Minutes of the City Commission's September 25, 2025 Meeting

I. REGULAR SESSION

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

City Staff Present: Kelly Passauer, City Manager; Kayla Schabel, Administrative Assistant to the City Manager; Jeff Chubb, City Attorney; David Schwenker, City Clerk/City Treasurer; John Garris, City Engineer/Director of Public Works; Derek Bryant, Assistant Police Chief and Scott Patton, Park and Zoo Director.

Visitors Present: Larry McHugh, Sherri Garris, Brea Sanford, Teresa Davison, William Davison, Owen Davison, Michael Younger, Eric Bennett, Joslyn Kusiak, Lori Kelley, Tabatha Snodgrass, Rod Zinn, Lisa Wilson, Chris Hendricks, DJ Gofourth and Mindy Blackard.

A. Call to Order

Mayor Smith 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.

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

II. CONSENT AGENDA

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

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

A. Consider approving the minutes of the August 25th, 28th, and September 11th, 2025 meetings.

Suggested Motion:
I move to approve the minutes of the August 25th, 28th, and September 11th, 2025 Commission meetings.

III. PUBLIC HEARING

A. Public Hearing to consider the condemnation of 817 W. Cottonwood Street as dangerous and unsafe.

The Commission on March 27, 2025, adjourned the Public Hearing until September 25, 2025, to provide the owner with additional time to work on the structure. The owner continues to make repairs and is working with the building inspector. Progress is moving forward as finances allows him to proceed. The building inspector is recommending the City Commission continue to work with him and adjourn the meeting until January 22, 2026.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission adjourned the Public Hearing until January 22, 2026, at 5:30 p.m.

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

B. Public Hearing to consider the condemnation of 314 N. 5th Street as dangerous and unsafe.

On July 10, 2025, the City Commission voted to adjourn the condemnation hearing to September 25, 2025, at 5:30 p.m. The property owner was directed to meet with David Cowan, submit a detailed timeline of proposed repairs, and initiate either the repair or removal of the structure. The owner has submitted the attached timeline, and repairs have commenced on the porch (see attached photos).

Staff recommends adjourning the public hearing until January 22, 2026, to allow the owner sufficient time to complete the repairs as outlined in the submitted timeline.

Motion:
On the motion of Dean Hayse, seconded by Scott Smith, the Commission adjourned the hearing to consider condemnation of 314 N. 5th Street as dangerous and unsafe to January 22, 2026, at 5:30 p.m.

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

C. Public Hearing to consider condemnation of 620 W. Chestnut Street as dangerous and unsafe.

On September 18, 2025, City staff conducted an exterior inspection of the property and observed that the yard was overgrown, with no indication that additional work has been completed since June 25, 2025. Staff was unable to verify whether repairs to the basement foundation wall have been repaired or to determine the overall status of the structure. Additionally, there has been no contact from the owner or Joyco.

If the owner or Joyco fail to provide the Commission with a satisfactory progress report, staff recommends initiation of the condemnation process. This action would allow 30 days for the owner or Joyco to submit a repair or removal timeline and commence the necessary work.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission adjourned the hearing to consider condemnation of 620 W. Chestnut Street as dangerous and unsafe to December 11, 2025, at 5:30 p.m.

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

D. Public Hearing Regarding Scope Change for CDGB project at Riverside Park.

In 2025, the City of Independence was awarded a Community Development Block Grant to fund a large-scale renovation of the Riverside Park playground. Improvements included in the grant application featured replacement of aging play equipment, new safety surfacing, new concrete curbing and ADA sidewalks, two new picnic shelters, and new landscaping. Due to lack of available funds at the time of the application, the original scope did not include installation of lighting. In the 2026 capital budget, the playground lighting project was funded. The project will include installation of six antique-style lamp posts along the new sidewalks, as well as a large security light. To run the underground electrical service to the new lights, trenches will need to be dug in or near the new playground enhancements. The underground service will connect to a panel at the restroom on the

southwest corner of the playground. To avoid disturbing new landscaping or having to bore underneath new sidewalks, city staff is requesting a scope change to include the new lighting in the CDBG project so that the underground electrical service can be installed at the same time as the rest of the improvements.

Mayor Smith opened the public hearing.

No public comments were made for or against the project.

Mayor Smith closed the public hearing.

Motion:
On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved the change to include the installation of playground lights in the scope of the CDBG project.

A roll call vote was taken and recorded here.

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

E. Public hearing regarding a proposed loan in an amount not to exceed $9,000,000 to be taken by the City from the Kansas Public Water Supply Loan Fund and after the conclusion of the hearing consider adopting a resolution authorizing completion of the loan application and execution and delivery of the loan documents.

The City has considered applying for a Kansas Public Water Supply Loan for required work to the system. Per federal regulations, over a ten year period ending on December 31, 2037, water service lines identified by the City's previous survey as requiring replacement must be replaced. This is the last year of application for the Kansas Public Water Supply Loan fund that will receive federal funding to partially forgive the loan balance (up to 51%) for replacement of these water service lines.

Depending upon analysis of our finance department, the City will apply for a 20 or 30 year loan. The current rates are 3.15% for a 20 year loan and 3.67% for a 30 year loan, though those rates are subject to the rate in effect from the Fund at the time the Loan Agreement is signed.

Note that this is the maximum loan amount that the City is applying for, and that the City can apply for a lesser amount as the scope is fully defined.

Mayor Smith opened the public hearing.

No public comments were made.

Mayor Smith closed the public hearing.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted a resolution authorizing completion of the loan application and the execution and delivery of the loan documents related to a proposed loan in an amount not to exceed $9,000,000 from the Kansas Public Water Supply Loan Fund.

A roll call vote was made and recorded here.

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

IV. ITEMS FOR COMMISSION ACTION

A. Consider approving a Proclamation and Resolution for Neewollah and authorizing street closures in the downtown and Riverside Park areas from October 17th through October 25th for the 2025 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.

Motion:
On the motion of Dean Hayse, seconded by Tim Emert, the Commission authorized the Proclamation and Resolution for the Neewollah Celebration.

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

B. Consider adopting Ordinance 4494 rezoning a tract of land at 604 East Cedar from R-2, single-family dwelling district to C-1, neighborhood business district; and consider adopting Resolution 2025-047 for a conditional use permit for "Retail trade not elsewhere listed" in a C-1, neighborhood business district.

The applicants, William and Teresa Davidson, submitted a request to rezone 604 East Cedar to C-1, neighborhood business district and for a conditional use permit for "Retail trade not elsewhere listed". The property has a vacant church on it that the applicant wants to turn into a secondhand retail store.

On September 2, 2025, the Planning Commission held a public hearing to consider the rezoning and conditional use request. The Planning Commission unanimously (7-0) recommended the Commission approve both requests.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted Ordinance 4494 rezoning a tract of land at 604 East Cedar from R-2 to C-1.

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

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted Resolution 2025-047 for a conditional use permit for "Retail trade not elsewhere listed" in a C-1, neighborhood business district.

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

C. Consider approving Resolution 2025-048 to waive the requirement for construction of sidewalks within the Country Village Subdivision, originally platted in 2005.

The City of Independence Landbank has requested a variance from the Subdivision Regulations to waive the requirement for sidewalk construction within the Country Village Subdivision, originally platted in 2005.

At the time the Country Village Subdivision was developed, a benefit district was created to fund streets, curbs/gutters, and sanitary sewer improvements, all of which were constructed as part of the original development. The engineering agreement also referenced sidewalk plans, but sidewalks were never constructed, and the bond documents reflected a zero-dollar allocation for sidewalk funding. The Subdivision Regulations require sidewalks on one side of all streets (Appendix A, Article X, Section 1(f)), however no formal variance was ever approved to eliminate this requirement, so the subdivision technically remains out of compliance.

Since 2005, several homes have been built in the subdivision without sidewalks, creating precedent but not removing the regulatory obligation. The subdivision's rural layout, lower density, and existing infrastructure make retrofitting sidewalks at this stage logistically challenging and financially burdensome, especially since sidewalks would likely be installed inconsistently on a lot-by-lot basis.

Planning Commission Recommendation

On September 2, 2025, the Planning Commission held a public hearing on the Landbank's request and voted unanimously (7-0) to recommend approving a variance waiving the requirement for sidewalks construction in that subdivision.

Reason for City Commission Action

The Subdivision Regulations (Article XII, Section 1) specifically requires that variations or exceptions to subdivision regulations be recommended by the Planning Commission but authorized by the City Commission after making specific findings:

a. Granting the variance will not be detrimental to public safety, health, or welfare or injurious to other property;

b. The conditions creating the hardship are unique to the property and not generally applicable elsewhere;

c. Strict enforcement would cause an extraordinary hardship, not just inconvenience; and

d. The variance will not conflict with the zoning ordinance or the city's comprehensive plan.

Staff Findings for City Commission Adoption

a. Public Safety/Health/Welfare: Granting the variance will not be detrimental to public safety, health, or welfare. The subdivision has functioned without sidewalks since its original platting, and street, curb, and utility infrastructure is already in place. Sidewalk installation at this stage would not provide a consistent or safe pedestrian network.

b. Unique Conditions: The lack of sidewalks stems from the 2006–2007 benefit district's funding structure and rural character, unlike typical subdivisions. Several homes have since been constructed without sidewalks, setting a development precedent not applicable to other properties.

c. Hardship: Retrofitting sidewalks would be prohibitively expensive and inconsistent given existing development patterns. The subdivision's rural layout and lower density make sidewalk construction impractical compared to urban neighborhoods.

d. Consistency with Zoning/Plan: The waiver does not conflict with zoning or

the city's comprehensive plan. It applies only to this subdivision and maintains consistency with existing infrastructure.

