

Minutes of the Independence City Commission's September 27, 2018 Meeting

The Independence City Commission met for a regular meeting on September 27, 2018 at 5:30 P.M. in the Veterans Room at the Memorial Hall. Mayor Leonhard Caflisch and Commissioner Louis Ysusi were present. Commissioner Gary Hogsett was absent.

Others present included:

City Staff

Craig Whitehead, City Manager  
Jeff Chubb, City Attorney  
Kelly Passauer, Assistant City Manager/Zoning Administrator  
David Schwenker, City Clerk/City Treasurer  
David Cowan, Director of Safety/ADA Coordinator  
Shawn Wallis, Fire Chief  
Michael Borovetz, Finance Director  
Jerry Harrison, Police Chief  
Terry Lybarger, Utilities Director  
Mike Passauer, Public Works Director  
Don Cushing, Building Inspector  
Brian McHugh, Memorial Hall Supervisor

Visitors

Ellie Davis  
Dorcas Sutton  
Fred Meier  
Larry McHugh  
Judy Ysusi  
John Kishpaugh  
Sarah Unruh  
Robert Meadows  
Harry Smith  
Tim Haynes  
Dean Hayse

I. REGULAR SESSION

- A. Call to Order  
Mayor Caflisch called the meeting order at 5:30 p.m.
- B. Pledge of Allegiance to the United States of America
- C. Adoption of Agenda

**Motion:**

**The Mayor moved to adopt the agenda with the modification of moving the executive session item IX.A. regarding Attorney/Client Privilege before the Public Hearings, which was seconded by Commissioner Ysusi.**

**Aye: Caflisch, Ysusi, Hogsett**

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Nay: None

II. COMMON CONSENT AGENDA

A. Appropriations

1. A-1823
2. P-1793

B. Consider approving minutes of the August 23, 2018 City Commission meeting.

*SUGGESTED MOTION -- I move to approve the August 23, 2018 City Commission Minutes as presented.*

C. Consider approving a Cereal Malt Beverage license to Christopher Carpenter for October 26 and 27, 2018 at 301 N. Penn Avenue.

*SUGGESTED MOTION -- I move to approve a Cereal Malt Beverage license to Christopher Carpenter for October 26 and 27, 2018 at 301 N. Penn Avenue.*

D. Consider approving a request from the Fab Lab for the Police Department to release bicycles for a bike loaning project for ICC students.

*SUGGESTED MOTION -- I move to approve a request from the Fab Lab for the Police Department to release bicycles for a bike loaning project for ICC students.*

E. Consider waiving the City curfew the evening of Tuesday, October 23, 2018 for the Neewollah Queens Ball.

*SUGGESTED MOTION -- I move to waive the City curfew the evening of Tuesday, October 23, 2018 for the Neewollah Queens Ball.*

**Motion:**

**On the motion of Commission Ysusi, seconded by Commissioner Hogsett, the Commission adopted the consent agenda as presented.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

III. EXECUTIVE SESSION

A. Attorney/Client Privilege.

This item was moved from IX.A. to III.A.

**Motion:**

**On the motion of the Mayor the Commission recessed for an executive session for consultation with the City's attorney regarding ongoing litigation pursuant to the attorney-client privilege exception (KSA75-4319(b)(2)). The open meeting will resume at 5:50 p.m. in the Veteran's Room of Memorial Hall. Those in attendance**

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will include the Commissioners, City Attorney, City Manager and Fred Meier. The motion was seconded by Gary Hogsett.

**Aye: Cafilisch, Ysusi, Hogsett**  
**Nay: None**

The Commission meeting reconvened at 5:50 p.m. with no action taken.

#### IV. PUBLIC HEARINGS

- A. Public hearing to consider condemnation of 209 S. Earl Street as dangerous and unsafe.

The Mayor opened the public hearing. No one representing the property owner was present. Building Inspector Don Cushing recommended proceeding with condemnation. No one from the public wished to address the Commission. The public hearing was closed.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adopted a resolution condemning 209 S. Earl Street as dangerous and unsafe.**

**Aye: Cafilisch, Ysusi, Hogsett**  
**Nay: None**

- B. Public hearing to consider condemnation of 717 Washington Street as dangerous and unsafe.

The Mayor opened the public hearing. No one representing the property owner was present. Building Inspector Don Cushing recommended proceeding with condemnation. No one from the public wished to address the Commission. The public hearing was closed.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adopted a resolution condemning 717 Washington Street as dangerous and unsafe.**

**Aye: Cafilisch, Ysusi, Hogsett**  
**Nay: None**

#### V. ITEMS FOR COMMISSION ACTION

- A. Consider setting the date for a public hearing to consider condemnation of a structure at 417 S. 6th Street on November 20, 2018 at 5:30 p.m.

Building Inspector Don Cushing reported that the brick wall under the front of the building collapsed and went into the basement. He recommended moving forward because of the dangerous condition. He

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further stated that there was an issue with a support beam. The owner was not present.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adopted a resolution setting the date of November 20, 2018 at 5:30 PM for a public hearing to consider condemnation of 417 S. 6<sup>th</sup> Street as dangerous and unsafe.**

**Aye: Caflich, Ysusi, Hogsett**

**Nay: None**

- B. Consider quotes received for a budgeted water line replacement at Main Street and Cement Street.

Director of Utilities Terry Lybarger indicated that this project would increase the fire protection and water quality in that area as it will loop the system.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission approved the quote from T.C. Underground, Inc. in the amount of \$48,095.00 for the water line work at Main and Cement St.**

**Aye: Caflich, Ysusi, Hogsett**

**Nay: None**

- C. Consider a request from Harry Smith, Precision Railway Equipment Company, LLC and the City of Independence to rezone a tract of land from R-2, single family dwelling district to M-1, light industrial district at 800-814 S. 19th Street.

Assistant City Manager/Zoning Administrator reviewed the agenda item with the Commission and advised that on September 4, 2018 the Planning Commission recommended approval of the rezoning request. She also advised the Commission that these lots were at one time zoned M-1 and were rezoned to residential, however, no new residential development has occurred. She further indicated that the previous residential structures have been removed.

**Motion:**

**On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission approved adopting an ordinance rezoning 800-814 S. 19th Street from R-2, single family dwelling district to M-1, light industrial district.**

**Aye: Caflich, Ysusi, Hogsett**

**Nay: None**

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- D. Consider a request for no parking stalls for a storage building to be constructed in the 800 block of South 19th Street that will have no vehicular access.

The applicant Harry Smith was present. Assistant City Manager/Zoning Administrator reviewed the request with the Commission, stating that where the storage building would be constructed they do not plan on any having any vehicular access as there would just be forklift traffic. She further stated that it was a unique situation and in reviewing it with the City Attorney they determined that because it didn't really fit the off-street parking regulations listed uses there was a process allowed by code to not require off-street parking. She further stated that the Planning Commission recommended approval.

The Mayor stated that he thought it was great and a pretty simple solution. He further stated that the zoning ordinance can be pretty specific on requirements, but they don't really look at the practical needs or function of the building and he thinks this is a good example where the reality is it's not necessary so why task a building owner or a developer with the costs of providing something that's not necessary. He further stated that he likes that the Planning and Zoning Commission is considering the total picture and trying to accommodate. He further stated that he appreciates Mr. Smith's business in town and wants to encourage and help in any way possible, stating; "... so that we can see you to grow and prosper and putting money in parking areas that aren't necessary is not the way to help your bottom line and you know I think this is a great solution that Planning and Zoning has brought to us."

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission accepted the Planning Commission's recommendation to authorize no parking stalls for a storage building to be constructed in the 800 block of South 19<sup>th</sup> Street that will have no vehicular access.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

- E. Consider an agreement for access to cemetery property by Larsen & Associates to install a monitoring well.

Jeff Chubb Reviewed the item and stated that two or three times a year the City gets requests from companies that contract with KDHE to put in monitoring wells to check for underground movement of hydrocarbons oils and gasolines usually around gas stations that have been closed. He further stated that the locations are usually in the street and alley rights-of-way. He further stated that this time it happened to be in the cemetery so he added some language so that the Cemetery Sexton, Jim Bennett would have some control and supervision and be notified so there

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are no encroachments upon grave sites. He further stated that other than that it's a standard agreement.

**Motion:**

**On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission approved an agreement for access to cemetery property by Larsen & Associates to install monitoring wells.**

**Aye: Caffisch, Ysusi, Hogsett**

**Nay: None**

VI. REPORTS

A. Update on water treatment plant project.

The Director of Utilities Terry Lybarger introduced Sarah Unruh with PEC who is the project manager for the water treatment plant project.

Sarah Unruh stated the first thing she wanted to do is remind everyone of what the total scope of work that is being funded through KDHE, which is the Kansas Department of Health and Environment's loan program. She indicated that their first task was to complete all of the loan application process which included everything but the initial application of requesting funding which had already been done. All the other paperwork and all of the environmental reviews that are required as part of the loan process needed to be done, including a preliminary engineering report which is basically a report that says this is what the issues are and this is how we plan to address them so they can approve your concept before you start design work. The other part of this was to put together a design memo because there were other concerns at the water treatment plant that had been brought up and the original requests for proposals that went out to engineers identified specific things to be investigated at the water plant and determine what the extent of the issues were and what could be done about those. The first was modifications to the administration building to determine how you could get some additional space in there for a break room and shower facilities and then accommodate the existing laboratory and office spaces. There's also an inspection of a very large settling Basin where there had been some leakage and some potential structural issues so part of that was to drain that basin and get a contractor out to inspect that so their structural engineer could make recommendations for repairs. She further stated that the clarifier that is at the water plant they needed to have inspected as well, so they had a manufacturer's representative come out and take a look at that and give recommendations for repairs. She stated that the final thing that was involved in that design memo was looking at options for security at the facility; stating; "You know there's a real short little chain-link fence around most the facility and so we looked at some more secure fencing options and so that design memo was prepared to kind of take a look at those things and give recommendations and cost

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estimates for those". She further stated that the full loan is 3.1 million dollars and the purpose was to determine once the electrical improvements was done in bid and we knew how much was left over that the City could look at what other things could potentially be done at the water treatment plant to address other concerns. She further stated that the design project that right now is for electrical improvements and their contract included the design work to be included with that, and then also bidding construction administration and on-site inspection services. She further stated that she divided it out into two parts and outlined the progression of where they started and where they are now with the first part being design and the second part is the loan.

Sarah Unruh then went through the following project scope of work and timeline:

**Scope of Work:**

- Preparation of KDHE SRLF loan application
- Preparation of Preliminary Engineering Report
- Preparation of Design Memo to present concept plans and cost estimates for:
  - Modifications to administration building to accommodate break room, shower facilities, laboratory, and office space
  - Inspection of settling basin and recommendations for repairs (included coring by subcontractor)
  - Determine repairs needed for clarifier (inspected by manufacturer representative)
  - Concept plans for fencing options
- Design plans and specifications for electrical system improvements
- Bidding, construction administration, and inspection services for electrical system improvements project

**Design**

7/27/17	Contract approved by Commission
9/8/17	Kick-off meeting with City
10/12/17	Core drilling of settling basin
10/18/17	Administration concept plans sent to City for review
11/3/17	Comments received from City on administration concept plans
11/28/17	30% design documents submitted to City for review
11/28/17	Draft Design Memo submitted to City for review
12/20/17	Meeting with City staff to review the 30% design documents
1/8/18	PEC attended the Park Board meeting to discuss fence options as noted in the Design Memo
1/30/18	Draft Preliminary Engineering Report (PER) submitted to City for review
3/7/18	90% design documents submitted to City for review

