

MINUTES OF A MEETING OF  
THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON SEPTEMBER 12, 2002

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, September 12, 2002 at 7:30 p.m.

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

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

**2. MINUTES:** Sunell Koerner moved, Troy Hickman seconded, that the minutes of the regular session held on August 22, 2002, be approved.

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

**3. CITIZEN COMMENTS:** Keith Eilts, scoutmaster of Boy Scout Troop 101 presented members of the Troop who were in attendance. Troop 101 is celebrating its 75<sup>th</sup> anniversary.

**4. CONSENT ITEMS:** Troy Hickman moved, Dick Bedard seconded, that the following consent items be approved:

**A. Mayoral Appointments:**

Hays Beautification Committee:

- Cheryl Rohleder – unexpired term expiring August 1, 2004
- Amy Coffman – 3-year term expiring August 1, 2005
- Connie Wilson – 3 year term expiring August 1, 2005

Marlene Wasinger – 3 year term expiring August 1, 2005

**B. Cereal Malt Beverage License:**

A cereal malt beverage license for AJ's Beer Tavern at September Jam to be held at Hays Municipal Park

**C. Park Lease – September Jam:**

A lease with Kyle Eckhart for the use of Hays Municipal Park from September 25-29, 2002

**D. Cereal Malt Beverage License – Oktoberfest 2002 Event:**

A cereal malt beverage license for the Volga-German Society for the Oktoberfest 2002 event to be held at Municipal Park

**E. Park Lease – Oktoberfest 2002 Event:**

A lease with the Ellis County Oktoberfest Committee (Volga German Society) for the Municipal Park from October 9-14, 2002

**F. Kansas League of Municipalities Delegates:**

That Mayor Henry Schwaller IV, City Manager Randy Gustafson, Assistant City Manager Dorothy Stites, and Director of Human Resources Susie Billinger be designated as voting delegates representing the City of Hays at the League of Kansas Municipalities 2002 Annual Conference, October 12-15, 2002.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

Larry Schmidt

**OLD BUSINESS**

**5. SALES TAX BALLOT ISSUE:** City Manager Randy Gustafson stated the Community Development Finance Advisory Committee, in studying this issue, has presented a recommendation to the City Commission to approve placing a ½ cent sales tax on the ballot, which would end in 10 years. The proceeds from the

sales tax would fund specific infrastructure needs of the City of Hays. The projects include streets and stormwater maintenance, public safety facilities, park facilities, and economic development.

Commissioner Hickman stated he supports the recommendations of the Committee and the Commission should move forth with putting this on the ballot and let the voters decide.

Commissioner Koerner stated the City needs to continue to work with Ellis County on these issues. She thinks the County Commissioners are agreeable to working together. Tax dollars should be used wisely. It is important to work together on areas that overlap. She would like to wait until more discussion takes place between the two commissions.

Commissioner Bedard agreed with Commissioner Koerner. If there is a chance of consolidating services and saving the taxpayers money, we owe it to the taxpayers to do that. If both Commissions put a sales tax issue on the ballot, they are doomed. The only way it will pass is if both Commissions work together. He would like to table the issue now and have the voters decide at the April 2003 election. This would allow ample time to discuss the issue and sell it to the public.

Commissioner Hickman stated it is his feeling that the sales tax issues that have passed are the ones the entire Commission feels comfortable with. The ones that typically fail are the ones where there is a division amongst the Commission about the issue. This Commission seemed to be in favor of all of the projects that are included in this sales tax issue.

Commissioner Schmidt stated the City has asked the County for cooperation with things like EMS and fire and they said no. They want to build two \$4 million buildings. The only cooperation they want to do is to put the question on the ballot as one question instead of two. Our Advisory Committee did a good job of narrowing down the projects and presenting a package that the voters will go for. It is doable; it's things we need. We should go forward with placing this on the ballot.

Mayor Schwaller stated he understands both sides of the argument. It would help the smaller towns in Ellis County if the City were to work with the County. We've made an attempt to do so; however, there has been no compromise at all.

Henry Schwaller IV moved, Troy Hickman seconded for purposes of discussion, that a ½ cent sales tax question be placed on the November 2002 ballot. The tax would be for a 30-month period beginning April 1, 2003 and terminating on August 31, 2005. The proceeds would be used for repair and maintenance of residential streets and storm water control.

Mayor Schwaller stated it would take a long time to get together with the County and work out space needs and other issues. If the present tax sunsets and there is nothing to take its place, it could be difficult to get another tax passed later on. This would give both entities the time needed to get together a comprehensive plan that addresses all the needs of both the City and the County.

Commissioner Schmidt disagreed. The City should put the full proposal forth now. The more times the City asks for sales tax money, the harder it will be for the next one to pass. The Commission needs to follow the recommendations of the Advisory Committee and let the voters decide.

Mayor Schwaller called for the vote.

Vote: Ayes: Henry Schwaller IV

No: Troy Hickman  
Sunell Koerner  
Dick Bedard  
Larry Schmidt

Larry Schmidt moved, Henry Schwaller IV seconded, that the recommendations of the Community Development Finance Advisory Committee for a ½ cent, 10 year sales tax, be approved and that Resolution No. 412, being a resolution authorizing and providing for the calling of a special election in the City of Hays, Kansas, for the purpose of submitting to the electors of the City the question of continuing to impose the existing one-half percent (1/2%) City

retailers' sales tax for the purpose of paying the costs of public infrastructure projects and economic development projects, be approved.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Larry Schmidt

No: Sunell Koerner

Dick Bedard

### **NEW BUSINESS**

**6. CROSSWIND RUNWAY 4-22 BIDS:** Bids were received from five companies for the construction of Crosswind Runway 4-22, one company bidding asphalt only, three companies bidding concrete only, and one company bidding asphalt and concrete. The following bids were received:

Castle Rock Construction Co. Topeka, Kansas	\$1,868,736.99	(concrete)
Dobson Brothers Construction Co. Lincoln, Nebraska	1,986,718.89	(concrete)
Smoky Hill L.L.C. Salina, Kansas	2,352,832.95	(concrete)
Kanza Construction Topeka, Kansas	2,153,765.10	(asphalt)
APAC-Kansas, Inc. Hays, Kansas	3,038,630.75	(asphalt/concrete)

The engineer's estimate was \$2,485,617.00 for a concrete runway and \$1,863,807.50 for an asphalt runway.

Airport Manager Terry Urban recommended the bid be awarded to Castle Rock Construction Company. The Airport Advisory Board has approved the bid. The Federal Aviation Agency will also have to approve the bid.

Dick Bedard moved, Sunell Koerner seconded, that the bid from Castle Rock Construction Company in the amount of \$1,868,736.99 for the construction of Crosswind Runway 4-22 be accepted.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

Larry Schmidt

**7. ADDRESSING COMMITTEE:** The Ellis County Regional GIS Organization ERGO Addressing Committee recommended that certain street names be changed to avoid confusion. The Tallgrass Second Addition has several street names that appear to be alike. After careful consideration, the ERGO Addressing Committee recommended several street name changes in this addition. The developer of Tallgrass was not opposed to the changes. The addition is relatively new and these changes will not affect any current occupied households.

Mayor Schwaller stated he has some concerns with East 20<sup>th</sup> Street, which at an intersection that is a loop, then becomes East 19<sup>th</sup> Street. Additionally, a street that is East 17<sup>th</sup>, then in the middle of the block becomes Tallgrass Drive. He will be voting no.

Commissioner Koerner agreed; it would be confusing.

Commissioner Hickman stated the reason for making the changes are for emergency vehicles to quickly find an address. The majority of people on this committee are involved in emergency services. This was the best solution.

Dick Bedard moved, Troy Hickman seconded, that Ordinance No. 3590, being an ordinance re-naming certain streets in the Tallgrass Addition to the City of Hays, Kansas, be approved.

Vote: Ayes: Troy Hickman

Dick Bedard

Larry Schmidt

No: Henry Schwaller IV

Sunell Koerner

**8. FINAL PLAT – E. LEIKAM ADDITION:** This plat proposal will create four residential lots that are currently occupied with four residential structures located in the 600 block of East 5<sup>th</sup> Street. These structures were built and owned by one individual and as long as they stayed under one ownership, platting was not necessary. The current owner wishes to sell the structures individually and therefore must sub-divide the property in order to do so. All structures are in compliance with current zoning requirements. Streets, alley and easements are already in place.

