

City of Hays
City Commission
Work Session Notes

Thursday, March 7, 2019 – 6:30 p.m.

Present: Henry Schwaller, IV, Shaun Musil, Sandy Jacobs, Ron Mellick, James Meier, John T. Bird, Toby Dougherty, and Kim Rupp

Mayor Schwaller introduced Adam Schibi, Student Body President at Fort Hays State University. Mr. Schibi presented the Commissioners with information about “The Big Event”; a day to volunteer and give back to the community that serves us. The Big Event is scheduled for April 13, 2019 and is a program in which faculty, staff, and students do various service projects throughout the area. He stated the group is looking for project proposals, sponsorships, and volunteers.

Commissioner Jacobs stated the Parks Department may have some park areas that need attention. She said it is exciting to be part of what the young people are doing in the community and the fact that they are giving back is reason for others to do the same.

February 21, 2019 Work Session Notes

There were no corrections or additions to the minutes of the work session held on February 21, 2019; the minutes stand approved as presented.

I-70 Water Crossing and Booster Station – Engineering Design Agreement

John Braun, Project Manager, reported that when the ½ million-gallon water tower was constructed and city water was extended north of I-70 in 1993 there were only a few businesses being served by the north pressure zone. Since that time, many businesses vital to the economy and daily needs of the residents of Hays and surrounding areas have located north of I-70. The single 16” water main currently crossing under I-70 needs to have redundancy. A

failure of that water main could have catastrophic consequences in case of fire. The economic impact of being without water service north of I-70 for any length of time would be significant.

The Capital Improvement Plan within the 2019 Budget includes a project to construct an additional waterline under I-70 to provide a redundant supply of water to areas north of the interstate in 2020. In order to have plans ready to bid for construction in 2020, it is now time to hire an engineering firm to perform the required professional services. Staff has solicited proposals from qualified engineering firms, and received six proposals. The lowest cost proposal was presented by Kaw Valley Engineers of Junction City, Kansas at a cost of \$59,860.

The proposed plan would connect a new 12" water main from 45th Street and Hall Street to an existing dead-end line along Hall Street at the west property line of Carrico Implement. The plan also calls for the installation of a new booster pump station on City owned property along West 41st Street just east of Post Road in the area of city water well C-32. The booster station would serve as a backup to the existing booster station and create the ability to provide higher water pressure to the northwestern areas of the City.

Mr. Braun also stated inspection of the project is not included in the scope of work at this time and would be added later at a negotiated fee or solicited from other qualified firms. Due to anticipated work load during the time this project is under construction, in-house inspection is not likely. In addition, overseeing the construction of a booster station would be beyond the expertise of existing inspection staff.

Commissioner Jacobs asked the approximate cost of out-sourcing the inspection. Mr. Braun stated inspection costs typically run approximately 8% of the project cost. He said roughly \$80,000 or more would be charged for inspection fees.

At the March 14, 2019 Commission meeting, Commissioners will be asked to authorize the City Manager to enter an agreement with Kaw Valley Engineers in the amount of \$59,860 for engineering services related to the design of the I-

70 Waterline Extension and Booster Pump Station to be funded from Water Capital.

Special Assessment Proceedings

Kim Rupp, Director of Finance, stated special assessments for two special improvement districts within the City of Hays are ready to be finalized and assessed to the property owners. Property owners have petitioned for improvements, resolutions have been passed authorizing the improvements, the improvements have been completed, and it is now time to begin the process of assessing the property owners in the following improvement districts:

- Heart of America Second Addition (Resolution No. 2016-010) for water, sanitary sewer, storm sewer, and street improvements. This will be a fifteen year assessment on three lots based on a percentage of the developable area of each lot. The total amount to be assessed is \$277,836.51 which includes a 30% apportionment from the developer and an estimate of issuance costs.

- Replat of King's Gate First Addition (Resolution No. 2012-004) for park improvements to the greenspace located on Lot 17 Block 1. This will be a 100% ten year assessment split among 52 lots based on the square footage of each lot. The total amount to be assessed is \$82,163.49 which includes an estimate of issuance costs.

Mr. Rupp noted the process is two-fold. There is the special assessment component and the bond component as state statute requires the costs of improvements to special assessment districts must be bonded. However, given the small size of this bond, City staff has taken the suggestion of our financial advisor, David Arteberry with George K. Baum & Company, to do a private placement. This means that the bonds will not be put out for public sale. It is near impossible to do with an issue of this size and considering the costs of issuance in a public placement it is not feasible as well. So at this moment in time we will be placing these bonds with Bank of Hays at a rate of 3%. It streamlines the process and lowers the cost of issuance which ultimately saves the property owners some money in the long term. On March 1, 2019 a notice of hearing and

statement of costs proposed to be assessed was published in the Hays Daily News and a letter of such sent to all the property owners. Next week we will ask to hold the hearing and approve the assessment ordinance. On April 18, 2019 we will be back at the work session to review the bond ordinance. April 19, 2019 is the final day of the 30 day prepayment period for property owners. We will ask for the passage of the bond ordinance on April 25, 2019 and then hopefully have closing and delivery by May 15, 2019.

Mayor Schwaller noted this is a work session at which they do not generally take comments. He noticed there were citizens in the audience and stated he would allow comments.

Jeremy Green, owner of the property at 4112 Covenant Drive, in King's Gate First Addition, stated they bought their land in December 2012 and built their home in 2013, and were surprised when they received the notice of special assessment for the park improvements. He noted that his neighbors were surprised as well. They were under the assumption that Covenant Builders would pay for the park and feel blindsided. He stated he found after researching this that Covenant Builders signed an agreement with the City that the 52 owners in that development would pay for the park improvements.

