

Minutes of the City Commission's May 25, 2023 Meeting

I. REGULAR SESSION

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

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; Jeff Chubb, City Attorney; David Schwenker, City Clerk/City Treasurer; John Garris, City Engineer/Director of Public Works and Utilities; Shawn Wallis, Fire/EMS Chief; Scott Patton, Park and Zoo Director; Lacey Lies, Director of Finance and Jerry Harrison, Chief of Police

Visitors Present: Larry McHugh, Brea Sanford, Steve McBride, Edward Epp, Mike Gilstrap, Greta Gilstrap, Jim Hogan and Ned Stichman

A. Call to Order

Mayor Ysusi called the meeting to order.

B. Pledge of Allegiance to the United States of America

C. Adoption of Agenda

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted the agenda with the removal of Item B from the Consent Agenda and moved to Items for Commission Action.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

II. APPOINTMENTS

A. Tree Board -- Three Terms Expired -- One Eligible for Reappointment

We have three terms that will expire on June 1, 2023. One is an unexpired term; the other two have served four terms.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission reappointed Amy Hilyard to a first full term on the Tree Board expiring on June 1, 2025.

Minutes of the City Commission's May 25, 2023 Meeting

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- B. Landbank -- Two Terms Expire June 1, 2023 -- Both are eligible for reappointment

Shelley Hudson and Mary Jo Wallis both have terms on the Landbank that will expire on June 1, 2023. They are both eligible to serve an additional term. It is recommended to reappoint them to a second term.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission reappointed Shelly Hudson and Mary Jo Wallis to second terms on the Landbank expiring on June 1, 2026.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

III. CONSENT AGENDA

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse, the Commission adopted the consent agenda with the removal of item B from the Consent Agenda to Items for Commission Action.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- A. Consider approving City Commission minutes from March 9th, 15th, 21st, 23rd and 28th, 2023.

Suggested Motion:

I move to approve the City commission minutes from March 9th, 15th, 21st, 23rd and 28th, 2023.

- B. Consider Change Order for City Hall Phase II.

This item was removed from the Consent Agenda and moved to Items for Commission Action.

The design of City Hall required the demolition of several walls on the 2nd floor of City Hall. The floor conditions where those walls were located are uneven and require additional flooring prep. These conditions would not

Minutes of the City Commission's May 25, 2023 Meeting

have been visible when the flooring contractor bid on the project. The contractor has prepared a change order, but after review with McCown Gordon, we believe approving time and material not to exceed \$9,593.00 should be approved and could potentially reduce the expenditure. McCown Gordon will sign off daily on the time and materials used for the floor prep. The City staff permitted floor prep to start on Monday to avoid delays.

Reviewing the 1st floor and the basement, TreanorHL and McCown Gordon believe the basement area may also have some floor prep issues, and the flooring contractor is reviewing the area now. If a change order is needed, we will present it at the June 15th meeting.

McCown Gordon notified City Staff that a canopy on the north end of the City Hall was not bid as part of the project. McCown Gordon was under the impression the item had been removed from the project as there was little detail in the plans. TreanorHL does not have any record that this item was or was not deleted but steel was added above the East garage door area in the plans for this canopy. The staff does not remember a canopy as a part of the plan. The cost to add the canopy would be \$30,000.00 from the construction contingency, which currently has a balance of \$62,311.62. The City staff does not recommend adding the canopy but also wants the Commission to be aware that any balance left in construction contingency at the end of the project is divided 50/50 between the City and McCown Gordon. Our current outstanding issues we are working on are water infiltration and the additional well and pump being added on the south side of the building.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission authorized a change order for flooring prep not to exceed \$9,593.00 by time and material.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

This item was removed from the Consent Agenda and moved to Items for Commission Action.

- C. Consider allowing the closure of North 5th St. from Mickey Mantle Way to the entrance to the Aquatic Center for Montgomery County Public Safety Kid's Camp.

The Montgomery County Kids Camp will be held on June 9th from 7 a.m. to 5 p.m. at Riverside Park 4-H building. The camp includes different events for the kids that will be set up outside of the 4-H building along 5th Street. In

Minutes of the City Commission's May 25, 2023 Meeting

order to ensure the safety of the kids we are requesting permission to close a portion of 5th street between the Tennis Courts and the Stadium from 7 a.m. to 5 p.m.

Suggested Motion:

I move to authorize closing 5th Street by the Tennis Courts and Stadium on June 9th from 7 a.m. to 5 p.m.

- D. Consider authorizing the Mayor to sign an agreement with Cox Communications Kansas, LLC for the use of City property.

The Economic Development Advisory Board had previously formed a Broadband Subcommittee that has been working with providers to improve broadband services in Independence. As part of these efforts, City staff have been working with Cox Communications, LLC to locate a substation that would enable additional broadband services for the community. A location has been identified on City-owned property. In lieu of receiving a lease payment, Cox would install four public parking spaces in the City right-of-way and maintain the property. If Cox left the community, they would return the lot to its previous condition, but the four public parking spaces would remain. The City would not receive a lease payment as long as the lot does not create any expenses for the City. Cox would be required to obtain a conditional use permit for the utility substation before a building permit could be issued.

Suggested Motion:

I move to authorize the Mayor to sign an agreement with Cox Communications Kansas, LLC for the use of City property located at 401 North 10th Street subject to the City Attorney's approval.

- E. Consider approval of a Temporary Use Of Right-Of-Way Agreement for 308 North Pennsylvania Avenue.

The Building Department received a request from Jason Rutledge, owner and operator of Edwards Jones Investments at 308 N. Penn Ave, for permission to install an ADA ramp for accessible access to his business. The business is near an ADA ramp to the north and an existing light pole. These two areas narrow the passageway but allow an accessible ADA pathway down the sidewalk. The staff does not see an issue, but we note there could be some congestion as pedestrians pass through this area during events or festivals. The City follows this process with all ramps downtown in the public rights-of-way and recently signed an agreement with the VFW for their ADA ramp.

Suggested Motion:

Minutes of the City Commission's May 25, 2023 Meeting

I move to authorize the mayor to sign a Temporary Use of Right-Of-Way agreement with Jason Rutledge for an ADA ramp at 308 North Pennsylvania Avenue.

IV. PUBLIC HEARING

- A. Public Hearing to consider condemnation of 200 Arco Place as Dangerous and Unsafe.

On September 8, 2022, City Staff recommended setting a Public Hearing to consider the condemnation of 200 Arco Place due to the condition of the building with broken-out windows, homeless citizens staying in the building, vandalism, and complaints from citizens. The building has been without utility services since 2019 and Code Enforcement has dealt with tall grass and debris since 2019. Mr. Janak met with the City Staff after the September 8, 2022, Commission meeting and has boarded up the 1st-floor windows that were broken out.

Mr. Janak went entirely through the building to ensure people were out of the building. He had a company finish shutting all the windows, cleaning up debris, and removing the fallen tree by the November 10, 2022, meeting. Mr. Janak informed the City then that he was actively trying to sell the building and had toured the building with potential parties, and was looking at funding options to assist any potential buyer.

Since November 2022, the City has continued to deal with vandalism and people accessing the building. Attempts have been made to remove copper wiring by disconnecting the telecom electrical service to the building. Every lost several electric meters, and eventually, steel cables and locks were applied to stop the vandals. The vandals have continued to gain access to the building and currently utilize a basement window and a 1st-floor window that has been broken out. Multiple windows have been broken out of the building or opened. The roof over the south entry flaps in the wind and the grounds are not maintained.

On May 16, 2023, the City was contacted by Daniel Regan of Tulsa, Oklahoma. Daniel is the new owner of the building and will be present in Independence on Saturday, May 20, 2023, to address concerns about the building. The City staff visited with Mr. Regan, and he is requesting we adjourn the Public Hearing to allow him time to develop a plan for the building. He has assured me that he will address the vandalism and ground concerns.

Minutes of the City Commission's May 25, 2023 Meeting

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adjourned the Public Hearing until December 08, 2023 at 5:30 PM.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

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

On April 25, 2022, the structure at 217 S. Earl Street was destroyed by fire. The property at 217 S. Earl was occupied by the owner's family member, who was scrapping and hoarding at this location. The structure, yard, and garage were full of debris piles, boxes, and materials at the time of the fire and were subject to code violations by the Code Enforcement Officer. The property was insured, and the City of Independence received \$10,000.00 for the removal of the structures and to clear the lot. The owner contracted with a demo contractor and had the house removed and debris cleared from the property but left the garage standing. The City reimbursed \$5,000 of the insurance proceeds and held \$5,000 for removing the non-conforming garage left on the property. The property owner sold the property to Wallace Cady of Delaware, Ohio, in September 2022. The Building Department provided Mr. Cady with two adjournments of the Public Hearing on condemnation to bring the property into compliance. Mr. Cady has not brought the property into compliance and listed the property for sale in April 2023. Mr. Cady contacted the City regarding the hearing and said he was still raising funds to come to Independence and had decided to sell the property due to recent vandalism and concerns about the neighborhood. Mr. Cady knows the situation with the previous owner and the \$5,000 being held by the City due to the zoning issue. The City has received several inquiries about the property since being placed for sale, but all the inquiries have been for the storage of RVs and the use of the garage for off-premise storage, which violates the zoning code.

City staff recommends we proceed with condemnation, giving the owner 30 days to commence removal or to bring the accessory structure into compliance with the zoning code. This would include either converting the garage to housing, building a dwelling on the property, or selling the property to the owner of an adjoining lot that already contains a dwelling, thus enlarging the parcel and making the garage an accessory structure to an existing dwelling.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission

condemned 217 S. Earl Street and gave the owner 30 days to commence the removal of the structure or bring the property into compliance with the zoning code .

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

V. ITEMS FOR COMMISSION ACTION

- A. Consider optimizing and/or consolidating amenities in the small outer neighborhood parks.

As part of the annual retreat, the City Commission directed City staff to "Review the plan of small outer parks and optimize and/or consolidate amenities." As part of this review, this item was brought to the Park Board for their consideration and recommendation.

As a matter of background, three neighborhood parks are in the southern portion of Independence. They are located at South 10th/Edison, South 19th/Poplar, and Coffeyville/Wald. The two parks at Coffeyville/Wald and 19th/Poplar need repair due to age and repetitive vandalism. Several pieces of equipment in these parks have been damaged, so they are no longer considered safe. The park at South 10th/Edison is in good condition, with the smallest playground of the three, with only a few pieces of freestanding play equipment. The Park Board has considered three options.

- A. Remove the two neighborhood parks at Coffeyville/Wald and 19th/Poplar, and construct a new larger playground on S. 10th St. This location has the most acreage of the three, features several large oak trees, and also experiences the least amount of vandalism because it is located near a heavily used street. This park is the location of the existing disc golf course, and future plans feature a pedestrian walking trail.

1. Renovation of this playground would include the following:
 - a. Move the playground area to the park's north side, where it is less likely to experience flooding.
 - b. Purchase and installation of a new play system and some smaller free-standing play equipment.
 - c. Purchase and installation of engineered wood fiber safety surfacing
 - d. Installation of concrete borders.
 - e. Installation of ADA parking stall(s), sidewalks, benches, and new lighting

2. The estimated cost of this project is approximately \$220,000. The benefits of this option are that it provides a nice park with a large play system and several amenities on the south side of town, compliments existing features and future developments, is the location that experiences the least amount of vandalism, and reduces maintenance demands on city staff by consolidating multiple parks to one location.
- B. Allow all three parks to remain open. Renovate the two parks at Coffeyville/Wald and 19th/Poplar. Allow City staff and volunteers to temporarily repair the damaged equipment to allow the parks to remain open for public use and replace damaged equipment at the next feasible opportunity.
 1. Renovations would include:
 - a. Replacement of damaged equipment at the next feasible opportunity. Replacement equipment would feature non-traditional obstacle courses consisting of steel and heavy-duty ropes. This equipment will stand up to vandalism better than traditional equipment with plastic elements.
 - b. Replacement of sand safety surfacing with recycled rubber mulch or engineered wood fiber. This will reduce damage and extend the lifespan of equipment by removing abrasiveness.
 - c. Replacement of wood timber borders with concrete or modular plastic borders
 - d. Installation of ADA parking stall(s), sidewalks, benches, and new lighting.
 2. The park at South 10th Street will not undergo any renovation. The estimated cost of this project is approximately \$200,000. The benefits of this option are that easy access to parks remains available for residents of those neighborhoods. Coffeyville/Wald and South 19th/Poplar are a one-mile walk to South 10th Street Park.
- C. Allow all three parks to remain open. Remove damaged equipment from Coffeyville/Wald and South 19th/Poplar parks. Leave the remaining equipment in place, but do not replace the removed equipment.
 1. The financial cost of this option is minimal, as City staff can remove all equipment from the two parks. This option is not recommended. According to a 2021 survey, an average of 43% of residents utilize outer parks, so providing access to a park for residents on the south side of town is important. A new survey is being conducted in June of this year. The current

Minutes of the City Commission's May 25, 2023 Meeting

playground equipment at South 10th Street is too small to accommodate more than ten children at one time.

Requests to speak on this item were submitted by Edward Epp and Jim Hogan.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission accepted the recommendation of the Park Board and approved option B.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- B. Consider setting the date of July 27, 2023, for a Public Hearing to consider the condemnation of 512 S. 12th as dangerous and unsafe.**

On May 11, 2023, a structure at 512 S. 12th Street was involved in a fire that extensively damaged the structure's interior and attic space. City Staff recommends setting a date of July 27, 2023, for a Public Hearing to consider the condemnation of this structure as dangerous and unsafe.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted a resolution setting the date of July 27, 2023, at 5:30 PM for a Public Hearing to consider the condemnation of 512 So. 12th as dangerous and unsafe.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- C. Consider a recommendation from the Planning Commission to adopt a resolution for a conditional use permit for "short-term rentals not elsewhere listed" at 205 Westminster Place with conditions.**

On May 9, 2023 the Planning Commission conducted a public hearing to consider a conditional use permit for "short-term rentals not elsewhere listed" at 205 Westminster Place with conditions. The staff report is attached. The applicant wishes to have an AirBnB at this location. One property owner, Dixie Wright, who resides at 216 East Locust, which is within the 200' notification area, appeared at the public hearing. Ms. Wright advised the Planning Commission she was concerned the temporary occupants would have dogs that disturb her, as she indicated that there are already several

barking dogs in the neighborhood. She indicated she could see the applicant's backyard through her second-story windows. She was also concerned about potential parties that could create a nuisance. One of the Planning Commissioners pointed out that the conditions of approval include not creating any nuisances or noise beyond the property lines. The Planning Commission recommended approval of the conditional use permit on a 7 - 1 vote. One member was absent. To address Ms. Wright's concerns further, it is recommended that the property owner maintain a visual screen in the backyard, as this may reduce the reasons for the neighborhood dogs to bark at temporary residents or their pets.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted a resolution for a conditional use permit for "short-term rentals not elsewhere listed" at 205 Westminster Place, as recommended by the Planning Commission, with the following conditions:

1. The conditional use permit is not transferable to another property owner or a different location.
2. The applicant must comply with all City codes and must continue to comply with all City codes. This would include acquiring a City occupation license, which must be renewed annually.
3. The property's exterior must be kept clean and not violate environmental or nuisance codes.
4. Excess noise from the property will not be audible beyond the property lines.
5. Off-street, hard-surfaced parking will be provided on the applicant's private property.
6. Exterior lighting will not have an adverse effect by shining onto any neighboring properties.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- D. Consider authorizing acceptance of an Airport Grant for a new navigational beacon.

The City applied for a Kansas Department of Transportation (KDOT) Kansas Airport Improvement Program (KAIP) grant in September 2022. The following project was submitted and accepted by the State:

New Airport Beacon Engineering:

Estimated Cost	Estimated City Match
\$25,000	\$1,250

New Airport Beacon Construction:

Estimated Cost	Estimated City Match
\$125,000	\$12,500

This project will replace the existing airport beacon, which is over 20 years old and is nearly inaccessible for maintenance since it is installed at the top of the existing water tower. The current intent is to place a new beacon in a location northeast of the existing terminal on a purpose-built tower in order to maintain this navigational device safely and at reasonable cost.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission accepted the KAIP grant for a new airport beacon and authorized execution of any necessary documents.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- E. Consider upgrading the City's Enterprise Resource Planning software.

Enterprise resource planning (ERP) is a software system that runs the city, supporting automation and processes in finance, human resources, utilities, payment processing, permitting and licensing, procurement and more. The City contracts with Tyler Technologies ERP Pro9 for this software and is considering two changes to our licensing.

One, moving to a cloud-hosted environment, which will provide additional security and monitoring of the systems by Tyler Technology, improve efficient collaboration and information sharing, and increase flexibility and mobility.

The second is moving to version 10, which would further increase functionality in financial management, human resource management, revenue management and utilities by and program offerings, such as AP automation and invoicing, employee onboarding and applicant tracking,

grant and contract tracking, as well as improvements to data collection and reporting. This step has two options. We can migrate all our current set up to the new system, or we can migrate as a new customer and rebuild each module to best fit our current operating needs and implement up-to-date best practices to ensure our setup utilizes the increased functionality to the best of its ability. The increased fees are consulting fees for Tyler's implementation specialists to work with City staff to review needs, processes, and customization within each module.

These changes to our software will significantly improve efficiencies in daily, weekly, monthly, and annual processes throughout multiple departments, as well as increase data collection and customized reporting opportunities.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved a quote from Tyler Technologies for annual cloud-hosted software.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved a quote from Tyler Technologies to migrate to version 10 as a new customer.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- F. Consider approving Ordinance No. 4432 addressing the liability of corporations or limited liability companies for violation of City Ordinances.

The City Attorney has prepared an Ordinance that allows the Building and Code Enforcement office to file a complaint against a corporation and limited liability company for violations of the City Code. Currently, the City cannot charge them with Code violations. The issue came to the City Attorney's attention when the Building Department asked him to cite a corporation for violating the code.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission approved Ordinance No. 4432 addressing the Liability of Corporations or Limited Liability Company for Violation of City Ordinances.

Minutes of the City Commission's May 25, 2023 Meeting

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

- G. Consider approval of Ordinance No. 4433 repealing existing environmental code provisions and replacing them with new provisions.

The City staff and the Beautification Committee have been working since 2018 on code enforcement in the City of Independence. This spring, the committee and City Staff, as a part of the Strategic Plan, held a community roundtable to discuss the beautification efforts in the city. The roundtable discussion brought to the attention several issues with the City Code that needed to be revised or updated regarding code enforcement. The City Attorney has reviewed the requests and revised the environmental code to reflect these changes and updates. These changes make the environmental code uniform in our procedures to enforce the code.

Here is an executive summary

1. Repeal of Chapter 42.

2. Title.

3. Definitions. Please note that for purposes of this ordinance, the code enforcement officer not only includes the person designated as code enforcement officer PLUS any city officer PLUS any LEO. The city officer is that new category we created by ordinance 4315 in 2021. So lots of people can take enforcement steps under this new ordinance.

4-6. Same as before.

7. Right of entry to enforce all provisions and abate as necessary.

8-12. Violations defined—same as before. These types of violations require following the notice requirements.

13. Notice requirement. Seven days for everything except exterior structure conditions, which is 45 days. Specifies that failure to correct could lead to municipal court complaint and/or abatement.

14. Special procedures for abandoned motor vehicles—impoundment, storage, etc.

15. Methods of service specified..personal, posting, certified mail.

16-19. More violations defined—same as before, but these types of violations do not require notices to be issued. Immediate issuance of a complaint can occur.

20. Municipal court complaint as an alternative when violations are not corrected.

21. Penalty section. Graduated fine, plus a potential per diem fine.

22. Abatement procedure in detail.

23. Situations when abatement can occur without notice due to immediate hazard existing.

Minutes of the City Commission's May 25, 2023 Meeting

24. Appeal procedure with some teeth if they lose.

25. Collection of costs.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved Ordinance No. 4433 Repealing existing environmental code provisions and replacing them with new provisions.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None

VI. REPORTS

A. City Board Minutes

B. Capital Projects and Public Works Report

Engineer Garris presented the report.

C. Update on the Central Park Sports Complex

Finance Director Lies presented the update.

D. Appropriations - April 22 - May 21, 2023

VII. CITY MANAGER'S COMMENTS

City Manager Passauer noted that Monday is Memorial day and City offices would be closed for the day and sanitation services would shift one day forward for the week. There will be a community engagement survey that will be mailed out to the citizens of Independence on June 1st and on June 15th will be the employee health fair and there will be a Commission meeting at 10 AM that morning as well.

VIII. COMMISSIONERS' COMMENTS

None.

IX. PUBLIC CONCERNS

Minutes of the City Commission's May 25, 2023 Meeting

None.

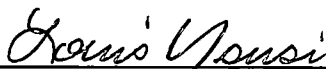
X. ADJOURNMENT

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission adjourned the meeting.

Aye: Tim Emert, Dean Hayse, Louis Ysusi

Nay: None



Louis Ysusi, Mayor



Dean A. Hayse, Commissioner



Tim Emert, Commissioner

Attest:



City Clerk/Treasurer