

Minutes of the City Commission's December 22, 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; Mike Devore, Memorial Hall Maintenance; Shawn Wallis, Fire/EMS Chief; Lacey Lies, Director of Finance; April Nutt, Director of Housing Authority and Jerry Harrison, Chief of Police

Visitors Present: Larry McHugh

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

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

II. CONSENT AGENDA

Motion:

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

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

A. Consider approving the following Cereal Malt Beverage licenses:

1. Kevin Ford Db a Ace & Gunner's Tavern 112 S. 25th, Independence KS 67301

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2. Jessica Box DBA Indy Brew Works 223 W Main Independence KS 67301
3. Matthew Kent DBA Gramps Tavern 811 N. 11Th, Independence KS 67301
4. Pete's Independence 401. W Main, Independence KS 67301
5. Akas 1 LLC 3024 W. Main, Independence KS 67301
6. Walgreens #09454 301 W. Main, Independence KS 67301
7. Walmart #2893 121 Peter Pan, Independence KS 67301
8. Pizza Hut Of SE Kansas 1815 N. Penn, Independence KS 67301
9. Casey's General Store #1814 1305 N Penn, Independence KS 67301
10. DG Retail, LLC 1210 East Main Independence KS 67301
11. G &W 2 LLC 416 W Myrtle Independence KS 67301
12. Mikie's 1901 N. Penn Independence, KS 67301

Suggested Motion:

I move to approve the Cereal Malt Beverage licenses as listed.

- B. Consider authorizing the Capital Improvement Plan for submittal to the Federal Aviation Administration.

Annually, the City works with Lochner to prepare and provide a Capital Improvement Plan (CIP) for the Federal Aviation Administration (FAA).

The latest version of the CIP summary varies from last year's plan on minor cost fluctuations due to inflation.

Suggested Motion:

I move to authorize the Capital Improvement Plan for submittal to the Federal Aviation Administration.

- C. Consider authorizing the purchase of a new Street Department truck with lift gate.

The City solicited bids for a replacement lift gate truck earlier this (2022) summer and there were no responses. The existing truck is used for hauling bulky equipment and is also the primary vehicle used in repairing potholes. The current lift gate is having performance issues.

After requesting bids from multiple car dealers, a quote was finally received in early December. This quote (attached) was from Quality Motors here in Independence for the total amount of \$76,805.00. This is very close to the originally budgeted amount.

Suggested Motion:

I move to authorize awarding the purchase of the new Street Department

truck to Quality Motors, for the price of \$76,805.00 and to execute any required documentation for this purchase.

- D. Consider authorizing a change order with Professional Engineering Consultants, P.A. (PEC).

PEC has been working through the engineering design and KDHE approval associated with Water Treatment Plant Master Plan items. PEC has requested Supplemental Agreement No. 5 due to changes and/or construction of work sooner than anticipated, as outlined below.

After review with KDHE, a dechlorination system was specified as required for water streams that would be sent back to the river after chlorination. This requires a new building, equipment, and associated piping to be accounted for and engineered. This amount is included in this change.

The design of other minor improvements to the existing infrastructure (clearwell vents, etc.) that were included in a later phase, but pulled forward by KDHE, are also included.

This change order includes the design, bidding, and construction administration tasks for the above items.

Additionally, PEC has been working with the City on preparing a process and gaining the necessary approvals to bid for the disposal of water plant residual sediments. This was planned work, but was too undefined at the time of the original Master Plan approval to be quantified. This effort is included in the change order as well.

Suggested Motion:

I move to authorize execution of Supplemental Agreement No. 5 with Professional Engineering Consultants, P.A., for the amount of \$43,200.00.

- E. Consider bidding disposal of the Water Treatment Plant residuals.

As a part of the Water Treatment Plant's processes, sediment is generated. Since this sediment exits the process after the water treatment has begun (i.e., chemicals are introduced), it cannot be reintroduced back into the water. This sediment ("residuals") is stored in basins prior to being appropriately disposed of. These basins are nearly full of accumulated residuals.