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3/20/18 Meeting with City staff to review the 90% design documents  
4/6/18 Onsite meeting with Westar at water treatment plant (rescheduled by Westar from 3/26/18)  
4/25/18 Received KDHE approval of the Preliminary Engineering Report  
6/7/18 Westar indicated they should have the final decision on the costs for power relocation and provide that to PEC by 6/22/18, with the final location for the new electrical service provided soon after.  
7/12/18 Westar provided cost and relocation information to PEC  
7/27/18 Final design documents provided to the City for review  
8/29/18 Received notification from City of no comments on final design documents; ok to send to KDHE  
9/7/18 Sealed design documents and permit application sent to KDHE for review

**KDHE Loan**

2/7/18 Draft Environmental Review letter sent to City for review  
3/2/18 Environmental Review letters sent to 12 agencies  
3/20/18 Updated loan application provided to City for review  
3/23/18 Loan application submitted to KDHE for review  
4/5/18 KDHE requested additional information for review of loan application  
1. New loan form (KDHE had outdated version on the website)  
2. Copy of year-end financial statement for 2017  
3. Affidavit of publication for 5/2/17 public hearing  
4. Sealed Preliminary Engineering Report  
5. Environmental review responses  
4/5/18 PEC provided items 4 & 5 requested by KDHE above  
5/7/18 PEC sent information provided by the City for items 1, 2, and 3 requested by KDHE above  
8/29/18 KDHE mailed loan agreement to City for execution

Commissioner Ysusi asked Sarah Unruh representing PEC if she had heard back from Westar regarding having their material on hand, to which Sarah Unruh replied that she had not, but that she would contact them again and find out their schedule. Commissioner Ysusi stated that he heard it takes 12 weeks to order a pole. Sarah Unruh stated that would not necessarily delay the project. Commissioner Hogsett asked about the budget and Sarah Unruh indicated it was around \$1.4 to \$1.5 million and the total loan is for \$3.1 million. Commissioner Hogsett asked if the generator would carry the entire plant and Sarah Unruh said it would. The Mayor said it was taking a long time, and anticipated push on electrical. He said that portion of the design is not that involved. He further stated that with the current equipment it is on borrowed time and they were still

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looking for time to bid, order materials, and he "...hoped there are some good prayers to hope it stays together because we are that critical. I had hoped that we would push harder to get that part through and approved, then looking at interior renovation and fence." Commissioner Hogsett said it sounds like we are 6 months out on construction. Sarah Unruh stated that she anticipates seeing things back in a couple of weeks, and there is a 30-day bidding period and it would probably be two months before a contractor can get onboard. She further stated that things have to be switched over in a very calculated sequence to make sure everything keeps running and minimize downtime. She further stated she understood the concerns on the timeframe; stating "I guess in this instance you know it doesn't seem like a lot because you're just replacing equipment but to make sure that you get the right equipment, that you're hooking everything back up the way it's supposed to be hooked up, and we show that correctly on our plans, making sure we have the coordination with the integrator that the City has chosen, Pedretti, to work with on the SCADA system, making sure we had everything coordinated with them for all those remote sites, and that their quotes and scopes matched up with what we expected to see, and then of course the coordination with Westar took quite a while as well. Unfortunately, we can't complete those plans until all those things are coordinated and figured out and you know there's a lot of parts and pieces and a lot of people at the table to try and make all of that happen and so you know at this point in time like you said I would expect or hope that we would get things back from KDHE in the next few weeks and so we'd be looking at being able to award a contract hopefully in the next two months." The Mayor said the review should not be difficult since it is electrical and not water purification. Sarah Unruh said it will be a detailed meeting once a contractor is onboard regarding the crossover, further stating; "There's a very distinct plan before anything occurs and I'm at the site to make sure nothing ... is taken down longer than it needs to be or not longer than it can be ... and yes the actual review time should be fairly short." She further stated that the hard part is getting it through the KDHE queue. She further stated; "I keep in contact [with KDHE] every couple of weeks, but don't want to be a pest." The Mayor thanked Sarah Unruh for coming.

### B. CITY MANAGER'S COMMENTS

The City Manager updated the Commission about the ransomware attack and stated he hadn't heard any results from the company that is investing the attack, but they are working on it. The City Manager stated that he again wanted to thank staff, especially David Cowan, and the employees that gave up their computers for 36 hours and the City's I.T. consultant, further stating; "Without them we would have been lost. They are working together very well with the forensic firm." Commissioner Hogsett asked if it was fair to say we have little damage, to which the City Manager replied we only lost a couple of hours transactions, but not any significant data. Commissioner Hogsett stated that we dodged a bullet.

VII. COMMISSIONERS' COMMENTS

Commissioner Hogsett stated he had no comments.

Commission Ysusi reminded everyone that there is a community clean up on Saturday, October 6th which is the same day as recycling. He stated this gives people an opportunity to clean up, and hopefully not put items on their front porches. He further stated if citizens have brush that needs to be picked up, you need to call in, further stating; "In case you didn't know that, call the City and you will get on a list, they don't give you a timeline, and they will work through that list." Assistant City Manager Kelly Passauer also stated that citizens can also use the website to turn in work orders for brush pickup.

The Mayor said he wanted to look at protocol for the meetings at the next meeting, particularly in regard to the public forums and modifying the part about not responding to questions. He further stated that the forum needed to be for an acceptable time and also look at limiting number of times someone can address the Commission, so everyone is allowed to participate. He further suggested limiting the forum to an hour or an hour and half, so it doesn't continue going on. Such as opening the session, then closing at a specific time. He further stated he wanted this on the next agenda to further discuss the process, and then staff can post it on the website, Facebook and put it in the papers so the public will know how they are planning on conducting the meeting.

The Mayor said he visited with area Commissioners and they are interested in having a joint Commission meeting to discuss ways we can come together, brainstorm and collectively look at ways that could reduce taxes. He further stated he could reach out to Caney and Cherryvale, and that he had already spoke to Coffeyville and the County.

The Mayor further stated that they have also talked about in the past, setting minimum standards for bidding, minimum insurance and performance bonds. He further stated; "Not every project needs that, but some standards that could help that." He stated that the County has an ordinance or policy dealing with contractors within the County, they are allowed local preference. He stated that is something the Commission may want to look at to stimulate the local contractors. He further stated that there are a lot of large projects with only one bidder, and to "Keep our consultants active to call generals or subs. I noticed there were comments about a procurement policy. It all ties together." The City Manager stated that the Commission could lay out when you go to bid, when you don't, when you get quotes, etc. The City Manager stated that David Schwenker and Mike Borovetz are working on a purchasing policy and they had gotten a lot of Samples and they will certainly discuss those. The Mayor said that bidding has the advantage that you can make an outline; "Like Terry on the water line, all the information, if bonds are required, mark it and check it, and where is the bid delivered, and whether sealed bids are required. It helps the bidder know if they are sealed my competitor isn't going to have a chance to get my information and

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undercut me. Those were some things I think will help us be more efficient and help us cut our expenses for savings back to our citizens.”

The Mayor stated that; “October 11th is our next meeting. Come back with ideas for a forum. I’ve had two different groups willing to open their facilities and they will go door to door.”

VIII. PUBLIC CONCERNS

There were no public concerns.

IX. EXECUTIVE SESSION

A. Personnel matters of non-elected personnel.

**Motion:**

**On the motion of the Mayor the Commission recessed for an executive session for discussion of an employee's performance pursuant to the non-elected personnel exception, (KSA75-4319(b)(1)). The open meeting will resume at 7:05 pm. in the Veteran's Room of Memorial Hall. Those in attendance include City Commissioners and City Manager. Commissioner Ysusi seconded the motion.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

The Commission meeting reconvened at 7:05 p.m. with no action taken.

X. ADJOURNMENT

**Motion:**

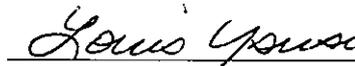
**The Mayor moved to adjourn. Commissioner Ysusi seconded the motion.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

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

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

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

Attest:

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