

## **Minutes of the Independence City Commission's June 28, 2018 Meeting**

The Independence City Commission met for a regular meeting on June 28, 2018 at 5:30 P.M. in the Veterans Room at the Memorial Hall. Mayor Leonhard Caflich, Commissioner Louis Ysusi, and Commissioner Gary Hogsett were present. Others present included:

### **City Staff**

Craig Whitehead, City Manager  
Kelly Passauer, Assistant City Manager  
Jeff Chubb, City Attorney  
David Cowan, Director of Public Safety  
Shawn Wallis, Fire Chief  
April Nutt, Director of Housing Authority  
Jerry Harrison, Police Chief  
Terry Lybarger, Utilities Director  
Abbey Hebbert, Planning Intern  
Mike Passauer, Public Works Director  
Don Cushing, Building Inspector

### **Visitors**

Jerry Bright  
Julie Voelker  
Tabatha Snodgrass  
Jason Wright  
Tim Janak  
Lisa Hugo  
Dean Hayse  
Mandy Monroy  
Michael Ysusi  
Alexa Ysusi  
Ned Stichman  
Mary Jo Wallis  
Andrew Demo  
Sarah Steele  
Gary Morrison  
Brett Kelley  
Judy Ysusi

### **Call to Order**

**Mayor Caflich called the meeting order at 5:30 p.m.**

### **Pledge of Allegiance to the United States of America**

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### Adoption of Agenda

#### Motion:

On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adopted the agenda with the following modifications; move items "C" regarding approval of blocking off Miss Able Avenue from Oak Street to Mickey Mantle Way for the Indy goes Back to School Party on August 31<sup>st</sup>, "D" regarding the approval of a lease agreement for the Kansas East Region Department for Children and Families for use of space in Building D, and "E" relating to a lease agreement with Kansas Department of Labor and City of Independence for Building D from the consent agenda to be Items for Commission action.

Aye: Caflich, Ysusi, Hogsett

Nay: None

### Adoption of the Consent Agenda

#### A. Appropriations

1. A-1817
2. D-1805
2. P-1786

**SUGGESTED MOTION:** I move to approve Appropriation Ordinances A-1817, D-1805 and P-1786.

#### B. Consider a request for the 11th Annual Yona Julian Memorial Fun Run at Riverside Park on Saturday, September 8, 2018 from 7 AM to 11 AM.

**SUGGESTED MOTION:** I move to approve the request for the Yona Julian Fun Run on September 8, 2018 at Riverside Park pending the issuance of special event insurance naming the City as an additional insured.

#### Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission adopted the consent agenda with the exception of items "C" regarding approval of blocking off Miss Able Avenue from Oak Street to Mickey Mantle Way for the Indy goes Back to School Party on August 31<sup>st</sup>, "D" regarding the approval of a lease agreement for the Kansas East Region Department for Children and Families for use of space in Building D, and "E" relating to a lease agreement with Kansas Department of Labor and City of Independence for Building D. Those items were removed from the consent agenda when the agenda was adopted.

Aye: Caflich, Ysusi, Hogsett

Nay: None

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### Appointments

- A. USD 446 City Recreation Commission reappointment of Tony Turner to a second 4-year term.

#### Motion:

On the motion of Mayor Caflich, seconded by Commissioner Hogsett, the Commission approved the reappointment of Tony Turner to a second 4-year term as USD 446 City Recreation Commission member.

Aye: Caflich, Hogsett, Ysusi

Nay: None

- B. Planning Commission/Board Of Zoning Appeals - Appointment to fill unexpired term.

#### Motion:

On the motion of Mayor Caflich, seconded by Commissioner Hogsett, the Commission approved the appointment of Michele Anderson to the Planning Commission and Board of Zoning Appeals

Aye: Caflich, Hogsett, Ysusi

Nay: None

### City Licenses

The following City licenses were acknowledged:

- A. Taco Inn - 1907 North Penn Avenue - Stacy Stevens, Owner.
- B. SEK PC Repair - 116 East Main Street - Nick Barnhart, Owner
- C. Total Construction - Fredonia, KS - Anthony Schultz, Owner.
- D. Green Valley Construction Services - Augusta, KS - Larry Frost, Owner.
- E. Accounting Management Solutions - 2215 West Laurel Street - Trina Holsinger, Owner.
- F. Morrison Builders, Inc. - Springdale, AR - Steve Morrison, Owner.
- G. Quality M. Stucco, LLC - Springdale, AR - Alejandro Diaz, Owner.
- H. Hero Holdings - 122 East Main Street - Daniel Health, Owner.
- I. Mid-America Roofing, Inc. - Frontenac, KS - Norman Miller, Owner.

