

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON MARCH 14, 2019

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, March 14, 2019 at 6:30 p.m.

Roll Call: Present: Shaun Musil
Sandy Jacobs
Ron Mellick
James Meier

Joined by phone: Henry Schwaller, IV

Vice-Mayor Musil 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 February 28, 2019; the minutes stand approved as presented.

3. CITIZEN COMMENTS: There were no comments.

4. CONSENT AGENDA: A. Approve the Cereal Malt Beverage License for Dollar Inc. / Discount Smokes, 2504 Vine Street.

B. The following proposed appointments will be presented for approval at the April 11, 2019 City Commission meeting.

Hays Convention and Visitors Bureau Advisory Committee

Tammy Younger – three-year term to expire December 1, 2021 (3rd term)

Sister Cities Advisory Board

Stacey Lang – three-year term to expire January 1, 2022 (1st term)

Ron Mellick moved, Sandy Jacobs seconded, to approve the Consent Agenda as presented.

Vote: Ayes: Henry Schwaller, IV

Shaun Musil

Sandy Jacobs

Ron Mellick

James Meier

NEW BUSINESS

5. I-70 WATER CROSSING AND BOOSTER STATION – ENGINEERING

DESIGN: 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.

Sandy Jacobs moved, Henry Schwaller, IV seconded, 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.

Commissioner Mellick asked if the location of the booster pump station would be a problem should a new fire station locate there in the future. Mr. Braun stated they plan to locate the booster pump station inside the fence where the existing water well is located so it would not be a problem.

Vice-Mayor Musil asked what area would see improved water pressure from the booster pump station. Mr. Braun stated everything north of 41st Street should see improvement and areas south of 41st Street would stay the same.

Mayor Schwaller asked if there is any guarantee in the contract should the new booster station not provide increased pressure and flow. City Attorney, John T. Bird, stated in his opinion the City is protected contractually from the results of any negligent act.

Commissioner Meier thanked City staff for their forward thinking.

Vote: Ayes: Henry Schwaller, IV

Shaun Musil

Sandy Jacobs

Ron Mellick

James Meier

6. PUBLIC HEARING FOR SPECIAL ASSESSMENTS: Vice-Mayor Musil opened the public hearing to hear comments regarding special assessments in the Heart of America Second Addition and King's Gate First Addition.

Kim Rupp, Finance Director, stated special assessments for two special improvement districts within the City of Hays are ready to be finalized and assessed to the property owners. This ordinance is the next step and will allow the City Clerk to assess the costs of the improvements to the two areas should the property owners choose not to prepay.

The first area in the assessment is the Heart of America Second Addition. This is in the southeast corner of the City. This is an area close to the Glassman Corporation headquarters and the Army Reserve Center. This will be a fifteen year assessment on three lots based on a percentage of the developable area of each lot. This included installation of water lines, sanitary sewer and storm sewer along with grading, paving, curbing and guttering. The total amount to be assessed is \$277,836.51 which includes a 30% apportionment from the developer and an estimate of issuance costs. The current property owners of record will be mailed a notice of assessment and given 30 days to pay their assessment. If they choose not to pay the assessment proposed, the cost of the improvements plus interest charges from bonding the project will be placed on the tax roll with Ellis County.

The second assessment is the Replat of King's Gate First Addition. This is an area in the northwest corner of the City. This will be a 100% ten year assessment split among 52 lots based on square footage. These costs were for the park improvement to the greenspace located on Lot 17 Block One. The total amount to be assessed is \$82,163.49 which includes an estimate of issuance costs. The current property owners of record will be mailed a notice of assessment and given 30 days to pay their assessment. If they choose not to pay the assessment proposed the cost of the improvements plus interest charges from bonding the project will be placed on the tax roll with Ellis County.

Commissioner Meier stated that there were comments made at the March 7, 2019 Work Session regarding the special assessments for the park in King's

Gate First Addition, where some property owners voiced concern that they were not made aware of this special assessment when they purchased the property. Mr. Meier stated he visited the Register of Deeds Office and found the Resolution that was passed in 2012 that states what the special assessment is for and the costs that would be assessed to those lots. He added that he does not know where the communication breakdown occurred. It could have been that a previous owner did not disclose that information during the sale or it was not found during the title search. He wanted to clarify that the City followed the proper procedures. The Resolution was passed, all of the current property owners signed the petition, which is why no public hearing was required, and the Resolution was filed with the Register of Deeds Office and is clearly available as a public record, because he was able to find it.

Sandy Dinkel, owner of one of the lots being assessed for the park, stated her issue is not with the City, but asked how she was not made aware of these special assessments when she bought the property. Commissioner Meier stated the breakdown may have been at the buyer/seller level, which the City is not involved with.

Henry Schwaller, IV moved, James Meier seconded, to close the public hearing.

Vote: Ayes: Henry Schwaller, IV
Shaun Musil
Sandy Jacobs
Ron Mellick
James Meier

7. ORDINANCE LEVYING SPECIAL ASSESSMENTS: James Meier moved, Ron Mellick seconded, to approve the assessment proceedings and Ordinance No. 3961 assessing the cost of improvements to Heart of America Second Addition and King's Gate First Addition as presented.

Vote: Ayes: Henry Schwaller, IV

Shaun Musil

Sandy Jacobs

Ron Mellick

James Meier

**8. 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.

Ron Mellick moved, Sandy Jacobs seconded, to approve Ordinance No. 3962 amending Chapter 14, of the City of Hays, Kansas, Code of Ordinances, by modifying Article II, Section 14, regarding alcoholic beverages.

Vote: Ayes: Henry Schwaller, IV

Shaun Musil

Sandy Jacobs

Ron Mellick

James Meier

9. EXERCISING OPTION TO PURCHASE PROPERTY NEAR 27TH AND COMMERCE PARKWAY:

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.

Sandy Jacobs moved, Ron Mellick seconded, to exercise the option to purchase the land near 27th and 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 and that Resolution No. 2019-005 be approved as presented.

Commissioner Jacobs stated the Commission has heard consistently over the years from both developers and realtors that land prices are too high. Retailers forced to look too far off interstate may go elsewhere, like another community. Commerce Parkway, north of the Interstate, can be developed as a

gateway to the north Vine corridor, with its auto dealerships, Home Depot, restaurants, and motels. She added that she was in favor of completing the additional mile of 41st Street north of Home Depot; in fact she believes they should have gone all the way to Commerce Parkway. She also said she remembers when a previous governing body struggled to justify an investment in infrastructure north of I-70 on Vine Street. Once the City did, that area started to grow, and she believes that can happen here as well.

Commissioner Mellick stated we have businesses that want to locate in Hays, but walked away because they couldn't acquire land at a reasonable price. He added that private enterprise in the past has provided land, but now they are hindering the recruitment of retail, manufacturing, and businesses with their high land prices. He stated an example of that are two large tracts of land on Vine Street north of I-70, one of which is listed at \$220,000 per acre, and the other at \$600,000 per acre. Taxpayers paid for the streets and water and sewer along those properties. These property owners did not pay for that, and they are only paying the county taxes on land valued at \$4,000 per acre. He also noted that land along 22nd Street from Canterbury Street to Commerce Parkway, which the City extended, along with water and sewer, for better traffic flow and in hopes of luring retail businesses and affordable housing. Taxpayers paid for the land, right-of-way, and utilities. Overnight, this \$4,000 per acre farm ground suddenly was \$80,000 to \$130,000 per acre price. He stated he doesn't have a problem with the private sector making a profit, but it is starting to hinder the City of Hays growth. He added that the City can purchase this 91 acres for the same price that you could buy 1¼ acres on north Vine Street. That land could then be offered at a reasonable price to retail, manufacturing, businesses, and even affordable housing developments.

Commissioner Meier stated he appreciates those well thought out arguments and added that he is not against purchasing the property, but he is just not for it. He noted that critics say the City shouldn't be in the business of buying land, but he stated cities do that all the time, because they want to bring in industry and jobs and thus tax revenue. After talking to the City's retail

consultants, Retail Strategies, he thinks the City could get better use out of this money someplace else.

Mayor Schwaller stated he thinks this is a great bargaining chip. The land may not get developed this year or next year, it may be 10 years from now, but if we give up this option today we are essentially surrendering the land to others who will charge, as the other Commissioners have pointed out, exorbitant prices. This shows that we still hold this card as part of a bigger strategy to grow the entire economy. He added that we are a regional economy that draws over 90,000 northwest Kansans for shopping, education, and health care.

Vice-Mayor Musil stated he would be voting against the land purchase, but understands why other Commissioners support it. He added that from what he has heard from Retail Strategies, the City's retail consultant, and all the information he has read, is that retail is just not expanding anywhere in the United States. He added that he wants to help Hays grow, but he doesn't think this is the answer.

Vote: Ayes: Henry Schwaller, IV

Sandy Jacobs

Ron Mellick

No: Shaun Musil

James Meier

10. COMMISSION INQUIRIES AND COMMENTS: Commissioner Mellick welcomed everyone to the NCAA Regional Tournament in Hays and wished the Fort Hays State University's Lady Tigers good luck.

Commissioner Jacobs thanked her fellow Commissioners for the discussion about the land purchase and stated she respects all of their opinions.

Vice-Mayor Musil agreed and stated it was a difficult decision, but he thinks in 20 years and hopefully less we will look back and say this was the right thing to do.

The meeting was adjourned at 7:07 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk