

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON MARCH 26, 2020

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, March 26, 2020 at 6:30 p.m.

Roll Call: Present: Shaun Musil
Sandy Jacobs
Mason Ruder
Michael Berges
Ron Mellick

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 March 12, 2020; the minutes stand approved as presented.

CORONAVIRUS UPDATE: City Manager, Toby Dougherty, provided a brief update on the City's plans regarding the coronavirus. He stated the Governor of the State of Kansas has issued several executive orders concerning coronavirus. The most recent dealing with limiting group sizes in confined spaces to 10 and setting forth guidelines should counties want to issue stay at home orders and defining what essential services and businesses are in those counties. The State Department of Health is responsible for statewide recommendations and in Ellis County we have a Health Department. Ellis County Health Services Director, Jason Kennedy, was in attendance to answer questions. Mr. Dougherty noted that we are taking direction from the Federal government, the Centers for Disease Control (CDC), Kansas Department of Health and Environment (KDHE), the Governor's Office, and the local Health Services Director. He added that internally the City has been taking all of the necessary precautions to protect our workers and the public that interacts with our workers. We are doing everything

we can to ensure that all of the services we provide will continue with whatever lies ahead.

Vice-Mayor Jacobs thanked the City Manager for how he has handled this internally with the employees and understanding the importance of continuing to provide those essential services.

Mayor Musil stated he appreciates the constant updates from the City Manager and Department Heads. He also thanked the community for all they are doing to keep everyone safe. He noted that there are a number of counties around us that have issued stay at home orders and asked Mr. Kennedy what it would take for Ellis County to get to that point.

Jason Kennedy, Ellis County Health Services Director, stated they are working with the KDHE, the CDC, the Medical Health Director and the Ellis County Board of Health. At this point with no cases in Ellis County they see no indication that a stay at home order would lead to an impactful change in our community and would not further protect the Community from any spread. He added that following their Pandemic Preparedness Plan they would consider stay at home orders when they see community transmission as they have seen in Johnson County. He feels the community has done a phenomenal job in taking steps to prepare and protect the population by taking guidance and following recommendations from the KDHE and the CDC. He added that the health care community has really come together to share resources and ideas. He stated Hays Medical Center has a hot line number 913-588-1227 and they encourage citizens to call with medical questions. He also noted the Health Department has set up a website covid-19questions@ellisco.net.

3. FINANCIAL STATEMENT: Finance Director, Kim Rupp, reviewed the financial summaries of the revenue and expenditure activities of the City of Hays for the month ended February 29, 2020.

Month-to-date general fund sales tax collections were at \$734,421, which was an increase of \$16,081 or 2.24% as compared to last year. Year-to-date collections are at \$1,372,984 up \$21,410 or 1.58%. The six month average is at 5.57% which is an increase of 1.85% when compared to a year ago.

The report of top ten quarter to date (QTD) sales tax collections by classification was up \$175,860 or 9.54%. The largest categorical increase was in supermarkets, convenience and liquor stores up 30%.

The portfolio of certificates of deposit on February 29, 2020 totaled \$59,550,000 with a weighted average interest rate of 2.04% down .37% from a year ago. The total of US Treasuries at par value is \$1,477,000 with a weighted average yield to maturity of 1.59%. The total balance of the Money Market account on February 29, 2020 was \$2,250,000 with a current yield of .90%. Total investments are down \$173,000 when compared to this time last year.

Ron Mellick moved, Mason Ruder seconded, to approve the Financial Statement for the month of February, 2020 as presented.

Vote: Ayes: Shaun Musil
Sandy Jacobs
Mason Ruder
Michael Berges
Ron Mellick

Commissioner Mellick stated he appreciates this monthly report and they will need to watch the sales tax closely in the coming months. Commissioner Berges asked if the City receives sales tax for online sales specifically from Walmart and Amazon.com. Mr. Rupp stated if they have nexus in the State of Kansas we are receiving sales tax on those sales. He clarified if they have a brick and mortar store, a sales person or a route truck owned by them in Hays that is called nexus. Amazon uses many vendors and if a vendor doesn't have nexus then we would not receive sales tax on those items.

4. CITIZEN COMMENTS: There were no comments.

5. CONSENT AGENDA: There were no items on the Consent Agenda for consideration.

NEW BUSINESS

6. RESOLUTION ADVANCING THE STATUTORY PROCESS FOR THE

HEART OF AMERICA RHID: Kim Rupp, Director of Finance, reported that Heart of America Corporation, a Kansas not for profit corporation, submitted an application for a Rural Housing Incentive District (RHID) and the required application fee relating to a residential housing project and related infrastructure. The project involves the development of street and additional infrastructure to serve approximately 75 residential housing lots located northeast of the intersection of 22nd Street and Wheatland Avenue. The Developer seeks reimbursement of certain RHID eligible project costs from RHID revenues.

Mr. Rupp stated the first step in this process is adopting a resolution making certain housing needs findings and determinations, advancing the statutory process for the creation of RHID financing. Following adoption and publication, the resolution would be sent to the Kansas Secretary of Commerce for approval to move forward with the creation process and further Commission action.

Phase One of the project involves the installation of streets and additional infrastructure to support the development of 38 lots. It is anticipated that the price of the homes would range from \$175,000 to \$225,000. Construction of Phase One is expected to begin in the fall of 2020 following the City's approval of the requested incentives, with single family home construction beginning later in 2020 or early 2021. Phase One is expected to be completed approximately 24 to 36 months thereafter. Phase Two of the project involves installation of streets and additional infrastructure to support the development of 25 lots. Phase Two would be started when Phase One is approximately 75% complete. Phase Three of the project involves installation of streets and additional infrastructure to support the development of the 12 remaining lots. No specific timeframe is set regarding Phase Three and its financial feasibility will be dependent upon the remaining time left in the RHID.

Total cost of the project is estimated to be \$2,743,000 with the full amount being eligible for RHID reimbursement. The Developer is requesting RHID financing on a pay-as-you-go basis. The Developer estimates the RHID will generate approximately \$3,663,000 of revenue over the maximum 25-year term, which would be made available to reimburse the Developer for RHID-eligible project costs.

Sandy Jacobs moved, Michael Berges seconded, to adopt Resolution No. 2020-008 making certain RHID housing needs findings and determinations, advancing the statutory process for the Heart of America RHID.

Commissioner Berges stated after speaking to Doug Williams, Executive Director of Grow Hays, he feels confident they will meet their goals and it may be paid off sooner than the 25 year term.

Vice-Mayor Jacobs stated she feels this is needed in our community and thanked Heart of America Corporation for their involvement in this project.

Vote: Ayes: Shaun Musil

Sandy Jacobs

Mason Ruder

Michael Berges

Ron Mellick

7. RESOLUTION CALLING A PUBLIC HEARING ON THE D & J LAND DEVELOPMENT TAX INCREMENT FINANCING (TIF) PROJECT PLAN:

Kim Rupp, Director of Finance, stated D & J Land and Development LLC, submitted an application for economic incentives and the required application fee relating to a multi-use commercial project and related infrastructure.

The City Commission established a TIF district at the project site by passing Ordinance No. 3981 on February 13, 2020. City staff has continued coordinating and negotiating with the Developer to advance the project through the requisite approval processes. The TIF Project Plan was presented to the City of Hays Planning Commission and they unanimously agreed that the Project Plan is consistent with the intent of the Comprehensive Plan for the development of the City of Hays.

The project encompasses approximately 45 acres generally located at the northwest corner of 230th Avenue and 55th Street by Interstate 70. Mr. Rupp reviewed the Developer's rendition of Phase I of the project, which includes 11 lots. The Developer plans to construct a travel plaza and truck wash on two of the lots. The remaining lots in Phase I will be sold or leased to other users for potential development of hotels, restaurants, or other commercial uses. The project plan being presented is a summary of the project which includes the project description, costs, funding, feasibility study, and other legal requirements provided for by statute as well as the City's Economic Development Policy.

According to the City's Economic Development Policy, this TIF district will capture the incremental taxes only; not the sales tax. All taxing authorities will receive the retailer sales tax generated by the property. The TIF is a 20 year term according to statute and will be on a pay-as-you-go basis which means the developer fronts all the financing of the development with no bonds issued by the City.

