

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON JULY 23, 2020

1. CALL TO ORDER BY CHAIRMAN: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, July 23, 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 July 9, 2020; the minutes stand approved as presented.

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 June 30, 2020.

Month-to-date general fund sales tax collections were at \$572,167, which was a decrease of \$30,119 or -5% as compared to last year. Year-to-date collections are at \$3,693,346 up \$102,350 or 2.85%. The six month average is at 2.85% which is an increase of .93% when compared to a year ago. As previously reported, the -5% is a welcome sight when compared to the original projection of -30%, especially given it represents a full month of collections during Covid-19 restrictions.

The report of top ten quarter-to-date (QTD) sales tax collections by classification was up \$24,054 or 1.31%. The decreases experienced on this report were of no surprise with the largest categorical drop being in accomodation, clothing, and food services.

The portfolio of certificates of deposit on June 30, 2020 totaled \$55,050,000 with a weighted average interest rate of 1.31% down 1.13% 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 June 30, 2020 was \$1,500,000 with a current yield of .05%. Total investments are down \$7,323,000 when compared to this time last year.

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

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

4. CITIZEN COMMENTS: There were no comments.

5. CONSENT AGENDA: The following proposed appointment will be presented for approval at the August 13, 2020 City Commission meeting.

Hays Recreation Commission Board

Mark Junk – four-year term to expire August 1, 2024 (6th term)

Sandy Jacobs moved, Mason Ruder seconded, to approve the Consent Agenda as presented.

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

NEW BUSINESS

6. INTRODUCTION OF JD COX, ELLIS COUNTY ADMINISTRATOR: Mayor Musil introduced JD Cox, Ellis County Administrator.

Mr. Cox stated he has been in local government for 23 years, a chief administrative officer for 16 years and in his career he has not seen anything as controversial as wearing face masks. He encouraged everyone to be understanding of the other side as everyone has their own point of view. He added that he looks forward to working with City Manager, Toby Dougherty, and asked the Commissioners to contact him if they have any questions or concerns. He would like to keep a good dialog going between the City and the County.

7. CITY OF HAYS FACE MASK ORDINANCE: Mayor Musil noted there is a packed house and asked that those that want to address the Commission limit their comments to three minutes.

Dr. Edward Hammond encouraged the Commissioners to pursue this mask ordinance as a way of protecting our environment and our community in a very effective way. It is not difficult to implement and wearing masks along with social distancing will help stop the growth of this disease in our community.

Dr. Tisa Mason, President of Fort Hays State University (FHSU), informed the Commission that as community spread has increased, FHSU has decided to mandate masks on campus with over 4,000 students. As their policies continue to evolve, they feel it is the right thing to do at this time.

Jason Kennedy, Public Health Officer for the Ellis County Health Department, stated KDHE, CDC, and Public Health Officers all recommend the use of face masks anytime you cannot maintain social distancing of greater than six feet. He reviewed the number of coronavirus cases in Ellis County and related statistics. He also emphasized that citizens need to follow the isolation and quarantine regulations if notified.

Dr. Ernesto Lopez-Corona, MD, Hays Med, The University of Kansas Health System, spoke by phone at the request of the City Commission. Dr. Lopez reviewed the data that masks reduce overall infection rates and the transmission of Covid-19. He stated that Covid-19 is an airborne transmitted disease, spreading from person-to-person in close contact, as droplets carrying the virus are passed. He emphasized that wearing masks is effective in stopping the droplets from becoming aerosolized, but it is not the only measure that needs

to be taken to reduce the transmission. Social distancing, hand sanitizing, and avoiding mass gatherings must also be followed. He also noted that 40% of infections are transmitted by asymptomatic carriers.

The Commission heard comments from 11 citizens speaking both for and against wearing face masks with the majority in favor of the mandate.

Sandy Jacobs moved, Shaun Musil seconded, to approve Ordinance No. 3988 creating Sections 20-1 through 20-5 of the Code of the City of Hays, Kansas, pertaining to requiring the wearing of masks or other face coverings with the following amendments or revisions:

- Amend Section 3-a Exemptions to read children age 6 years or younger.
- Amend Section 6 to read this ordinance shall take effect and be in force from 8:00 a.m. on Monday July 27, 2020 until midnight August 31, 2020.

Michael Berges suggested the motion be amended to read children of 8 years of age or younger. He also suggested adding to the ordinance that should Ellis County put a mask ordinance in place the City ordinance would expire at that time.

Commissioner Mellick noted that the problem with that is they may not stipulate the same ages and duration as the City ordinance.

City Attorney, John T. Bird, stated a contingency could be added that should the County pass a resolution contrary to the City Ordinance that the Commission would then revisit it, but he does not think you can delegate the City Commission's legislative power to the County without revisiting it.

Vice-Mayor Jacobs amended her motion and Mayor Musil amended his second to include Commissioner Berges's suggestion to exempt children 8 years or younger.

Vice-Mayor Jacobs stated that the CDC said that if we wore masks for six weeks we might have everything under control by the time classes are back in session. She thinks this is the right thing to do right now. She stated that she appreciates everyone that has voiced their opinions and noted that including the e-mails she received the response has been 65% in favor of the mask mandate and 35% against it.

Commissioner Ruder asked if businesses would be required to post signs regarding the mandate. City Manager, Toby Dougherty, stated there are no requirements, but in anticipation of the possibility of the Commission taking action, staff has templates prepared and could have signs printed to be made available to businesses if they choose to.

Commissioner Ruder stated he does not see this ordinance as enforceable. He added that he doesn't like the idea of mandates and ordinances used as an educational tool. He believes the decision to wear a mask is best left between the individual and their physician. He added that he will respect the decision of the Commission.

Commissioner Berges stated despite what he has said in the past, his vote for the ordinance was not a foregone conclusion, and he didn't reach his decision easily, going instead with majority opinion. He noted that of the 121 individuals that reached out to him, 60% were in favor of the mandate. He also reached out to the six largest employers and four educational institutions within the City and asked for their opinion on how to vote and 86% responded that they would have him vote for the mandate. That tells him that our community is asking for help, guidance, and leadership to mitigate this virus.

Commissioner Mellick agreed that enforcement will be key. City staff will work with the Hays Police Department on how to educate the public. He added that we want to get ahead of the curve and by starting out wearing face masks maybe we can avoid having businesses close down and wrecking the economy.

Commissioner Berges noted that within this ordinance there are 10 exemptions and encouraged citizens to review those exemptions.

Mayor Musil stated these are tough decisions, but this is what we are elected to do. He added that each Commissioner has done their homework and they feel they are doing what is best for this community. He wants to do everything they can to avoid a shutdown and he believes if this mask mandate passes it will slow the spread of the virus. Despite differing opinions he urged people to be respectful.

Vote: Ayes: Shaun Musil
Sandy Jacobs
Michael Berges
Ron Mellick
No: Mason Ruder

Michael Berges moved, Sandy Jacobs seconded, that the Commission recess at 8:15 p.m. for five minutes.

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

The meeting reconvened at 8:20 p.m.

8. ARC PARK REQUEST FOR SEVEN HILLS PLAYGROUND

INSTALLATION: Sarah Meitner, Board President of The Arc of Central Plains, Inc., provided an update on the plans to build the Hays Accessible Recreation Complex (ARC) at Seven Hills Park, 33rd and Hillcrest Drive, and requested permission to proceed. The idea of the fully accessible park was conceived two years ago and will create a more inclusive and welcoming community for people of all ages and abilities. It will give people with disabilities access to a safe play space, while increasing healthier behaviors, fostering self-empowerment, and allowing for side-by-side play with those who don't have disabilities. She added that the ARC Park will have an economic impact drawing visitors from outside of Hays and will provide a pit stop oasis for the special needs families that pass by on Interstate-70. Ms. Meitner reviewed the proposed phases of development:

- Phase 1: The fully accessible 15,500 square foot playground at a cost of \$774,614
- Phase 2: The splash pad and parking lot
- Phase 3: The fully accessible baseball field

Ms. Meitner noted that they have collaborated with Parks Director, Jeff Boyle, who made some suggestions regarding fencing, shade structures,

sidewalk, and other small changes to make best use of City maintenance funds going forward. Mr. Boyle provided an estimated annual maintenance cost of \$1,114 per year which includes trash removal, mowing, and equipment inspection.

Ms. Meitner stated they have received funds from more than 750 donors including businesses, organizations, individuals, and children. The group has raised \$672,860 in just under two years. To close the gap and proceed, the ARC of Central Plains is willing to put in the additional funds needed to move forward.

The group is asking for the Commission's permission and support to order equipment and proceed with construction of Phase 1 of the ARC Park. The City Attorney crafted an agreement that would be enacted if the City Commission chooses to approve the request.

Commissioner Berges stated he serves as Treasurer of the ARC of Central Plains, Inc. He has consulted with City Attorney, John T. Bird, and it is unclear whether there is a conflict of interest and as to not jeopardize the project, he will recuse himself from this discussion and vote.

Vice-Mayor Jacobs spoke in favor of the project saying it is going to be a huge asset in our community. She is hesitant to approve them starting on this project without knowing that they can finish it. She recommended committing up to \$100,000 of City funds to finish Phase 1 of the ARC Park should they get to that point and not have the funds.

Sandy Jacobs moved, Shaun Musil seconded, that the City of Hays commit up to \$100,000 to finish Phase 1 of the ARC Park to get to the \$774,614 total price.

Mayor Musil spoke in favor of being part of this project.

Commissioner Ruder stated he is in favor of the project and thinks it will be a great addition to the City. He would like to see some concrete numbers before these funds are committed given the financial impact Covid-19 may have on the City.

Commissioner Mellick agreed and is still concerned what Covid-19 will do to the City's finances and suggested discussing this further at the Commission

retreat in August. He is in favor of them moving ahead with Phase 1, but is not in favor of committing the \$100,000 at this time.

Mayor Musil agreed and suggested revisiting this discussion at a later date.

Vote: Ayes: Sandy Jacobs

No: Shaun Musil

Mason Ruder

Ron Mellick

Mason Ruder moved, Ron Mellick seconded, to approve the agreement between the City of Hays and The Arc of Central Plains, Inc. in regard to development of the ARC Park, and authorize construction of Phase 1 of the ARC Park.

Vote: Ayes: Shaun Musil

Sandy Jacobs

Mason Ruder

Ron Mellick

Mayor Musil reported that the Hays Recreation Commission Board decided to increase their contractual stop-loss at the Hays Aquatic Park from \$26,000 to \$40,000 for the 2020 swim season. Mayor Musil thanked them for the partnership and for everything they do for the community.

Roger Bixenman, HRC Director, stated attendance is down at the Hays Aquatic Park, but they are still averaging approximately 550 people per day. He added that they will be open until August 9th.

9. 2020 BUDGET STABILIZATION TRANSFER: Kim Rupp, Director of Finance, stated the City of Hays Comprehensive Financial Management Policy requires that 25% of General Fund Operating Expenditures be maintained in the Budget Stabilization Reserve Fund (BSR).

While no funds have been expended from the BSR since its inception, a slow increase in operating expenditures over the past fifteen years now makes it necessary to subsidize the BSR. An amount of \$250,000 will comply with the

Comprehensive Financial Management Policy and provide for future growth in General Fund Operating Expenditures.

This transfer can be accomplished by lowering the 2020 budgeted transfer to Commission Capital Reserve (CCR). The net effect will leave a transfer to CCR in the amount of \$469,057. Both transfers will be scheduled at year end 2020.

In 2004 the residents of the City of Hays voted to replace the mill levy in the general fund with a $\frac{3}{4}$ cent sales tax. From January 1, 2005 to December 31, 2005 the additional $\frac{3}{4}$ cent sales tax was collected to establish the BSR for the General fund. Therefore, during that year, both the new sales tax and ad valorem were collected creating the BSR. Beginning January 1, 2006 the additional $\frac{3}{4}$ cent sales tax replaced the mill levy in the general fund. As a reference, local sales tax budgeted for 2020 is equivalent to approximately 32.6 mills. The creation of the Comprehensive Financial Management Policy ensured the BSR would remain funded and also directed its usage going forward.

Michael Berges moved, Mason Ruder seconded, to direct the City Manager to transfer \$250,000 into the Budget Stabilization Reserve to be funded from the 2020 budgeted Commission Capital Reserve Transfer.

Commissioner Mellick stated the City of Hays is in a good financial situation because of this and we need to make sure to do our part to keep this mill levy where it is.

Vote: Ayes: Shaun Musil

Sandy Jacobs

Mason Ruder

Michael Berges

Ron Mellick

10. 2021 BUDGET REVIEW/SCHEDULING OF PUBLIC HEARING FOR 2021

BUDGET: Kim Rupp, Director of Finance, reported on the new sales tax numbers he received for July. He stated they had projected sales tax to be down 25% in July and it actually was up 5%. He added that year-to-date we are up 3.2% or \$33,000. Receipts for May, June, and July, which is collections for

March, April, and May is a \$438,000 turn around. He provided new numbers for the budget that include the changes that were discussed at the Work Session last week as well as the new sales tax and the CVB transient guest tax projections that were just received.

City staff recommends setting the public hearing date of August 13, 2020 for the 2021 Budget with an associated mill levy of 25.000.

Mayor Musil noted that this is a balanced budget and the mill levy has remained at 25 mills since 2005 except for one year it was at 26 mills.

Sandy Jacobs moved, Mason Ruder seconded, to set a public hearing date of August 13, 2020 for the 2021 Budget.

City Manager, Toby Dougherty, clarified that once the public hearing is published the Commission can't increase any funds. The Commission can go down, modify, and re-allocate funds within the budget, as long as they don't increase any total fund expenditures.

Vote: Ayes: Shaun Musil

Sandy Jacobs

Mason Ruder

Michael Berges

Ron Mellick

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

12. COMMISSION INQUIRIES AND COMMENTS: Commissioner Mellick asked that citizens continue practicing safety measures to prevent Covid-19.

Commissioner Berges stated he is happy to be working with this Commission and being part of local decision making.

Commissioner Ruder encouraged everyone to follow the CDC, KDHE, and the local Health Department's recommendations to slow the spread of Covid-19. He added that the divisiveness is toxic and called on citizens to come together.

Vice-Mayor Jacobs stated she appreciates everyone coming forward and voicing their opinions and feels those people probably made the decision on this ordinance.

Mayor Musil stated Hays has been known to be a leader in Western Kansas and we will get through this. He believes if we work together we can slow the spread of this virus.

The meeting was adjourned at 9:10 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk