

City of Hays
City Commission
Work Session Notes

Thursday, May 19, 2022 – 6:30 p.m.

Present: Mason Ruder, Michael Berges, Shaun Musil, Sandy Jacobs, Reese Barrick, Toby Dougherty, and Kim Rupp

April 21, 2022 Work Session Notes

There were no corrections or additions to the minutes of the work session held on April 21, 2022; the minutes stand approved as presented.

Stretery and Sidewalk Café Policy

Collin Bielser, Assistant City Manager, stated that at the April 21st Work Session, the City Commission deliberated the various policy issues associated with implementing a stretery program. The topics discussed included rules and regulations regarding alcohol consumption, location, footprint, use, structural and safety requirements, as well as insurance requirements. The Commission came to consensus on many of these policy considerations and a draft policy was prepared for further review and discussion. The Commissioners agreed that alcohol allowance will mirror State law and Alcohol, Beverage, Control (ABC) rules will be followed. Only restaurants and bars may participate in the program.

Mr. Bielser stated Sidewalk Café and Stretery sections were created within the policy. Businesses may offer one or both options.

Sidewalk Café Highlights:

- Allowed year round
- Only located where restaurants/bars abut a public sidewalk and cannot offer outdoor dining on private property
- Permanent or attached structural barriers are not allowed, unless authorized

Streatery Highlights:

- Allowed from April 1st to October 31st
- Allowed where off-street parking is not available and where access to private property does not exist
- May use one full parking stall
- May be constructed directly on pavement or platform
- Must provide ADA access
- Stormwater must be able to flow without obstruction
- Barrier walls must be a minimum of three feet measured from sidewalk grade
- Planters and decorative elements are encouraged

Mr. Bielser also reviewed the permitting process and insurance requirements.

Commissioner Jacobs stated when discussion about streateries was brought up she expected it to be an “event” and it turned out to be a “non-event.” She was contacted by only one citizen and no businesses have contacted her. She is not sure if the Commission should even pursue it since there has been little interest shown.

Toby Dougherty, City Manager, stated from the staff perspective, more work has been done to get to this point than will be done if approved. He doesn’t see this being widely utilized, but if we have six or seven occurrences it will not be difficult to manage and oversee should the Commission want to try it for a test period. He added that once the permit is created the process will be made as simple as possible.

Commissioner Musil stated as a downtown business owner he plans to build a streatery and give it a try.

Wes Rathbun, a local business owner, stated he would be concerned that some business owners were taking up parking spaces and leaving other businesses with less potential parking spaces. He stated his worry is how many businesses would benefit from this versus how many it would hurt.

Commissioner Jacobs stated that the number of businesses that could use this policy is minimal and doesn't feel we would be giving up too much parking. She feels it could be a nice enhancement for some businesses and would like to give the policy a try.

Vice-Mayor Berges would like something in the policy addressing starting and stopping the use of a streatory. He would like to see them reapply if they take it down.

Mayor Ruder stated he does not see a negative aspect to trying it and it may provide businesses the opportunity to make more money. If problems arise, the Commission can address them.

Commissioner Barrick stated he doesn't have a problem with trying it, but with the weather changes and not much interest shown he doubts that it will survive in a year or two.

Commissioner Jacobs stated that commercial businesses should be able to do as much as they possibly can to survive and thrive in our community. She added that if it was sincerely detrimental to anyone being able to park downtown, she would feel differently, but she doesn't feel we have a parking problem downtown.

At the May 26, 2022 Commission meeting, Commissioners will be asked to approve the policy allowing outdoor dining in the public right-of-way.

Ordinance Regarding Street Sales, Public Drinking, and Public Possession

Collin Bielser, Assistant City Manager, stated that in order to implement a Streatory and Sidewalk Café Program, it will require change in the municipal code. The current code regulation states you cannot have alcohol or CMB in a public place except in City Parks. The new ordinance would amend the City's current municipal code to allow street sales, public drinking, and public possession of alcoholic liquor and cereal malt beverages on the public right-of-way, provided certain requirements are met. The ordinance also clarifies the hours of operation and season that could occur.

At the May 26, 2022 Commission meeting, Commissioners will be asked to approve the Ordinance amending Chapter 14 of the City of Hays, Kansas, Municipal Code, by modifying Article II, Division 5, Sections 14-141 and 14-143, regarding street sales, public drinking, and public possession.

Solid Waste Equipment Building – Award of Bid

Jesse Rohr, Director of Public Works, reported that the 2022 Budget included \$160,000 for the construction of a vehicle and polycart storage building for the Solid Waste Division. The current Solid Waste Facility was constructed to house three refuse trucks, the number of trucks in the Solid Waste fleet when the facility was built in 2001. Since that time, the fleet has grown to six trucks (two recycling, three automated, and one roll-off) and the current building cannot adequately house the trucks.

Three qualified bids were opened on May 3, 2022. Bids were required to include a minimum 40' x 90' insulated building with concrete floor, four 14' x 14' overhead doors with electric openers, one walk-through door, and exterior concrete adjacent to the overhead doors. The low bidder, QSI, LLC, whose bid came in at \$155,280, has completed many projects for the City, including several structures for the Parks Department and sports complex, and seem to be highly qualified based on those projects. The electrical service was quoted separately from the building bid to provide the opportunity for better quotes and break out the cost of the electrical portion of the project. The total project cost, including the building and electrical service, is expected to be \$172,830. The amount budgeted in 2022 was \$160,000. If award of bid is approved, the \$12,830 over the budget amount would be funded out of Solid Waste Reserves, which is adequately funded to cover this expenditure.

At the May 26, 2022 Commission meeting, Commissioners will be asked to award the bid to QSI, LLC and authorize the expenditure of up to \$172,830 of Solid Waste Reserve funds to cover the cost of construction of the Solid Waste equipment storage building and the necessary electrical service for the structure.

Service Division Dump Trucks – Award of Bid

Jesse Rohr, Director of Public Works, stated the 2022 Budget included \$565,000 for the purchase of three new dump trucks with snow removal equipment for the Public Works, Service Division. The current trucks are all 2002 models, having exceeded their service life and are in need of replacement.

Mr. Rohr stated two qualified bids were received. The total low bid for the three trucks that met all specifications is \$564,974. Staff recommends awarding the bid to WKI Operations, Inc. (DBA Wichita Kenworth) for the purchase of one Kenworth T-480V single-axle dump truck with plow and spreader and two Kenworth T-480V tandem-axle dump trucks with plows, spreader, and brine applicator system, for the total amount of \$564,974.

The trucks will come with a standard warranty of 12-month unlimited mileage, and 100% parts and labor. Mr. Rohr added that they did get very good trade-in numbers for the current trucks.

At the May 26, 2022 Commission meeting, Commissioners will be asked to award the bid for the purchase of one Kenworth T-480V single-axle dump truck with plow and spreader and two Kenworth T-480V tandem-axle dump trucks with plows, spreader, and brine applicator system, for the total amount of \$564,974, to be funded out of the New Equipment Reserve Fund.

Hickok Park Storm Sewer Rehab – Award of Bid

Jesse Rohr, Director of Public Works, stated two large diameter reinforced concrete pipes carrying storm water from the area of 27th Street and Indian Trail and discharging into Chetolah Creek at Hickok Park have begun to fail creating a hazard to the public and to infrastructure in the area. City Staff solicited bids to rehab the storm sewer infrastructure and restore the area around the discharge of these pipes. Bids were received on April 26, 2022, from four bidders, with the low bid coming from M&D Excavating, Inc. of Hays. Since the need for this corrective action was not known at the time the 2022 Budget was prepared, this project was not budgeted. However, adequate funds exist within the Stormwater

Operating Budget Contingency line item to cover the \$27,807.50 cost of the low bid.

At the May 26, 2022 Commission meeting, Commissioners will be asked to accept the low bid from M&D Excavating, Inc., and authorize the expenditure of \$27,807.50 to be funded from Stormwater Contingency.

USD 489 Education Sales Tax Ordinance

Kim Rupp, Director of Finance, stated that the local voters have approved a proposition to authorize the levy of a .5% Educational Sales Tax for USD 489. The sales tax is set to begin October 1, 2022 and terminate in 10 years.

At the May 26, 2022 Commission meeting, Commissioners will be asked to approve an ordinance implementing the levy of the .5% Educational Sales Tax and the application of the revenue received.

Commissioner Musil asked if a special election will be required in 10 years should they want the sales tax to continue. Mr. Rupp stated it depends on the timing of it. A sales tax is required to be passed a full quarter prior to the implementation date. He added that USD 489 will need to make that request to the City Commission at that time.

Other Items for Discussion

Commissioner Jacobs stated she will contact Mr. Rathbun regarding his concerns with City parking and code requirements.

Commissioner Musil congratulated the USD 489 School Board and Bond Committee members for their efforts in getting the School Bond passed.

Commissioner Musil asked the City Manager for an update regarding the R-9 Ranch Water Project. Mr. Dougherty stated we are still waiting for a judge's ruling on an administrative review. He stated that Hays and Russell filed change applications on the water rights at the R-9 Ranch with the Kansas Department of Agriculture's Division of Water Resources (DWR) in June of 2015. The change applications essentially are the applications that convert the water rights from irrigation water rights to municipal water rights and governs all aspects of that.

That process culminated in a master order issued in 2018 from the DWR Chief Engineer.

WaterPACK (Water Protection Association of Central Kansas), an irrigator advocacy group, filed a petition for judicial review with the court. Mr. Dougherty stated essentially what they said is that the state didn't follow proper rules and regulations in order to get the master order created. He stated that obviously the State of Kansas, Department of Agriculture, Hays, and Russell argued that we not only followed the rules, but the rules were followed to the letter of the law.

Mr. Dougherty stated the Judge held a hearing in January of 2021, and we have been waiting essentially 17 months for the ruling. He added that we can't move forward with the water transfer process until the master order is complete. The master order isn't complete until the judge says the state followed the rules and regulations and deems the master order complete. At that time the transfer process can begin. Mr. Dougherty noted that lawyers have told him that taking this long on a ruling is unprecedented.

Commissioner Musil asked if the City Manager could talk to the judge on behalf of the City about the delay. Mr. Dougherty stated that he was advised by our attorneys that it is not proper to reach out and talk to a judge while they have a case under advisement.

Mayor Ruder noted that the longer the ruling is delayed, the more the project will cost. Mr. Dougherty estimated that since the deviation in 2018, the total project cost has increased 35% to 40% just because of the procedural legal delays in this process.

Commissioner Jacobs stated that is just unacceptable. Mr. Dougherty stated he will communicate with the City's attorneys and the Department of Agriculture's counsel to find the status of the ruling.

Mayor Ruder congratulated USD 489 for getting the School Bond passed and thanked the citizens for getting informed and involved.

The work session was adjourned at 7:41 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk