

## Minutes of the Independence City Commission's March 20, 2019 Special Meeting

The Independence City Commission met for a special meeting on March 20, 2019 at 9:00 A.M. in the Veterans Room at the Memorial Hall. Mayor Louis Ysusi, Commissioner Gary Hogsett and Commissioner Leonhard Caflisch were present. Others present included:

### City Staff

Craig Whitehead, City Manager  
Kelly Passauer, Assistant City Manager  
Lacey Lies, Director of Finance  
David Schwenker, City Clerk/City Treasurer  
David Cowan, Director of Public Safety  
Shawn Wallis, Fire Chief  
April Nutt, Director of Housing Authority  
Jerry Harrison, Police Chief  
Terry Lybarger, Director of Utilities  
Mike Passauer, Public Works Director  
Barb Beurskens, Park and Zoo Director  
Barry Beurskens, Maintenance

### Visitors

Ellie Davis  
Dean Hayse  
Larry McHugh  
Larry McManus, Montgomery County Commissioner

#### I. SPECIAL SESSION

##### A. Call to Order

Mayor Ysusi called the meeting to order at 9:00 A.M.

#### II. WORKSESSION

##### A. Discussion with Montgomery County Commissioner Larry McManus.

Mayor Ysusi welcomed Commissioner McManus and asked if he had any opening statements he would like to make.

Commissioner McManus said he was not prepared to make any statements.

Commissioner Caflisch discussed about the possibility of cooperating and sharing services with other municipalities and the county but wanted to go Commission to Commission and get ideas and see where we can consolidate or share services.

Commissioner McManus said the County could share heavy equipment.  
Public Works Director Passauer noted that when the County does work for the

City there is a cost associated with that.

Commissioner Caflisch noted that all costs need to be looked at to see which idea is more feasible.

Director Passauer noted that when the City and County are performing the same job using the same equipment the work must be coordinated and it would be easier to own their own equipment.

Commissioner Caflisch noted that it was a definite advantage to own your own equipment and that ideas need to be thrown out there for discussion. The Commissioner then inquired about the possibility of sharing an engineer with the County and other Cities in the County.

City Manager Whitehead noted that you must look at the pros and cons of consolidation and to be careful that your level of service is not degraded by whatever consolidation you are talking about. He noted that consolidating dispatch was looked at several years ago and it was quite expensive.

Commissioner Caflisch said the one thing you do with brain storming you don't consider the negatives, you look at options and evaluate each option independently.

City Manager Whitehead said at one time there was a committee that consisted of other City Managers and staff that met once a month to come up with ideas like those talked about today and suggested maybe starting that up again.

Commissioner Caflisch suggested the possibility of having that same committee at the Commissioner level.

Mayor Ysusi asked if there is a county in Kansas that has one dispatch.

Chief Harrison noted that Riley County is the only County Police Department. He went on to say that he is gathering information on a feasibility look at consolidated dispatch and his goal is to have that done in 2019.

City Manager Whitehead talked about his experience with a countywide dispatch.

Chief Harrison noted that a decision shouldn't be made without research.

Commissioner Caflisch talked about the need develop a program that does not diminish the level of service and to come together for a solution and no matter what we are looking at, our goal is to improve services to everybody.

Assistant City Manager Passauer advised that they had collaborated on training, such as Cybersecurity training towards the end of the year in lieu of a meeting. Also, with the change of the administration in two of the cities, they haven't met yet this year. She indicated that they had previously discussed several of the items brought up. She stated it would be good to get direction from the Commissions on specific topics to discuss, so that there is a set agenda with topics to discuss as we do want to value everyone's time and ensure the meetings are productive.

Commissioner Hogsett suggested the possibility of sharing an engineer with the County and the other cities in the county.

Commissioner McManus said the City and County work well together and do a lot of things together behind the scenes.

Commissioner Caflisch if Assistant City Manager Passauer could develop a list of the items that were discussed and provide it to the County Commissioners and have copies available for meetings with other City Commissioners.

Mayor Ysusi thanked Commissioner McManus for attending.

B. Street concerns.

Mayor Ysusi inquired about the timeline of repairs and have the most critical streets been identified.

Director Passauer stated that Main Street between 9<sup>th</sup> and 10<sup>th</sup> is most critical.

There was discussion about what to do with the corner of 11<sup>th</sup> and Maple and where the water problems are.

Mayor Ysusi asked about the long-range plan for addressing potholes.

Director Passauer noted that there is a short time frame to make hot patch repairs and he is at someone else's mercy on getting hot asphalt.

Commissioner Caflisch said he had citizens complain that when a street is opened sometimes it takes a year or two to repair it and wondered if it would be better to fix it with concrete.

Director Passauer noted that concrete works on utility patches because they are deeper.

Director Lybarger noted the utility department causes a lot of the holes and they get busy repairing leaks and do not always coordinate with the street

department and he has talked with his staff about this.

Mayor Ysusi inquired about water line replacement.

Director Lybarger said that he has twelve years of water line projects laid out.

City Manager Whitehead talked about the long-term capital plan for streets and water/sewer line replacement.

Mayor Ysusi thanked Director Lybarger for his information.

Commissioner Caflisch talked about street projects scheduled for this year.

Director Passauer talked about the proposed street projects for this year and their estimated costs.

Assistant City Manager Passauer showed a map of the streets that were resurfaced in 2018 as well as the projects scheduled for 2019.

Mayor Ysusi asked that this information be forwarded to the Commissioners.

C. ADA concerns.

Director Cowan handed out a draft ADA plan to the Commissioners and reported that this was an assessment of ADA concerns with possible costs.

Commissioner Caflisch discussed the guidelines for providing curb ramps and inquired of Director Cowan if he has identified all the altered streets where no ramps were provided.

Director Cowan said those would be identified.

Commissioner Hogsett inquired about the downtown sidewalk project in 1997 and why it stopped before 9<sup>th</sup> and Main.

Commissioner Caflisch noted that there were some issues with streetscape that didn't comply with ADA and that issue should have been fixed in 1997.

D. Other concerns and issues.

None.

### III. ADJOURNMENT

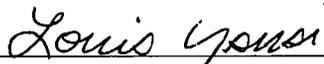
A. Adjournment

**Motion:**

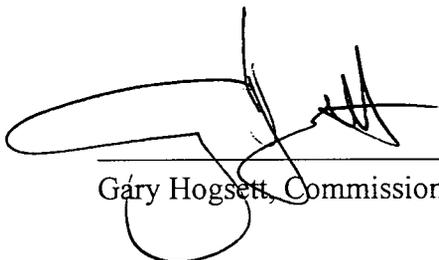
**Commissioner Caflisch moved to adjourn. Commissioner Hogsett seconded.**

**Aye: Ysusi, Caflisch, Hogsett**

**Nay: None**

  
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Louis Ysusi, Mayor

  
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Leonhard Caflisch, Commissioner

  
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Gary Hogsett, Commissioner

Attest:

  
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City Clerk/Treasurer

## Americans with Disabilities Act

March 14, 2019

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities in everyday activities.

2010 Standards for State and Local Government Facilities Title II

ADA Update: A Primer for State and Local Government – An illustrated guide to help State and local government officials understand the requirements of the 2010 ADA regulations.

2010 Standards for Public Accommodations and Commercial Facilities Title III.

ADA Update: A Primer for Small Business – An illustrated guide to help small businesses understand the requirements of the 2010 ADA regulations.

Settlement Agreement DJ 204-29-144 between the United States of America and the City of Independence, Kansas signed by the City of Independence March 31, 2011 and by Department of Justice April 28, 2011. Item 71 on page 15 of the Agreement stipulates the length of the Agreement. The time stated in that section has expired and according to a letter stamped December 22, 2016 from The U. S. Department of Justice, Civil Rights Division states that the conditions of the Settlement Agreement have been met and the Agreement has been closed. The only requirements for the city to comply with now are the 2010 ADA Standards for Accessible Design as they apply to Title II State and Local Governments. The concern for the compliance to the Settlement Agreement ended and its reference is not necessary.

Ms Elizabeth Savage

Mr. Michele Mallozzi, Architect  
Disability Rights Section, Civil Rights Division  
U.S. Department of Justice.

It was my opinion that when the city began the corrective action necessary to satisfy items identified in the Settlement Agreement DJ 204-29-144 that there were misinterpretations of the ADA requirements for the construction of certain curb ramps. I discussed these concerns with Mr. Mallozzi, the following is an outline of the topics we discussed and the applicable references:

1. Where are curb ramps required? The requirements for curb ramps has been included below for reference. Curb ramps are required to eliminate the curb so that the walking surface does not have a barrier between the roadway and the connecting walk. It is only the transition between the roadway surface and the walkway. Curb ramps are only required to be provided for newly constructed or altered streets, roads and highways or newly constructed walkways. If the existing roadway is not newly constructed or is not being altered, then curb ramps are not required. The city has added curb ramps at numerous locations throughout the city where the streets have not been altered since the implementation of the Americans with Disabilities Act in 1992. These curb ramps were not necessary.

28 CFR 35.151 New Construction and Alterations

(i) Curb ramps.

(1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways. Construction of curb ramps can be found in article 406 Curb Ramps.

2. In conditions where the gradient of the walk raises rapidly how is a curb cut required? At locations where the existing gradient is non-compliant and exceeds the slope limits indicated in the 2010 ADA a curb ramp is not required because the walkway is not accessible. The 1992 and the 2010 ADA Standards for Accessible Design contain an exception that eliminates the requirement for curb ramps at such a location and the additional step/ramp construction that has been provided. The "switchback" ramps that have been construction were not requirement per the exemption cited.

28 CFR 35.151 New Construction and Alterations

(a) Design and Construction

(2) Exception for structural impracticability

- (i) Full compliance with the requirements of this section is not required where a public entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

3. How can walkways on steep gradients or a hill? Walkways at these locations are not requirement to be compliant based on the previous reference.
4. What is the basic requirement of the City regarding accessibility? Public accommodation is the basic requirement under Title II that the City must satisfy by either facility modification of providing Program Access. Facility modification is straight forward which removes barriers from existing facilities and new construction or renovated facilities are designed barrier free. An alternate option for existing facilities that were constructed prior to 1992, is to provide access to the programs provided to the public by the city through other means. It allows taking the service or program to an individual that has limited mobility so that they can have the same experience as an individual that is not handicapped. For example, if an existing conference is normally held in an area that is not compliant with accessibility standards the conference could be relocated to an accessible area. With the utilization of video documentaries of the non-accessible exhibits, such as those in the ravine or tours of the water treatment plan, physical modifications are not are not required if an individual with disabilities could have the same experience by providing Program Access. Program Access can reduce the cost incurred by physical modifications with construction and but still provide access which complies with ADA standards.

Mr. Mallozzi is one of the auditors that prepared the of the city's facilities for the Settlement Agreement. Program Access was his suggestion to consider for meeting the requirement of accessibility for programs or services that have natural terrain barriers or physical barriers in facilities constructed prior to 1992. I thought that was beneficial since he was acquainted with the city's facilities.