

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON SEPTEMBER 28, 2000

**1. CALL TO ORDER BY CHAIRMAN:** The Governing Body of the City of Hays, Kansas met in regular session, Thursday, September 28, 2000, at 7:30 p.m.

Roll Call: Present: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

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

**2. MINUTES:** Commissioner Schmidt noted that he voted no on Agenda Item No. 11, Traffic Advisory Committee Reorganization.

Howard Rome moved, Henry Schwaller IV seconded, that the minutes of the regular session held on September 14, 2000, be approved as corrected.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**3. FINANCIAL STATEMENT:** Howard Rome moved, Troy Hickman seconded, that the Financial Statement for August, 2000, be approved.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**4. CITIZENS COMMENT:** Scott Alman, Physical Therapist, said October is National Physical Therapy month. In celebration, the Mayor has signed a proclamation recognizing all physical therapists in the community.

Francis Schippers thanked City staff and the community for all the support in helping to make the Oktoberfest a great success.

**5. CONSENT ITEMS:** Commissioner Schwaller noted that the City recently authorized \$100,000 in seed capital for revitalization of the downtown. Since that time, a nonprofit corporation has been formed with civic leaders to preserve the downtown. The group has applied for a grant to complete a strategic plan. He asked the Commission to approve a resolution supporting the efforts of the group.

Troy Hickman moved, Larry Schmidt seconded, that Resolution No. 348, being a Resolution supporting the efforts of the Downtown Hays Development Corporation in applying for a strategic planning grant through the Kansas Department of Commerce and Housing for the development of a strategic development plan for Downtown Hays, be approved.

City Manager Zacharias noted that the matching grant funds will be provided by the Downtown Development Corporation, not the City. Commissioner Schwaller said the grant amount is \$20,000, with the local match being \$5,000.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**6. 32<sup>nd</sup>/33<sup>rd</sup> STREET INTERSECCION:** Engineer Kurt Hassler reported that letters were sent to several representatives from the Kansas Department of Transportation requesting written feedback about the proposed roundabout and other options for the 32<sup>nd</sup>/33<sup>rd</sup> Street Intersection. The consensus of the responses received is that this is probably not a good location for a roundabout, but the other options were all viable.

Engineer Hassler reviewed the possible options being considered as follows:

Option 1 – Extend 32<sup>nd</sup> Street east across Vine and go north across Vine and Curve into 33<sup>rd</sup> Street.

- Option 2 – Extend 33<sup>rd</sup> Street west across Vine and curve into 32<sup>nd</sup> Street
- Option 9 – Extend 33<sup>rd</sup> west with one-way alley behind property on 32<sup>nd</sup> Street.
- Option 10 -A Roundabout

Mr. Hassler said the other option is to proceed with Vine Street as designed which includes the adding of left hand protected arrows at 32<sup>nd</sup> and 33<sup>rd</sup> Streets, and eliminate the frontage road on the east side of Vine Street in front of the Mall and Wal-Mart.

Engineer Hassler said a decision must be made tonight whether to continue with Vine Street as designed or to delay the project with the anticipation of constructing a different alignment with 32<sup>nd</sup> and 33<sup>rd</sup>. Any further delay could cause the City to lose all funding associated with the Vine Street Project.

Commissioner Rome favors proceeding with Vine Street as designed, and address 32<sup>nd</sup>/33<sup>rd</sup> at a later date.

Commissioner Schwaller urged the Commission to make a decision tonight so that this issue can be put to rest and give the residents of the neighborhood a clear direction.

City Manager Zacharias said if the consensus is to proceed with Vine Street as designed, no further action is necessary. It will take a motion if you want to change direction.

Mayor Hickman said the consensus is to proceed with Vine Street as planned. He then asked for discussion and direction for 32<sup>nd</sup>/33<sup>rd</sup> Street options.

Commissioner Schmidt said Option 1 or 2 would be easy to construct at a later date because the intersection at 33<sup>rd</sup> would already be constructed. Option 1 is a good idea except there is an unwilling landowner on the east side of Vine, and the frontage road on the west side is not addressed.

Commissioner Rome said he thought Option 9, going straight across was the best solution.

Commissioner Schwaller asked the City Attorney to explain the condemnation process. City Attorney Bird said condemnation is a relatively simple process, but expensive. A petition is filed to find that the property taking is necessary. Once the petition is filed, the petitioner takes title to the property after 45 days has lapsed. If the

landowner is not satisfied with the compensation, negotiation will take place. If an agreement cannot be reached, the condemnation case will go to a trial. In this particular case with the property east of Vine, a tract will be severed which will give the property a higher value.

Commissioner Schwaller said he would be willing to accept Option 1, 2, or 9.

