

Minutes of the Independence City Commission's July 13, 2017 Meeting

The Independence City Commission met on July 13, 2017 at 5:30pm in the Veterans Room at Memorial Hall. Commissioner Leonhard Caflisch, Commissioner Fred Meier, and Commissioner Gary Hogsett were present. Others present included:

City Staff

Craig Whitehead, City Manager
Kelly Passauer, Assistant City Manager
Michael Borovetz, Director of Finance/City Clerk
David Cowan, Public Safety Director
Jeff Chubb, City Attorney
Terry Lybarger, Director of Utilities
Mike Passauer, Director of Public Works
April Nutt, Housing Authority Director
Jerry Harrison, Police Officer

Visitors

Lisa Richard	Judy Ysusi
Charlotte Caflisch	Louis Ysusi
Sarah Unruh	Ned Stichman
Debbie Miller	Dale Payne
Jon Risner	Dean Hayse
Michael Bailey	Amanda Williams
Jerry Bright	Larry McHugh
Dorcus Sutton	

Call to Order

Mayor Meier called the meeting order at 5:30 p.m.

Pledge of Allegiance to the United States of America

Amended Agenda

Two additional agenda items were added:

- a. **Item #7-g. - All Wheels Night request**
- b. **Recognition of Kelly Passauer for additional duties taken on during the search for a new City Manager.**

The Commission presented Kelly Passauer a plaque for above and beyond effort for performing duties as acting City Manager from January through May 2017.

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Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett, the commission approved the Amended Agenda

Aye: Caflisch, Meier, Hogsett

Nay: None

Executive Session

Motion:

On the motion of Mayor Meier, seconded by Commissioner Caflisch, the commission called a 15 minute executive session for consultation with an attorney for the City of Independence which would be deemed privileged in the attorney-client relationship according to Kansas Statute 75-4319 (b)(2). The subject to be discussed is a potential litigation matter which may arise from a previous claim made against the City. The open meeting will resume at 5:50 p.m. in the Veteran's Room of the Memorial Hall. The executive session included Mayor Meier, Commissioner Hogsett, Commissioner Caflisch, Kelly Passauer, and Mike Borovetz.

Aye: Caflisch, Meier, Hogsett

Nay: None

Mayor Meier called the open meeting back to session at 5:50 p.m.

Appointments

- a. Consider appointment(s) to the Park Board consisting of two 3-year terms that expired July 1, 2017.**

Motion

On the motion of Mayor Meier, seconded by Commissioner Caflisch, the commission approved the recommendation of the Park Board to appoint Mark Coder and Alix Oreck to 3-year terms on the Park Board.

Commissioner Hogsett recused himself from the vote as he is related to Alix Oreck.

Aye: Caflisch, Meier

Nay: None

- b. Consider appointment to the Tree Board consisting of one 2-year term that expired June 1, 2017.**

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Only one applicant applied for the open position but the applicant lives outside the City limits and is not eligible for appointment. The application deadline was extended to August 15, 2017.

Adoption of the Consent Agenda

a. Appropriations

- 1. A-1794**
- 2. P-1760**

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett, the commission approved the Consent Agenda

Aye: Caflisch, Meier, Hogsett

Nay: None

Public Hearing(s)

- a. Public hearing regarding a proposed loan in an amount not to exceed \$3,100,000.00 to be taken by the City from the Kansas Water Pollution Control Revolving Loan Fund; and consider setting a second public hearing for 5:30 PM, September 14, 2017 regarding this proposed loan.**

The Mayor opened the Public Hearing. Michael Bailey, Transystems, was present to discuss the loan program and process as well as the project. Commissioner Caflisch asked for clarification on the 40-year loan term which is much longer than the expected life of some of the improvements. Bailey stated that the maximum loan term was 20 years with two payments per year. Kelly Passauer asked Bailey about the advantages of the loan program and whether the term could be shortened. Bailey responded that the term could be shortened and the program can offer principal forgiveness during the course of the loan. 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 moved to set the date for the next required public hearing for September 14, 2017 at 5:30 PM.

Aye: Caflisch, Meier, Hogsett

Nay: None

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Items for Commission Action

- a. **Consider a request from Levi Smith to accept the donation of a vacant lot in the 600 block of South 16th Street.**

Levi Smith has contacted the City and expressed his desire to donate a lot he purchased online to the City. Mr. Smith resides out of State and has not seen the lot, but is getting assessed nuisance fees due to the City mowing the lot. The lot is generally located in the 600 block of South 16th Street on the east side of the street. The City does not own any surrounding property and has no use for this lot.

Motion

On the motion of Mayor Meier, seconded by Commissioner Caflisch, the commission denied the request by Levi Smith.

Aye: Caflisch, Meier, Hogsett

Nay: None

- b. **Consider authorizing the 4th amendment to the KWPCRF Loan Agreement.**

The City has received the attached 4th amendment to the Kansas Water Pollution Control Revolving Fund loan for wastewater improvements. The letter accompanying the amendment indicates a total estimate amount of principal forgiveness in the amount of \$540,240 which will be reflected in a future amendment.

Michael Bailey, Transystems, addressed the Commission and explained that this was an extension of the existing loan with KDHE and the extension will lower the semi-annual payments to \$107,000.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the Commission authorized the Mayor to sign Amendment No. 4 to the KWPCRF Loan Agreement.

Aye: Caflisch, Meier, Hogsett

Nay: None

- c. **Consider an ordinance amending Ordinance No. 4189 pertaining to procedures and fees for production of open public records.**

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The proposed ordinance has changes to make the City's KORA procedure more consistent with the procedure followed by the Attorney General's (AG's) office. The per page copy charges are the same as the AG's office. The ordinance makes it clear that all staff time spent in providing the documents requested is chargeable to the requesting party. The ordinance further clarifies the prepayment of estimated charges.

Jeff Chubb noted that when the existing ordinance was put into place, the computer maintenance fee was not intended to penalize requestors. He said the new ordinance will mimic the Kansas Attorney General's policy.

Lisa Richard addressed the Commission and state she does not agree with the 12.5 cents per page for electronic files. She provided the Commission with a hand out on Kansas statute Article 2 - Records Open to Public. She feels that it would be unfortunate if this goes forward. Both Commissioner Caflisch and Hogsett discussed whether it would be correct for charging requestors per page charges for electronic files that already exist. Chubb stated that the ordinance could be re-drafted to eliminate that charge if that was what the Commission wanted to do.

Motion #1:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett, the Commission authorized the mayor to sign an ordinance that amends Ordinance 4189.

Aye: Caflisch, Meier, Hogsett

Nay: None

Motion #2:

On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett, the Commission authorized the Mayor to sign the amended Appendix D with the exclusion of Item A.

Aye: Caflisch, Meier, Hogsett

Nay: None

d. Consider adopting pay resolution as budgeted.

The 2017 budget includes funds for a two percent cost of living (COLA) pay increase for all City employees. The attached pay resolution will go into effect July 9, 2017; employees, however, will not receive the increase until the July 28, 2017 pay date.

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Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the Commission adopted the pay resolution as budgeted.

Aye: Caflisch, Meier, Hogsett

Nay: None

- e. Consider an agreement with PEC for engineering services relating to improvements at the water treatment plant.**

The City has received the attached contract with PEC for engineering and technical services relating to the following work relating to water treatment plant upgrades which include design, bidding, and construction for electrical and SCADA improvements; structural review of the settling basin; concept plans for security fencing and restroom/breakdown facilities.

Sarah Unruh, PEC, addressed the Commission and discussed the agreement as presented. She noted that the contract did not include 24 weeks for inspection services which had been omitted so the contract as presented could increase by as much as \$90,000.00 for these services.

Commissioner Caflisch said that he did not know if that much on-site inspection service was necessary for all phases of construction. He thought the contract should be redrafted to address this issue and break the out the cost of the different phases. He also asked that contract include language for electronic drawings.

PEC will make the changes to the contract and represent to the Commission at the July 27, 2017, meeting. No action was taken on this item.

- f. Consider Authority to Award resolution and related payments regarding the Peter Pan/Main intersection improvement project.**

The low bid received by KDOT on the Peter Pan project was from B&B Bridge Company in the amount of \$824,329. This is below the Engineers Estimate and KDOT recommends award. KDOT has forwarded the City a concurrence document that the City is required to execute. The City has already been invoiced its share of construction and inspection (CE) to KDOT in the amount of \$247,000.

Michael Bailey, Transystems, addressed the Commission. He stated that the City authorized \$365,000 for the Peter Pan Geometric project which included \$247,000 due to KDOT and the remainder for non-eligible KDOT grant fees

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including design, contingencies, and non-eligible engineering costs which have already been paid.

Motion:

On the motion of Mayor Meier, seconded by Commissioner Hogsett, the Commission awarded the resolution prepared by KDOT to award the bid to B&B Bridge Company in the amount of \$824,679, and pay the current City's share of construction and CE totaling \$247,000.

Aye: Caflisch, Meier, Hogsett

Nay: None

Amended Agenda Item for Commission Action

- g. Authorize request for All Wheels Night to close 100 and 200 blocks on West Myrtle from 7:30 p.m. to 9:00 p.m. on Friday, July 21, 2017.

Motion:

On the motion of Commissioner Hogsett, seconded by Commissioner Caflisch, the Commission authorized to close the 100 and 200 blocks on West Myrtle from 7:30 p.m. to 9 p.m. on Friday, July 21st for All Wheels Night.

Aye: Caflisch, Meier, Hogsett

Nay: None

Reports

- a. City Board Minutes
 - 1. May 23, 2017 IHPRC
 - 2. June 28, 2017 Recreation Commission

Commissioner Comments:

Commissioner Caflisch asked about the presentation made by Andy Pitts from the June 22nd meeting and wanting to know how the Commission was going to proceed. Mayor Meier said there would be a debt analysis done to see what options were available to make it happen so the community can be informed so they can have their say. Craig Whitehead stated that the City had received seven bids for the debt analysis and they would be brought to the Commission at the next meeting for the Commission to consider.

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Commissioner Caflisch also asked about the status of the water rate study and had the City had any additional communication with Lochner. Mike Borovetz stated that they had not visited with Lochner further but he, Terry Lybarger, Kelly Passauer and Craig Whitehead had been working on it. Borovetz stated that they had to stop on it temporarily as they were trying get through the budget. Mayor Meier concurred with Commissioner Caflisch that there was some confusion as to what Lochner was presenting and was worried that the City was half way through the year and there was an increase included in the 2017 budget that the Commission hadn't authorized implementing and how that was going to impact an already tight fund. Whitehead informed them that Terry had done a good job of holding expenses and holding off of capital projects until we had a better idea of where we going to be with the rates.

Public Concerns:

Debbie Miller addressed the Commission and stated that her Constitutional rights were violated when she was not allowed to speak about KORA during a recent Commission meeting when the agenda item was being discussed but was forced to wait until the end of the meeting. She feels that Mayor Meier violated her Constitutional rights by making her wait. She went on to say that the City management needed to change. She stated that the election will take care of Meier and told Craig Whitehead he needed to get City Attorney Jeff Chubb in line. She then said Chubb needed to go.

Adjournment

Motion:

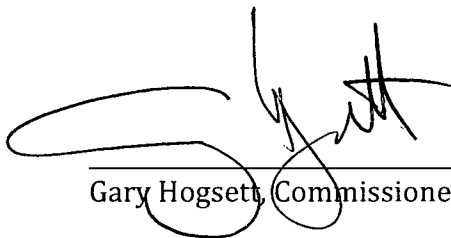
On the motion of Commissioner Caflisch, seconded by Commissioner Hogsett, the commission adjourned the meeting.

Aye: Caflisch, Meier, Hogsett

Nay: None



Fred Meier, Mayor

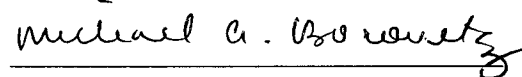


Gary Hogsett, Commissioner



Leonhard Caflisch, Commissioner

Attest:



Michael A. Borovetz
Director of Finance/City Clerk