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### Public Hearings

- A. **Public Hearing to consider condemnation of 419 South 2nd Street as dangerous and unsafe.**

Building Inspector Don Cushing indicated several complaints have been received. The owner or their representative were not present. No one from the public commented. The public hearing was closed. Commissioner Hogsett asked the Building Inspector if he knew about the owner. Building Inspector Cushing said it was sold, talked to the new owner(s) and set appointments and the new owner did not show up. The condemnation process was explained to the owner by the Building Inspector. The Building Inspector indicated that there are blight issues as well as structural issues. Commissioner Ysusi stated that he was familiar with the property and indicated that there were multiple hazards that he was aware of.

### Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission adopted Resolution No. 2018-022 condemning 419 South 2nd Street as dangerous and unsafe, providing 30 days from the publication of the adopted resolution to diligently pursue repair or removal.

Aye: Cafilich, Hogsett, Ysusi

Nay: None

- B. **Public Hearing to consider condemnation of 221 South 15th Street as dangerous and unsafe.**

Building Inspector Don Cushing has received multiple complaints on the property. The house failed 60 of the 90 items on the inspection list. However, the property owner has expressed they want to fix the house. The owner present, Emma Watts, stated that her husband is often away on work, limiting them on how much time they can spend on repairing the home. They plan to repair the interior, exterior, porch, and other items of the house. The house is not a rental and the owners do owe money on the house. They are planning to repair it and sell it. The public hearing was closed. Commissioner Ysusi asked Mrs. Watts if they had any family in town able to help them with renovations. Commissioner Hogsett presented the idea of still being able to repair the home even if the house is approved for condemnation. The Building Inspector went on to describe the process of how to repair the house under their provisions. Mayor Cafilich addressed the point of fixing the exterior first and then moving inside to further repairs to lessen the complaints. The Building Inspector suggests adjourning for 30 days.

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### Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the public hearing regarding the condemnation of 221 S. 15th St was adjourned until July 26, 2018 at 5:30 PM.

Aye: Cafilisch, Hogsett, Ysusi

Nay: None

- C. Public Hearing to consider condemnation of 905 West Sycamore Street as dangerous and unsafe.

The Building Inspector has received complaints on the house. Shortly after moving forward with the complaints, the house was purchased by a new owner in Wyoming who seems to be proactive in rehabilitating it. The owner was not present. Emma Watts stated that there is a lot of lead in the house, stating children have contracted lead poisoning from the residence. The public hearing was closed.

### Motion:

On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the public hearing regarding the condemnation of 905 West Sycamore Street was adjourned until August 23, 2018 at 5:30 PM.

Aye: Cafilisch, Hogsett, Ysusi

Nay: None

### Items for Commission Action

- A. Consider 2019 budget request from Independence Main Street.

Tabitha Snodgrass, Main Street Director, presented her budget request of \$20,000 per year which has not been modified over the last several years. Julie Volker, Treasurer of the Main Street Board, spoke also regarding the Main Street request and stated the \$20,000 was vital to keeping the Main Street program in operation. the total operating budget is \$64,000 which includes providing gift certificates. The duo gave comments of appreciation to Mike Devore and Mike Passauer for their work on assisting with putting banners up and taking them down. Mayor Cafilisch gave comment on how it is exciting to see the various activities going on downtown.

- B. Consider a request for the City of Independence, Kansas to hold title to 7.39 Acres of land in the Highlands Addition for the Independence Housing Authority and a request from the Montgomery County Assisted Living, LLC to exercise the option to purchase unimproved property as

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described in Section 17.6 of the lease between the City of Independence, Kansas, as issuer, and Montgomery County Assisted Living LLC, a Kansas Limited Liability company, as tenant as authorized by Ordinance No. 4226 of the issuer.