Troy Hickman moved, Sunell Koerner seconded, that Resolution No. 413, being a resolution approving the final plat and dedication of the E. Leikam Addition in the City of Hays be approved, subject to proof of title being provided to the City Attorney.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

Larry Schmidt

**9. FINAL PLAT – MARVIN F. BRAUN ADDITION:** Troy Hickman moved, Dick Bedard seconded, that Resolution No. 410, being a resolution approving the final plat and dedication of the Marvin F. Braun Addition, be approved.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

Larry Schmidt

**10. ANNEXATION – 3335 EAST 13<sup>TH</sup> STREET:** The owner has petitioned for annexation in order to connect to public water and sewer mains along East 13<sup>th</sup> Street. Because the property is not contiguous with the city limits, a resolution must first be adopted by the City Commission requesting the County Commission

to endorse the annexation. Once that action is taken, an ordinance will be adopted by the City Commission that will annex the property.

Dick Bedard moved, Sunell Koerner seconded, that Resolution No. 411, being a resolution regarding annexing land to the City of Hays, Kansas, be approved.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

Larry Schmidt

**11. ANNEXATION – 2901 EAST 13<sup>TH</sup> STREET:** The owner has petitioned for annexation in order to connect to public water and sewer mains that have recently been installed along East 13<sup>th</sup> Street. This property is contiguous with the city limits.

Troy Hickman moved, Sunell Koerner seconded, that Ordinance No. 3591, being an ordinance annexing land to the City of Hays, Kansas, be approved.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner

Dick Bedard

Larry Schmidt

**12. ANNEXATION – LAND NORTH OF I-70:** Eight tracts of land have been acquired by the City from area land owners north of I-70 for construction of water, sanitary sewer, and street improvements in conjunction with the System Enhancement Project. These eight tracts, which the City owns, must be annexed to the city limits to allow the City to finance the improvements that will take place in the near future.

Each of these eight tracts have been donated to the City in exchange for the promise by the City Commission not to create special assessment districts for the street improvements in this area as agreed upon at the February 28, 2002 City Commission meeting.

Mayor Schwaller stated these tracts of land are not developable lots; they are going to be used for streets and right-of-way for utilities.

Dick Bedard moved, Sunell Koerner seconded, that Ordinance No. 3592, being an ordinance annexing land to the City of Hays, Kansas, be approved.

Vote: Ayes: Henry Schwaller IV

Troy Hickman  
Sunell Koerner  
Dick Bedard  
Larry Schmidt

**13. ANNEXATION – 1100 EAST 43<sup>RD</sup> STREET (SMALL TRACT ADJACENT TO REVERSE ACCESS):** This narrow (13.75 feet in width by 324+ feet long) partial was created as the result of aligning the segment of the reverse access road between 41<sup>st</sup> and 43<sup>rd</sup> Street east of Vine Street. It consists of approximately 1/10<sup>th</sup> of an acre and will eventually become part of the adjoining lot.

Dick Bedard moved, Troy Hickman seconded, that Ordinance No. 3593, being an ordinance annexing land to the City of Hays, Kansas, be approved.

Vote: Ayes: Henry Schwaller IV

Troy Hickman  
Sunell Koerner  
Dick Bedard  
Larry Schmidt

**14. 43<sup>RD</sup> STREET CONSTRUCTION BIDS (EAST OF VINE):** This project is for the construction of 43<sup>rd</sup> Street from Vine Street to General Hays Road and is an 80-20 split with the City responsible for 20% of the design, land acquisition, construction and construction engineering costs. KDOT will pick up the 80%. Bids were received from the following:

APAC-Kansas	Base bid	\$369,784.93
	Alt. 1	20,000.00
Bryant & Bryant	Base bid	358,896.80
	Alt. 1	20,000.00

J-Corp	Base bid	339,816.70
	Alt. 1	55,000.00

The engineer's estimate was \$412,213.10 for the base bid and \$60,000.00 for Alternate 1.

Staff recommended that the City Commission award the bid to J-Corp for the base bid only and not award Alternate 1. Alternate 1 was for the project to be completed by February 1, 2003. If Alternate 1 were chosen, the contractor would be penalized \$1,000.00 per day until the project is completed, allowing for the final striping, surface course on the asphalt, and grass seeding to be completed in the spring of 2003.

Troy Hickman moved, Sunell Koerner seconded, that the base bid from J-Corp in the amount of \$339,816.70 be accepted for the construction of 43<sup>rd</sup> Street from Vine Street to General Hays Road.

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

**15. 44<sup>th</sup> STREET CONSTRUCTION BIDS (WATER, SEWER, AND STREET):**

Western Plains Development Corporation has initiated a special assessment district to allow for the construction of water and sewer mains, storm sewer construction, and street improvements in the 41<sup>st</sup> Street Plaza 4<sup>th</sup> Addition. They are requesting that the base bid, Alternates 2 and 3 be awarded to the low bidder of J-Corp in the amount of \$417,174.62. The developer, Western Plains Development Corporation, will pay this.

Dick Bedard moved, Sunell Koerner seconded, that the City Manager be authorized to enter into a contract with J-Corp for the construction of water, sanitary sewer, storm sewer, and street improvements along 44<sup>th</sup> Street in the 41<sup>st</sup> Street Plaza 4<sup>th</sup> Addition, in the amount of \$417,174.62 for the base bid with Alternates 2 and 3.

Vote: Ayes: Henry Schwaller IV

Troy Hickman  
Sunell Koerner  
Dick Bedard  
Larry Schmidt

**16. ADDENDUM #1 TO THE CONTRACT WITH BG CONSULTANTS FOR 8<sup>TH</sup>**

**STREET:** A contract has been signed with BG Consultants, Inc. to provide engineering services for 2003 Capital Improvement Projects. Addendum #1 was developed to provide survey and preliminary design activities for the 8<sup>th</sup> Street reconstruction project from Elm Street to Milner Street. The addendum is for an amount not to exceed \$80,946.00

Troy Hickman moved, Sunell Koerner seconded, that the Mayor be authorized to sign the contract with BG Consultants, Inc. for an amount not to exceed \$80,946.00 for the survey and preliminary design work associated with the 8<sup>th</sup> Street reconstruction project.

Vote: Ayes: Henry Schwaller IV

Troy Hickman  
Sunell Koerner  
Dick Bedard  
Larry Schmidt

**17. KDOT SYSTEM ENHANCEMENT CONTRACT:** There are two agreements.

The first is to void the previous agreement with KDOT to allow the City to construct the System Enhancement project with Roth Avenue and 43<sup>rd</sup> Street to be constructed early. The first agreement stated that portions of both sides of Vine would be developed. The second agreement is to allow for the early construction of 43<sup>rd</sup> Street east of Vine Street and the remaining portion of the System Enhancement project to take place at a later date.

Troy Hickman moved, Sunell Koerner seconded, that the Mayor be authorized to sign the Cancel Agreement No. 193-01 and the new Agreement No. 117-02.

Vote: Ayes: Henry Schwaller IV

Troy Hickman

Sunell Koerner  
Dick Bedard  
Larry Schmidt

**18. AIRPORT INDUSTRIAL AND BUSINESS PARK:** A-1 Plank is exercising its option to purchase land south of Commerce Parkway at \$500 an acre. They are interested in purchasing Lots 6, 7, and 8, consisting of 17.328 acres. This is adjacent to land they presently own.

Troy Hickman moved, Sunell Koerner seconded, that Lots 6, 7, and 8, consisting of 17.328 acres be sold to A-1 Plank at a cost of \$500 an acre, with a deed restriction that no construction or interference can be done on the property in violation of the Federal Aviation Agency VORTEC restrictions.

Vote: Ayes: Henry Schwaller IV

Troy Hickman  
Sunell Koerner  
Dick Bedard  
Larry Schmidt

**19. COMMISSION INFORMATIONAL MEMORANDUM:** There were no comments.

**20. ADD-ON ITEMS:** Commissioner Schmidt read a prepared statement requesting an investigation into a violation of the Code of Ethics regarding City Attorney John Bird and the firm Glassman, Bird, and Braun . City Attorney Bird and his firm are paid by Public Wholesale Water Supply District #15 (PWWSD#15) and also have a contractual relationship with the City of Hays. Commissioner Schmidt's statement indicates Mr. Bird helped prepare the contract between the City of Hays and PWWSD#15 and then advised the City Commission about the contract before it was accepted and signed. Commissioner Schmidt feels this is a violation.

City Attorney Bird responded that when PWWSD#15 was formed, the City requested him to serve as the general counsel for the District. A discussion was held at that time about potential conflicts and if that happened, his first duty is to

the City of Hays, which is what he has done. Any contract that Commissioner Schmidt is referring to predates the passage of the Ethics Ordinance.

Commissioner Koerner requested City staff check into the agreement with Fort Hays State University regarding the maintenance of Lark's Park. She has some concerns about the upkeep of the facility.

City Manager Gustafson stated the contract will be up for review this winter and that issue will be addressed.

Mayor Schwaller stated he would like a review prior to that. This has been an on-going source of frustration.

Thereupon the Governing Body adjourned.

Submitted by: \_\_\_\_\_

City Clerk