Larry Schmidt moved, Henry Schwaller seconded, that Option 2, which extends 33<sup>rd</sup> Street west across Vine and curves into 32<sup>nd</sup> Street, be accepted.

The Mayor asked for comments from the audience. The residents in the area urged the Commission to leave the street as it is.

The Mayor called for the vote.

Vote: Ayes: Henry Schwaller

No: Troy Hickman  
Larry Schmidt

Howard Rome

Wayne Billinger

Henry Schwaller moved, that the 32<sup>nd</sup>/33<sup>rd</sup> Street issue be tabled indefinitely. Mayor Hickman seconded the motion.

Commissioner Schmidt said that is not what this Commission was elected to do. Commissioner Schwaller agreed, and he hoped that City staff could work with the residences and come up with a workable solution next May.

The Mayor called for the vote.

Vote: Ayes: Troy Hickman

Henry Schwaller IV

Howard Rome

Wayne Billinger

No: Larry Schmidt

Henry Schwaller moved, Larry Schmidt seconded, that a five-minute recess be taken.

Vote: Ayes: Troy Hickman

Henry Schwaller IV

Larry Schmidt

Howard Rome  
Wayne Billinger

Mayor Hickman called the meeting back to order.

**7. 1999 AUDIT:** Ken Beran and Melissa Rome, of Adams, Brown, Beran & Ball, presented the 1999 Audit Report. Mr. Beran said the City is financially sound, and he found no reportable budget violations. He noted that Water and Sewer expenses have been steadily increasing, while revenue collection has remained the same. A rate increase is inevitable in the very near future. Mr. Beran presented various graphs illustrating the revenue and expenditure and debt service activity over the last five years.

Mr. Beran noted that all the suggestions mentioned in the management letter have been discussed with City staff and have been implemented.

Henry Schwaller IV moved, Howard Rome seconded, that the 1999 Audit be accepted as presented.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**8. BEAUTIFICATION COMMITTEE STRATEGIC PLAN:** This item was tabled until representatives from the Beautification Committee could be present to present this plan.

Discussion took place regarding the forming of a new committee possibly called the Parks and Green Space Committee with representatives from the Beautification Committee, the Park and Master Plan Committee and the Pool Task Force.

Commissioner Schmidt, a representative of the Park Master Plan Committee, said this committee was not in favor of combining. They saw themselves as a short-term committee formed to implement a plan, whereas the Beautification Committee is an ongoing committee. He also indicated that the Pool Task Force Committee is about to complete their charge, and have no desire to continue.

Commissioner Schwaller thought combining committees would be a great idea. Commissioner Schmidt said rather than combining, forming a new committee would be the way to proceed.

The City Manager said he would work with the Mayor to gather information regarding the formation of a new committee, and present it at a future meeting.

**The Mayor requested that Item 10 be discussed before Item 9 since many people in the audience were present for discussion of Item 10.**

**10. DEMOLITION OF PROPERTY LOCATED AT 406 EAST 6<sup>TH</sup> STREET:** Assistant City Manager Dorothy Stites addressed the Commission regarding a dangerous structure located at 406 East 6<sup>th</sup>. She said initially, this building was treated as a nuisance violation. Furniture and miscellaneous debris was scattered around the yard. The building is now being addressed as a dangerous structure. A notice of condemnation was issued on March 22, 2000. The deadline for appealing the Notice of Condemnation has passed.

Pete Felten Jr. sold this property (on contract) to Kurt J. Stecklein in December of 1997. The contract stated that if the owner failed to make three payments, the property would revert back to Mr. Felten. Mr. Felten has said that three payments have indeed been missed.

Ron Zimmerman, uncle of Kurt Stecklein took out a building permit in July, 2000 to repair the house. Thus far, no work had been done on the house.

In September, City crews constructed a fence around the house because some of the limestone blocks had fallen from the house.

Mr. Felten has visited with City staff regarding the house. He said he has taken back ownership of the house and has taken major steps to shore the structure.

Several members of the audience spoke regarding the house. Kristie Tinkel, property owner adjacent to the property said she was very concerned about the safety of the children in the neighborhood. She said no repair was made to the house in the last three years, and it is falling down, brick by brick. The only constructive activity has taken place within the last 10 days and she feels that is because the issue has come before the Commission.

Lou Tinkel asked the building inspector if he felt the house was a stable structure. Mr. Loker said it does not appear to be too stable, but it would take a structural engineer to determine the stability of the house.

Pete Felten, owner of the house, agreed with the comments made tonight regarding the house. He too, believed the house was in horrible condition. Mr. Felten took possession of the house on September 16, 2000 and has been working on the house every day. He explained in detail what he is doing to secure the building.

Wayne Billinger moved, that City staff be directed to insure that the property is secured to be as safe as possible, and proceed with inspection of the property to insure that it complies with City Code. There was no second to the motion.

Commissioner Schwaller asked the City Attorney how much liability the City would bear regarding safety issues of this property. The City Attorney said the City would have very little liability. The City is not responsible for everything wrong that happens in the City. City staff has been doing what law requires.

Howard Rome moved that the house be demolished. Troy Hickman seconded the motion.

City Attorney Bird summarized the necessary procedure to be followed for this issue. He said the building official issues a notice saying the building has been found to be dangerous, with a brief & concise description of the condition, and a statement of the required action to be taken as determined by the building official. If the building official determines that the building needs to be repaired, then there is a procedure to obtain a building permit. If the building official determines the building needs to be vacated, then that is part of the order along with a date for vacation. If the building official determines that the building needs to be demolished, then the building official shall require that the building be vacated, and demolition be complete in such time as determined by the building official. If the demolition does not take place within the time as determined by the building official, then the building official can proceed to cause the work to be done and charge the cost against the property or the owner. Attorney Bird did not feel this issue was at a point of being a Commission decision. City staff is asking for direction and support.

Commissioner Rome amended the motion to support and follow city policy regarding the demolition of dangerous structures. Commissioner Hickman amended his second.

Vote: Ayes: Troy Hickman  
Larry Schmidt  
Howard Rome  
Wayne Billinger

No: Henry Schwaller IV

Henry Schwaller moved, Larry Schmidt seconded, that the property owner install a chain link fence at his expense to secure the property within fourteen days.

Assistant City Manager Stites clarified that the property owner will have till October 21, 2000, to bring the building up to code, if not the City would proceed with the demolition proceedings according to the Uniform Building Code.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**9. HALL STREET DESIGN:** Engineer Hassler presented an amendment to the contract with Cook, Flat & Strobel for the design of the Hall Street Project. Mr. Hassler said the contract amendment removes the construction inspection, the warranty, and construction staking from the contract. The construction inspection and construction staking will be a joint contract between the City and the State and Cook, Flat & Strobel. The fee for the construction inspection and staking will be an 80/20 percent split, with the City paying 20 percent. The warranty phase does not apply since this is a KDOT Project. The total contract amount is for \$670,000. The construction inspection activities itemized at \$440,000 will be split with KDOT on an 80/20 split. The remaining \$230,000 will be at the sole expense of the City.

Mr. Hassler reviewed the scope of Project as follows:

- Four-lane from 27<sup>th</sup> to 12<sup>th</sup>
- Three-lane from 12<sup>th</sup> to 8<sup>th</sup>

- Reverse S-curve of Hall from 13<sup>th</sup> to 12<sup>th</sup>
- Eliminate Elm Street from 12<sup>th</sup> Street to alley between 12<sup>th</sup> and 13<sup>th</sup> Street
- Property acquisition
- Installation of storm sewer by-pass line at 19<sup>th</sup> Street
- Signalization of 27<sup>th</sup> and Hall
- No signalization of 13<sup>th</sup> and Hall
- Asphalt pavement surface
- Adds addition entrance for TMP and align existing TMP entrance with 17<sup>th</sup> Street
- Adds bus lane for O'Loughlin School

Mr. Hassler said the plan is to reuse the existing curb and gutter wherever possible. Parking will be eliminated on both sides of the street.

Mr. Hassler said his personal recommendation would be to construct the entire street with concrete, instead of asphalt; asphalt does not hold up good in this area because of the extreme high and low temperatures.

The plan calls for sidewalks on both sides of the street. Commissioner Schwaller believed that the Commission voted to put sidewalks on one side only; Commissioner Rome agreed.

Mr. Hassler said the ADA Committee recommends that all new construction contain sidewalks on both side of the street.

Wayne Billinger moved, Howard Rome seconded, that the amendment to the Contract with Cook, Flat & Strobel for for engineering of Hall Street be approved.

Commissioner Schwaller noted that he owns two pieces of property along Hall Street, but he would vote against this contract because he feels the Project is poorly designed. He believes the street lanes should be consistent all through the project, and not switch from four to three. Commissioner Schmidt said he too would vote no, this is not a good design, if you are going to spend this amount of money, the project should be done right or not at all.

Vote: Ayes: Troy Hickman

Howard Rome

Wayne Billinger

No: Henry Schwaller IV

Larry Schmidt

**11. PROPERTY MAINTENANCE NUISANCE ABATEMENT:** Assistant City Manager Dorothy Stites presented pictures and information regarding a property maintenance violation at 1117 Centennial Boulevard.

