LIVING RESIDENCE REVENUE BONDS, SERIES 2000, (CEDARVIEW ASSISTED LIVING PROJECT):

In August 2000, the City of Hays issued Industrial Revenue Bonds to provide permanent financing for the CedarView Assisted Living Residence Project. The City holds title to the real estate and Plains Assisted Living, as tenant, pays rent, which in turn is used to pay the Bonds as they become due. In order to get tax-exempt treatment on the Bonds, and thereby lower the interest rate, Plains Assisted Living agreed to reserve 20% of the facility units for lower income residents. Interest rates have declined considerably, and Plains Assisted Living

wishes to refinance the debt with a bank loan and pay off the Bonds in full. They are seeking termination of the Land Use Restriction Agreement and reconveyance of the land as required in the Bond documents.

Commissioner Koerner expressed concern about releasing CedarView from the 20% lower income resident requirement.

City Attorney John Bird asked if CedarView could refinance with the existing covenants.

Bob Brooks, manager of CedarView Assisted Living, stated he didn't know but would find out.

City Manager Randy Gustafson suggested action on this issue be tabled until the next meeting.

Sunell Koerner moved, Dick Bedard seconded, that further consideration of a refinancing ordinance for CedarView Assisted Living be tabled until the April 10th Commission meeting.

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

7. PARKS DEPARTMENT TRACTOR WITH FLAIL MOWER BIDS: The 2003 Budget allocated funding in the amount of \$77,000 for a Flail Mower. The following bids were received:

	<u>Outright</u>	<u>With Trade</u>
Malsom Implement	\$52,979.00	\$45,979.00
Farm Implement & Supply	67,900.00	61,900.00
Martin Tractor	75,106.00	68,606.00
Sellers Tractor/Carrico Implement	75,862.51	69,862.51
Foley Equipment	102,835.00	n/a

City Manager Gustafson stated the two low bids did not meet specifications. He recommended that instead of taking the low bid from Martin

Tractor, the low bid from Sellers Tractor/Carrico Implement be accepted. The bid from Sellers Tractor/ Carrico Implement is \$1,256.51 more than the bid from Martin Tractor; however, Carrico is a local vendor that will service the mower. Service availability on a local level would be of great value to the Park Department and would reduce unneeded down time and transport fees for needed repairs.

Commissioner Schmidt stated the City should have a policy in place that gives preference to local bidders.

City Manager Gustafson stated Commissioner Schmidt is correct that there is not a policy in place; that is why this issue was brought before the Commission as a separate item. A new purchasing policy is being developed that will address situations such as this one.

Commissioner Schmidt stated he would vote against the accepting the bid from Sellers Tractor/Carrico Implement because there is not a policy in place giving preference to local bidders.

Dick Bedard moved, Sunell Koerner seconded, that the bid from Sellers Tractor/ Carrico Implement in the amount of \$69,862.51 for a Flail Mower with trade-in for the Parks Department be approved.

Vote: Ayes: Troy Hickman

Sunell Koerner

Dick Bedard

Henry Schwaller IV

No: Larry Schmidt

8. WATER/SEWER CONNECTION – GOTTSCHALK PROPERTY: Mike Gottschalk was paid \$6,163 for right-of-way in lieu of connecting to the water and sewer line along 13th Street at no charge. He now wishes to build a duplex on his property and would like to connect to the water and sewer line. He wants to give the money back and connect to the utilities at no charge. Other property owners in the area donated the right-of-way in exchange for connecting to City utility lines.

A letter from Mr. Gottschalk states that he doesn't remember being told anything about exchanging the right-of-way for the right to be connected to the water and sewer mains. He does state that if he was told, he didn't fully understand the facts.

City Manager Gustafson stated the City has a signed agreement from Mr. Gottschalk. It would be problematic if the Commission were to approve Mr. Gottschalk's request; what precedent would this establish?

John Braun, Interim Engineering Division Superintendent, evaluated four past projects to calculate the average price to design and construct the typical 8" utility line for water and sewer. The average cost is \$115.00 per linear foot. The Gottschalk property has 250 feet of 13th Street frontage, bringing the total cost to \$28,750. Mr. Gottschalk's share at 50% would be \$14,375.

Commissioner Schwaller stated there is a benefit of working with the property owner. This property would need to be annexed; consequently the City would benefit from property taxes and a new user of City utilities. He agreed this is a very unusual circumstance but the installation of these lines was a very unusual process.

City Attorney John Bird stated it is his understanding that everyone involved in this project was informed that they had an option to either donate the property or take the money.

Commissioner Schmidt stated he didn't feel the money should be given back, but that instead of using the average cost figure calculated by John Braun, the actual cost of the 13th Street project be used. The combined total for the water and sewer line project on 13th Street was \$100.59 per linear foot.

Dick Bedard moved, Sunell Koerner seconded, that Mr. Gottschalk's request be denied and that when Mr. Gottschalk decides to connect to City water and sewer lines, he be charged \$47.65 per linear foot for the water connection; and \$52.94 per linear foot for the sewer connection, a total of \$100.59 per linear foot.

Vote: Ayes: Troy Hickman
Sunell Koerner

Dick Bedard
Larry Schmidt
Henry Schwaller IV

9. COMMISSION INFORMATIONAL MEMORANDUM: Commissioner Schwaller requested that Mike Graf, Ellis County Public Works Director, update the City Commission about plans to upgrade the intersection of Canterbury Road and Highway 40.

10. EXECUTIVE SESSION: City Attorney John Bird requested an executive session to conference with him and discuss possible litigation.

Sunell Koerner moved, Troy Hickman seconded, that the Governing Body adjourn to executive session at 8:05 p.m. for 15 minutes to discuss possible litigation. The executive session will include the City Commission, the City Manager, Assistant City Manager and the City Attorney.

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

No: Dick Bedard

Mayor Hickman called the meeting back to order at 8:20 p.m. He reported that no action was taken during executive session.

Troy Hickman moved, Sunell Koerner seconded, that the Commission give City staff the authority to pursue the exercise of City of Hays water rights on the Smoky Hill River and any other water rights. This would involve going to the State of Kansas and asking for all available remedies administratively and if necessary, have the ability to tell the State that the City of Hays will litigate the matter if the State does not cooperate.

City Attorney John Bird stated this is necessary to maximize the City water rights on the Smoky. Preliminary steps have been taken to hydrologically maximize those rights; there needs to be companion legal effort to do that. Mr. Bird believes that legally the City is entitled to more water rights than the State is

currently admitting the City has. The Intensive Groundwater Control Use Area that was instituted in 1984 was not done properly and without jurisdiction.

City Manager Gustafson reminded the Commission that the motion would allow litigation to occur. Practically, staff would not pursue litigation without consulting with the Commission.

The Mayor called for the vote.

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

11. ADD-ON ITEMS: City Manager Gustafson stated the Public Wholesale Water Supply District #15 (PWWSD#15) board unanimously approved employing Bartlett and West Engineers to conduct an independent cost benefit analysis of all of the water options that are being pursued. This analysis would take all of the studies that have been done and very briefly condense them into one recommendation for both short and long term water supplies for Hays and Russell. PWWSD#15 did not meet this month; in order to get this done by April for loan and grant issues, it is appropriate for the City of Hays to approve this contract for \$12,000; Hays would pay \$8,000 and it is being anticipated that Russell would pay \$4,000. City Manager Gustafson and Russell City Manager Gary Hobbie have met with Bartlett and West Engineers and outlined the scope of work. The Russell City Council has not yet had a chance to approve this contract or payment arrangement.

The City Manager requested the Commission approve this contract subject to the City Attorney's review and approval and that the City attempt to collect the \$4,000 from Russell. The contract would be executed by the City of Hays with Russell's participation.

Sunell Koerner moved, Henry Schwaller IV seconded, that the City Manager be authorized to sign a contract in the amount of \$12,000 with Bartlett

and West Engineers for a cost benefit analysis of water options, subject to the City's Attorney's approval of the contract.

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

Commissioner Koerner noted that one of the German cities that is under consideration for a Sister City is Duesseldorf, Germany. That city is the home of a company that created the bomb-proof bunkers for Saddam Hussein. She doesn't feel it would be appropriate for the City to chose Duesseldorf as a Sister City.

Mayor Hickman stated he would like the Commission to review the Neighborhood Revitalization District and possibly consider expanding the commercial portion to include the entire City of Hays.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board