As this is not waste with deleterious properties, it can be integrated into

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agricultural or pastureland. This request is to bid the hauling and disposal of the material in accordance with KDHE guidelines.

Bids will be due on January 12, 2023.

Suggested Motion:

I move to approve bidding Water Treatment Plant residual disposal.

- F. Consider chemical bids for the Water Treatment Plant.

Chemicals are included in the approved operating budget. Bids received were 20% - 90% higher than last year. The biggest increase (90%) is carbon, which will increase by approximately \$6,000 more this year.

Suggested Motion:

I move to approve the low bid for chemicals for the WTP for use in 2023.

- G. Consider awarding the bid for a new sewer pump.

As part of the effort to increase reliability of City infrastructure, the Southeast Lift Station has been reviewed. After the bids on the revisions to Southeast were found to be uneconomical, a secondary plan was created. A pump has been in use for some time that will fill the need for emergency service, plus allow the Southeast Lift Station to be properly maintained.

After review of the quotes and options received, the recommendation is to purchase the pumper offered by Alliance Pump for \$93,491.50. This pump represents the exact model in use for over a year and a half by the Water and Sewer Department to keep the sanitary sewer system operational.

There is one pump that was offered that was less expensive, but it did not meet the minimum bid requirements for self-priming and also for an oil-cooled seal. Self-priming is required for reliable operation, and the oil-cooled seal is required to prevent damage in the nearly certain condition where the line becomes clogged and the pump "runs dry". Because of these deficiencies, it is recommended to purchase the Alliance Pump.

Suggested Motion:

I move to approve purchase of the new sanitary sewer pump from Alliance Pump & Mechanical Service, Inc. for \$93,491.50.

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- H. Consider adopting an ordinance amending Ordinance No. 4344 having to do with court costs.

The current city ordinance does not allow the municipal court judge to assess the cost of incarceration unless and until the defendant is sentenced to incarceration. There are times when a defendant is arrested, placed in jail, and may serve 1-4 days in jail before being released. Even if the defendant is later convicted and sentenced, the wording of our current ordinance does not allow the defendant to be assessed the cost of the pre-conviction incarceration. The attached ordinance changes that. A conviction is still required, but under the new amendment, the judge can assess the cost of both pre- and post-conviction incarceration.

Suggested Motion:

I move to adopt Ordinance 4423, which amends incarceration fees.

III. PUBLIC HEARING

- A. Public Hearing to consider condemnation of 1016 W. Myrtle as dangerous and unsafe.

The City of Independence recently removed 1010 and 1020 W. Myrtle structures as dangerous and unsafe. It was determined that a third garage, owned by Chris Linker was actually addressed as 1016 W. Myrtle and was not included in the condemnations of 1010 and 1020 W. Myrtle. In order to follow City policy to clear the lots, the City is requesting the condemnation and removal of this garage and debris located at 1016 W. Myrtle. The owner has failed to respond to mail or phone calls from the City.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission adopted a resolution condemning the property at 1016 W. Myrtle as dangerous and unsafe.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- B. Public Hearing to consider condemnation of 217 S. Earl as dangerous and unsafe.

The property at 217 S. Earl was involved in a structure fire and the house was a total loss. The previous owner, Dennis Musgrove, removed the house but refused to clear the property and left the garage. He has now sold the

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property to Wallace Cady of Delaware, Oh., who has plans to build a house in 2023. City Staff recommends adjourning the hearing until May 25, 2023 to allow the owner to submit plans and begin his building project.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission adjourned the hearing until May 25, 2023, at 5:30 pm.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- C. Public Hearing to consider condemnation of a garage at 108 S. Wald as dangerous and unsafe.

The garage at 108 S. Wald Ave was destroyed by fire in October 2022. The property tenant has attempted to remove the debris but has not been successful in removing all of the debris and slab. City staff recommend condemnation as dangerous and unsafe, and this will give the owner an additional 30 days to finish the removal of the garage structure and concrete.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission adopted a resolution condemning the garage at 108 S. Wald as dangerous and unsafe.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- D. Public Hearing for submission of a CBDG Commercial Rehabilitation Grant for 106 N. 8th on behalf of Trident Partnerships LLC, including the approval of Resolution #2022-070 and Resolution #2022-071.

Trident Partners LLC requests the City of Independence approve the submission of a Commercial Rehabilitation Community Development Block Grant for 106 North 8th Street. The purpose of Commercial Rehabilitation grants is to help cities improve the quality of their downtown commercial districts by assisting private property owners in the rehabilitation of blighted buildings. It is hoped that strategic investment of grant funds will help prevent the spread of blighted conditions to other nearby structures. The grant will be submitted for the maximum grant allowed of \$250,000 with a 25% required match. The City of Independence would serve as a pass-through entity, with the building owner being responsible for meeting the grant guidelines and will be held responsible if they are not met.

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Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission approved the submission of Trident Partnerships LLC's Commercial Rehabilitation Community Development Block Grant for 106 North 8th by approving Resolution #2022-070; a "Resolution Declaring a Building Blighted" and Resolution #2022-071; a "Resolution Clarifying Legal Authority" and authorizing the Mayor to sign all documents.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

IV. ITEMS FOR COMMISSION ACTION

A. Consider change order for the City Hall project

City Staff has been working with TreanorHL and McCownGordon as the project progresses at City Hall.

Changes to Wood Frame Trim:

The majority of the cost is the change made to the W06 (courtroom frame) for the double acoustical glazing.

- At W05 – Trim was added and deleted to work with ceiling heights and ballistic glazing.
- At frame W06 - Add wood parting stops at sidelite panels to accommodate acoustical double glazing.

Changes to Millwork:

These are the general items.

- Basement Quartermaster Room – Added 2nd row of shelving/closet rods to two walls.
- 2nd Floor Breakroom – Modification of millwork cabinets to incorporate an icemaker.
- 1st Floor Admin work/mail and the Police work/mail – Modifications to the cabinets to accommodate the department's different needs.
- 1st Floor Dispatch Breakroom – Added wall cabinets above lockers for additional storage of emergency supplies.

Door Hardware:

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- Added (2) doors and frames to 2nd Floor Police to separate the detectives/interview room for added security.
Changed (3) doors and frames on the 1st Floor from aluminum sliding doors/frames to hollow metal frames with swing wood doors to match the rest of the building's interior doors/frames/finishes and simplify door hardware/be standard with other offices.
Eliminate (1) hollow metal door and frame on the 1st Floor to simplify egress/control functionality.

The total cost of these change orders from contingency is \$15,927.28

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission approved change orders in the amount of \$15,927.28.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

B. Consider electrical repairs for the Evidence Building.

There is a generator currently installed in the Evidence Building. It was originally installed when Independence EMS was stationed at the site. Any work with the generator is outside the original scope of the project. The contractor has had the generator inspected and serviced (oil and filter change, air filter change, and a new battery installed). The electrician reported that the generator is adequate for the needs of the Evidence Building. However, the wiring is not to the current code and needs to be replaced and a disconnect needs to be added. The cost is \$2,875.

The electrician informed city staff a new generator would cost significantly higher and the wiring and disconnect would still need to be replaced. The total rough estimate for a new generator purchase, install, and the work and materials required to meet current code is approximately \$15,000.

City staff believe that due to the significant increase in cost of purchasing a new generator and the necessity to update the installation components to current code, it is better to fund the required repairs and rely on the generator already on-site.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission authorized the work necessary to bring the Evidence Building generator up to

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the current code.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

C. Consider approving additional funding for the Downtown Building Grant

To meet the 2022 budget versus grant request shortfalls and 2023 projected grant requests, the Economic Development Advisory Board recommends reallocating the remaining \$47,974 in the 2022 Economic Development budget to the Downtown Building Grant program. In addition, the board recommends transferring \$50,000 from the Incubator Building fund to the Economic Development fund, to increase funding for the 2023 Downtown Building Grant program. Funding would be as follows:

2022 Funding - increase by \$10,614 to fulfill the gap in program funding for Trident Partnerships

2023 Funding –

Original Budget	\$50,000
From 2022 Eco/Devo	\$37,360
From Incubator Fund	\$50,000
Total 2023 Funding	\$137,360

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission increased program funding for the Downtown Building Grant as recommended.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

D. Consider approval of Downtown Building Grants.

Trident Partnerships has applied for three building renovations to occur in the Downtown Historic District and will apply for two more buildings in January 2023 for a total of five buildings. Trident Partnership is investing over 10 million dollars in downtown upper-story apartments and retail business space in our Historic Downtown. The Downtown Building Grant committee met on December 08, 2022 and discussed the applications. The City currently has \$64,386.36 in building grant funds available. It was the recommendation of the committee to request approval of \$64,386.36 for these three applications. In addition, the committee took a request to the Economic Development Advisory Board to consider recommending additional funding

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to Trident Partnerships LLC's 2022 applications, to fill the gap of \$10,613.64, for a total of \$75,000.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission approved No. \$75,000 total in downtown building grant funds for 120 N. 8th, 208 N. 8th and 221 W. Main Street.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- E. Consider adopting an ordinance regulating political signs.

On December 6, 2022 the Planning Commission recommended adopting a text amendment to the zoning code regarding temporary signs.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission accepted the recommendation of the Planning Commission and adopted Ordinance No. 4425 regulating political signs.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- F. Consider adopting an ordinance rezoning a tract of land at 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multifamily dwelling district.

On December 6, 2022 the Planning Commission conducted a public hearing to consider rezoning 701 Taylor Road from R-1, large lot single-family dwelling district, to R-3, low density multifamily dwelling district. No one from the notification area commented on the case other than the applicant. The Planning Commission recommended on a six to one vote to approve the rezoning.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission adopted an ordinance rezoning 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multifamily dwelling district.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

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- G. Consider adopting a resolution for a conditional use permit for "Antiques - Retail" in a C-1 neighborhood business district at 504-506 South 10th Street.

On December 6, 2022, the Planning Commission held a public hearing to consider a conditional use permit for "Antiques-Retail" in a C-1 neighborhood business district at 504-506 South 10th Street with conditions. No one from the notification area spoke at the public hearing other than the applicant. The Planning Commission unanimously recommended approving the conditional use permit as recommended by City staff.

adopted a Resolution adopting a conditional use permit for "Antiques-Retail" in a C-1 neighborhood business district at 504-506 South 10th Street with conditions

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission adopted a Resolution adopting a conditional use permit for "Antiques-Retail" in a C-1 neighborhood business district at 504-506 South 10th Street with conditions.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- H. Consider adopting an ordinance rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.

On December 6, 2022, the Planning Commission held a public hearing to consider rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district, to C-2, commercial services district. No one from the notification area except the applicant commented at the public hearing. One of the Planning Commissioners felt strongly that this rezoning did not follow the Comprehensive Plan as she felt this area should remain residential and made a recommendation to table action. That motion died due to a lack of a second. A second motion was made to approve the rezoning, which passed with five members in favor, one opposed, and one abstained.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission adopted an ordinance rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district, to C-2, commercial services district.

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Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- I. Consider setting the date of February 23, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 1016 E. Edison as dangerous and unsafe.

On December 14, 2022, the residence at 1016 E. Edison was involved in a fire that extensively damaged the second floor and attic space. The building department is requesting a Public Hearing to consider condemnation as dangerous and unsafe be set for February 23, 2023 at 5:30 p.m.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission adopted a resolution setting a Public Hearing to consider the condemnation of 1016 E. Edison as dangerous and unsafe on February 23, 2023 at 5:30 p.m.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- J. Consider adopting an ordinance amending Appendix D concerning Cemetery Fees.

The most recent adjustment to the fee schedule for Mount Hope Cemetery occurred in 2014. Due to the increased cost of maintaining the cemetery since that time, it is recommended that the city implement an increase in the price of burial spaces and services. The Cemetery Director and Cemetery Sexton have compiled a list of suggested prices, based on current pricing at other cemeteries in the area.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission adopted an ordinance amending Appendix D concerning cemetery fees.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- K. Consider authorizing the bidding of two new fuel bowzers for the Independence Municipal Airport.

Historically, the City has purchased integrated mobile fueling trucks as a means to sell and dispense fuel to aircraft. The new Airport Manager, Aaron Shrader, has significant experience in aviation and suggested the use of fueling bowzers, or trailers that are capable of being affixed to the back of a

pickup truck. These bowzers have self-contained engines for pumping, and are used in many locations.

Individual trucks are convenient, but have the drawback of being three to four times the cost of a fuel bowser. The Airport has had a capital schedule for a new fueling vehicle for over a year, which would only replace one vehicle, and that is likely with funding only sufficient to purchase a used vehicle. With the same amount of funding, it is likely that two new fuel bowzers can be built, replacing trucks that date back to the late 1970s and mid 1980s that are currently nearing the end of life and using the existing pickup trucks at the airport to move the fuel bowzers.

The primary reason for using a truck would be for large, bulk deliveries. With our current airport size and clientele, it is felt that these bowzers will provide a very safe method to conveniently deliver fuel at a lower cost, potentially saving nearly \$200,000 versus the cost of purchasing new trucks, and lowering overall maintenance costs due to the lowered complexity.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission authorized bidding for the 100LL fuel bowser and jet A bowser as described in the attached bid documents.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- L. Consider the 2023 City Commission and City holiday schedule.

This item was tabled from the last Commission meeting as the Commission requested to know the dates other area local governments observed as holidays. The Request for Commission Action (RCA) from the last meeting is attached, in addition to a survey that includes other area cities, the County, and the State. The only proposed holiday that is unique to Independence is the Administrative Holiday on July 3rd to provide a four-day weekend and would only be for 2023. You may wish to delete that one or trade it with Juneteenth (June 19th), which is consistent with Cherryvale and the County.

Another item brought up at the last meeting is that the June 21, 2023 Special Meeting (third Wednesday) may be needed as a budget work session.

Motion:

On the motion of Dean Hayse, seconded by Louis Ysusi, the Commission approved the 2023 City Commission Meeting and City Holiday schedule with

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the following amendments to add a total of 2 additional holiday days with a consideration to revisit.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

V. REPORTS

A. Monthly Projects and Public Works Report

Engineer Garris presented the report.

VI. CITY MANAGER'S COMMENTS

City Manager Passauer reminded everyone that there would be no trash service for the rest of the week and trash service would resume on Tuesday and City Hall would be closed on Monday.

Assistant City Manager Cowan gave a weather update.

VII. COMMISSIONERS' COMMENTS

Commissioner Emert commented on the relocation of the dropbox.

Commissioner Ysusi reminded the public to check on neighbors during this weather event.

Mayor Hayse reminded the public to drive safely during the holiday season and thanked all of the volunteers helping out during this weather event.

VIII. PUBLIC CONCERNS

None.

IX. EXECUTIVE SESSION

A. Data relating to financial affairs or trade secrets of second parties.

Motion:

On the motion of Dean Hayse, seconded by Louis Ysusi, the Commission recessed for an executive session concerning confidential data relating to

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financial affairs and/or trade secrets of a company pursuant to the exception found at K.S.A. 75-4319(b)(4). The open meeting will resume at 7:12 p.m.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

The open meeting resumed at 7:12 p.m. with no action taken.

- B. 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 an attorney representing the City regarding a legal issue pursuant to the attorney/client privilege exception found at K.S.A. 75-4319(b)(2). The open meeting will resume at 7:24 p.m.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

The open meeting resumed at 7:24 p.m. with no action taken.

X. **ADJOURNMENT**

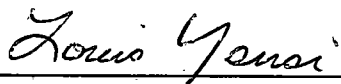
Motion:

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

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

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Louis Ysusi, Mayor



Dean A. Hayse, Commissioner



Tim Emert, Commissioner

Attest:



City Clerk/Treasurer