

MINUTES OF A MEETING OF
THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON SEPTEMBER 13, 2001

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, September 13, 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.

Mayor Schwaller requested a moment of silence in honor of the victims of the September 11, 2001 terrorist attacks.

2. MINUTES: Troy Hickman moved, Dick Bedard seconded, that the minutes of the regular meeting held on August 23, 2001, be approved.

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

3. CITIZEN COMMENTS: Mark Ottley, representing merchants at Northridge Plaza, 27th & Vine Street, requested City staff intervene with KDOT officials to install a raised divided turning lane on Vine Street north of 27th Street, similar to the one south of 27th Street.

Interim Manager Dorothy Stites stated the project is 40% complete and involves working with 3-4 federal agencies. This could cause a 3-4 month delay to have the agencies readdress the design changes.

Commissioner Schmidt stated this change would basically be for an island that could be poured later on; he suggested a request be made to KDOT with the island added at a later date.

Kurt Hassler, Director of Engineering, stated he talked to a KDOT representative and they would not look favorably on a change order for this. If the City pushed the issue, he doesn't know how they would respond, but he is certain they wouldn't pick up any of the additional costs.

Mayor Schwaller stated that Northridge Plaza could be assessed for the cost of installing a raised divided turning lane.

Commissioner Schmidt recommended the City make a formal request to KDOT to incorporate the installation of a raised divided turning lane into the reconstruction of Vine Street.

The consensus of the Commission was to make this request.

Dr. Robert Albers read a prepared statement explaining his reasons for resigning from the Public Wholesale Water Supply District #15 board of directors on August 19, 2001. Dr. Albers stated that over the last six months the actions of the City Commission and state regulators have worn him out. He reviewed the origins of the water problems that have plagued our community. He blamed the Kansas Water Office and the Kansas Wildlife and Parks for limiting stream flow from Cedar Bluff Reservoir to the Smoky Hill River. Those agencies do not have the political courage to administer the release of water to help the Schoenchen wellfield. As a result of limiting water released from Cedar Bluff, the City of Hays is forced to go further downstream to buy water that had its origin in Ellis and Russell counties.

Dr. Albers stated the KWO is in the process of buying water in Kanopolis Lake from the federal government. It would then resell the water to public utilities. The KWO has indicated that if pumping from the South Russell County Water Project hinders future plans for Kanopolis, the KWO would ask for a halt to all pumping. The volume of water that Kanopolis holds is 60,000 acre feet. The yearly average inflow into Kanopolis is 200,000 acre feet. The removal of 4,000 to 8,000 acre-feet by pumping from the South Russell County Wellfield would

have very little impact on the water levels of Kanopolis. If it became necessary that PWWSD #15 had to buy water from the KWO, he suspects that it would be more costly than what the state charges other public utilities.

Dr. Albers stated the cost of the South Russell Water County Project has been a big part of the public debate. The public needs to understand that underneath this public debate is a more basic struggle over the potential growth of this community. There are individuals and businesses who see growth as a threat and the struggle to stop the South Russell Water County Project is really a struggle to stop all long-term water sources for the communities of Hays and Russell. Every place the City of Hays looks for water, there is a battle from individuals, irrigators, regulators and state bureaucracy. This community needs to realize that it lacks political power and needs to be willing to fight to obtain a long-term water source.

Dr. Albers stated recent actions of Mayor Schwaller and Commissioner Schmidt that embrace the KWO and its actions are the equivalent of treason. They have high praise for the department that has taken away stream flow from our wellfield and are forcing us to buy water at higher rates than any other utility. If the two commissioners are successful in blocking the South Russell County Water Project, the development of any long-term water source will be put in a perpetual state of studying only. He urged the citizens to make their wishes known to each and every commissioner. If the public remains silent, Mayor Schwaller and Commissioner Schmidt will continue to dismantle progress towards a long-term water solution to the delight of their political puppet masters.

Mayor Schwaller thanked Dr. Albers for his years of leadership and service.

4. CONSENT ITEMS: A. & B. Troy Hickman moved, Larry Schmidt seconded, that the Mayor be authorized to sign a lease with the Ellis County Oktoberfest Committee for Frontier Park from October 4-6, 2001, and approve a Cereal Malt Beverage License for the Volga-German Society for the 2001 Oktoberfest event in Frontier Park.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt
Troy Hickman
Sunell Koerner
Dick Bedard

C. & D. Henry Schwaller IV moved, Dick Bedard seconded, that the Mayor be authorized to sign a lease with Kyle Eckhart, "September Jam 2001", for Municipal Park from September 19-23, 2001, and a Cereal Malt Beverage License be approved for Anthony J. "A. J." Boleski for this event at Municipal Park.

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

E. Larry Schmidt moved, Sunell Koerner seconded, that the Mayor be authorized to sign Ordinance No. 3565, being an ordinance authorizing the City of Hays, Kansas to enter into a municipal lease purchase agreement, as lessee, with Commerce Bank, N.A. as lessor, with respect to new fire apparatus for use by the City of Hays.

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

F. Larry Schmidt moved, Troy Hickman seconded, that the Mayor be authorized to sign a final change order of a deduct of \$57,000.89 involving the completion of the 2000 Curb Cut Project.

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

Dick Bedard

G. Troy Hickman moved, Dick Bedard seconded, that Resolution No. 381, being a resolution amending Resolution No. 365 pertaining to improvements to certain sidewalks in the City of Hays, Kansas, be approved. This resolution is to complete an additional 150 ramps in the 2001 Cub Cut Project.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

H. City Attorney John Bird recommended that the Hall Street KDOT Agreement Item 16 be clarified as to the percentages of participation.

Larry Schmidt moved, Henry Schwaller IV seconded, that the Mayor be authorized to sign an agreement to proceed with the Hall Street Construction Project with KDOT as previously approved by the City Commission, contingent upon clarification of percentages of participation as listed under Item 16.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

I. & J. Troy Hickman moved, Larry Schmidt seconded that the following be designated as voting delegates representing the City of Hays for the League of Kansas Municipalities 2001 Conference, October 6-9, 2001:

Henry Schwaller IV

Dorothy Stites

Dick Bedard

Susie Berger

Susie Billinger (alternate)

And that Henry Schwaller IV be designated as voting delegate representing the City of Hays, with Dorothy Stites, Interim City Manager, serving as alternate, for the National League of Cities 2001 Conference, December 4-8, 2001.

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

OLD BUSINESS

5. NUISANCE ABATEMENT: Tom Loker, Chief Building Official for the Fire and Inspection Department, stated that all procedures have been followed regarding a nuisance complaint at 204 Ash Street. Mr. Loker recommended that a resolution be passed this evening. This would give the owner of the property an additional 10 days to clean up the property.

Larry Schmidt moved, Troy Hickman seconded, that Resolution No. 382, being a resolution authorizing the City of Hays or its designated agent to abate nuisances located on the property at 204 Ash Street, Hays, Kansas, be approved.

Mayor Schwaller stated the enforcement mechanism for nuisance issues are complaints. He doesn't feel these kinds of complaints should be done piecemeal. The City needs to address the issue for entire neighborhoods. All businesses and homes that have this problem should be addressed, rather than make an example of one individual.

Mr. Loker stated the Code Enforcement position is a half-time position. It would take more than 2 full time employees to address the entire city.

The Mayor called for the vote.

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

NEW BUSINESS

6. SPECIAL ASSESSMENT – WATER & SEWER, NORTH OF I-70 AND EAST OF US HIGHWAY 183:

The special assessment district, as originally proposed, would include five properties adjacent to the proposed reverse access road. Three of those properties are either in the city limits or willing to be annexed into the city limits and two of the properties are not interested in being annexed at this time. Kansas State statutes have a provision that requires two separate petitions when a proposed improvement district is partially within and partially outside the city limits. In this case, that provision has the effect of stopping the special assessment effort because a petition from the property owners outside the city limits could not be validated.

The Vine Street Enhancement Steering Committee discussed several options and made a recommendation that a special assessment district be created with the City picking up a portion of the initial cost. The individual assessments would be based on front footage for the persons interested in participating, with the City accepting the cost of the remainder of the project. The City would be able to recover all of their original participation dollars as the remainder of the adjacent properties become connected to the system with no limitation to time of connection. Based on the engineer's estimate and using a "per front footage" assessment, it would cost the benefit district approximately \$162,050 and the City of Hays approximately \$127,950 for the water and sewer connections.

The Commission instructed Kent Laas, Community Development Coordinator, to proceed with establishing a special assessment district following the recommendation from the Vine Street Enhancement Steering Committee that the district be created with the City of Hays picking up a portion of the initial cost.

7. PTERANODON SCULPTURE AND "WELCOME TO HAYS" SIGN:

The Hays Beautification Committee and City staff have been working on a project which includes erecting a "Welcome to Hays" sign as well as a sculpture of a Pteranodon (extinct bird-like creature) at the southeast corner of the I-70 and

Commerce Park intersection. The Pteranodon sculpture is completed and was paid for by donations from various businesses.

Jeff Boyle, Park Director, stated the Beautification Committee is requesting \$10,700 to complete the project. This would be for the placement of the sculpture on a limestone base, the installation of electric lines and lights, signage, and labor. Due to not having all the pertinent information at the time that the 2002 Budget was prepared, this was not included in the 2002 Budget. Mr. Boyle recommended General Fund money in 2001 be used to complete the project.

Dick Bedard moved, Henry Schwaller IV seconded, that the City of Hays allocate \$10,700 for the installation cost of erecting a "Welcome to Hays" sign and Pterandodan sculpture at the intersection of I-70 and Commerce Parkway.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

8. PLAYGROUND EQUIPMENT BIDS: The City Commission, during its April 12, 2001 meeting, agreed to allow additional funding of \$16,900 during the 2001 budget year in order to match two civic group requests for playground equipment. Bids were taken and narrowed down to five different companies. The Hays Rotary Club has chosen to install Riggs Recreation Play Equipment at East Frontier Park for a cost of \$20,350. The Kiwanis Club has chosen to install Miracle Recreation Play Equipment at Hickock Park for a cost of \$20,865. There will be associated costs of \$8,000 for "engineered wood mulch" and additional concrete work. The total cost for both projects is \$49,215.

Jeff Boyle, Park Director, recommended these projects be paid for in the following manner:

Kiwanis Funds	\$ 6,500
Rotary Club Funds	10,000
2001 Matching Funds Budget	10,000

Special Park & Recreation Fund	14,715
Park Development Fund	8,000
TOTAL	\$49,215

Larry Schmidt moved, Sunell Koerner seconded, that the bid from Riggs Recreation Equipment in the amount of \$20,350 and the bid from Miracle Recreation Equipment in the amount of \$20,865, be accepted.

Mayor Schwaller stated he would be abstaining because he is the treasurer of the Hays Rotary Club.

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

Abstain: Henry Schwaller IV

9. PARK DEPARTMENT BUILDING ADDITION: Jeff Boyle, Park Director, stated Request for Proposal were sent to three firms for architectural services for an addition to the existing park building. Only one bid was received and it was higher than expected due to various conditions that will need to be addressed. Bucher, Willis and Ratliff submitted the bid at a cost of \$14,000.

Troy Hickman moved, Dick Bedard seconded, that the bid from Bucher, Willis and Ratliff in the amount of \$14,000 for architectural services involving the Park Department building addition, be accepted.

Mayor Schwaller and Commissioner Schmidt stated they would be voting no on this. Commissioner Schmidt stated this would be for more space to park more equipment; it is a luxury, not a requirement. Building additions cost money for years to come; it is not a one-time expenditure.

Mr. Boyle stated this building addition would be used for repairs, sign making, and storage of grass seed and fertilizer. He doesn't have any problem with parking vehicles outside, but has seen damage on other equipment that has been left outside.

Mayor Schwaller suggested that staff redo the planning and consider another location for this facility. This would help bring the cost down; we should put the building in an area where it will be easier to build. The cost per square foot on the engineering is way over what it should be.

Mr. Boyle stated the present building is built on a hill in order to avoid flooding; that elevation is why the area was chosen.

Mayor Schwaller asked if the City really wants to sink money into a flood plain area?

Mr. Boyle stated the Park Department facilities are close to Frontier Park and the buffalo herd; that location makes it easier and neater to haul hay bales.

The Mayor called for the vote.

Vote: Ayes: Troy Hickman
Sunell Koerner
Dick Bedard

No: Henry Schwaller IV
Larry Schmidt

10. VINE STREET SIGNAL LIGHT CONTRACT (ADDENDUM NO. 9): This contract will be Addendum No. 9 to the 2001 Capital Improvement Projects contract signed with Bucher, Willis and Ratliff. The project includes the upgrade of the signal lights at the intersections of 8th, 13th, 18th, 22nd, and 27th Streets. This project will upgrade the signals at these intersections to video detection and will be in compliance with the Manual of Uniform Traffic Control Devices. The amount of the contract is for an amount not to exceed \$79,750; the amount budgeted in the CIP for 2001 is \$100,000. An additional \$80,000 is budgeted in the 2002 CIP for construction purposes. Actual construction would take place in late 2002 or early 2003. This will be a joint project between the City (10%) and KDOT (90%).