Housing Authority Director April Nutt presented on behalf of the Housing Authority. Commissioner Ysusi asked if April could give highlights on what the Housing Authority does. April stated that the Housing Authority was founded in 1972 with their first project, Penn Terrace. The Housing Authority currently manages 151 units and helps 49 families through grant funds. The Housing Authority has provided funds to assist with demolition of condemned residential structures. The Housing Authority has set aside \$250,000 in funds for the rehabilitation of homes. Within the money set aside, they have worked on 10 homes. The Housing authority tries to help all homes in need of rehabilitation to the best of their abilities. The SEK Kan CDI was going under and they proceeded to ask the Housing Authority if they could help. They now see over 16 units in the region. They are finishing the final phase of the Eisenhower Subdivision, constructing 28 homes. Mayor Cafilisch made comment on the potential of the work the Housing Authority does but had concerns about discouraging developers in the area. There was further discussion on the Housing Authority's work and the services they offer the City.

### Motion:

On the motion of Commissioner Hogsett, seconded by Ysusi, the Commission approved the City to hold title to 7.39 acres of land in the Highlands Addition for the Independence Housing Authority.

Aye: Cafilisch, Hogsett, Ysusi

Nay: None

### Motion:

On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adopted Resolution No. 2018-020 where by the resolution of the governing body of the City of Independence, Kansas authorize the sale and conveyance of certain property to Montgomery County Assisted Living, LLC.

Aye: Cafilisch, Hogsett, Ysusi

Nay: None

- C. Consider Amending Appendix D, chapter 38, setting forth new ambulance rates.

David Cowan stated that the rates have not been modified since 2010. Cowan stated that they are recommending a few changes to try to recover costs, while keeping the charges reasonable. Cowan states that it costs \$779 to run an ambulance call, and they receive only a few hundred back

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from insurance. David provided statistics on the amount of people they serve with the ambulances. The Commissioners asked questions regarding billing, write offs and collections.

### Motion:

On the motion made by Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission approved the adoption of Ordinance No. 4271 amending Appendix D, Chapter 38, setting forth new ambulance rates.

Aye: Cafilisch, Ysusi, Hogsett

Nay: None

- D. Consider a change order to approve asphaltting two ADA stalls at the North Park Basketball Courts and the Dog Park.

David Cowan presented, then followed by Young Professionals of Independence (YPI) and R-Turn. David completed the ADA assessment, working with Great Plains. David states that YPI and R-Turn are our future leaders and they are working hard to improve Independence. From the left-over asphalt from the overlay project, we have found that we are able to asphalt the parking stalls at both the basketball courts and Dog Park, along with a patch for Perter Pan Road. Michael Ysusi presented on behalf of the Dog Park. The Commissioners made comments on the plans, and other ADA factors that needed to be addressed. Brett Kelley spoke on behalf of YPI and the basketball courts. They have plans to completely renovate the courts and need the ADA stalls for accessibility. The Commission questioned the design aspects of the court and its necessities.

### Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission approved the Dog Park for two ADA parking stalls provided by leftover asphalt from the City.

Aye: Cafilisch, Hogsett, Ysusi

Nay: None

### Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission approved YPI's plans to update the North Park basketball courts.

Aye: Cafilisch, Hogsett, Ysusi

Nay: None

### Motion:

On the motion of Mayor Cafilisch, seconded by Commissioner Hogsett, the Commission approved the two ADA parking stalls relocated to the north side of Sycamore Street and consolidated with asphalt work on basketball courts.

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**Aye: Cafilisch, Hogsett, Ysusi**

**Nay: None**

### **Items Removed from Consent Agenda**

- C. Consider approval of blocking off Miss Able Avenue from Oak Street to Mickey Mantle Way for the Indy Goes Back To School Party on Monday, August 13, 2018.**

**It was noted that North 5<sup>th</sup> Street should be blocked rather than Miss Able Avenue.**

### **Motion:**

**Commissioner Hogsett moved to approve the request from USD#446 to block off North 5th Street from Oak Street to Mickey Mantle Way on Monday, August 13, 2018 for the Indy Goes Back to School Party, seconded by Commissioner Ysusi.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