Commissioner Schmidt stated that businesses should be treated the same as residences when it comes to abating property violations, and he will vote against this resolution until such time as that happens.

Wayne Billinger moved, Howard Rome seconded, that Resolution No. 347, being a resolution authorizing the City of Hays or its designated agent to abate nuisances located on the property at 1117 Centennial Boulevard.

Commissioner Schwaller stated he would be voting against this resolution because this property has looked this way for three years. The way the City handles this type of problem is wrong. The City allows neighbors to be the police and the City the enforcer. The City should be both the police and the enforcer. It should be equitable to both residential and business properties. There are other properties in the City that are far worse than this, but haven't been cleaned up because there hasn't been a complaint against the property owner.

City Manager Zacharias stated a person would be hired to handle these types of issues in the near future. A shortage of staff has hindered the City from aggressively pursuing nuisance violations.

The Mayor called for the vote.

Vote: Ayes: Troy Hickman

Howard Rome

Wayne Billinger

No: Henry Schwaller IV

Larry Schmidt

**12. LAW ENFORCEMENT GRANT PUBLIC HEARING:** Police Chief Lawrence Younger stated these grant monies would be used to purchase equipment for the Special Situation Response Team and shotgun racks for patrol cars.

Mayor Hickman opened a public hearing to request \$9,000 from the US Department of Justice for the Hays Police Department. There were no comments.

Henry Schwaller IV moved, Howard Rome seconded, that the public hearing be closed.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**Henry Schwaller IV moved that Item 13 (Report on City Projects) and Item 15 (Hangar Transfer at Hays Regional Airport) be tabled.**

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**14. NATIONAL LEAGUE OF CITIES DELEGATE:** Troy Hickman moved, Howard Rome seconded, that Henry Schwaller IV be the City of Hays delegate to the National League of Cities conference in Boston, MA, December 6-9, 2000.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**16. JOINT MEETING WITH HAYS RECREATION COMMISSION:** Wayne Billinger moved, Howard Rome seconded, that a joint meeting with the Hays Recreation Commission be set for October 19, 2000 at 7:00 p.m.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

**18. EXECUTIVE SESSION:** Henry Schwaller IV moved, Troy Hickman seconded, that the Governing Body adjourn to executive session at 10:55 p.m. for 30 minutes to discuss attorney/client privileged information. The executive session is to include the City Commissioners, the City Manager, the Assistant City Manager, the City Attorney, other attorneys, and the Executive Director of the Ellis County Coalition.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

Mayor Hickman called the meeting back to order at 11:25 p.m. He stated no action was taken during executive session.

**17. COMMISSION INFORMATIONAL MEMORANDUM:** City Manager Zacharias urged the Commissioners to attend the annual “Telepower” conference to be held in Hays October 18-19, 2000 at Fort Hays State University.

Commissioner Schmidt asked whether the Solid Waste Superintendent was going to purchase a forklift.

City Manager Zacharias stated this item is available through the Federal Surplus; the forklift valued at \$17,000 would cost the City \$3,000.

Commissioner Schmidt stated he thought Solid Waste was going to buy a dual-purpose machine, a skid loader with forks.

Mayor Hickman suggested the Solid Waste Superintendent appear before the Commission to explain why he wanted to purchase a forklift.

**19. ADD-ON ITEMS:** Henry Schwaller IV moved, Larry Schmidt seconded, that the Mayor be authorized to sign a Cereal Malt Beverage License for Casey’s General Store at 13<sup>th</sup> & Canterbury Road.

Vote: Ayes: Troy Hickman  
Henry Schwaller IV  
Larry Schmidt  
Howard Rome  
Wayne Billinger

City Manager Zacharias stated the Ellis County Commission would like to have a joint meeting with the City Commission. A possible date of November 2, 2000 was discussed. The City Manager will report back after a definite date has been confirmed.

Commissioner Billinger stated he felt the 32<sup>nd</sup>/33<sup>rd</sup> Street issue should have been resolved this evening and moved that Option 1 is chosen for the realignment. This option would extend 32<sup>nd</sup> Street east across Vine Street and connect with 33<sup>rd</sup> Street. Henry Schwaller IV seconded the motion.

Commissioner Schmidt stated he didn't think this should be discussed and voted upon after everyone who is interested in this issue has left the meeting.

The Mayor called for the vote.

Vote: Ayes: Henry Schwaller IV

Wayne Billinger

No: Troy Hickman

Larry Schmidt

Howard Rome

Commissioner Schmidt stated that for future ordinance changes, which require approval of both the City Commission and the Ellis County Commission, both entities should look at the entire ordinance before voting on the changes.

Thereupon the Governing Body adjourned.

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

Clerk of the Board

