

Minutes of the City Commission's July 14, 2022 Meeting

I. REGULAR SESSION

Commissioners Present: Mayor Dean Hayse, Vice-Mayor Tim Emert, Commissioner Louis Ysusi

City Staff Present: Jeff Chubb, City Attorney; David Cowan, Assistant City Manager; Kelly Passauer, City Manager; David Schwenker, City Clerk/City Treasurer; Shawn Wallis, Fire/EMS Chief; Brian McHugh, Memorial Hall Supervisor; Lacey Lies, Director of Finance; April Nutt, Director of Housing Authority and Jerry Harrison, Chief of Police.

Visitors Present: Larry McHugh, Brea Sanford, Sean Clapp, Susan Scovel, Ned Stichman, Tom Hoffert and Babs Emert

A. Call to Order

Mayor Hayse called the meeting to order.

B. Pledge of Allegiance to the United States of America

C. Adoption of Agenda

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert the Commission adopted the agenda.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

II. APPOINTMENTS

A. Tree Board -- One Vacancy -- Applications Due by noon on August 3, 2022

B. Board of Examiners - Plumbers -- Four expired terms -- Applications due by noon on August 3, 2022

III. PRESENTATIONS

A. Presentation of the 2021 Audit.

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Sean Gordon of Gordon C.P.A. presented the 2021 audit report of the City's finances.

IV. CONSENT AGENDA

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi the Commission adopted the consent agenda.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- A. Consider approving City Commission minutes from May 12, 18 and 26, 2022.**

Suggested Motion:

I move to approve the City Commission minutes from May 12th, 18th and 26th, 2022.

- B. Consider approving the installation of a new light near 302 North 1st Street, and increasing the lighting intensity at the intersection of Freedom Drive and Russ Meyer Boulevard.**

There have been two requests related to streetlights. The first is the addition of a streetlight near the address of 302 N. 1st Street. This location follows policy and is supported by the Chief of Police as well for public safety. The cost would be \$7.83 per month for this light. Additionally, a light at the intersection of Freedom Drive and Russ Meyer Boulevard has been recommended by local workers to be increased in output for traffic safety. This would increase costs from the current Class A light charge (\$7.83 per month) to a Class B light charge (\$13.06 per month), an increase of \$5.23 at this location.

Suggested Motion:

I move to approve new light near 302 N. 1st Street and the increase in lighting strength at the intersection of Freedom Drive and Russ Meyer Boulevard.

- C. Consider adopting a Resolution setting a public hearing to establish Rural Housing Incentive Districts (RHIDs).**

A Housing Needs Analysis has been conducted and the governing body has determined the following:

- 1. There is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.**
- 2. The shortage of quality housing can be expected to persist and additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.**
- 3. The shortage of quality housing is a substantial deterrent to the future economic growth and development of the City.**
- 4. The future economic well-being of the City depends on the Governing Body providing additional incentives for the construction or renovation of quality housing in the City.**

The City of Independence approved Resolution 2022-004 for submission to the Kansas Secretary of Commerce along with the approved Housing Needs Analysis, taking the first step in establishing Rural Housing Incentive Districts for the City of Independence.

The Kansas Secretary of Commerce agreed with the findings of the City of Independence, Kansas's Housing Needs Analysis and Resolution 2022-004 in a letter dated March 22, 2022.

The next step in establishing Independence's RHIDs is approving Resolution 2022-023 setting a date and time for a public hearing to consider establishing one or more Rural Housing Incentive Districts (RHIDs).

Establishing Rural Housing Incentive Districts will aid the City of Independence in building housing within the community. The Independence Housing Authority has been working to establish several Rural Housing Incentive Districts for the purpose of developing housing within the City of Independence, Kansas.

This item was on your May 26, 2022 agenda. However, due to not meeting the publication requirements we are having to reschedule this hearing and adopt a new resolution.

Suggested Motion:

I move to adopt a resolution setting the date of July 28, 2022 at 5:30 PM for a public hearing to consider establishing one or more Rural Housing Incentive Districts.

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V. ITEMS FOR COMMISSION ACTION

A. Consideration of Change Order Approvals for Fire-EMS construction.

City staff is working with McCown Gordon and TreanorHL during the construction phase of Fire-EMS. The following are the change order descriptions:

1. Change Order #7. The ceramic floor tile is updated to a new tile that meets DCOF requirements. The previous tile called out for CTB1 is no longer needed in the project, therefore we can use the already specified Roca Maiolica biscuite tile in lieu of the original base tile. This allows the base tile to match the wall tile in the lobby restrooms as well. -- Cost of CO #7 \$373.01
2. Change Order #8. May weather extension exceeded the allowed 5-days. Total weather days were eight. Please see the attached agreement and our responsibility to pay for days that exceed the allowed weather days per month. -- Cost of CO #8 \$4,555.78
3. Change Order #9 Unsuitable soils found in the locations on the attached PDF. Per GSI over-excavation was required to meet minimum bearing. Over-excavated footings were poured back with concrete. -- Cost of CO #9 \$709.87

Total Cost of Change Orders: \$5,638.66

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi the Commission authorized change orders 7,8, & 9 totaling \$5,638.66.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

B. Consider providing direction to the Economic Development Advisory Board regarding whether or not you wish them to develop a policy for gap financing.

The Economic Development Advisory Board has received a request for financing that greatly exceeds the amount allowed in the Business Incentive Policy which provides a certain amount per employee for businesses that qualify. If the Commission wishes to entertain financing above and beyond what the current Business Incentive Policy allows, it is recommended that a gap financing program be established. Gap financing would be a new program that will take time to develop. It is anticipated that it will need to be restrictive and targeted to certain businesses the City believes are vital to

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improving economic development. Chair Chuck Goad would like to know if this is something the Commission is interested in adopting and funding before the board spends a great deal of time developing a gap financing policy and process.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi the Commission advised the Economic Development Advisory Board that the Commission is not currently interested in adopting and funding a gap financing program.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- C. Consider all feasible and prudent alternatives to the proposed demolition of 300 North 8th Street.

The City of Independence has been working with developers to invest in our historical downtown. These investments would bring the potential for new upper-story housing and business opportunities as buildings are renovated in our downtown district. Housing in the City of Independence and the State of Kansas continues to be a priority as there is a shortage of housing in rural communities. Governor Laura Kelly signed House Bill 2237 on May 5, 2022 to provide investments and incentives for residential development in rural areas of Kansas. April Nutt, Housing Director, has been aggressively working to implement the RHID and other incentives along with working with multiple development companies on potential new housing projects in the City of Independence.

In the process of marketing downtown and working with developers, it was evident that additional parking would be needed as upper housing development occurs. The City staff reviewed the downtown area for potential sites for additional parking that would not harm the historic downtown. The City Staff located the property at 300 N. 8th Street and found that the property was not on the list of historical buildings or considered a contributor to the downtown historic district. 300 N. 8th Street was built in 1958 and replaced the Elk's Club which was destroyed by a fire. The building's purpose was for a restaurant under several different names and styles until October 2016, when utilities were disconnected. A modern design, the building has multiple floor levels inside without ADA accessibility.

The site in the 300 block of North 8th also has a parking lot and vacant lot that is owned by the City. The parking lot and green space are currently used for parking and Farmer's Market activities. If approved, the removal of 300

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North 8th, would be leveled with the green space to the north and put back to grass. This space would be utilized for Farmer's Market or other downtown activities until needed for additional parking.

The downtown historical district requires the City to inform the local IHPRC committee of our intention to remove a structure. On May 24, 2022 the IHPRC Chair was notified of our request to remove 300 N. 8th. Since the building is not a historical structure or a contributor to the downtown district, City Staff anticipated they would oppose but there would not be any historical issues. However, City Staff was then notified that the State Historical Office had redesignated the building as a contributor to the downtown historic district. This was done without owner notification or due process by the local IHPRC or SHPO. On June 27, 2022 City Staff presented our plan for demolition of the building which was opposed by the IHPRC on a 6 to 1 vote. The denial is an attached document.

In order for the City to proceed, the staff is required to present to the Commission all relevant factors, that there is no feasible and prudent alternative to the proposal and that the project includes all possible planning to minimize harm to the historic property. As stated previously, the structure was last occupied in 2016 and has been vacant since that time. The building's modern design and accessibility issues are primary factors in the building being vacant. A conservative estimate to address the ADA accessibility issues is \$150,000.00. This would address access, egress, and accessibility to the three levels via ramps and an elevator. The roof of the building has failed and is in need of replacement at an estimated cost between \$125,000.00 to \$175,000.00 depending on the substructure's condition at the time of removal. The kitchen was removed, and the replacement of a commercial kitchen is estimated to be between \$150,000 to \$300,000. These issues do not address the water damage and mold throughout the building that would require an interior gut and replacement of sheetrock, framing, and other water damage infrastructure. Conservatively, without including the interior gut and repair, the estimated cost to renovate this building is \$425,000.00. The City Staff feels there is no feasible and prudent alternative to the proposed demolition and that removing the structure and returning it back to a green space or a future parking location will not harm the historic district or surrounding properties. The City Staff also pointed out that this property was not considered a historic structure or a contributor to the historic downtown district until after the purchase when the City notified the local IHPRC and State of our intentions to remove the structure and return it to green space.

If the City Commission approves the request to remove the structure. City

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Staff will be required to send the SHPO a certified letter informing them of the decision to allow the demolition and the statute allows anyone aggrieved by the Governing Body's determination to file suit and have the issue decided in the courts.

Sean Clapp, the local IHPRC chair will be present at the meeting to represent the IHPRC and SHPO's denial of the request.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert the Commission after considering all information received and all relevant factors, and after considering all possible planning and alternatives to minimize harm to the property, find that there is no feasible and prudent alternative to the proposed demolition and to authorize demolition of the property at 300 N. 8th Street.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- D. Consider approving the low bid from MEGA, LLC for five demolitions.**

The City of Independence Building Department took bids for the removal of the following five properties:

- 1. 800 E. Edison is fire damaged and considered dangerous and unsafe and needs immediate removal (the State Fire Marshall requested the structure be immediately removed and due to the delay created by 300 N. 8th, the Building Inspector has already had this structure removed).**
- 2. 701 E. Cherry is a trailer house that has collapsed and the property owner has applied for the City demolition grant and it has been approved.**
- 3. 609 W. Myrtle is a fire-damaged property and the owner has signed a release to remove the property and reimburse the City.**
- 4. 300 N. 8th Street is a property acquired by the City and has substantial roof issues and water infiltration into the building.**
- 5. 1529 W. Laurel is a condemned trailer park with multiple trailers that have been vandalized and destroyed. The property is blighted and unable to be maintained due to the condition of the trailers.**

The City of Independence received three bids for the demolition of the above properties:

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- MEGA, LLC - \$100,500
- G&G Dozer - \$ 124,000
- JRB Ind. - \$202,500

The City Staff recommends awarding the demolition to MEGA, LLC for \$100,500.00. The cost of the demolition will be covered by the demolition fund.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi the Commission awarded the demolition bid to MEGA, LLC for \$100,500.00 for 800 E. Edison, 701 E. Cherry, 609 W. Myrtle, 300 N. 8th, and 1529 W. Laurel.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- E. Consider approving an agreement with Midwest Auctions, LLC for online auction services for surplus items.

The City requested proposals for a vendor or firm to provide online auction services for tangible personal property including but not limited to miscellaneous surplus equipment, a wooden bar, light fixtures, office furniture, computers, monitors, printers, scanners, tools, equipment, tables, chairs and miscellaneous items.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi the Commission accepted the agreement with Midwest Auctions, LLC for online auction services for tangible personal property.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- F. Consider setting the date of September 22, 2022 at 5:30 PM for a Public Hearing to consider the condemnation of 217 South Earl Street as dangerous and unsafe.

On June 08, 2022 the single-family residential structure located at 217 South Earl Street was involved in a fire that extensively damaged the dwelling which is currently not habitable. Dennis Musgrove, owner of the property, does have insurance and the City has received proceeds towards the demolition of the property. Mr. Musgrove is working with Jim Beachner to remove the structure and is considering his options regarding the garage. It is City policy

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to clear a lot of all structures, concrete, including drives, leaving the residential sidewalk on City right-of-way.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert the Commission set September 22, 2022 at 5:30 PM for a Public Hearing to consider the condemnation of 217 S. Earl Street as dangerous and unsafe.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- G. Consider setting the date of September 22, 2022 at 5:30 PM for a Public Hearing to consider the condemnation of 414 South 14th Street as dangerous and unsafe.

On April 08, 2022, the single-family residential structure located at 414 South 14th Street was involved in a fire that extensively damaged the dwelling which is currently not habitable. Due to a publication error, the City Staff needs to start the process over and set the date of September 22, 2022 for a Public Hearing to consider the structure dangerous and unsafe. City staff did visit with the owner and discussed releasing the structure for demolition but the owner refused to release the property for demolition.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert the Commission set the date of September 22, 2022 at 5:30 p.m. for a Public Hearing to consider the condemnation of 414 S. 14th as dangerous and unsafe.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- H. Consider a resolution authorizing the abatement of unhealthy and unsafe exterior conditions 314 South 4th Street.

Code Enforcement Officer Erin Musgrove has been attempting to resolve a nuisance issue at 314 S. 4th Street since October 2021. Code Enforcement Officer Musgrove has made multiple attempts to have the tenant and the owner abate the nuisance, including three violation notices and one summons to court. The previous resident and current owner have failed to respond to notices from Code Enforcement. The owner was cited to court on July 1, 2022. The City staff are receiving weekly calls from neighbors related to the nuisance and the hazard in the neighborhood. The resident has been cited in court, but the court appearance is scheduled for August 2022. The City Staff is asking the Commission to approve the Resolution giving us the

authority to abate the nuisance in 20 days.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi the Commission adopted a resolution authorizing the abatement of unhealthy and unsafe conditions at 314 South 4th Street.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- I. Consider a resolution authorizing the abatement of unhealthy and unsafe exterior conditions 521 South 15th Street.

Code Enforcement Officer Erin Musgrove has been attempting to resolve a nuisance issue at 521 South 15th. Since December 2021, Erin has made multiple attempts to have the owner abate the nuisance, including three violation notices and one summons to court. Continued efforts by Erin were ignored and the nuisance pile has continued to grow. The City staff is receiving calls from neighbors related to the nuisance and the hazards. The resident living at the house was cited in court but has since relocated, therefore the ticket was dismissed on July 6, 2022. Due to the piles continuing to grow and the hazard, the City Staff is asking the Commission to approve the Resolution giving us the authority to abate this nuisance in 20 days.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi the Commission adopted a resolution authorizing the abatement of unhealthy and unsafe exterior conditions at 521 South 15th Street.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- J. Consider approving an Ordinance amending Ambulance Rates.

Independence Fire-EMS last adjusted our rates in 2018. In order to adjust for the increased cost associated with salaries, training, equipment and medication, the service is requesting the proposed Ordinance adjusting our rates. The Independence Fire-EMS ambulances responded to 3,373 calls in 2021 and transported 1,909 patients. The budget for Fire-EMS is \$1,728,732 for 2022, with revenues from the ambulance service generating close to \$400,000.00 through June of 2022. Independence Fire-EMS rates are adjusted annually by CMS, which sets rates for Federal CMS program reimbursements

based on ambulance services' geographic location in the U.S. and urban vs. rural settings.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert the Commission approved Ordinance 4396 amending the ambulance rates.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- K. Consider approving amendments to the interlocal agreements for the Central, Downtown, North Penn, Southeast, Southwest and West Main Neighborhood Revitalization Plans.

The City of Independence has established several Neighborhood Revitalization Plans (NRPs) for the purpose of assisting property owners in revitalizing their neighborhoods. The program provides a rebate of the increase in property taxes for improvements made to residential and commercial structures or new construction within those designated neighborhoods that have met program criteria. Independence has six Neighborhood Revitalization Plans established in residential neighborhoods. Currently, the six NRPs as they are worded do not allow a developer of residential units to transfer the rebate to the end purchaser, but five of the six NRPs allow a commercial developer to do so. The desire is to allow a residential developer the same opportunity as the commercial developer. Amending the current NRPs interlocal agreements to include such language would be beneficial to the redevelopment of Independence's existing neighborhoods.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert the Commission approved the amended interlocal agreements for the Neighborhood Revitalization Plans for the North Penn Region, the Downtown and West Main Regions, and the Southeast, Southwest, and Central Regions.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

VI. REPORTS

A. City Board Minutes

1. June 7, 2022 Planning Commission/Board of Zoning Appeals

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2. June 29, 2022 Recreation Commission

B. June 2022 Sales Tax Report

VII. CITY MANAGER'S COMMENTS

City Manager Passauer gave an update on the West Main project, announced that the Demolition Cost Share program was being suspended to enact some changes to the program and gave an update on when construction on the 1916 City Hall would begin.

VIII. COMMISSIONERS' COMMENTS

None

IX. PUBLIC CONCERNS

Tom Hoffert spoke about the proposed demolition of the building at 300 N 8th.

X. EXECUTIVE SESSION

- A. Consultation with an attorney on matters that would be deemed privileged in an attorney-client relationship.

Motion:

On the motion of Dean Hayse, seconded by Louis Ysusi the Commission recessed for an executive session for consultation with the City Attorney regarding a legal issue pursuant to the attorney/client privilege exception found at KSA 75-4319(b)(2). The open meeting will resume at 6:47 PM.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

The open meeting resumed at 6:47 PM with no action taken.

XI. ADJOURNMENT

Motion:

On the motion of Dean Hayse, seconded by Louis Ysusi the Commission adjourned.

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Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

A handwritten signature in black ink, appearing to read "Dean Hayse", written over a horizontal line.

Dean A. Hayse, Mayor

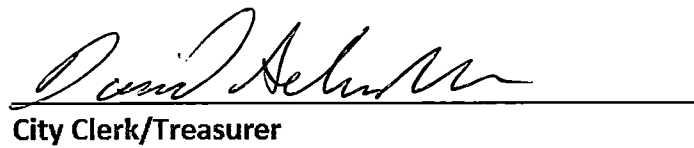
A handwritten signature in black ink, appearing to read "Louis Ysusi", written over a horizontal line.

Louis Ysusi, Commissioner

A handwritten signature in black ink, appearing to read "Tim Emert", written over a horizontal line.

Tim Emert, Commissioner

Attest:

A handwritten signature in black ink, appearing to read "David Schumacher", written over a horizontal line.

City Clerk/Treasurer