Minutes of the City Commission's May 23, 2024 Meeting

I. REGULAR SESSION

Commissioners Present: Mayor Tim Emert, Vice-Mayor Scott Smith and Commissioner Dean Hayse

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; Jeff Chubb, City Attorney; David Schwenker, City Clerk/City Treasurer; Dustin Stafford, Police Officer; John Garris, City Engineer/Director of Public Works and Utilities; David Hutchings, Interim Chief of Police; Scott Patton, Park and Zoo Director; Brian McHugh, Memorial Hall Supervisor and Lacey Lies, Finance Director.

Visitors Present: Larry McHugh, Breanne Sanford, Andy Taylor, Abbey Eckberg, Steve Lumbley, Penny Lumbley, Greg Knisley, Lori Knisley, Shirley Knisley, Todd Fienen, Tony Clubine, Nancy Clubine, Flo Crain, Jamie Clubine, Mandi Hargis, Tina Hoover, Jimmy Huffman, Rachelle Henry, Lisa Wilson, Cynthia Ross, Andrea Hunter, Bruce Hargis, Kevin Cooper, Mike Gilstrap, Butch Holum, Geneva Duke, Jason Kuehn, Amber Kuehn, Curtis Belt, Royce Guhr, Marge Reeves-Guhr, Nicholas Cress, Sharon Hinds, Jolene Dozier, Linda Groth, Harold Groth, Tyler Edwards, Donna Engelmann, Larry Engelmann, Joe Long, Megan Mencer, Edward Doherty, Ron Wood, Ryan Bliss, Laren Lankin, John George, Patrick Conway, Josepa Dunbar, Jacques Brown, Bill Peyton, Jeff Clark, Rita Ortolani, Russell Canaday, Cain Scott, Beth Smith, Ron McHugh, Kevin Elias, Elena Elias, Mary Jo Danur, Fred Gress, Kevin Watkins, Pam Watkins, Lisa Richard, Tony Henry, Scott Wolf, Paul Vaughn, Ned Stichman, Amy McCarthy and Matthew Hunter.

A. Call to Order

Mayor Emert 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 Scott Smith, the Commission adopted the agenda with the modification of moving item III. A. to after item VI. A.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

II. CONSENT AGENDA

Motion:
On the motion of Dean Hayse, seconded by Scott Smith, the Commission adopted the consent agenda.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

A. Consider approving City Commission minutes from May 9th and 15th, 2024

Suggested Motion:
I move to approve the minutes from May 9th and 15th, 2024.

B. Consider adopting the latest version of the Personnel Rules and Regulations.

We have been working on reformatting and updating the Personnel Rules and Regulations for several months, working with labor attorneys and others. The attached Personnel Rules and Regulations have been updated to reflect multiple policy changes approved either by the City Commission or the City Manager.

Suggested Motion:
I move to adopt the Personnel Rules and Regulations as updated.

C. Consider approving Central Park Sports Complex Change Orders.

The following change orders have been or need to be approved for Crossland Construction's contract for the Central Park Sports Complex.

PCO #	Description	Cost
0	Credit for Changing Mesh to Fiber	(25,85
0	Credit for Tieing into existing Brick Pipe	(15,00
0	Credit for Temp Seeding	(45,00
01	Storm Structure Elevation Change ($2,456.30)	
02	Rubble Relocation @ Soccer Parking	9,62
03	Added Junction Box @ Storm Inlet 1-2	8,26
04	Raise Existing Sanitary Sewer Per RFI-05	1,81
05	Concrete Changes - Add Perf Pipe at Playground, Curb Change, Donor P	7,72
06	Irrigation Credit @ Dog Park	(10,98
07	April Changes	(17,98
08	Dumpster Accomodation at Maintenance Building	18,67
09	Credit for Multi-Use Field Drainage	(4,12
10	Synthetic Turf at Playground	43,62
	PCO Total	(29,21

Change order #07 listed as 'April Changes' includes new connecting paths, an 8' trail extension, four pedestrian crossing signs and two painted crosswalks and a credit for bleacher footings.

Change order #10 listed as Synthetic Turf at Playground is a shift of costs from Phase 2 to Phase 1. This will allow the playground area to be usable in the interim period. During Phase 2, this material will be moved to the batting cages. Midwest Synthetic Turf (subcontractor) will provide and install up to 4" of AB3 rock, AT740 with 3mm pad, adhesive and seam tape for an area that is 70'x70' with the batting cage synthetic turf, by June 1st. This material will then be removed and reinstalled in the batting cages in Phase 2 (est. future cost $9,600.00).

