

MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF HAYS, KANSAS  
HELD ON AUGUST 25, 2022

**1. CALL TO ORDER BY CHAIRPERSON:** The Governing Body of the City of Hays, Kansas met in regular session on Thursday, August 25, 2022 at 6:30 p.m.

Roll Call: Present: Mason Ruder  
Michael Berges  
Shaun Musil  
Sandy Jacobs  
Reese Barrick

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

**2. MINUTES:** There were no corrections or additions to the minutes of the regular meeting held on August 11, 2022; the minutes stand approved as presented.

**3. FINANCIAL STATEMENT:** Kim Rupp, Director of Finance, reviewed the financial summaries of the revenue and expenditure activities of the City of Hays for the month ended July 31, 2022.

Month-to-date (MTD) general fund sales tax collections were at \$746,995, which was an increase of \$41,557 or 6% as compared to last year. Year-to-date (YTD) general fund sales tax is at \$5,274,451 up \$512,826 or 10.8% from a year ago. The six-month average is at 10.1%, which was a drop of .8% when compared to a year ago. MTD county sales tax collections were at \$91,439 which is up 10.7% as compared to last year. YTD county sales tax is at \$641,849.

The portfolio of certificates of deposit on July 31, 2022 totaled \$3,000,000 with a weighted average interest rate of .06% up .01% from a year ago. The total par value of the US Treasuries is \$62,480,000 with a weighted average yield to maturity of .80% up .74% from a year ago. The total balance of the Money Market account on July 31, 2022 was \$3,500,000 with a current yield of .05%. Total investments are up \$9,324,913.

Shaun Musil moved, Michael Berges seconded, to approve the Financial Report for the month of July, 2022 as presented.

Vote: Ayes: Mason Ruder  
Michael Berges  
Shaun Musil  
Sandy Jacobs  
Reese Barrick

**4. CITIZEN COMMENTS:** There were no comments.

**5. CONSENT AGENDA:** A. Approve the Cereal Malt Beverage license application for the Volga German Oktoberfest on October 7-8, 2022.

B. The following proposed appointments will be presented for approval at the September 8, 2022 City Commission meeting.

Hays Area Board of Zoning Appeals – three-year terms

Louis Caplan (Planning Commission Rep) (resides in city limits) – term to expire May 1, 2025 (8th term)

Brian Garret (resides in city limits) – term to expire May 1, 2025 (2nd term)

Rich Sieker (resides in city limits) – term to expire May 1, 2025 (4th term)

Hays Area Planning Commission – three-year terms

Louis Caplan (resides in city limits) – term to expire April 30, 2025 (8th term)

Ralph (Bernie) Gribben (resides in the ETJ) – term to expire April 30, 2025 (2nd term)

Matthew Wheeler (resides in ETJ) – term to expire April 30, 2025 (4th term – nonconsecutive)

Sandy Jacobs moved, Michael Berges seconded, to approve the Consent Agenda as presented.

Vote: Ayes: Mason Ruder  
Michael Berges  
Shaun Musil  
Sandy Jacobs  
Reese Barrick

## **NEW BUSINESS**

**6. MIDWEST ENERGY ELECTRIC/GAS FRANCHISE:** Toby Dougherty, City Manager, stated in 2003, the City Commission granted Midwest Energy a 20-year franchise to operate an electric and natural gas utility within the city limits of Hays. Midwest Energy has been operating under the terms of that contract since that time, and City staff has had no issues with Midwest's performance under the contract. The current franchise expires in January 2023. City and Midwest Energy staff met on several occasions to negotiate a new franchise agreement. The new franchise agreement is also a 20-year term agreement and, in terms, is very similar to the existing agreement. There are a few housekeeping items that have been cleaned up to match current terminology and practices. In exchange for the franchise, Midwest Energy will pay the City of Hays five percent (5%) of all revenues on the sale of gas and electricity within the city limits as well as three cents (3¢) per therm for gas transported to any customer within the city limits of Hays.

Sandy Jacobs moved, Shaun Musil seconded, to approve Ordinance No. 4016 granting an electric and gas franchise to Midwest Energy.

Vote: Ayes: Mason Ruder  
Michael Berges  
Shaun Musil  
Sandy Jacobs  
Reese Barrick

**7. PROGRESS REPORT:** Toby Dougherty, City Manager, presented a monthly report of city-related activities, services, and programs.

**8. HAYS HAPPENINGS/UPCOMING EVENTS:** Melissa Dixon, Director of the Convention and Visitors Bureau, presented information on events that will be going on in Hays during the month of September.

**9. COMMISSION INQUIRIES AND COMMENTS:** Mayor Ruder asked City Manager, Toby Dougherty, to provide an update on the R-9 Ranch Project. Mr. Dougherty stated that at the end of June, Chief District Judge Bruce Gatterman

ruled in the City and State's favor regarding the validity of the Master Order. He added that the Master Order governs the conversion of water rights from irrigation to municipal and is now deemed complete and the transfer process can begin. Because it is a judicial ruling there is the opportunity to appeal and the City was informed on August 24, 2022 that the opponents did appeal the ruling. He added that one of the main issues the opponents are focusing on is the consumptive use portion of the Master Order. Mr. Dougherty explained there are two kinds of uses, consumptive use and non-consumptive use. Consumptive use means the water is consumed and non-consumptive use means some portion of the water is returned. When you convert an irrigation water right to a municipal water right, which will be a consumptive use, you do not get the gallon per gallon conversion because that could potentially harm the aquifer and neighboring water rights. He stated that the consumptive use process is very formulaic, has been in place for many years, and is widely followed. The consumptive use calculations were put in place to make sure that after the conversion to a new municipal use, you are consuming no more water than was consumed when it was being used for irrigation. During the process, the Cities of Hays and Russell agreed to further limit their water rights by 30%, in order to move towards sustainable use and because leaders felt it was the right thing to do. The opponents appear to be non-supportive of the current consumptive use regulations.

Mr. Dougherty stated he does not believe the opponents will be successful in their appeal so staff is focusing on moving forward with the transfer process and making the best case they can during the transfer process. Staff would like to have a design contract presented to the City Commission for approval later this year so the design can be completed and ready to bid as the transfer process is finished.

Commissioner Jacobs stated that she appreciates that we are moving forward aggressively and noted that these delays are costing money as prices are increasing.

Commissioner Musil stated that seven years ago when the City began moving forward with this process we said we would play by the rules and help our region and he is glad we continue to do that, but he wants our community and region to know that we will get the water and we will grow our region.

Mayor Ruder added that we are a state if not national standard for water conservation. Everything we have done for the last 30 years has been nothing short of amazing when it comes to water conservation. He stated that it is frustrating that the opponents are continuing this fight and it seems like they are grasping for straws. He added that we were happy to get the Judge's ruling and we will be moving forward.

**OTHER COMMISSION COMMENTS:**

Commissioner Barrick stated that he appreciates just how efficient the Departments of the City of Hays are in getting things accomplished, but also how involved they are in many different programs and activities throughout the City. He also gave a shout out to staff at the Sternberg Museum for getting National Public Radio (NPR) coverage talking about western Kansas when it was a seaway and called the area Hell's Aquarium.

Commissioner Musil added that he had customers in The Paisley Pair that were from London and they commented that the Sternberg Museum was fabulous.

Mayor Ruder shared compliments he received from citizens that City staff does a great job getting things fixed and fixed correctly. He also thanked City staff for going above and beyond their day-to-day service by being involved and taking an active part in community events.

The meeting was adjourned at 7:09 p.m.

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

Brenda Kitchen – City Clerk