

Minutes of the Independence City Commission's February 23, 2017 Meeting.

The Independence City Commission met on February 23, 2017 at 5:30pm in the Veterans Room at Memorial Hall. Commissioner Gary Hogsett, Commissioner Leonhard Caflisch, and Commissioner Fred Meier were present. Others present included:

City Staff

Kelly Passauer, Assistant City Manager
Jennifer Rutledge, Director of Finance/City Clerk
Dave Cowan, Public Safety Director
April Nutt, Director of Housing
Jeff Chubb, City Attorney
Terry Lybarger, Director of Utilities
Mike Passauer, Public Works Director
Jerry Harrison, Police Chief
Don Cushing, Building Inspector
Michael Borovetz, Director of Finance/City Clerk - Trainee

Visitors

Jerry Bright	Forrest Roberts
Robert Meadows	Larry Roberts
Megan Royse	Zach Webb
Anthony Royse	Dorcas Sutton
Robin Royse	Steve Denny
Debbie Miller	Ned Stichman
Jim Wisher	Dean Hayse
Ken Brown	Charlotte Caflisch
Susan Galemore	Mary Jo Meier
Terry Wood	

Call to Order

Pledge of Allegiance to the United States of America

City Licenses

Ken's Computer Repair Services – 1024 N. Penn Avenue – Kenneth, Herring, Owner
Combustion Service Inc. – Altamont, KS – Clyde L. Longan, Owner
Singleton Community Clothes Closet – 1625 W. Main – Racheal Singleton, Owner

Appointments

Planning Commission/Board of Zoning Appeals (Inside City) – Two (2) Resignations --
Applications due February 27, 2017

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Adoption of the Consent Agenda

a. Appropriations

1. A-1785

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission approved A-1785 for \$578,137.91.

Aye: Caflisch, Meier, Hogsett

Nay: None

2. P-1749 and P-1750

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission approved P-1749 for \$120,039.46 and P-1750 for \$10,536.16.

Aye: Caflisch, Meier, Hogsett

Nay: None

b. Consider minutes of the February 9, 2017 City Commission meetings [CITIZENS].

City staff recommends approving the attached minutes.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission approved the minutes of the February 9, 2017 City Commission meetings.

Aye: Caflisch, Meier, Hogsett

Nay: None

c. Consider the recommendation of the Planning Commission to approve a conditional use permit for a daycare at 511 S. 4th Street [CITIZENS].

The Planning Commission conducted a public hearing on February 7, 2017 for the purpose of reviewing a request for a conditional use permit for a daycare at 511 S. 4th. The Planning Commission recommended unanimously to approve staff's recommendation to approve the conditional use permit for a daycare at 511 S. 4th with the following conditions:

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City staff recommends **granting** the conditional use permit with the following conditions:

1. The applicant must meet all the "special conditions" set forth in Section 1003.1 a, b, c and d of the Zoning Code as follows:
 - a. *City, county and state standards: All day care facilities shall be licensed by the state and shall meet all city, county and state health department requirements pertaining to facilities, equipment and other features.*
 - b. *Loading zone: A "hard surfaced" loading zone capable of accommodating one car for every ten children shall be provided in addition to the required parking area in order to provide for easy pickup and discharge of passengers.*
 - c. *Operation: Any day care facility shall be operated in a manner that will not adversely affect other properties and uses in the area.*
 - d. *Screening required: Any day care facility located in a building other than a residential dwelling or any residential dwelling used for a day care facility for seven or more children shall provide a visual screen along all property lines abutting any residential use.*
2. The conditional use permit is not transferable to another property owner or to another location.
3. The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes. This would include the requirement to acquire a City occupation license which must be renewed annually.

If any of the above conditions are not met the conditional use permit will no longer be valid. The basis of staff's recommendation is that granting the conditional use permit is consistent with the criteria "a through g" of Section 902.2 of the zoning code.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission adopted Resolution 2017-028 granting a Conditional Use Permit at 511S. 4th.

Aye: Caflisch, Meier, Hogsett

Nay: None

- d. **Consider a request from Four County Mental Health Center to disburse Special Liquor Tax funds collected [BUSINESS & INDUSTRY/CITIZENS].**

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Attached is a request from Four County Mental Health Center to disburse Special Liquor Tax funds collected. City staff recommends approval of disbursement of Special Liquor Tax funds the City has collected and not yet disbursed.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission approved the request from Four County Mental Health Center to disburse Special Liquor Tax funds collected.