Per Section 6.2 of the procurement policy, in emergency situations, to prevent a lengthy delay in the project, safety concerns, and the protection of City assets and resources, the City Manager, with notification to the Governing Body, can authorize a change order in an amount not to exceed $25,000, but not in excess of the overall project budget, whichever is less. The current project budget is $6,617,750. With a complex opening date of June 1, changes and purchases from the project's budgeted contingencies must be made quickly to ensure the project stays on time. Therefore, we anticipate we may have change orders that will need to be approved prior to the next scheduled Commission meeting. The procurement policy states that after authorizing the change order, the change order will be submitted to the Governing Body for ratification. Therefore, we will submit any further change orders approved per this section for such ratification on the next agenda.

Suggested Motion:
I move to authorize Change Orders #0 and #02 through #10 for the Central Park Sports Complex project.

D. Consider authorizing an agreement with William M. and Amy L. Reichenberger to lease property for the purpose of haying only.

Marty Reichenberger approached the City Attorney and Staff regarding a request to lease the recently purchased property north of Oak and east of 21st Street for the purpose of haying only. He will deliver one-third of the hay to the zoo for the animals.

Suggested Motion:
I move to authorize the Mayor to sign an agreement with William M. and Amy L. Reichenberger to lease property for the purpose of cultivating and cutting hay only.

E. Consider Addendum #1 with Kwikom relating to release of liability and waiver of claims due to decreasing the depth from 36" to 24" of their buried fiber optic cable.

Penny Speak is representing the City regarding the Kwikom agreement. Kwikom has requested to reduce the depth of fiber optic cable to 24" due to hitting rock in several locations. Penny has prepared the attached addendum and recommends approval.

Suggested Motion:
I move to authorize the Mayor to sign Addendum #1 with Kwikom relating to release of liability and waiver of claims due to decreasing the depth from 36" to 24" of their buried fiber optic cable.

III. ITEMS FOR COMMISSION ACTION

A. Consider adopting an ordinance approving the recommendation of the Planning Commission to adopt a Community Development/Comprehensive Plan.

This item was moved to after item VI. A.

On May 7, 2024 the Planning Commission held a public hearing regarding the adoption of the Comprehensive Plan. Many rural residents said they were concerned about future annexation. It was stated by the consultant, staff and members of the Planning Commission that this is a future development plan,

and not a mass annexation plan. A resolution adopting the new Comprehensive Plan titled Independence Community Development Plan was approved, and it was recommended that the Governing Body adopt the same in accordance with K.S.A. 12-747 on an 8-1 vote.

The following rural residents spoke against the adoption of the Community Development/Comprehensive Plan:

Cynthia Ross, Penny Lumbley, Ron Denney, Nick Cress, Shirley Knisley, Greg Knisley, Mike Gilstrap, Jolene Dozier, Tyler Edwards, Rachelle Henry, Russell Canaday, Paul Vaughn, Derrick Davis and Jacque Brown.

Motion:
On the motion of Scott Smith, seconded by Dean Hayse, the Commission adopted an ordinance adopting a new Community Development/Comprehensive Plan and replacing in its entirety the existing Comprehensive Plan.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

Motion:
On the motion of Dean Hayse, seconded by Scott Smith the Commission recessed for five minutes.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

The open meeting resumed at 7:30 p.m.

B. Consider adopting an ordinance rezoning a tract of land at 401 South 13th Street from R-2, single-family dwelling district to C-1, neighborhood business district; and consider adopting a resolution for a conditional use permit for "Restaurant" in a C-1, neighborhood business district.

On May 7, 2024 the Planning Commission held a public hearing to consider rezoning a tract of land at 401 South 13th Street from R-2, single-family dwelling district to C-1, neighborhood business district; and to consider a conditional use permit for "Restaurant" in a C-1, neighborhood business district. The Planning Commission unanimously (9-0) recommended the Commission approve both requests.

Motion:

On the motion of Dean Hayse, seconded by Scott Smith, the Commission adopted an ordinance rezoning a tract of land at 401 S 13th Street from R-2 to C-1.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

Motion:
On the motion of Dean Hayse, seconded by Scott Smith, the Commission adopted a resolution for a conditional use permit for a "Restaurant" in a C-1, neighborhood business district.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

C. Consider adopting an ordinance relating to "Shipping containers" in the C-4, highway commercial district.

On May 7, 2024 the Planning Commission held a public hearing to consider a text amendment relating to "Shipping containers" in the C-4, highway commercial district. The text amendment is making a correction when the "C-4" district was inadvertently left out of a previous ordinance relating to shipping containers. The Planning Commission unanimously (9-0) recommended the Commission approve the text amendment.

Motion:
On the motion of Scott Smith, seconded by Dean Hayse the Commission adopted an ordinance pertaining to "Shipping containers" amending Ordinance 4436 to include the C-4, highway commercial district.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

D. Consider approving a Cereal Malt Beverage license for the Air Strip Attack event that is being held at the Independence Airport located at 499 Freedom Drive on June 1 and 2, 2024.

Motion:
On the motion of Dean Hayse, seconded by Scott Smith, the Commission approved a Cereal Malt Beverage license for Patrick Conway for the Air Strip Attack event to be held at the Independence Airport on June 1 and 2, 2024.

Aye: Tim Emert, Dean Hayse, Scott Smith

Nay: None

IV. PUBLIC HEARING

A. Public Hearing to consider condemnation of 200 ARCO Place as dangerous and unsafe.

On May 16, 2023, Daniel Regan from Tulsa, Oklahoma, contacted the City, revealing himself as the new owner of the building. He intends to address concerns and issues with people accessing the building. City staff met with Mr. Regan, who requested an adjournment of the public hearing to allow time to develop a comprehensive plan for the building. Mr. Regan has already submitted to the State Historic Preservation Office (SHPO) and is progressing through the necessary procedures. The State Historic Preservation Office is holding a hearing in June 2024 to consider the nomination as a historic place. If all goes according to plan, he anticipates starting his comprehensive plan for the building after this nomination.

Mr. Regan has responded to the City's calls when access was made to the building and implemented security measures and boarding-up procedures to limit access.

City Staff recommends adjourning the hearing until September 12, 2024, at 5:30 PM.

Motion:
On the motion of Dean Hayse, seconded by Scott Smith, the Commission adjourned the public hearing until September 12, 2024, at 5:30 p.m.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

V. APPOINTMENTS

A. Tree Board -- Reappoint Twila Hawthorne

When the Tree Board was originally established, the terms were set at two (2) years. All the other City Boards have terms that are three (3) or four (4) years in length.In February of 2024 the Commission modified this to four (4) year terms. Because of the previous two year terms, members termed out quickly. Because of this, we are recommending reappointing Twila Hawthorne to a 4th term which will be a four year term. Although we normally do not recommend

reappointing members who have served two full terms unless we get no other applicants, the previous three terms she served totaled only six years, which is equal to or less than two full terms on other City boards.

In addition, we also have one opening due to a resignation.

TREE BOARD
(2 year terms for appointments before 2/8/2024 then 4 year terms -- 7 members

Members	Term	Expires	Appointed/Eligible
Twila Hawthorne	3rd term	6/1/2024	1/2
Krystal Sumner	1st term	6/1/2024	6/
			Resigned 04/2
Michelle Avery	5th term	6/1/2025	
			6/
Amy Hilyard	1st term*	6/1/2025	Appointed 10/1
Leslie Fox	5th term	6/1/2025	
			6/
England Porter	3rd term	1/1/2025	
			3/2
Leslie Woods	1st term	1/1/2025	3/
			Replaced William Ma

Meeting Place: Veterans Room, Memorial Hall
Meeting Date: By appointment
Meeting Time: By appointment

Motion:
On the motion of Tim Emert, seconded by Dean Hayse the Commission reappointed Twila Hawthorne to a 4th term on the Tree Board which will expire on June 1, 2028.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

B. Landbank Board -- Reappoint Lori Wesselowski, John Heckman, and Gary Hogsett to second terms.

Lori Wesselowski, John Heckman, and Gary Hogsett's first terms will expire on June 1, 2024. All three are eligible to be reappointed.

LANDBANK (3 year terms – 7 members)			
Members	Term	Expires	Appointed
Jeri Hammerschmidt	1st*	June 1, 2025	Appointed 2/2
Lisa Richard	2nd	June 1, 2025	Appointed 5/1
Shelley Hudson	2nd	June 1, 2026	Two Years Appointed 5/1
Mary Jo Wallis	2nd	June 1, 2026	Two Years Appointed 5/1
Lori Wesselowski	1st	June 1, 2024	Three Years Appointed 5/1
John Heckman	1st	June 1, 2024	Three Years Appointed 5/1
Gary Hogsett	1st	June 1, 2024	Three Years Appointed 5/1
Meeting Information: 1st Thursday at Noon at City Hall			

Motion:
On the motion of Tim Emert, seconded by Scott Smith, the Commission reappointed Lori Wesselowski, John Heckman, and Gary Hogsett to second terms on the Landbank Board, expiring on June 1, 2027.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

C. MCEDA - Appoint Chuck Goad

Jim Kelly contacted the City and requested that Chuck Goad be appointed to the Montgomery County Economic Development Authority (MCEDA) as an Independence representative for the close out meeting of the Authority. The previous two Independence representatives have passed away or moved away. Thus, since Chuck was involved in the recruiting of Cessna & AIW from the beginning, he will have the background needed for the final meeting. MCEDA was formed in 1994 when Cessna and AIW were being recruited and a county-wide sales tax ballot question was approved by voters to be utilized to induce these two companies. MCEDA handled the distribution of the incentives and the monitoring of the incentive contracts. With the incentive payments,

monitoring, and sales tax collection now complete, the Authority will be dissolved, and the remaining funds, less termination expenses, will be transferred to Montgomery County for deposit into an account to be used to sponsor additional approved MG County ROZ (Rural Opportunity Zone) applicants. This final meeting will be held to formally dissolve MCEDA and authorize the transfer of funds to the MG County ROZ fund. Once the motions are adopted, the MCEDA treasure will issue a check to MG County, designated for the ROZ fund, and MCEDA will be formally dissolved.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse the Commission appointed Chuck Goad to MCEDA as an Independence representative.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

VI. PROCLAMATION

A. Consider proclaiming June 8, 2024 as Miss Able's Summer Blastoff Day.

Miss Able, a Rhesus Monkey born on Monkey Island at Ralph Mitchell Zoo, and Independence's claim to fame, took her historic space flight on May 28, 1959. Miss Able departed Cape Canaveral aboard a Jupiter AM-18 missile. She traveled 17,000 miles in 16 minutes, reaching a 360-mile altitude. She and her associate, a squirrel monkey named Miss Baker, were recovered alive by the U.S.S Kiowa in the Atlantic Ocean. The successful flight was a major milestone in the space race between the United States and the Soviet Union. In celebration of the 65th anniversary of her flight, Riverside Park and Ralph Mitchell Zoo will host Miss Able's Blast Off Day on June 8th. The event is sponsored by the Independence Chamber of Commerce, and will feature a fun run/walk, space-related activities, and a movie screening. The event will begin at Monkey Island with the dedication of a new bronze statue of Miss Able.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission proclaimed June 8, 2024 as Miss Able's Summer Blastoff Day.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

VII. REPORTS

A. City Board Minutes

1. **March 5, 2024 Planning and Zoning Commission Minutes/Board of Zoning Appeals.**

2. **April 2, 2024 Planning and Zoning Commission Minutes/Board of Zoning Appeals**

3. **April 24, 2024 IPL Board of Trustees**

B. Projects and Public Works Report

Engineer Garris reviewed the report.

C. Kansas Preservation Alliance Awards for Excellence for 1916 City Hall presented on May 17th, 2024.

Commissioner Smith reported on the award the City received.

VIII. CITY MANAGER'S COMMENTS

Assistant City Manager Cowan reported that golf cart registration at the country club went very smoothly.

Finance Director Lies invited the public to attend the grand opening of the Central Park Sports Complex on June 1, 2024 at 9:00 a.m.

IX. COMMISSIONERS' COMMENTS

Commissioner Hayes was disappointed in the amount of disinformation about the comprehensive plan.

Commissioner Smith appreciated how cordial the speakers were during the public comments about the comprehensive plan.

Mayor Emert wondered how much more the City staff could do to get information out about the comprehensive plan.

City Attorney Chubb noted that 99% of annexations are initiated by the landowners themselves and social media was the driving force behind the misinformation.

X. PUBLIC CONCERNS

None

XI. ADJOURNMENT

Motion:
On the motion of Scott Smith, seconded by Dean Hayse, the Commission adjourned the meeting.

Aye: Tim Emert, Dean Hayse, Scott Smith
Nay: None

Tim Emert, Mayor

Dean A. Hayse, Commissioner

Scott Smith, Commissioner

Attest:

City Clerk/Treasurer