

Minutes of the City Commission's October 26, 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; John Garris, City Engineer/Director of Public Works and Utilities; Brian McHugh, Memorial Hall Supervisor; Shawn Wallis, Fire/EMS Chief; Lacey Lies, Director of Finance and Jerry Harrison, Chief of Police.

Visitors Present: Larry McHugh, Brea Sanford, Cassidy Sanford, Patrick Miller, Jason Elmore, Simon Heckman, John Heckman, Stephanie Vineyard, Lizzy Vineyard, Dannon Kelly and Dylan Kelly

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. Library Board -- One Opening -- Applications Due by noon on November 10, 2022

Bill Kelly has served on the library board since May 27, 2021. He is relocating in December and has submitted his resignation. He is willing to serve until replaced. Applications are being accepted until noon on November 10, 2022 for an unexpired term ending on May 1, 2025.

Below are the current members:

Minutes of the City Commission's October 26, 2022 Meeting

INDEPENDENCE LIBRARY DISTRICT BOARD OF TRUSTEES 4 year terms – 7 members			
Members	Term	Expires	Appointed
Tom Sewell	2nd term*	May 1, 2025	11/22/2016 6/8/2017
Michelle Anderson	2nd term	May 1, 2026	4/26/2018
Bill Kelly	1st term	May 1, 2025	Appointed 05/27/2021 Replaced Carolyn Torrance
Rachel Koszalka	1st term*	May 1, 2026	9/24/2020 Replaced Jana Shaver
Ronald Schwatken	1st term USD 446 Rep	May 1, 2025	7/13/2020
James Reed	Unexpired Elk City Rep	May 1, 2023	2/10/2020
Tom Richardson	3rd term USD 446 Rep	May 1, 2025	
* Previously served unexpired term			
Meeting Place: Centennial Room, Library Meeting Date: Third Wednesday Meeting time: 4:15 p.m.			

III. 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 September 8th, 21st, 22nd and 29th, 2022.

Suggested Motion:

I move to approve the City Commission minutes from September 8th, 21st, 22nd and 29th, 2022.

- B. Consider initiating a public hearing before the Planning Commission to consider a text amendment to the zoning code regarding temporary signs.

It has come to the attention of City staff that the City code needs to be updated to be in compliance with K.S.A. 25-2711 which states:

“K.S.A. 25-2711. Placement of political signs during election period. No city or county shall regulate or prohibit the placement of or the number of political signs on private property or the unpaved right-of-way for city streets or county roads on private property during the 45-day period prior to any election and the two-day period following any such election. Cities and counties may regulate

Minutes of the City Commission's October 26, 2022 Meeting

the size and a set-back distance for the placement of signs so as not to impede sight lines or sight distance for safety reasons.”

The City Attorney has reviewed our City code and recommends the modifications as included in the attached draft ordinance. Since this code change is found in the zoning code, it will require a public hearing to consider a text amendment before the Planning Commission.

Suggested Motion:

I move to initiate a public hearing on December 6, 2022 at 5:30 PM before the Planning Commission to consider a text amendment to the zoning code relating to temporary signs.

- C. Consider authorizing Valbridge Property Advisors to perform a market-based appraisal of Building D.

Tim Kerr representing ReeceNichols, who is the listing agent for Building D, previously indicated interested parties are requesting a listing price. We asked ReeceNichols to assist the City in setting a listing price. ReeceNichols recommended a market appraisal to help determine a listing price. Requests for Proposals were posted and sent out to commercial appraisals via the Realtor.

Two companies indicated that they did not wish to provide a proposal due to their current workload, and two companies provided proposals as follows:

Proposals	Amount	Timeline
Frazier Appraisal Services	\$15,000	30-45 days
Valbridge Property Advisors	\$10,000	By November 30th, assuming materials.
Martens Appraisal	N/A	Declined to provide a propos
Mainland Valuation Services	N/A	Declined to provide a propos

Ssuggested Motion:

I move to authorize Valbridge Property Advisors to perform a market-based appraisal of Building D for a fee of \$10,000.

IV. PUBLIC HEARING

- A. Public Hearing to consider the proposed vacation of easements and rights-of-ways as indicated on a proposed minor subdivision plat for Heckman Landing Addition, which is a replat of certain lots within the Regency West 2nd Addition Subdivision.

Recently, the City code was amended to allow minor subdivision replats which do

Minutes of the City Commission's October 26, 2022 Meeting

not require having to go through the entire replatting process. Staff has reviewed the plat submitted and finds it to be in compliance with the exception of the plat was drawn to 1" = 50' rather than 1" = 100'. However, the County Zoning Administrator was contacted and indicated that the County would accept the plat drawn at the scale submitted.

The plat does propose vacation of easements or rights-of-way, which requires setting a public hearing at least 20 days prior to the date of the hearing.

The code regarding minor subdivision replats may be found at this link: https://library.municode.com/ks/independence/codes/code_of_ordinances?nodeId=APXASU_ARTXIVMISURE

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission approved the vacation of easements or rights-of-way and approval of the minor subdivision plat for Heckman Landing Addition, which is a replat of certain lots within the Regency West 2nd Addition Subdivision.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

V. ITEMS FOR COMMISSION ACTION

- A. Consider setting a Public Hearing to consider the condemnation of a garage at 108 S. Wald as dangerous and unsafe on December 22, 2022 at 5:30 p.m.

On October 16, 2022 a garage fire did extensive damage to the structure and left it dangerous and unsafe. City crews utilized a backhoe to knock the structure down and make it safe. City Staff recommends setting the date of December 22, 2022 at 5:30 p.m. to consider condemnation of the structure.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert the Commission set a Public Hearing to consider the condemnation of a garage at 108 S. Wald as dangerous and unsafe on December 22, 2022 at 5:30 p.m.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- B. Consider adopting a resolution for a conditional use permit for "Massage Services" in a C-3, central business district at 201 West Main Street.

Minutes of the City Commission's October 26, 2022 Meeting

The Planning Commission conducted a public hearing on October 4, 2022 and considered the following staff report:

Patrick Miller previously operated his massage therapy business in the Professional Building after being issued a City license. Mr. Miller has requested to relocate this business, Amazing Hands Massage, to the Booth Hotel. We now require all City licenses to go through a zoning review before they are issued. As part of the zoning review process, it was discovered that a conditional use permit was required for "Massage Services."

The Booth Hotel is zoned C-3, and a massage services business requires a conditional use permit in that district.

511.0. - C-3, central business district.

511.1. Intent: District C-3 is intended primarily for major business services and retail business activity related to the core of the central business district serving the metropolitan trade area. Because this district is a major employment and shopping area within the community, relatively large building volumes and high residential density is permitted for transient and apartment accommodations. The high volume of pedestrian movement generated within this district will be facilitated as much as possible by the separation of pedestrian and vehicular traffic.

511.2. Permitted uses: The listing of permitted uses is set out in appendix "A" of these regulations.

511.3. Conditional uses: The listing of conditional uses is set out in appendix "A" of these regulations.

511.8. Use regulations:

- a. All business establishments shall be retail or service establishments dealing directly with consumers.
- b. No business establishment shall offer or sell food or beverages for consumption on the premises in parked motor vehicles.
- c. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- d. Marquees and awnings may project over public right-of-way as provided by these regulations.

Massage services are allowed in a C-2, C-3, or C-4 zone with a conditional use permit.

Appendix A

	Permitted Zoning District													
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	C/P	C-1	C-2	C-3	C-4	M-1	M-2
Massage services	5362									C	C	C		

PURPOSE AND AUTHORITY 901.1. Purpose: Conditional uses are those types of uses which

are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety.

Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.

ACTION BY THE PLANNING COMMISSION For a Conditional Use Permit: 902.2. Action by the planning commission: Upon receiving the application for conditional use permit from the zoning administrator, the planning commission shall publish notice and hold public hearing on the proposal. Procedures for public hearings shall be handled the same as a zoning amendment as described in section 1603.0 of the zoning code. If the planning commission determines that additional information should be provided to it before making a decision, the planning commission may adjourn the public hearing to a new date and require the applicant to provide such additional information. The decision of the planning commission to recommend approval or denial of the proposed conditional use shall be based on any or all of the following criteria which the planning commission determines to be relevant:

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district

Minutes of the City Commission's October 26, 2022 Meeting

regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:

1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

902.3. Additional requirements: In consideration of requests for any conditional use permits the planning commission shall recommend to the governing body such conditions of use as it deems necessary to protect the best interests of the city, and the surrounding property and to achieve the objectives of this ordinance. These additional requirements shall include, but not be limited to, those special provisions applying the miscellaneous conditional uses, specified in article X.

A violation of a requirement, condition, or safeguard shall be considered a violation of this ordinance and grounds for the zoning administrator to terminate and cancel such conditional use permit.

PLANNING COMMISSION ACTION The Planning Commission recommended approving the conditional use permit as the business meets the criteria: it is contained within a building that has adequate parking (although off-street parking is not required in the C-3 district), does not dominate the use of any neighboring property, will contribute to and promote the welfare or convenience of the public and will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission adopted a resolution for a conditional use permit for "Massage Services" in a C-3, central business district at 201 West Main Street for Amazing Hands Massage.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- C. Consider adopting an ordinance to modify Appendix B - Zoning of the City Code relating to coffee roasting.

On October 4, 2022 the Planning Commission held a public hearing regarding this agenda item.

Minutes of the City Commission's October 26, 2022 Meeting

The following staff report was provided:

City staff has been approached by an existing business that is relocating downtown in the C-3, central business district. Their business would include roasting coffee that would be sold on-site. The permitted and conditional use table only allows coffee roasting in industrial districts (M-1 and M-2).

Appendix A

Land Use Category	Code	Permitted Zoning District								
		A-1	R-1	R-2	P-1	P-2	P-3	P-4	P-5	Q-1
Coffee roasting and coffee products—manufacturing	2195									

POLICY EXPLANATION

1601.2. Proposal of amendments: Amendments may be initiated by the governing body, the planning commission, or upon application by the owners of the property affected.

1602.3. Disposition of amendment proposals: Upon receipt of proposed amendment from the zoning administrator, the planning commission shall hold a public hearing on the proposed amendment, and forward to the governing body its findings and recommendations with respect to the proposed amendment.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- Whether such change is consistent with the intent and purpose of these regulations;
- The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts, or other social economic conditions in the areas and zoning districts affected.

STAFF RECOMMENDATION If the text amendment is recommended by the Planning Commission, and subsequently approved by the City Commission, this will provide the opportunity to hold a Public Hearing to consider the conditional use permit. The public hearing would require notification of all property owners within 200' of the proposed location and would provide the opportunity to add additional conditions to address relevant concerns.

PLANNING COMMISSION ACTION The Planning Commission moved to recommend a text amendment to Appendix B-Zoning of the City Code to permit coffee roasting in a C-3, central business district as a conditional use, as the change is consistent with the intent and purpose of these regulations, the area affected by such change would be the C-3, central business district by allowing niche coffee roasting in this zone, niche being defined as less than 100,000 pounds annually and the change is made necessary due to a recent planning concept of manufacturing and selling certain niche items in a storefront location in a downtown setting, such as the brewery.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission adopted an ordinance amending Appendix B-Zoning of the City Code to permit coffee roasting

Minutes of the City Commission's October 26, 2022 Meeting

in a C-3, central business district as a conditional use with certain additional conditions when located in the C-3 zone.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

D. Consider adopting a Resolution establishing a policy for Sidewalk Maintenance and Improvement.

The repair and maintenance of sidewalks within the City is generally the duty of the homeowner. In order to improve the quality of selected sidewalks, a program has been funded to repair selected areas of sidewalk in conjunction with the attached policy. This policy would allow the City to select an area for improvement, inspect the area for necessary repairs, notify landowners, and give them the option of fixing the sidewalk or having the City fix the sidewalk and provide a mechanism to charge them.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission adopted Resolution 2022-056 establishing a policy for Sidewalk Maintenance and Improvement.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

E. Consider the design of the new North City Hall Parking Lot.

A parking lot was designed By TreanorHL, architects on the current City Hall restoration project. It was requested to review alternatives that may be less costly. Two additional alternatives were selected for review, and TranSystems provided estimated construction cost information across the three projects, so they are priced from a consistent basis. In both cases, these new alternatives provide a parking lot using minimal concrete, and rely solely upon painted lines for delineation of stalls.

Adjustments were made to the construction engineering/inspection cost of the Treanor Design option, since the TreanorHL design would be more costly to inspect and manage.

The estimated costs for each alternative are shown below.

Minutes of the City Commission's October 26, 2022 Meeting

	Treanor Design	Plain Parking Lot, Small Footprint	Plain, Large Footprint
Estimate	\$550,000	\$420,000	\$480,000
Design	Complete	\$28,000	\$28,000
Construction Engineering/Inspection	\$75,000	\$68,000	\$68,000
Total	\$625,000	\$516,000	\$576,000
Number of Spaces	72	80	101
Number of ADA	3	4	6
Cost per Space	\$8,681	\$6,450	\$5,703

A plan view of each alternative is shown in the attached document.

Additionally, it was requested to add five parking spaces due north of the renovated City Hall, on the south side of Myrtle Street. These five spaces are also shown in the attached document. An approximate cost for the construction and inspection of these spaces is \$30,000, and is not included in any of the options listed above.

It is recommended to go with the lowest cost option, "Plain, Large Footprint" and include the five spaces south of Myrtle Street.

Motion:

On the motion of Dean Hayse, seconded by Louis Ysusi, the Commission approved the north street parking and contract with TranSystems, Inc.,

Aye: Dean Hayse, Louis Ysusi

Nay: Tim Emert

- F. Consider accepting award for KDOT City Connecting Link Improvement Program (CCLIP) grants for two projects: 1) Surface Preservation – Main Street, 8th Street to 5th Street and 2) Surface Preservation – 5th Street to 2nd Street.

Kansas Department of Transportation (KDOT) City Connecting Link Improvement Program (CCLIP) applications were due in March for FY 2024 (July 1, 2023 – June 30, 2024). The City applied for two grants. Representatives of KDOT reached out and requested that the City change a Pavement Restoration project into a Surface Preservation project. The grants awarded to the City reflect that change and each project is now a 2" mill and overlay.

Minutes of the City Commission's October 26, 2022 Meeting

The following projects are awarded:

1. CCLIP Project, Surface Preservation – Main Street, 8th Street to 5th Street, 2" mill & overlay.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$368,225	\$36,822	\$91,000	\$127,822

2. CCLIP Project, Surface Preservation – Main Street, 5th Street to 2nd Street, 2" mill & overlay.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$365,000	\$36,500	\$88,000	\$124,500

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission approved acceptance of KDOT's CCLIP Surface Preservation Program for Main Street, from 8th to 5th Street and for execution of any necessary documents required by KDOT and to enter into a design contract with TranSystems.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission approved acceptance of KDOT's CCLIP Surface Preservation Program for Main Street, from 5th to 2nd Street and for execution of any necessary documents required by KDOT and to enter into a design contract with TranSystems.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- G Consider proclaiming November 5 through November 11, 2022 as the 100th Anniversary of the Dedication of the Memorial Hall Cornerstone.

City staff was contacted by the Chamber and Steve Aemisegger representing the American Legion. Mr. Aemisegger indicated that he wished to have the Masons and/or Legion rededicate the cornerstone of Memorial Hall in recognition of the 100th Anniversary. Newspaper clippings of this event indicate the Memorial Hall

Minutes of the City Commission's October 26, 2022 Meeting

granite cornerstone was presented to the American Legion by C.W. Randolph of Cherryvale. On Armistice Day, November 11, 1922 a parade of veterans from West Main Street to Memorial Hall occurred directly prior to the laying of the cornerstone by John McCullagh, Grand Master of A.F. & A.M. of Kansas.

Following the same tradition from 100 years ago, the rededication of the cornerstone will occur immediately after the Veterans Parade of Honor.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission proclaimed November 5 through November 11, 2022 as the 100th Anniversary of the Dedication of the Memorial Hall Cornerstone.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

VI. REPORTS

A. Monthly Project and Public Works Report

Engineer Garris presented the report.

VII. CITY MANAGER'S COMMENTS

City Manager Passauer informed the Commission that the annual employee lunch will be on December 9th. All City departments are busy with Neewollah and county employees will be allowed to park in the fenced area in the City parking lot.

VIII. COMMISSIONERS' COMMENTS

Mayor Hayse congratulated staff on the wayfinding signs and inquired about the water problems at the judicial center.

IX. PUBLIC CONCERNS

None.

X. EXECUTIVE SESSION

A. Discussions prior to acquisition of real estate.

Minutes of the City Commission's October 26, 2022 Meeting

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission recessed for an executive session for discussion of possible acquisition of real estate for City and public purposes pursuant to the preliminary discussion on acquisition of real estate exception, (KSA 75-4319(b)(6)). The open meeting will resume at 7:00 pm. In the executive session there will be the Commission, City Attorney, City Manager, Assistant City Manager, City Engineer, and Finance Director.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

The open meeting resumed at 7:00 pm with no action taken.

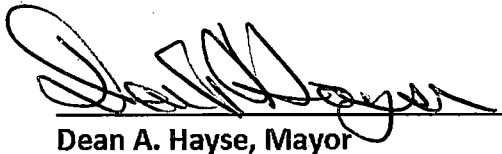
XI. ADJOURNMENT

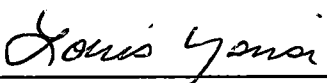
Motion:

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

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None



Dean A. Hayse, Mayor

Louis Ysusi, Commissioner

Tim Emert, Commissioner

Attest:

Minutes of the City Commission's October 26, 2022 Meeting

A handwritten signature in cursive script, appearing to read "David Adkins", is written over a horizontal line.

City Clerk/Treasurer