Kurt Hassler, Director of Engineering, stated the pedestrian light at 18th & Vine does not meet MUTCD criteria. The light would have to be improved to be a fully signalized intersection or eliminated altogether. He has had a preliminary discussion with the principal of Holy Family Elementary School and she indicated

that they did not see a reason for the light at that location. A decision would have to be made within the next two months.

Larry Schmidt moved, Troy Hickman seconded, that the Mayor be authorized to sign a contract with Bucher, Willis and Ratliff to perform design activities for signal light improvements on Vine Street involving intersections at 8th, 13th, 18th, 22nd, and 27th Streets.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

11. VINE STREET ENHANCEMENT AGREEMENT: This agreement is a supplemental agreement to the contract authorized by the Commission on July 12, 2001. This agreement is for the early construction of 43rd Street east of Vine Street and the west reverse access road from Mopar to 43rd Street. The costs are on a City (20%) – KDOT (80%) split, up to a maximum of \$325,000 for 43rd Street and \$175,000 for the west reverse access road. Construction should start in the summer of 2002.

Mayor Schwaller stated these two roads are critical for the businesses along that area and it is important that they be constructed.

Dick Bedard moved, Henry Schwaller IV seconded, that the Mayor be authorized to sign an agreement authorizing early construction of 43rd Street east of Vine Street and the west reverse access road from Mopar to 43rd Street.

Vote: Ayes: Henry Schwaller IV

Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

12. CENTENNIAL MALL EASEMENT: City Attorney John Bird stated that a survey of Centennial Mall, 2506 Vine Street, indicated that the building encroaches upon the alley and easement set forth in the recorded plat. The

building was in place before the lot was platted. The real estate is being sold and the buyer wants the issue resolved prior to closing. Mr. Bird recommended the easement be approved with the owners reimbursing staff for any associated costs.

Troy Hickman moved, Larry Schmidt seconded, that the Mayor be authorized to sign an easement granting use of City right-of-way involving the property identified as Centennial Mall.

Mayor Schwaller stated he would be abstaining from the vote.

Vote: Ayes: Larry Schmidt

Troy Hickman

Sunell Koerner

Dick Bedard

Abstain: Henry Schwaller IV

12. REVIEW OF RUSSELL WATER PROJECT: Arlyn Unrein, Public Works Director of the City of Russell and a board member of Public Wholesale Water Supply District #15, Gary Hobie, City Manager of the City of Russell and an ex-officio of PWWSD #15, and Jayne Clarke, board member of PWWSD #15, presented a report to review the status of the South Russell County Water Project and to address some of the issues raised at the last Commission meeting.

Mr. Unrein stated that engineering plans are 90% complete. PWWSD #15 is proceeding to finalize engineering plans and to obtain water rights. There have been many different kinds of evaluations of this project already and there are four notable checkpoints that will be evaluated in the remainder of this effort. Each must be deemed worthy and acceptable. They are:

1. Bob Vincent's review
2. Issuance of and evaluation of water rights permits by the Division of Water Resources
3. Final design layout/let for bid
4. Bid review – project costs review (per bid process)

Commissioner Schmidt stated this project is being done backwards. The water rights should have been acquired prior to the engineering. This project should be stopped and we should do this in the correct order. We should look at other options that have been presented by outside parties, then decide where we want to look for water. There are too many questions left unanswered. He is uncomfortable with spending \$26 million to do the project.

Commissioner Hickman stated that even though 90% of the design engineering is completed, it would not be too much of a hardship to make adjustments to that.

Interim Manager Dorothy Stites stated that Bob Vincent's report would be completed by September 21, 2001. He will present a final report to the Commission at the September 27th Commission meeting.

14. COMMISSION INFORMATION MEMORANDUM: There were no comments on the memorandum.

15. EXECUTIVE SESSION: Henry Schwaller IV moved, Troy Hickman seconded, that the Governing Body adjourn to executive session for 20 minutes at 9:40 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 Interim City Manager, City Attorney, and the City Engineer.

Mayor Schwaller called the meeting back to order at 10:00. He stated no action was taken during executive session.

16. ADD-ON ITEMS: Interim Manger Stites stated that four-way stop signs have been installed at 27th Street and Indian Trail.

Commissioner Schmidt stated that a replacement for the position vacated by Dr. Bob Albers resignation from the Public Wholesale Water Supply District # 15 board should be appointed by the next Commission meeting.

Mayor Schwaller requested the Commissioners submit names of possible candidates to him.

Thereupon the Governing Body adjourned.

Submitted by: _____

Clerk of the Board