Mr. Rupp stated the total construction cost of the travel plaza and truck wash is estimated to be \$22.4M. Upon sale of all development lots and completion of the Phase I Development, the Developer estimates that the appraised value of Phase I and all improvements will be \$50.7M. The Developer also estimates that the Phase I Development will, upon full completion, create \$38.7M of annual retail sales and \$3M of monthly gas/diesel sales. Over the 20 year life of the TIF it is expected it would generate \$14.9M in ad valorem property tax revenue and the reimbursement of TIF eligible costs would be \$12.4M which excludes the \$1.5M KDOT Grant.

Mr. Rupp stated a feasibility study was prepared using financial projections formulated by the developer. The study shows that if the project develops as expected, the estimated TIF revenues combined with the CID sales tax, the KDOT Grant, and the Developer's private debt and equity will be sufficient to pay the costs of the reimbursable expenditures. The feasibility study also noted some benefits to the local economy which included a creation of 263 jobs, an increase in the hotel room capacity of the City, a needed regional travel

plaza and truck wash, and an increase in sales tax revenue. The Wichita State University Center for Economic Development calculated a benefit to cost ratio of 1.66 for the City of Hays as it pertains to the full build out of this project.

Michael Berges moved, Mason Ruder seconded, to adopt Resolution No. 2020-009 setting a public hearing date of May 14, 2020 regarding the adoption of the D & J Land Development TIF project plan.

Commissioner Mellick asked how we could hold a public hearing in May if gatherings are still limited to 10 people in one location due to the coronavirus. City Manager, Toby Dougherty, stated they are exploring electronic options for holding public hearings. They can also notify the public that they can submit their comments ahead of time. If someone was interested in speaking to the Commission at the hearing, they could be put in a certain area to maintain their space and be brought in one at a time to offer comments to the Governing Body and stay under the required limit.

Vote: Ayes: Shaun Musil
Sandy Jacobs
Mason Ruder
Michael Berges
Ron Mellick

8. RESOLUTION CALLING A PUBLIC HEARING ON THE D & J LAND DEVELOPMENT COMMUNITY IMPROVEMENT DISTRICT (CID): Kim Rupp, Director of Finance, stated D & J Land and Development, LLC, has submitted a petition to the City of Hays to create a Community Improvement District (CID). They have also included the application for economic development incentives and fees as required by the City's Economic Development Policy.

Mr. Rupp stated CIDs were enacted in 2009 to help city's promote business activity and economic development. CIDs are designed to be a special assessment and/or a special sales tax on retail sales up to a 2% max for no longer than 22 years. CIDs are used to help property owners reimburse themselves for public buildings, infrastructure, parking, landscape, and the promotion of tourism and recreational or cultural activities. Mr. Rupp clarified

these are not sales taxes that already exist; they are an additional sales tax on retail sales at the defined property area.

The Developer seeks to develop the site generally located at the northwest corner of 230th Avenue and 55th Street for various commercial uses. The proposed improvements include the installation of buildings, landscaping, lighting, infrastructure, utilities, sidewalks, installation of parking lots and methods of ingress and egress; all consistent with the development of commercial property within the authorized zoning for the property.

The Developer wishes to put in place a 2% CID sales tax on a portion of the project site in order to fund certain project expenditures. Total estimated project costs for the travel plaza and truck wash are at \$6M with \$4.3M of that eligible for CID reimbursement. The developer has projected that the 2% CID sales tax on the district will generate \$2.92M over the 22 year life of the CID. This is a pay-as-you-go scenario so the City will not issue bonds for the project costs. Those will be privately funded up front by the Developer.

All materials have been reviewed by the City's special legal counsel, Gilmore & Bell, P.C., and are found to meet all the requirements of Kansas law and the City's Economic Development Policy. Staff recommends the Commission accept the Petition and adopt the Resolution to set a public hearing of May 14, 2020 on the establishment of the CID.