Aye: Caflisch, Meier, Hogsett

Nay: None

e. Consider Treasurers report ending January 31, 2017 [CITIZENS].

Attached is the Treasurers report ending January 31, 2017. City staff recommends approval.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission approved the Treasurer's Report ending January 31, 2017.

Aye: Caflisch, Meier, Hogsett

Nay: None

Public Hearings

f. Public hearing to close out the CDBG grant for rehabilitation of Basin 5 [CITIZENS].

Attached is the documentation that will need to be executed after the public hearing is closed.

The Mayor opened the public hearing.

Susan Galemore from the Southeast Kansas Planning Commission presented final numbers on the Basin V project funded by this grant. The City was able to address 4,083 linear feet of sewer, for a total cost of \$1,086,008.80 which was funded with \$500,000.00 of CDBG grant money.

The Mayor closed the public hearing.

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett, the commission authorized the Mayor to sign the documents to close out the CDBG grant for the rehabilitation of Basin V.

Aye: Caflisch, Meier, Hogsett

Nay: None

- g. Public hearings to consider condemnation of the following structures as dangerous and unsafe [CITIZENS]:**

- 1. 404 N. 4th Street**

The Mayor opened the Public Hearing

The Building Inspector explained that this property was damaged by fire and he recommended condemnation.

After no comments from the public, the Mayor closed the Public Hearing.

Motion:

On the motion of Commissioner Caflisch, seconded by Mayor Meier, the commission adopted Resolution 2017-016 condemning 404 N 4th Street as dangerous and unsafe, allowing the owner 30 days to commence repair or removal.

Aye: Caflisch, Meier, Hogsett

Nay: None

- 2. 615 ½ N. 8th Street**

The Mayor opened the Public Hearing

The Building Inspector explained that this property was damaged by fire but has already been removed by the owner. He recommended adjourning the hearing for 30 days to allow the owner time to remove the concrete pad.

After no comments from the public, the Mayor closed the Public Hearing.

Motion:

On the motion of Mayor Meier, seconded by Commissioner Caflisch, the commission adjourned the public hearing for 615 ½ N 8th Street for 30 days

Aye: Caflisch, Meier, Hogsett

Nay: None

3. 725 N. Penn Avenue

The Mayor opened the Public Hearing

The Building Inspector introduced Samual Wood, the new owner of 725 N Penn. The owner plans to fix the property up, but requested the Commission adjourn the hearing so that he can get access to funds if necessary. The Building Inspector recommended adjourning the hearing for 60 days.

The Mayor closed the Public Hearing.

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission adjourned the public hearing for 725 N Penn for 60 days

Aye: Caflisch, Meier, Hogsett

Nay: None

4. 800 S. 6th Street

The Mayor opened the Public Hearing

The Building Inspector explained that he is working with a mom and her daughter on this property. He recommended the commission proceed with condemnation.

After no comments from the public, the Mayor closed the Public Hearing.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission adopted Resolution 2017-019 condemning 800 S. 6th Street as dangerous and unsafe, allowing the owner 30 days to commence repair or removal.

Aye: Caflisch, Meier, Hogsett

Nay: None

5. 1124 W. Maple Street

The Mayor opened the Public Hearing

The Building Inspector reported to the Commission that this property is deteriorating daily.

After no comments from the public, the Mayor closed the Public Hearing.

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Motion:

On the motion of Commissioner Meier, seconded by Commissioner Hogsett, the commission adopted Resolution 2017-020 condemning 1124 W Maple Street as dangerous and unsafe, allowing the owner 30 days to commence repair or removal.

Aye: Caflisch, Meier, Hogsett

Nay: None

6. 1207 N. 8th Street

The Mayor opened the Public Hearing

The Building Inspector reported to the Commission that this property has failed an HQS inspection and recommended proceeding with condemnation.

After no comments from the public, the Mayor closed the Public Hearing.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission adopted Resolution 2017-021 condemning 1207 N 8th Street as dangerous and unsafe, allowing the owner 30 days to commence repair or removal.

Aye: Caflisch, Meier, Hogsett

Nay: None

7. 1304 W. Myrtle Street

The Mayor opened the Public Hearing

The Building Inspector explained that this vacant property is deteriorating and recommended proceeding with condemnation.

After no comments from the public, the Mayor closed the Public Hearing.

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission adopted Resolution 2017-022 condemning 1304 W Myrtle Street as dangerous and unsafe, allowing the owner 30 days to commence repair or removal.

Aye: Caflisch, Meier, Hogsett

Nay: None

The Building Inspector will review each structure at the public hearings. After each public hearing is closed the Commission has the following options:

- To adopt a resolution condemning the structure(s) as dangerous and unsafe and providing 30 days to diligently pursue repair or removal;
- Adjourn the public hearing to a date and time specific; or
- Take no action, which would require starting the process over if the property was to be considered again for condemnation.

Items for Commission Action

h. Consider bids received for sale of surplus items [CITY EMPLOYEES/ CITIZENS].

Bids were received for three of the thirteen items to be sold as follows:

- Item #3 – Generator -- \$3,500 – City of Girard, Kansas
- Item #4 – Endo Flushing Pump -- \$150 – Lisa Henson, Wilson Medical Center
- Item #13 – Grinder Pump -- \$500 – Michael Conway, Brothers Railroad Inn

The bid for item #4 was received after the 2 PM cut off time, however, there were no other bids received for that item therefore City staff recommends waiving this irregularity.

Since there was only one bid per item staff recommends awarding the bids for item #4 in the amount of \$150 to Lisa Henson, Wilson Medical Center; and item #13 for \$500 to Michael Conway, Brothers Railroad Inn.

City staff further recommends that item #3, the bid from the City of Girard, Kansas in the amount of \$3,500 for the generator be rejected as the Director of Utilities feels that the City can sell this item for considerably more at a later date.

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission awarded the bids for item #4 in the amount of \$150.00 to Lisa Henson, Wilson Medical Center; and item #13 for \$500.00 to Michael Conway, Railroad Brothers Inn.

Aye: Cafilisch, Meier, Hogsett

Nay: None

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Cafilisch, the commission rejected the bids for item #3.

Aye: Cafilisch, Meier, Hogsett

Nay: None

- i. **Consider setting the date of April 27, 2017 at 5:30 PM for public hearings to consider condemnation of the following structures as dangerous and unsafe:**

1. **308 W. Poplar Street**

The Commission took no action on this property.

2. **610 Fountain Street**

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission adopted Resolution 2017-023 setting the date of April 27, 2017 at 5:30pm for a public hearing to consider condemnation of 610 Fountain Street as dangerous and unsafe.

Aye: Caflisch, Meier, Hogsett

Nay: None

3. **716 S. 6th Street**

Motion:

On the motion of Commissioner Hogsett, seconded by Mayor Meier, the commission adopted Resolution 2017-011 setting the date of April 27, 2017 at 5:30pm for a public hearing to consider condemnation of 716 S. 6th Street as dangerous and unsafe.

Aye: Caflisch, Meier, Hogsett

Nay: None

4. **809 N. 9th Street**

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission adopted Resolution 2017-012 setting the date of April 27, 2017 at 5:30pm for a public hearing to consider condemnation of 809 N 9th Street as dangerous and unsafe.

Aye: Meier, Hogsett

Nay: Caflisch

5. **912 W. Cottonwood Street**

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission adopted Resolution 2017-024 setting the date of April 27, 2017 at 5:30pm for a public hearing to consider condemnation of 912 W Cottonwood Street as dangerous and unsafe.

Aye: Caflisch, Meier, Hogsett

Nay: None

6. 1001 N. 18th Place

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett, the commission adopted Resolution 2017-013 setting the date of April 27, 2017 at 5:30pm for a public hearing to consider condemnation of 1001 N 18th Place as dangerous and unsafe.

Aye: Caflisch, Meier, Hogsett

Nay: None

7. 1228 N. 6th Street

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission adopted Resolution 2017-014 setting the date of April 27, 2017 at 5:30pm for a public hearing to consider condemnation of 1228 N 6th Street as dangerous and unsafe.

Aye: Caflisch, Meier, Hogsett

Nay: None

8. 2601 N. 8th Street

The Commission took no action on this property.

The Building Inspector will review the above properties with the Commission.
The Commission has the following options for each property:

- Set the date of April 27, 2017 at 5:30 PM for a public hearing to consider condemnation of the structure(s) as dangerous and unsafe; or
- Take no action.

j. Consider reviewing the condition of the following previously condemned properties:

1. 519 N. 16th Street

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission authorized staff to receive bids for removal of 519 N 16th Street.

Aye: Caflisch, Meier, Hogsett

Nay: None

2. 1005 W. Pine Street

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission authorized staff to receive bids for removal of 1005 W Pine Street.

Aye: Caflisch, Meier, Hogsett

Nay: None

3. 1300 and 1304 W. Locust

Motion:

On the motion of Commissioner Hogsett, seconded by Mayor Meier, the commission authorized staff to receive bids for removal of 1300 and 1304 W Locust.

Aye: Caflisch, Meier, Hogsett

Nay: None

The Building Inspector will review the status of the above previously condemned structures. The Commission has the following options:

- Rescind condemnation action if the property has met the HQS requirements per policy;
- Authorize staff to receive bids for removal;
- Table review for a specific period of time; or
- Take no action.

During this business item, Commissioner Hogsett questioned the building inspector about his role in the supply of electricity at

properties in Independence. Don explained that Westar has the ability to provide or refuse service, that is not the City's role.

k. Consider quotes received for the canopy replacement project and any related action [CITIZENS].

Attached are proposals received for various aspects of the train canopy replacement project. It is recommended to award the lowest proposal for each element. The total of all proposals as shown on the proposal tabulation sheet is \$41,731.27. Please note the pier drilling is being performed by Westar as a donation to this project. In addition, Bennett Backhoe Service is also donating their services to this project. If approved, the goal is to get this project completed by Park Opening on April 8, 2017. All of those providing proposals believe there is adequate time to complete the project if the Commission approves moving forward.

City staff recommends the following:

- Authorizing City crews to remove the existing train canopy;
- Award the lowest proposals as follows:
 - Concrete Work – TMC Construction -- \$7,325.00
 - Timber Material – Woods Lumber -- \$16,180.27
 - Timber Erection – SEK Construction -- \$7,980.00
 - Shingle Roofing – H & H Roofing & Restoration -- \$4,100.00
 - Timber Staining – Connley Painting -- \$2,600
 - Electrical Lighting – D&A Electrical Systems -- \$3,546.00
- Publicly thank those that are donating services to this project; Westar Energy and Bennett Backhoe Service.

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission authorized City crews to remove the existing train canopy; awarded the lowest proposals as shown, and publicly thanked those that are donating services to the project: Westar Energy and Bennett Backhoe Service.

Aye: Caflich, Meier, Hogsett

Nay: None

l. Consider partnering with the County on bidding out street improvements and selecting locations [CITIZENS].

As part of the City/County partnership meetings the City has become aware of an opportunity to partner with the County and other cities in bidding out street improvements. City staff has reviewed various locations and recommends

consideration of one or more of the following locations to include in the County's bid letting:

- Resurface West Maple from Union Pacific Railroad tracks west to Peter Pan Road
- Resurface North 5th from Oak to the County maintenance line (north of the Elk pen)
- Mill and overlay Laurel Street from 8th to 10th Street

We have spoken with Michael Conway, an engineering consultant who contracts with the City, and he is willing to inspect this work as it is performed. Mr. Conway has also indicated that the City may wish to have TranSystems complete the inspection rather than him, since they also have a lab that can test the material to ensure it meets specifications.

The City Clerk will review possible funding sources if the Commission wishes to pursue any of these locations in the County bid process. However, until bids are received we will not have exact costs. The City will have the option to advise the County whether they wish to accept, reject or waive any irregularities once the bids are received.

No action was taken on this item. The Commission directed the Assistant City Manager to submit the street locations to Treanor.

m. Consider a proclamation proclaiming March 3, 2017 as Employee Recognition Day in Independence [CITIZENS].

Lydia Collins, Chair of the City's Social Committee has requested that the City Commission adopt the attached proclamation to recognize employees and their service to the Independence community. As part of that celebration we would like to present copies of the signed proclamation along with treats to each City department on March 3, 2017 to show our appreciation for their hard work and dedication to make the City a great place to live, work and play. City staff recommends authorizing the Mayor to sign the attached proclamation declaring March 3, 2017 as Employee Recognition Day.

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission proclaimed March 3, 2017 as Employee Recognition Day in Independence.

Aye: Caflisch, Meier, Hogsett

Nay: None

n. Consider results of two KORA complaints and any necessary related action [CITIZENS].

The City has received the attached documents related to two separate KORA complaints filed against the City of Independence by Debbie Miller. Regarding the first complaint the Office of the Kansas Attorney General did not find a violation. However, in the second complaint the Attorney General did find a violation and is requesting that the City sign a consent order, pay a civil penalty of \$250 and send the City personnel responsible for handling KORA matters to one hour of training. The City Attorney will be available if the Commission has additional questions.

Mayor Meier read a statement at the meeting, which has been attached to the minutes.

Motion:

On the motion of Commissioner Cafilisch, seconded by Commissioner Hogsett, the commission authorized the mayor to sign the consent order from the Kansas Attorney General's Office.

Aye: Cafilisch, Meier, Hogsett

Nay: None

Reports

o. Report on City Projects and other updates [CITIZENS/CITY EMPLOYEES].

1. 2016 Annual Report

The 2016 City of Independence, Kansas Annual Report is attached.

2. Report on funding operational costs for temporary City Hall.

The City Clerk/Finance Director will review the funding for the operational costs of temporary City Hall (Building D).

3. Report on possible utility upgrades for temporary City Hall.

Based on discussions and questions that were asked at the last Commission meeting regarding the potential utility upgrades for temporary City Hall, City staff has further discussed the potential upgrades in more detail with Steve Mankins, of BCS.

As part of those discussions, City staff has verified that the following statements are true and accurate according to the opinion of Steve Mankins, BCS:

- If the following upgrades are performed the utility costs will be reduced by 2/3:
 - Install VFD's on five AHU's.
 - Programming for energy savings

- IT Room AC
 - Install Digital Energy Monitors
 - Install VAV boxes with reheat coils.
 - Install controls on VAV boxes.
- The cost to perform the above upgrades will be less than \$500,000.
- Converting the central energy plant to hot water from steam was not included in the recommended upgrades.
 - Based on the cost of natural gas today this modification could have a lengthy payback.
- In order to verify the 2/3 savings will actually occur before improvements are made, an Investment Grade Audit could be performed that would provide a more detailed study and guarantee of savings for less than \$10,000.
 - The guarantee of savings means that after the Investment Grade Audit is performed and a formal agreement is executed, if the projected savings are not realized BCS will pay the difference in the actual utility costs and the projected savings for the term of the contract, which typically would be 3.5 to 5 years.

As of the date of this memo, City staff has not received a response from Mercy regarding whether or not their \$500,000 contribution may be utilized for this purpose.

City staff will provide this information to TreanorHL to further evaluate and verify this information with the steering committee.

4. Special Use Sales Tax.

Attached is an updated Special Use Sales Tax Report. The City Clerk will be available if there are any questions.

5. Marketing of Historic Tax Credits.

The City Clerk/Finance Director will provide a report regarding marketing Historic Tax Credits.

6. Economic Development Fund.

Attached is an updated report of the Economic Development Fund.

7. Accepting vehicle tires at April 1, 2017 Recycling.

City staff has been hosting City-County Partnership Meetings. As part of this process, the cities in Montgomery County were advised by Robert Bever, Montgomery County Public Works Director that the County has received a grant to collect tires within the County. In

addition, the County Commission has graciously agreed to pay for the disposal of tires that exceed the maximum grant amount.

Therefore, on April 1st only, as part of the monthly recycling event, Independence will be accepting tires from 8 AM to Noon at the Sanitation yard, located at 21st and Maple. The restrictions for participation will be a limit of up to seven per vehicle, with the rims removed, car and light truck tires only. No heavy duty truck or tractor tires will be accepted.

City staff would like to thank the County Commission and the County Public Works Department for partnering with the cities to allow Independence residents to dispose of their tires.

8. Hometown Showdown

City staff has submitted the attached photo to the third annual League of Kansas Municipalities Hometown Showdown. Voting for the round of 64 pictures will begin around February 23, 2017. Voting will continue in a double elimination each week. The winner will be announced on April 3, 2017. As of the date of this memo, staff has not received a confirmation from the League that Independence was in the first 64 entries. Staff will report any updates at the Commission meeting.

p. City Board Minutes.

Attached are the December 6, 2016 minutes of the Planning Commission/Board of Zoning Appeals.

Commissioner Comments

Public Concerns:

Debbie Miller addressed the Commission on several items. She expressed that the demolition agreement with Mercy included \$500,000 in for projects related to patient transport. Why use these funds for energy efficiency? Couldn't these be used for the barn used for emergency vehicles? What about the dire state of the water department? Over the past 6 years, we could have conducted a water rate study instead the City chose to arbitrarily raise water rates 5%. This is an illegal way to raise the water rates.

Debbie admitted that she was inconsiderate at the previous meeting while business was being conducted, and she apologized. The only actions that were worse in that meeting, were the actions of City Leadership. She feels strongly that leadership should lead by example.

Debbie plans to file more KORA complaints. At a future date she will address the claim that she had obtained executive session information.

Executive Session:

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the commission called a 15 minute executive session according to Kansas Statute 75-4319 (b) (1) for the purpose of personnel matters of nonelected personnel, to end at 7:23. The executive session included Mayor Meier, Commissioner Hogsett, Commissioner Caflisch, and Jeff Chubb.

Aye: Caflisch, Meier, Hogsett

Nay: None

Mayor Meier called the meeting back to order at 7:23.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission called a 10 minute executive session according to Kansas Statute 75-4319 (b) (1) for the purpose of personnel matters of nonelected personnel, to end at 7:33. The executive session included Mayor Meier, Commissioner Hogsett, Commissioner Caflisch, and Jeff Chubb.

Aye: Caflisch, Meier, Hogsett

Nay: None

Mayor Meier called the meeting back to order at 7:33.

Adjournment

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the commission adjourned the meeting.

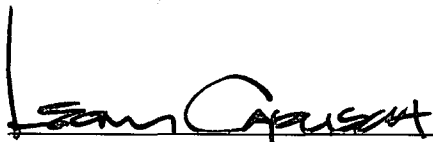
Aye: Caflisch, Meier, Hogsett

Nay: None

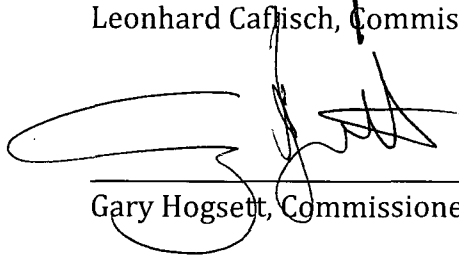
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Fred Meier, Mayor

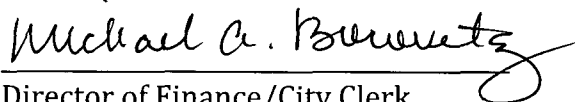


Leonhard Caffisch, Commissioner



Gary Hogsett, Commissioner

Attest:



Director of Finance/City Clerk

PRESS RELEASE

1. On February 1, 2017, a copy of a letter dated January 30, 2017 addressed to Debbie Miller was sent to the city attorney as a courtesy copy. In this letter, the Kansas Attorney General advised Ms. Miller that a complaint her attorney had filed under the Kansas Open Records Act (KORA) was being denied as no violation had occurred. The letter outlines in detail the complaint. The complaint stemmed from a February 5, 2016 KORA request made by Ms. Miller to the City of Independence which included a request for "all documents pertaining to the transfer of ownership of the former Mercy Hospital to the City of Independence," and then specifically listed some documents including "the letter of intent."

The City Clerk determined that the letter of intent from Mercy had never been executed or approved by the City. So, in her response, the City Clerk responded to this request stating "no letter of intent was executed between Mercy and the City of Independence." Ms. Miller did not question the response or ask for clarification.

Later in March of 2016, Ms. Miller made another KORA request of the City for additional documents, and this request also included a request for production of the Mercy letter of intent. The City provided Ms. Miller a copy of the unexecuted letter of intent at this time.

The letter from the Kansas Attorney General goes on to state that on May 12, 2016, Ms. Miller, through her attorney, filed a KORA complaint with their office. In their letter opinion, the Attorney General's office concludes that because the letter of intent was not executed, the City did not consider it to be a document related to the transfer of the real estate and thus did not include it. The City did not attempt to hide that fact and Ms. Miller did not ask for clarification, so there was no violation. In fact, the letter goes on to point out that Ms. Miller received a copy of the letter of intent as part of a later KORA request made by her prior to the time she filed her complaint.

2. On February 2, 2017, a letter addressed to outside counsel representing the City informed the City that a second KORA complaint filed by Ms. Miller on May 12, 2016 did have merit and that the Attorney General's office determined that a violation had occurred. This second KORA complaint had to do with a request for production of a "blank copy of the evaluative tool used by the City Commission to evaluation the City Manager."

When this KORA request was received, the City Clerk was not aware of such a document and consulted the City Attorney. He likewise was not aware of such document, but upon inquiry of the City Manager and the City Commissioners, it was determined that such a document did exist. At the time, City staff questioned how Ms. Miller would have known such a document existed since it had never seen the light of day outside of executive session, and the only parties that were familiar with it were the City Manager and the City Commissioners.

The City Attorney's recommendation was to produce the document since the request was not for a completed evaluation form which would be protected from disclosure, but simply the blank evaluation form. As such, the City Attorney did not feel that it was protected by an exemption.

The City Manager sought a second opinion with outside counsel. The second opinion was that this was a gray area of KORA and that the City, in its discretion, could decide to not produce the document as it was a personnel document.

To make a long short, the Attorney General's office disagreed. They pointed out that the document was actually a downloaded form that had been obtained by the City Manager for the purpose of his evaluation process. It was in the public domain and could have been obtained by anyone had they known where to look. The Attorney General's office requested that the City enter into what is called a consent order admitting the violation and paying a \$250.00 civil penalty, which it is the intent of the City to do. The consent order also provides that appropriate City staff should attend appropriate training regarding KORA issues and that will occur.

City Manager Performance Evaluation

City of _____

Evaluation period: _____ to _____

Governing Body Member's Name

Each member of the governing body should complete this evaluation form, sign it in the space below, and return it to _____. The

deadline for submitting this performance evaluation is _____.

Evaluations will be summarized and included on the agenda for discussion at the work session on _____.

Mayor's Signature

Date

Governing Body Member's Signature

Date Submitted

INSTRUCTIONS

This evaluation form contains ten categories of evaluation criteria. Each category contains a statement to describe a behavior standard in that category. For each statement, use the following scale to indicate your rating of the city manager's performance.

5 = Excellent (almost always exceeds the performance standard)

4 = Above average (generally exceeds the performance standard)

3 = Average (generally meets the performance standard)

2 = Below average (usually does not meet the performance standard)

1 = Poor (rarely meets the performance standard)

Any item left blank will be interpreted as a score of "3 = Average"

This evaluation form also contains a provision for entering narrative comments, including an opportunity to enter responses to specific questions and an opportunity to list any comments you believe appropriate and pertinent to the rating period. Please write legibly.

Leave all pages of this evaluation form attached. Initial each page. Sign and date the cover page. On the date space of the cover page, enter the date the evaluation form was submitted. All evaluations presented prior to the deadline identified on the cover page will be summarized into a performance evaluation to be presented by the governing body to the city manager as part of the agenda for the meeting indicated on the cover page.

PERFORMANCE CATEGORY SCORING

1. INDIVIDUAL CHARACTERISTICS

_____ Diligent and thorough in the discharge of duties, "self-starter"

_____ Exercises good judgment

_____ Displays enthusiasm, cooperation, and will to adapt

_____ Mental and physical stamina appropriate for the position

_____ Exhibits composure, appearance and attitude appropriate for executive position

Add the values from above and enter the subtotal _____ + 5 = _____ score for this category

2. PROFESSIONAL SKILLS AND STATUS

- _____ Maintains knowledge of current developments affecting the practice of local government management
- _____ Demonstrates a capacity for innovation and creativity
- _____ Anticipates and analyzes problems to develop effective approaches for solving them
- _____ Willing to try new ideas proposed by governing body members and/or staff
- _____ Sets a professional example by handling affairs of the public office in a fair and impartial manner

Add the values from above and enter the subtotal _____ + 5 = _____ score for this category.

3. RELATIONS WITH ELECTED MEMBERS OF THE GOVERNING BODY

- _____ Carries out directives of the body as a whole as opposed to those of any one member or minority group
- _____ Sets meeting agendas that reflect the guidance of the governing body and avoids unnecessary involvement in administrative actions
- _____ Disseminates complete and accurate information equally to all members in a timely manner
- _____ Assists by facilitating decision making without usurping authority
- _____ Responds well to requests, advice, and constructive criticism

Add the values from above and enter the subtotal _____ + 5 = _____ score for this category

4. POLICY EXECUTION

- _____ Implements governing body actions in accordance with the intent of council
- _____ Supports the actions of the governing body after a decision has been reached, both inside and outside the organization
- _____ Understands, supports, and enforces local government's laws, policies, and ordinances
- _____ Reviews ordinance and policy procedures periodically to suggest improvements to their effectiveness
- _____ Offers workable alternatives to the governing body for changes in law or policy when an existing policy or ordinance is no longer practical

Add the values from above and enter the subtotal _____ + 5 = _____ score for this category

5. REPORTING

- _____ Provides regular information and reports to the governing body concerning matters of importance to the local government, using the city charter as guide
- _____ Responds in a timely manner to requests from the governing body for special reports
- _____ Takes the initiative to provide information, advice, and recommendations to the governing body on matters that are non-routine and not administrative in nature
- _____ Reports produced by the manager are accurate, comprehensive, concise and written to their intended audience
- _____ Produces and handles reports in a way to convey the message that affairs of the organization are open to public scrutiny

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

6. CITIZEN RELATIONS

- _____ Responsive to requests from citizens
- _____ Demonstrates a dedication to service to the community and its citizens
- _____ Maintains a nonpartisan approach in dealing with the news media
- _____ Meets with and listens to members of the community to discuss their concerns and strives to understand their interests
- _____ Gives an appropriate effort to maintain citizen satisfaction with city services

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

7. STAFFING

- _____ Recruits and retains competent personnel for staff positions
- _____ Applies an appropriate level of supervision to improve any areas of substandard performance
- _____ Stays accurately informed and appropriately concerned about employee relations
- _____ Professionally manages the compensation and benefits plan
- _____ Promotes training and development opportunities for employees at all levels of the organization

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

8. SUPERVISION

- _____ Encourages heads of departments to make decisions within their jurisdictions with minimal city manager involvement, yet maintains general control of operations by providing the right amount of communication to the staff
- _____ Instills confidence and promotes initiative in subordinates through supportive rather than restrictive controls for their programs while still monitoring operations at the department level
- _____ Develops and maintains a friendly and informal relationship with the staff and work force in general, yet maintains the professional dignity of the city manager's office
- _____ Sustains or improves staff performance by evaluating the performance of staff members at least annually, setting goals and objectives for them, periodically assessing their progress, and providing appropriate feedback
- _____ Encourages teamwork, innovation, and effective problem-solving among the staff members

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

9. FISCAL MANAGEMENT

- _____ Prepares a balanced budget to provide services at a level directed by council
- _____ Makes the best possible use of available funds, conscious of the need to operate the local government efficiently and effectively
- _____ Prepares a budget and budgetary recommendations in an intelligent and accessible format
- _____ Ensures actions and decisions reflect an appropriate level of responsibility for financial planning and accountability
- _____ Appropriately monitors and manages fiscal activities of the organization

Add the values from above and enter the subtotal _____ ÷ 5 = _____ score for this category

10. COMMUNITY

- ☐ Shares responsibility for addressing the difficult issues facing the city
- ☐ Avoids unnecessary controversy
- ☐ Cooperates with neighboring communities and the county
- ☐ Helps the council address future needs and develop adequate plans to address long term trends
- ☐ Cooperates with other regional, state and federal government agencies

Add the values from above and enter the subtotal ____ + 5 = ____ score for this category

NARRATIVE EVALUATION

What would you identify as the manager's strength(s), expressed in terms of the principle results achieved during the rating period? _____

What performance area(s) would you identify as most critical for improvement? _____

What constructive suggestions or assistance can you offer the manager to enhance performance? _____

What other comments do you have for the manager; e.g., priorities, expectations, goals or objectives for the new rating period? _____

Attendance Sheet

City Commission Meeting

February 23, 2017

5:30pm Meeting

PLEASE PRINT

Name	Address
1 Jerry Dight	201 S 13 th
2 Robert Meadows	3893 S. 4100 th Indepks.
3 Megan Royse	132 Hackberry
4 Anthony Royse	208 S 4 th
5 Robin Royse	208 S 4 th
6 Jean Wiebel	2601 N. 8 th
7 Sus. M.	813 KRPC
8 Anna Wood	2298 S. 1000 th Cherryvale
9 [Signature]	912 E Myrtle St. Indeg
10 Torres Roberts	1600 W. Concord
11 [Signature]	601 Pileg Ind-
12 Zoltz	202 Spruce
13 Noocas Smith	1201 N 5 th
14 Debbie Miller	P.O. Box 571
15 Steve Perry	3751 W. Main
16 Ned Stichman	
17 Dean Hayse	2625 Rolling Green
18 Charlotte Caglinch	600 S. 5 th
m. g. meier	2712 Linden Lane

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OK

Request to Address the City Commission



Name: JACK HOLLYARD

Agenda item you wish to address: Letter: ____; or

Public concern you wish to address: 809 N 9th

Prior to the start of the meeting, please hand this form to the City Clerk

When the Mayor calls on you, please state your name and direct your comments to the Commission. Your comments should be limited to a maximum of 3 minutes.

No ____

2

3-23-17

Request to Address the City Commission



Name: Debbie Muck

Agenda item you wish to address: Letter: _____; or

Public concern you wish to address: Misc. Comments & Questions

Prior to the start of the meeting, please hand this form to the City Clerk

When the Mayor calls on you, please state your name and direct your comments to the Commission. Your comments should be limited to a maximum of 3 minutes.

No _____