Mayor Schwaller stated there is a development policy that states every development will have green space for its neighbors that will be paid for by the developer or through special assessment; or they will compensate the City in lieu of a green space.

City Attorney, John T. Bird, stated that the proceedings were valid and that the City had followed the rules and regulations it has to follow. He added that the developer, because they have total control over the project at first, will sign off on things that bind those lots later, but then it is really between the developer and the people who purchase the lots. It sounds like there was not good communication between the developer and those that purchased the lots. He stated the fact of the matter is the City's duty is to do what it said it would do back when it took the development and accepted the plat. That is a commitment not

just to the property owners in the area, but it is a commitment to the community as a whole. He added the City didn't have the option not to go forward with it.

Mr. Green stated that the developer earned interest on this for every month this park was not built. He noted that in 2012 there were only 5 or 6 homes built. He wanted the Commission to be aware of the issues they have had with this builder.

Commissioner Meier stated he appreciates Mr. Green's comments and it is important that the Commission be made aware of this since they use the general bonding authority of the City in order to make these developments happen. It is a general obligation bond, even though it is special assessed to the property owners and the City is under no requirement to bond for the developers.

Jacob Proffitt, owner of the property at 4115 Covenant Drive, stated he purchased his home two and a half years ago and he feels he should have been informed of this special assessment at the time of closing.

Mayor Schwaller stated it is recorded on the deed to your property and it should have been communicated to the buyer at the time of closing.

Mr. Rupp asked to clarify two matters that had been discussed. He stated there is a state statute that requires the seller to notify the buyer of a special assessment even if it is pending. He also clarified Mr. Green's statement about the ½% interest. He stated that is allowed, but not charged when the petition is filed, because those monies were not spent in 2012 that ½% was not charged so if they choose not to pay the assessment at this time, the only items they are paying for is the price of the improvements and cost of issuance. The bond is not for any accrued interest. He added there was no public notice in 2012 because all of the property owners at that time signed the petition.

City Manager, Toby Dougherty, stated at the time Covenant Builders owned the majority of the lots with only four or five lots sold. They received signatures that were attached to the petition and because of that, they requested a waiver of public hearing.

Commissioners will be asked to conduct the special assessment public hearing, approve the assessment proceedings and an ordinance levying the special assessments, at the March 14, 2019 Commission meeting.

Ordinance Amending Chapter 14 of the City of Hays, Kansas Code of Ordinances by Modifying Article II, Section 14, regarding Alcoholic Beverages

Finance Director, Kim Rupp, stated as of April 1, 2019, Kansas Statute will allow for the sale of beer containing not more than 6% alcohol by volume under the current Cereal Malt Beverage (CMB) Licensing by the City of Hays.

State statute defines CMB as any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage but does not include any such liquor which is more than 3.2% alcohol by weight. Statute further defines beer as a beverage containing more than 3.2% alcohol by weight obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages that have the same alcohol content.

In the City of Hays, CMB licenses allow for the sale of cereal malt beverages with no more than a 3.2% alcohol content by weight. As of April 1, 2019, that same CMB license, by statute, will also allow for the sale of beer containing not more than 6% alcohol by volume. Given the above change in state statute, it is now necessary to modify Chapter 14, Article II., Section 14 of the City of Hays code of ordinances so that whenever a reference is made to “cereal malt beverages”, the code will also reference beer containing no more than 6% alcohol by volume.

There are no changes needed to the CMB licensing procedures or qualifications in the City Clerk’s Office. All current CMB licenses will remain in effect and will automatically qualify under the new ordinance.

At the March 14, 2019 Commission meeting, Commissioners will be asked to approve an ordinance amending Chapter 14, of the City of Hays, Kansas,

Code of Ordinances, by modifying Article II, Section 14, regarding alcoholic beverages.

Exercising of Braun Property Purchasing Option

City Manager, Toby Dougherty, stated in March of 2018 the Commission purchased an 18-month irrevocable option to purchase the property at the southeast corner of 27th Street and Commerce Parkway for the net sum of approximately \$782,608. That option expires September 19th of this year. The City Commission is being asked to exercise the irrevocable option to purchase the property. It has significant potential for future retail, commercial, and business park development. The City would have the choice of extending infrastructure and marketing the property or working with a developer to further develop the property.

The cost to exercise the option is the original price of \$800,000.00, less the credit for the option payment of approximately \$17,500.00 if paid the day following the regular meeting of March 14, 2019, and prorated taxes of \$108.00, for a total of \$782,608.00 and shared closing costs and title insurance.

Commissioner Jacobs was in favor of moving ahead with the purchase. She stated that they made the decision to take the option for all the right reasons and now have an opportunity to save some money on the purchase price.

Vice-Mayor Musil stated he originally was in favor of this, but in his opinion he has not seen any gain to having this property so he would be voting no.

Commissioner Meier stated after speaking with the City's retail consultant he would not support this.

At the March 14, 2019 Commission meeting, Commissioners will be asked to exercise the option to purchase the land near 27th & Commerce Parkway for the net sum of approximately \$782,608.00 plus shared closing costs and title insurance to be funded out of the Commission Capital Reserve.

Other Items for Discussion

Mayor Schwaller updated the Commission on the progress with the R-9 Ranch water project. He stated the Chief Engineer of the Division of Water Resources has completed the Master Order and it is now under consideration by the Division of Water Resources attorneys.

City Manager, Toby Dougherty, stated the start of the water transfer process is contingent upon an approved Change Order.

Mayor Schwaller thanked Governor Laura Kelly, Lieutenant Governor Lynn Rogers, Senator Rick Billinger, Representative Barb Wasinger, as well as the Secretary of Agriculture for their support regarding the R-9 Ranch Water Project.

The work session was adjourned at 7:04 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk