

Minutes of the City Commission's September 28, 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; Lacey Lies, Director of Finance; Jerry Harrison, Chief of Police; April Nutt, Director of Housing Authority and Brian McHugh. Memorial Hall Supervisor

Visitors Present: Larry McHugh, Brea Sanford, Larry Kaiser, Kathy Shepard, Mike Flood, Ray Rothgeb, Chris Mitchel, Tim Christensen, Jennifer Christensen, Darin Axthelm, Ashley Hovell, Tionne Johnson, Aleigha Bell and Eva Thompson

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 Tim Emert, seconded by Dean Hayse, the Commission adopted the agenda and moved Public Concerns to immediately following the Consent Agenda .

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

II. CONSENT AGENDA

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted the consent agenda.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

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- A. Consider approving City Commission minutes from August 1st, 10th, 16th, 24th and 28th, 2023.

Suggested Motion:

I move to approve the minutes from August 1st, 10th, 16th, 24th and 28th, 2023.

- B. Consider rescheduling the November 30, 2023 Regular Commission Meeting to November 28, 2023.

On December 22, 2022 the City Commission adopted the 2023 City Commission schedule. Due to Thanksgiving falling on November 23, 2023, a regular Commission meeting date (4th Thursday), that meeting was rescheduled to Thursday, November 30, 2023. Since that occurred, we have become aware of some scheduling conflicts and recommend rescheduling the Thursday, November 30, 2023 meeting to Tuesday, November 28, 2023.

Suggested Motion:

I move to reschedule the November 30, 2023 City Commission meeting to November 28, 2023 at 5:30 PM.

- C. Consider waiving the City curfew the evening of Tuesday, October 24, 2023 for the Neewollah Queens Ball.

Each year, the City Commission waives the curfew on the night of the Neewollah Queens ball so that students can participate.

Suggested Motion:

I move to waive the curfew on the night of October 24, 2023 so students can participate in the Neewollah Queens Ball.

- D. Request for street closures in the downtown and Riverside Park areas for October 20th through October 28th for the 2023 Neewollah festival, which includes the carnival, food vendors, parades and other associated activities.

The Neewollah Festival has been a great source of pride for the City of Independence since 1919. The festival includes numerous activities for families, entertainment for the citizens of Independence, and for the neighboring communities to enjoy.

Suggested Motion:

I move to authorize the Resolution and Proclamation for the Neewollah

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Celebration.

- E. Consider approving Change Order 2 and Change Order 7 for the Maple Street Improvements Project to Bettis Asphalt and Construction, Inc.

Change Order 2 had not been sent to the City until this month despite the work being executed in 2022 due to a clerical error. It adds in rip rap necessary for erosion protection at the location of the drainage pipe. It is in the amount of \$6,394.50.

Change Order 7 corrects the final quantity of water used on the project during earthwork operations (dust control, proper moisture levels for compaction) and is in the amount of \$1,140.00 and had been inadvertently omitted from the quantity reconciliation change order from December, 2022.

Suggested Motion:

I move to approve Change Order number 2 in the amount of \$6,394.50 and Change Order number 7 in the amount of \$1,140.00 for the Maple Street Improvements Project Bettis Asphalt and Construction, Inc. and to allow the execution of any necessary documents.

- F. Consider approving Amendment 3 to the engineering contract with EBH for the Bartlett Pipeline Project.

Amendment 3 is \$9,000 for additional survey work for a route change as requested by Bartlett. This work is completed.

Suggested Motion:

I move to approve Amendment 3 with EBH in the amount of \$9,000 for additional survey work and to allow the execution of any necessary documents.

- G. Consider authorizing bidding for the new beacon at the airport.

Our engineering firm, H. W. Lochner, has completed plans for the new airport beacon that was previously approved by the Commission and has produced a notice to bidders (attached). This bid would be due at their office at 3pm, Thursday, October 26th, 2023.

Results will be presented at a future Commission meeting.

Suggested Motion:

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I move to authorize bidding for the new airport beacon.

- H. Consider authorizing bidding for construction of the new pipeline to Bartlett.

Our engineering firm, EBH, is in the process of completing the plans and specifications for construction of the new pipeline, and has produced a notice to bidders (attached). This bid would be due at City Hall at 2pm, October 31, 2023.

Results would be presented at a future Commission meeting for approval.

Suggested Motion:

I move to authorize bidding for the new pipeline.

- I. Consider approval of Ordinance No. 4435 formally adopting a Water Conservation Plan and repealing Ordinance No. 3979.

In March of 2009, the City submitted a revised version of our Municipal Water Conservation Plan. This was approved by the Kansas Department of Agriculture. This revised version was approved by the City Commission on March 13, 2009. However, no ordinance was enacted to match the plan.

An ordinance to match the plan as drafted by the City Attorney is attached. This ordinance formally enacts the provisions of the previously approved Municipal Water Conservation Plan.

Suggested Motion:

I move to adopt the March, 2009 Water Conservation Plan and repeal Ordinance 3979 and approve Ordinance 4435.

VIII. PUBLIC CONCERNS

This item was moved to immediately following the Consent Agenda

Larry Kaiser addressed the Commission on the 21st Street waterline.

III. PUBLIC HEARING

- A. Public hearing for public comment on the close out of the CDBG-21-PF-023 Grant.

The City of Independence will hold a public hearing on Thursday, September 28, 2023, at 5:30 p.m. in the Civic Center, Memorial Hall, 410 N. Penn Ave,

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Independence, Kansas, for the purpose of evaluating the performance of Grant no. 21-PF-028. The sewer system improvement project proposed improvements including approximately, 6600 LF of sanitary sewer pipe lining, 5600 LF of sanitary sewer pipe reaming, replacing 23 manholes, lining 29 manholes, improving 134 service connections, and replacement of Lakeview Lift Station.

The grant accomplished the following improvements: 5462 LF of sanitary sewer pipe lining, 4575 LF of sanitary sewer pipe reaming, replacement of 23 manholes, lining of 29 manholes, improvement of 104 Service connections, and replacement of the Lakeview Lift Station.

This grant was funded all or in part, from the Kansas Department of Commerce, Small Cities Community Development Block Grant (CDBG) funds. All aspects of the grant will be discussed and oral and written comments will be recorded and become part of the City of Independence CDBG Citizen Participation Plan.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission authorized the Mayor to sign all final close out documents.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

IV. ITEMS FOR COMMISSION ACTION

- A. Consider proclaiming October 2023 as the 100th Anniversary Month of Memorial Hall Live Performances.**

It has been brought to our attention that the first live performance at Memorial Hall was held on October 8, 1923. In order to celebrate this milestone anniversary month as it coincides with Neewollah live performances, we recommend proclaiming October 2023 as the 100th Anniversary Month of Memorial Hall Live Performances.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission proclaimed October 2023 as the 100th Anniversary Month of Memorial Hall Live Performances.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- B. Consider approval of a digital sign for the Independence Historical Museum.

The Independence Historical Museum has requested to replace the museum sign with an electronic sign. The museum staff will attend the meeting to review the sign and request with the City Commission. Signs that are located in the downtown historic district require IHPRC approval. The recommendation of the IHPRC was to approve the sign within the downtown historic district. The City Commission can override this decision if they do not wish to authorize the sign.

In addition, per section 803.6.b. of the City sign regulations, electronic signs for noncommercial purposes that would ordinarily not be allowed in certain zones, such as the C-3 district, require City Commission approval. A variance was also required from the Board of Zoning Appeals as the electronic portion proposed exceeds more than 20% of the allowable square footage per face of said detached sign. The variance has been approved.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved a digital sign for the Independence Historical Museum, Inc.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- C. Consider a request from SEK-Veterans Provider Coalition to waive the fees for Memorial Hall for the Eyes of Freedom Exhibit on November 8 - 11, 2023, and allow a banner to be hung on Memorial Hall.

Chris Mitchell and Kathy Shepard are working with the SEK-Veterans Provider Coalition to bring the "Eyes of Freedom" Exhibit to Independence on November 8 - 11, 2023. This event is being held at Memorial Hall. The City generally waives fees for Veterans' events open to the public that are held at Memorial Hall. In addition, they are requesting to hang a 3' high and 10' wide banner over the north double glass doors, which will feature the SEK-Veterans Provider Coalition logo. Weather-resistant posters will also be hung on either side of the glass doors to welcome the "The Eyes of Freedom" exhibit.



Motion:

On the motion of Tim Emert, seconded by Dean Hayse the Commission authorized waiving the fees for "The Eyes of Freedom" exhibit on November 8 - 11, 2023, and authorized hanging a banner and posters on Memorial Hall.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- D. Consider adopting an ordinance for a text amendment to the zoning code regarding accessory uses, such as storage sheds.

On September 5, 2023 the Planning Commission recommended adopting an ordinance regarding accessory uses, such as storage sheds. The text amendment resulted from a citizen's request for a shed that they had placed on a lot across from their property that was noncontiguous, violating the zoning code. The changes prepared by staff allow a storage shed on an adjacent lot that serves a principal building or use with a conditional use permit. A definition was added at the request of the Planning Commission for an "adjacent" lot. One Planning Commissioner voted against the modification as they believe everything should be left on one contiguous lot, and accessory units should not be allowed on an adjacent lot that is not contiguous. The text amendment passed on a 6 to 1 vote.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted an ordinance for a text amendment to the zoning code regarding accessory uses, such as storage sheds.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- E. Consider adopting an ordinance for a text amendment to the zoning code relating to Conex Containers.

On September 5, 2023 the Planning Commission recommended adopting an ordinance amending the zoning code relating to shipping containers, also known as Conex Containers. A potential text amendment to the zoning code was being considered as this could be a more affordable alternative to traditional construction of residential, storage, or commercial-type structures. Also, the Planning Commission was concerned about these containers popping up around the community, which has occurred to some degree without any specific zoning regulations. The text amendment language was assigned to our former intern. The Planning Commission had some minor suggested modifications, which included removing the references to the sizes of containers. The text amendment was recommended on a 6 to 1 vote.

Since the Planning Commission meeting, it was brought up by one of the City Commissioners that one of the paragraphs of the proposed ordinance was not clear. Some additional modifications were added by staff, which are highlighted in the revised ordinance. It should be noted that there are no specific requirements listed for "shipping containers as businesses" other than the general statement included in 613.4, which states, "Shipping containers, whether a permitted or conditional use under these regulations, must be installed and renovated in accordance with the then-current version of all applicable codes as adopted by the City, including those more general codes not mentioned in Section 613.0."

If the City Commission wishes to have "shipping containers as businesses" addressed in a separate section or further clarified, it would be recommended to return the item to the Planning Commission for further consideration. It should be noted that the October Planning Commission meeting has been canceled. Therefore, if you return it to them for further consideration, it will be considered at their November 7, 2023 meeting. However, there is no rush to adopt the revisions, so delaying until November is not an issue.

If the City Commission is satisfied with handling these types of structures for commercial purposes by requiring them to meet the current Zoning and Building codes with no further restrictions, then it is recommended to adopt the revised ordinance.

Motion:

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

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adopted an ordinance for a text amendment to the zoning code relating to Conex (shipping containers) as recommended by the Planning Commission with revisions as recommended by City staff.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- F. Consider adopting an ordinance for a text amendment to the zoning code relating to off-street parking.**

On September 5, 2023 the Planning Commission unanimously recommended adopting an ordinance amending the off-street parking regulations. Reviewing a potential text amendment to the off-street parking regulations was requested by the Beautification Committee to provide affordable alternatives for people parking in their unimproved front yards that do not have a proper driveway. The modification allows gravel driveways off an alley, and ribbon driveways and/or turf pavers off a street.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted an ordinance for a text amendment to the zoning code relating to off-street parking.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- G. Consider approval of a Rural Housing Incentive District agreement between the City of Independence and Trident Partnerships LLC.**

Trident Partnerships LLC has purchased six buildings in historic downtown Independence for the purpose of renovating the downtown floors into usable commercial space while renovating the upper floors into apartments..Tirdent Partnership LLC is requesting the city approve a Rural Housing Incentive District agreement. The RHID is a program that will assist developers in the development of upper-story housing.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission authorized the Mayor to sign the Rural Housing Incentive District agreement between the City of Independence and Trident Partnership LLC following final approval by the City Attorney.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- H. Authorize going out for bid for the construction of the infrastructure for the Jefferson Subdivision

The Independence Housing Authority is developing the Jefferson Subdivision, a new 20 single-family home subdivision. Nine of the homes will be sold to moderate-income qualifying buyers, with eleven homes being sold at market rate. The Jefferson Subdivision has been established as a Rural Housing Incentive District; therefore funds being expended on the construction of the infrastructure will be reimbursed through the ad valorem taxes paid for the construction of the 20 new homes.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse the Commission authorized bidding for the construction of the infrastructure for the Jefferson Subdivision.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- I. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 427 S. 15th Street as dangerous and unsafe.

The City Staff received a complaint about this structure and activity occurring at the residence. City staff found the structure to be a blight, doors were open, and the house is in disrepair and uninhabitable. The structure last had utilities in 2015. The City Staff recommends setting the date to consider condemnation of the structure.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 427 S. 15th Street as dangerous and unsafe.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- J. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 501 S. 15th Street as dangerous and unsafe.

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The City of Independence has received complaints regarding the structure at 501 S.15th. City Staff found the structure to be open, with holes in the roof, trash, debris and tall grass when inspecting. The structure last had utilities in June of 2021. City staff recommends setting the date of December 14, 2023 to consider condemnation of the structure.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 501 S. 15th as dangerous and unsafe.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- K. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 600 S. 15th Street as dangerous and unsafe.**

The City of Independence has received numerous complaints regarding this residence and the structure's condition, junking, campers, tents on the property, and there are no utilities to the residence. The owner of the residence is deceased, and the City has made contact with the family of the deceased and they are aware of the situation occurring at this location. The structure and the property is blighted, and without utilities, the house should not be occupied. The city served the occupants of the residence with a 10-day notice regarding the nuisance and notified them of the condemnation process starting.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 600 S. 15th as dangerous and unsafe.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- L. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 601 S. 15th Street as dangerous and unsafe.**

The City of Independence has received complaints about this structure and activity occurring in the structure. The City found the structure a blight and

in disrepair with the back door kicked in, holes in the roof and the property without utilities since 2016. City Staff recommends setting a date of December 14, 2023, for a Public Hearing to consider condemnation.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 601 S. 15th as dangerous and unsafe.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- M. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 1010 N. 9th Street as dangerous and unsafe.

The City has received numerous complaints about the occupants of the residence at 1010 N. 9th the condition of the structure and the blight on the neighborhood. The structure has been without utilities since October 2021. City Staff recommends setting the date to consider condemnation.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 1010 N. 9th as dangerous and unsafe.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- N. Consider adopting a resolution rescinding condemnation action for 712 N. 12th Street.

This garage structure was involved in a structure fire that destroyed the garage and vehicles inside. The owner has removed the debris and cleaned up the yard. In the area where the garage was located, they did a nice job and turned it into a patio. The owner had a mower and some tin they were taking to the salvage yard the week of the 25th and I will have a final picture for the commission meeting of the completed yard.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission authorized the Mayor to sign a resolution rescinding the condemnation of

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712 N. 12th Street.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- O. Consider authorizing acceptance of KDOT City Connecting Link Improvement Program (CCLIP) bid and for Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits.

Kansas Department of Transportation (KDOT) City Connecting Link Improvement Program (CCLIP) applications were submitted in March of 2021. The bid was let on September 20, 2023. The following project is “as approved” by the Commission.

CCLIP Pavement Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits, 3” mill, construct 2’ widening with 6” gravel and 4’ asphalt base, then 4” overlay cross section.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$505,127.00	\$41,415.60	\$90,971.00	\$132,386.60

Here are the as-bid numbers for the same project.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$702,350.00	\$70,235.00	\$49,000.00	\$119,235.00

Although the bid prices are higher than anticipated, the Construction Engineering is now included as part of the CCLIP project, which lowers the overall cost of the project to the City, despite the higher construction costs.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved acceptance of the KDOT City Connecting Link Improvement Program (CCLIP) bid and for Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits and for execution of any necessary documents required.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- P. Consider adopting a resolution implementing Stage 2 (Water Warning) of the City's Water Conservation Plan.

Due to the current drought conditions as per our Water Conservation Plan, in which the Elk City Reservoir elevation has reached five feet below normal seasonal levels, the City needs to implement Stage 2 (Water Warning). The goals of this stage are to reduce peak demands by 20% and to reduce overall weekly consumption by 10%.

The City will implement the following management actions:

- 1. Provide weekly news releases to local media describing present conditions and any changes to the water supply.**
- 2. Provide weekly summaries of temperature, precipitation, water levels and storage.**
- 3. Provide water conservation articles and information to local news media outlets.**
- 4. Include water-saving tips in billing statements to utility customers.**
- 5. Shut down fountains, discontinue washing of City vehicles and halt watering of City grounds or properties.**

Residents and all customers using City water will be required to adhere to the following measures:

- 1. Residents with odd-numbered addresses will water only on odd-numbered days; even-numbered addresses will water only on even-numbered days.**
- 2. Outdoor water use, including lawn watering and car washing, shall occur only before 10 a.m. or after 9 p.m.**
- 3. Outdoor watering is restricted to hand-held hoses or buckets only.**
- 4. Golf course watering will be limited to tees and greens, following the above restrictions.**
- 5. Refilling swimming pools is limited to one day a week, after sunset.**
- 6. Excess water charges for consumption above winter levels will be considered.**
- 7. Wasting of water will be prohibited, via ordinance with potential penalties enforced.**

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted a resolution implementing Stage 2 (Water Warning) of the City's

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Water Conservation Plan.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

V. REPORTS

A. Monthly Project Report

Engineer Garris presented the report.

B. City Board Minutes

- 1. March 27, 2023 Independence Historic Preservation Resource Commission**
- 2. June 26, 2023 Independence Historic Preservation Resource Commission**
- 3. July 24, 2023 Independence Historic Preservation Resource Commission**

VI. CITY MANAGER'S COMMENTS

City Manager Passauer noted that the Comprehensive Plan Steering Committee had their first meeting this week. The next meeting will be on October 10th. City Hall will be closed on Friday September 29th due to installing switch gear for the generator and there will be no power at the building. There have been over 29 million dollars worth of building permits issued so far this year and Jim Bennett retired as Cemetery Sexton after 27 years of service.

VII. COMMISSIONERS' COMMENTS

None.

IX. EXECUTIVE SESSION

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

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse, the Commission recessed for an executive session concerning confidential data relating to financial affairs and/or trade secrets of a company pursuant to the exception found at KSA 75-4319(b)(4). The open meeting will resume at 7:00 o'clock p.m. in the Civic Center of Memorial Hall.

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Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

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

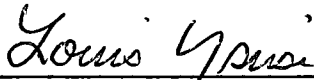
X. ADJOURNMENT

Motion:

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

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None



Louis Ysusi, Mayor



Dean A. Hayse, Commissioner



Tim Emert, Commissioner

Attest:



City Clerk/Treasurer