- D. Consider approving a lease agreement with the Kansas East Region Department For Children And Families (KDCF) and the City Of Independence for use of space in Building D.**

**City Manager Whitehead reviewed that the KDCF was under a memorandum of understanding and now they want a lease. Mayor Cafilisch stated that the conditions in the lease are too strict, in particular as it related to the energy audit. Mayor Cafilisch indicated that he wanted to exclude Article 19. Commissioner Ysusi questioned why they were moving. City Manager Whitehead indicated that was KDCF's decision. Tim Janak requested to speak and urged the Commission not to approve the lease agreement. He further indicated that he had a valid lease with KDCF, that if they left his building it would decrease his building's value significantly. He further indicated that they were only interested in staying in the City's building for a year and he didn't know if their intentions were to then leave Montgomery County. Mayor Cafilisch advised Mr. Janak that he needed to work out the issues with KDCF, that the agreement with the City is for a year but could be canceled prior to that. The Mayor further stated that they came to the City as an emergency situation and stated their desire to relocate and this is just the agreement that requires them to pay "X" dollars a month to be there. Mr. Janak disagreed, stating that the state must have a back up in place and that the memorandum of understanding complied with that requirement. He stated with a year lease, that makes the City a direct competitor of his. The Mayor indicated that he saw his concern, however, he desires to keep them in Independence and preferably not in a City owned building. The Mayor further advised Mr. Janak that if he could work the issues out he could have them back. Mr. Janak expressed concern that the lease with the City gives them an out of the eight year lease that they had signed**



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with him. The Mayor thanked Mr. Janak for his comments. Commissioner Ysusi asked Mr. Janak if the State had given notice of what their intent was. Mr. Janak stated the State had sent him notice of their concerns. He discussed some ADA concerns, and what he had been trying to do to resolve them. The Mayor again advised Mr. Janak that he need to visit with the State to work out the issues and further advised him that the City's lease for one year was on a month to month. The Mayor further stated that the lease needed to be amended before it was approved. City Attorney stated that they could approve it subject to the State approving the modifications. The Mayor moved to sign the lease agreement with KDCF with the stipulation that Article 19 is removed from the requirements. Mr. Janak advised the Mayor that Mr. Whitehead said they would leave Independence after a year. City Manager Whitehead stated that he did not say they would leave Independence, that they would leave the City's building after a year. Mr. Janak stated that if KDCF moves to the City's building for a year they are leaving his building and that is not your concern if we have issues going forward. The Mayor stated that they were making a decision based on the information that they had. The Mayor further stated that they acknowledge that there is a dispute and that his emphasis was for that dispute to be resolved and they could move out of the City's building. The Mayor further stated that the agreement with the City is for a temporary relocation with a twelve month period, and after twelve months the City would reconsider and address issues at that time, and acknowledge that the temporary lease can be terminated with 30 days notice and the desire if for the issues to be resolved so they can return back to the ARCO building. The Mayor further stated, as Commissioners they need to consider the contract as a temporary agreement with the State of Kansas. The motion was reread.

### Motion:

Mayor Cafilisch moved to approve signing the lease agreement with KDCF with the stipulation that Article 19 is removed from the requirements. The motion was seconded by Commissioner Hogsett.

Aye: Cafilisch, Hogsett

Nay: Ysusi

- E. Consider approving a lease agreement with the Kansas Department of Labor (KDOL) and the City Of Independence for use of space in Building D.

Tim Janak had requested to speak. The Mayor called for the same motion made previously. Commissioner Ysusi stated that KDOL was a one person office and there are other offices in the City that could accommodate their needs. Commissioner Ysusi further stated that he understood Mr. Yanak's concerns. Mayor Cafilisch indicated that the State did look at other spaces in town, however, they did not meet their requirements for ADA and bathrooms. Stating that even a one person

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office has to comply with ADA. Commissioner Ysusi stated that he understood that this particular office was going to open for two years and then be phased out. He then asked what the emergency was that made the State wish to leave. City Manager Whitehead stated that he presumed they felt the same pressures as KDCF did, however, he cannot speak for KDCF. Commissioner Ysusi indicated that it appeared to be a trite issue to get out of a lease to come to a building more accommodating to them. City Manager Whitehead indicated that staff was not marketing the building, as they came to us. He further stated that it is not uncommon for government agencies to share buildings. He stated that the City does in some ways compete with the private sector, such as solid waste collection. He further stated that if they could get their agreement worked out and move back to Mr. Janak's building that would be great, as having the State offices here has disrupted the City's operations as well, however, staff is coping with it and being a good neighbor. The Mayor stated again that the City's agreement is temporary and that he hoped that Mr. Janak could get the issues worked out. Mr. Janak stated that he felt if the City executed these agreements that it took the opportunity away for them to come back to his building. He stated with the MOU, he felt there was an opportunity to bring them back. He further stated he offered the State the same deal the City is providing them, however, they would rather rent from the City. He further stated that he didn't feel like he was on equal footing, and if it was the Professional Building it would be a different story. He stated it was important that we work together. Commissioner Hogsett asked Mr. Janak if he had an agreement with the Department of Labor. Mr. Janak stated that it expired the end of June.

### Motion:

Mayor Cafilisch moved to approve signing the lease agreement with KDOL with the stipulation that Article 19 is removed from the requirements. The motion was seconded by Commissioner Hogsett.

Aye: Cafilisch, Hogsett

Nay: Ysusi

### Reports

#### A. City Board Minutes.

The December 2017 through April 2018 Library Board of Trustee Minutes were provided in the Commissioner's packets and were acknowledged by the Commission.

### City Manager's Report

The City Manager announced that Amanda Williams was leaving the Reporter to seek opportunities with having her own business. She was thanked for her previous efforts.

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### Commissioner's Comments

Commissioner Hogsett stated that he was asked to be a representative of a Montgomery County team to tour the Tyson facilities. The Commission asked questions regarding the economic and environmental possibilities of Tyson locating in Montgomery County.

Mayor Cafilisch asked about the status of the audit and if there were any questions regarding the corrective action report previously provided. Mayor Cafilisch asked about reworking 2017 entries. City Manager stated that it was complicated. He further stated that prior to the 2016 audit being completed they were basing numbers utilized in the treasurer's reports on projections so they were going through and correcting those and were up to April now. The Mayor asked how that would affect the 2017 audit schedule. The City Manager stated that the 2017 data will be accurate when the auditors come the end of July. The City Manager further stated that there was a system in place the current City Clerk inherited that was complicated and had some issues and they were working with an accountant to rework that. The City Manager further stated that the bank reconciliations should have done through Incode, instead of an off site spreadsheet. The Mayor asked if the audit would be done in September since it is being started in July rather than April. The City Manager stated that we didn't know we would need a new auditor until later, however, the new firm guaranteed they would meet statutory requirements which is December 31<sup>st</sup>. The City Manager further stated that hopefully it will be before that, however, it depends on what they find. The Mayor asked if a list had been provided of what needed to be prepared. The City Manager indicated that the new auditors had provided such a list.

Commissioner Hogsett wished to clarify that he did not state that Tyson was definitely coming, and that they consider us dating at this point. He further stated that it is our hope they will build in Montgomery County; however, it is not definite.

### Public Concerns

There were no public concerns.

### Executive Session

Motion:

At 5:13 PM the Mayor moved to recess for an executive session for discussion of an employee performance pursuant to the non-elected personnel exception, KSA 75-4319(b)(1). The open meeting will resume at 8:33 PM in the Veterans Room of Memorial Hall. The motion was seconded by Commissioner Ysusi.

Aye: Cafilisch, Hogsett, Ysusi

Nay: None

Motion:

The Mayor moved to extend for 15 minutes to resume at 8:49 PM, Commissioner Hogsett seconded.

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**Aye: Caflisch, Hogsett, Ysusi**

**Nay: None**

**Adjournment**

**Mayor Caflisch adjourned the meeting.**

  
\_\_\_\_\_  
Leonhard Caflisch, Mayor

  
\_\_\_\_\_  
Louis Ysusi, Commissioner

  
\_\_\_\_\_  
Gary Hogsett, Commissioner

Attest:

  
\_\_\_\_\_  
Kelly C. Passauer  
Assistant City Manager