Mason Ruder moved, Sandy Jacobs seconded, to adopt Resolution No. 2020-010 setting a public hearing date of May 14, 2020 regarding the creation of the D & J Land Development Community Improvement District.

Vote: Ayes: Shaun Musil
Sandy Jacobs
Mason Ruder
Michael Berges
Ron Mellick

**9. LEGAL NOTICE PUBLICATION AND PROPOSED CHARTER ORDINANCE
ALLOWING CITY OF HAYS TO PUBLISH OFFICIAL NOTICES VIA WEBSITE:**

Collin Beilser, Assistant City Manager, stated this agenda item is recommended

as a way to make publications less costly to the taxpayer and increase publication timing and efficiency. Recently, it has become more costly and difficult to publicize ordinances and other legal notices in the Hays Daily News.

The Hays Daily News has significantly reduced the size of their local staff. This has caused delayed responses to phone and email requests. The placement of items in the paper are determined by someone in Salina, not locally, and design and sizing are completed by a third party in Topeka. This recently caused one publication to be increased in size without notification increasing the cost from \$165 to \$415. The average annual cost for legal publications is \$9,400.

Some ordinances and zoning requests require a public hearing, those hearings are time sensitive. The ability to control timing and frequency of publications will facilitate quicker and more noticeable notifications.

K.S.A. 12-1651 requires a city to designate a newspaper to be the official city publication; however, that statute is not uniformly applicable to all cities in Kansas. Therefore, the City of Hays can adopt a charter ordinance to modify the requirement and designate the City of Hays website as the official city news outlet.

A charter ordinance must be adopted by two-thirds vote and must be published twice in the Hays Daily News. A 60 day protest period must pass before it becomes effective. If during the 60 day protest period, a protest signed by 10% or more of the electors is filed, the charter ordinance must be submitted to a vote.

Mr. Bielser stated should the Commission choose to move this forward; staff would create a legal publication news flash. This news flash module would allow citizens to sign up and receive notifications when legal publications are posted.

In an effort to make publications less costly to the taxpayers and increase publication timing and efficiency, the City Attorney along with City Staff recommend the governing body approve a charter ordinance designating the city website as the official city news outlet.

Ron Mellick moved, Michael Berges seconded, to approve Charter Ordinance No. 29 allowing the City of Hays to publish official notices via the City website.

Mayor Musil stated he is in favor of this because we are saving taxpayer's money.

Vice-Mayor Jacobs stated she likes having everything that has to do with the City on one site and she thinks people will get used to using that.

Commissioner Berges clarified that this does not prohibit us from using the Hays Daily News for certain publications.

Commissioner Mellick added that hopefully with the information on our website we won't hear as often that citizens "didn't see it".

Commissioner Ruder added that the Notify Me tab on the City Website is very easy to maneuver and you can sign up for other notifications as well.

Vote: Ayes: Shaun Musil
Sandy Jacobs
Mason Ruder
Michael Berges
Ron Mellick

10. PROGRESS REPORT: Assistant City Manager, Collin Bielser, presented a monthly report of city-related activities, services, and programs.

Melissa Dixon, CVB Director, provided an update on a recent Town and Gown trip to Pittsburg, Kansas. She stated it was great to see comparisons between our two communities with similar size universities and population as well as similar housing challenges.

11. COMMISSION INQUIRIES AND COMMENTS: Commissioner Mellick thanked all of the essential workers that are keeping the City of Hays going.

Commissioner Berges stated he would like to see the Ellis County sales tax pass. He feels the City of Hays is in a great position and the spotlight is on Hays for other communities to see what we are doing. Something that could dim that light is if the County can't maintain roads and emergency services.

Commissioner Ruder commended the community for everything they have done to keep their families and businesses safe during the coronavirus pandemic. He stressed that everyone continue to follow the recommendations made by the KDHE and the CDC.

Vice-Mayor Jacobs stated she thinks social distancing is a very important part of this process and will make a difference.

Mayor Musil echoed Commissioner Berges comments on the County sales tax election. He feels we are all in this together. The City is in great shape and we need the County to be in good shape for us to move forward. He also thanked the City employees for everything they do as well as residents of this community for their support.

The meeting was adjourned at 7:34 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk