

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON OCTOBER 24, 2002

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, October 24, 2002 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: Sunell Koerner moved, Dick Bedard seconded, that the minutes of the regular meeting held on October 10, 2002 be approved.

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

3. FINANCIAL STATEMENT: City Clerk Susie Berger stated that sales tax receipts are \$93,445.00 higher for the first nine months of 2002 compared to the first nine months of 2001, and are in line with the 2002 budgeted amounts.

Henry Schwaller IV moved, Sunell Koerner seconded, that the Financial Statement for the month of September 2002 be approved.

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

4. HAYS EMPLOYEE SERVICE RECOGNITION: Mayor Hickman presented Service Awards to the following City employees:

25-Year Awards: John Meehan
Don Johnson

10-Year Awards: Elden Hammerschmidt
Dean Burns
Dan Koerner
Kevin Augustine
Kyle Leiker

Commissioner Schwaller stated the City of Hays received the 1st place Municipal Concrete Award from the Kansas Ready Mix Concrete Association for the Vine Street Project during the recent League of Kansas Municipalities annual meeting.

5. CITIZEN COMMENTS: Lloyd Riedel, vice-chairman of the Community Development Finance Advisory Committee, spoke about the upcoming sales tax proposition that will be on the November 5th ballot. He stressed that all of the projects would be paid for on a pay-as-you-go approach. There will be no bonded indebtedness and this is not an increase of sales tax, just a continuation of the current tax.

Jeff Boyle, Park Director, presented the proposal for the athletic complex to be constructed from sales tax receipts. Mr. Boyle stated it would cost \$5 million to build the 95-acre complex. This includes the land, the irrigation, the landscaping and supporting infrastructure. The complex would consist of ball fields, picnic and shelter areas, trails, green space, and provide for other outdoor recreational activities, such as tennis courts, horseshoes, shuffleboards, etc. The conditions of our existing facilities are very poor and there are not enough practice and playing fields; this would help alleviate those problems. Hays would be able to host a number of tournaments that in turn would have a huge economic impact on our community.

Lavern Squier, Economic Development Director, addressed how money from the sales tax receipts would be spent to help economic development

activities. Local businesses and entrepreneurs would be able to access these funds to renovate existing commercial property and encourage new investment in our community. A revolving loan fund would be established to provide low interest rate incentives to a business that is trying to enhance their overall contribution to the community. This is a program that could help businesses at all levels locally, be they start up businesses or existing business.

6. CONSENT ITEMS: There were no consent items.

OLD BUSINESS

7. FINAL PLAT: A replat of Wyndam Addition is being considered to:

- Move the alley west to abut adjoining property
- Increase the width of the public right-of-way as an alley from 20' to 25' to accommodate the Fire Department using it as an ingress/egress to Wyndam Place
- Correct an easement that contained a public sewer line and change it to public right-of-way
- Incorporate an existing sewer manhole into public right-of-way
- Correct public right-of-way along Hall Street to comply with current Subdivision Regulations by adding 10-feet along Hall Street
- Allow for a marketable piece of land that was not used in the Wyndam Place development

The Hays-Ellis County Planning Commission has recommended, by a 6-0 vote, that the Final Plat for Wyndam Addition be approved.

Commissioner Schwaller voiced his concern about the property relying on an alley as the main access to the facility. An alley should not be used as a primary access. The alley is 5' wider than a normal alley. It will cost the City more to maintain. He doesn't like setting a precedent where a business is using an alley for main access. He requested the Commission reconsider the policy regarding alleys, particularly for businesses or multi-family structures. If two

entrances are needed for safety reasons, they should be installed, paid and maintained by the developer.

Commissioner Schwaller stated the Zoning and Subdivision Regulations requirements are vague. Those requirements were in place when the first plat was adopted, so the rules of the game can't be changed after the plat has been developed, so therefore he would be voting for approval of the final plat.

Henry Schwaller IV moved, Troy Hickman seconded, that the Final Plat of the Wyndam Addition be approved.

Commissioner Koerner stated she has the same concerns as Commissioner Schwaller, however, what was built on the property is not what was presented on the first plat. Widening the alley is setting a dangerous precedent. There are other alleys that have been installed in concrete by developers. She will be voting against approval of the plat.

Commissioner Schmidt stated he would be voting no for the same reasons. The first plat was approved based on what was presented initially, which indicated there would be no direct access points onto Hall Street.

Commissioner Bedard stated he agreed with Commissioners Koerner and Schmidt. He would prefer the alley be paved, however, he feel in this instance, the plat should be approved.

Mayor Hickman stated the developer did what was expected and required of him.

City Attorney John Bird stated the developer met all the requirements of the Zoning and Subdivision Regulations, therefore the plat should be approved. The plat approval process is not one that the Commission gets to fine tune.

Commissioner Schwaller called for the vote.

Vote: Ayes: Troy Hickman

Dick Bedard

Henry Schwaller IV

No: Sunell Koerner

Larry Schmidt

NEW BUSINESS

8. SPEED STUDY – NORTH VINE STREET: The Kansas Department of Transportation (KDOT) conducted speed studies along US-183 from 29th Street to 48th Street. Based on the results of the study and their practice of setting speed limits, they are recommending the speed zones along US-183 inside and along the outskirts of the City of Hays be lowered.

City Manager Gustafson stated that US-183 north of I-70 is not in the city limits, therefore the Commission does not have the authority to change the speed limits in that area. An ordinance has been prepared lowering the speed limits from 29th Street to I-70 along US-183, which is in the city limits, from 45 mph to 40 mph. KDOT has been advised of the Commission's feeling that the speed limits north of I-70 were not considered to be low enough from a safety standpoint. The portion north of I-70 may be annexed at a later date after the Enhancement Program is completed. At that time, the Commission could then regulate the speed limit along that stretch of US-183.

It is the recommendation of the Police Department that the Commission approve the speed reduction as recommended by KDOT.

Commissioner Schwaller felt it is very important that the City officials communicate in writing with KDOT about the safety concerns of the speed limit north of I-70 and urge them to address this as soon as possible. He feels the speed limit on Vine Street should be lowered to 35 mph from I-70 south and when US-183 north of I-70 is annexed, consider lowering the speed limit in that area at that time.

Commissioner Schmidt stated he would like to leave the speed limits as it is now until the detection signal lights are installed along this stretch and see what happens with the traffic flow. He would rather not change the speed limits every 60 to 90 days. It should be changed once so as not to confuse the public.

Mayor Hickman stated he also preferred that the speed limit be reduced to 35 mph.

Troy Hickman moved, Dick Bedard seconded, that Ordinance No.3596, being an ordinance amending Title Ten (10), Chapter 10.16 of the City of Hays, Kansas, Municipal Code, by modifying Section 10.16.010, Subsection B, Subsection 3, by establishing that the maximum speed limit on Vine Street south of I-70 to 29th Street be lowered to 35 miles per hour, be approved.

Vote: Ayes: Troy Hickman

Sunell Koerner

Dick Bedard

No: Larry Schmidt

Henry Schwaller IV

9. UNION PACIFIC RAILROAD LEASE AGREEMENT: The lease is for an area between Allen Street and Milner Street, north of the tracks. The area is a gravel area 20 feet wide and has a water main in it, which necessitates the need to retain the right-of-way.

City Manager Gustafson stated there a number of leases the City has with the Union Pacific Railroad. This lease had an annual payment of \$300. Union Pacific has decided to award permanent lease rights in lieu of issuing a 25-year lease agreement for a one-time fee of \$6,250. He recommended the Commission accept the terms of the agreement.

Commissioner Schmidt stated that Union Pacific couldn't give the City permanent right-of-way. When UPRR received the property west of Vine Street from the government, it was stated that if they ever abandoned their line, the property would go back to the property owner who abuts it.

City Manager Gustafson stated that the lease should be approved with the caveat that an opinion on that specific issue be researched and if the opinion is that they have the title and are able to sell the property, the City close the deal. If not, then the City not approve the lease.

Henry Schwaller IV moved, Sunell Koerner seconded, that the Mayor be authorized to sign a permanent lease with Union Pacific Railroad in the amount of \$6,250 for permanent right-of-way, provided that counsel indicates that Union Pacific Railroad does have the right to execute said lease.

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

10. WESTRIDGE SUBDIVISION PLAT AND DEDICATION: City Attorney John Bird stated there was a defect in the original plat, since the plat included some road property owned by the City, but the City didn't participate in the plat. This document corrects that problem and Mr. Bird recommended the Commission approve the Consent and Ratification.

Commissioner Schwaller stated he would be abstaining from the vote because he has a conflict of interest.

Dick Bedard moved, Sunell Koerner seconded, that the Mayor be authorized to sign a Consent To and Ratification of Plat and Dedication for Westridge Subdivision.

Vote: Ayes: Troy Hickman
Sunell Koerner
Dick Bedard
Larry Schmidt

Abstain: Henry Schwaller IV

11. CHANGE OF ZONING APPLICATION #02-4Z: The Hays-Ellis County Planning Commission conducted a public hearing on September 16, 2002 to consider a change of zoning from "R-3" Two-Family Dwelling District to "C-2" General Commercial and Service District. The property under consideration is located at 526 West 27th Street and consists of one single family residential structure built across two platted lots resulting in a tract which is 100' x 138'. At the conclusion of the hearing, the Planning Commission voted 6-0 to recommend that the City Commission not approve the change of zoning request.

The property is located at the intersection of two busy arterial streets. If rezoned, vehicle access will be limited. If a new commercial structure were to be placed on this lot, vehicle access will likely be restricted to the existing alley

approach along Hall Street. Off street parking would be best accommodated at the rear of lot(s). Neighboring residential properties will be adversely affected if the use of this property is changed to allow commercial uses.

Commissioner Schmidt argued for approval of the zoning change. He feels the owner of the property should be allowed to develop the property for commercial use. He should be able to find a business that would commercially fit on that property. The Wyndam Place will be using an alley for access; this piece of property should be treated the same way. The property will not be suited for residential purposes after the Hall Street reconstruction.

Commissioner Schwaller stated the regulations for “C-2” restrict the size of a business that could be placed on a lot. Eighty percent of the businesses listed could not fit on the lot(s). The concern of the Planning Commission is that the lot is too small to accommodate a commercial enterprise. If there were a different kind of commercial zoning that limited the kinds of small business, it would not be a problem. He feels that a change in zoning would have an adverse impact on the neighbors.

Commissioner Koerner pointed out that Kent Laas, Community Development Coordinator, has stated that a lessor zoning classification such as “C-0” or “C-1” could be recommended by the Planning Commission.

Commissioner Bedard stated he has heard from several of the neighbors who are against changing the zoning for this piece of property.

Henry Schwaller IV moved, Sunell Koerner seconded, that the Commission accept the recommendation from the Hays-Ellis County Planning Commission to deny the approval of the rezoning request for property located at 526 West 27th Street from “R-3” Two-Family Dwelling to “C-2” General Commercial and Service District.

Vote: Ayes: Troy Hickman

Sunell Koerner

Dick Bedard

Henry Schwaller IV

No: Larry Schmidt

12. COMMISSION INFORMATIONAL MEMORANDUM: Commissioner Schwaller commented that it was nice to receive the ridership information from Developmental Services of Northwest Kansas about the van service. The information shows who is using the service and how many miles the van travels.

13. ADD-ON ITEMS: Commissioner Schwaller commented on the sales tax proposal that will be put before voters on November 5, 2002. Citizens have told the City what areas they think are important and/or in need of improvement. This has resulted in four areas that are planned to be addressed if the sales tax proposal is successful. Capital improvement projects cannot be funded through the tax base the City now uses. These improvements are overdue and very necessary. He asked the voters to approve the sales tax.

Henry Schwaller IV moved, Larry Schmidt seconded, that the Impress Fund for the Public Wholesale Water Supply District # 15 (PWWSD #15) be dissolved and ask for all funds currently held by the District be returned to the City, including the principal and the interest earned.

Commissioner Schwaller stated that currently there is approximately \$370,000 held by PWWSD #15. Approval of the Impress Fund was given by the Commission to allow for the construction of well sites and now that isn't going to happen. They don't have a need for the money now.

City Manager Gustafson stated there are two separate funds. One is the Impress Fund that has approximately \$350,000 in it. There is also a fund that has approximately \$50,000 in it to fund day-to-day activities.

Commissioner Schwaller stated the \$50,000 fund should be left alone; they can pay their invoices from that.

Mayor Hickman stated he would be voting against this because he would like to have had more time to research the issue. As an Add-On item, he hasn't had a chance to study the issue.

Commissioner Schmidt stated the contract with PWWSD #15 expires November 1, 2002. It would be fiscally irresponsible to give them money after the contract expires. The timing is inconvenient, but it is the right thing to do.

The Mayor called for the vote.

Vote: Ayes: Sunell Koerner
Larry Schmidt
Henry Schwaller IV
No: Troy Hickman
Dick Bedard

Commissioner Schmidt stated that since the City of Hays gives the Ellis County Coalition for Economic Development \$70,000 a year he would like a copy of their by-laws.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board