Motion:
On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted Resolution No. 2025-048, which approves the variance request to waive the requirement for sidewalks within the Country Village Subdivision, based on the findings required by Appendix A, Article XII, Section 1 of the Subdivision Regulations.

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

D. Consider adopting Ordinance No. 4495 amending Sec. 82-26 of the City Code regarding the comprehensive plan adoption.

Section 82-26 of the City Code currently references the adoption of the City's Comprehensive Plan from September 2, 1981. Since then, the City has updated and adopted a new Comprehensive Plan on May 23, 2024. However, the City Code has not been amended to reflect this recent adoption.

To maintain accuracy and consistency within the City Code, it is necessary to update this section to reference the most recent Comprehensive Plan.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission approved Ordinance No. 4495 amending Sec. 82-26 of the City Code to reference the May 23, 2024, adoption of the City's Comprehensive Plan.

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

E. Consider the recommendation from the Planning Commission to adopt the new Zoning Code Updates.

On September 2, 2025 the Planning Commission voted to recommend that the City Commission adopt the amended zoning code prepared by the City's consultant. Since that date, City staff has recommended that the following additional modifications be made before the zoning code is adopted:

1. **Incorporate current zoning Section 507.2 regarding Tiny Homes PUD's so that rules on tiny home developments are preserved**

2. **Update the residential design standards for manufactured homes to apply to modular homes**

Although it is not clear that it is necessary, for the purpose of transparency, we are republishing the public hearing for the Planning Commission to reconsider adopting the new Zoning Ordinance at their October 7, 2025 meeting with the above changes included. Below is the portion of the zoning code regarding the Action by the Governing Body for Zoning Amendments:

> **1605.1 states in part: "*Upon receipt of a recommendation of the planning commission which the governing body disapproves, the governing body shall return such recommendation to the planning commission with a statement specifying the basis for disapproval and such recommendation shall be considered in like manner as that required for the original zoning recommendations returned to the planning commission.*"**

Motion:
On the motion of Dean Hayse, seconded by Tim Emert, the Commission sent the zoning code amendment back to the Planning Commission based on modifying the following additional sections: 1. Incorporate current Section 507.2 Tiny Homes PUD's into the proposed code to preserve rules on tiny home developments, 2. Update the residential design standards for manufactured homes to apply to modular homes, 3. Limit the landscaping requirements to the C-4 district 4. Any additional recommendations City Commission has for amendment of the proposed zoning code.

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

F. Consider Main Street's request to place (3) dual EV charging units on City property.

On July 10, 2025, the City Commission approved applying for an EV charger grant, which has since been awarded for the installation of the units. The federal grant covers the costs of labor, equipment, and installation, as well as the first year of operational expenses.

The group's original plan was to place the EV chargers in the City parking lot on North 6th Street and at two privately owned locations downtown. However, concerns arose regarding the placement of chargers on private property. City staff has worked with the group to identify suitable locations on City-owned property. The group will now present their request to the

Commission, seeking approval for the City to assume ownership of the three charging units.

The 0% cost share grant will cover all costs associated with equipment purchase, installation, and first year maintenance and service fees. The City Commission would need to approve the upfront cost that the grant will fully reimburse.

Lori Kelley will be present along with representatives to discuss the options and answer any questions the commission may have regarding accepting the EV chargers, costs of installation, and ongoing cost of operations of the units.

Motion:
On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved the recommendation to accept the EV charging units as recommended by Lori Kelley.

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

G. Consider awarding construction of the replacement Beech Street culvert to J Graham Construction, Inc. in the amount of $92,838.00.

The Beech Street culvert is failing to the point that traffic was shut down over the culvert. Replacement is required, and a replacement culvert bid on September 18 at 2:30pm.
There were two bidders. A bid tab is attached. The low bidder was J. Graham Construction, Inc., with a unit price bid amount of $92,838.00.

The engineer, GFT (formerly TranSystems), has reviewed the bids and recommended award to Graham.

The Engineer's Estimate is $80,000.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission awarded a contract in the unit price amount of $92,838.00 for construction of a replacement culvert on Beech Street to J. Graham Construction, Inc. and for the execution of any necessary documents.

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

H. Consider authorizing award of the sanitary sewer installation for the housing development along Rainbow Drive to Koehn Construction Services, LLC in the unit price amount of $131,365.43.

In conjunction with the Independence Housing Authority, the City is developing sanitary sewer for lots south of Rainbow Drive so that they may be developed into housing. The Commission previously approved bidding of this project, and bids were opened at 2PM, September 18, 2025.

Two bids were received. The low bid was $131,365.43 by Koehn Construction Services, LLC (attached). One other bid, from Tri-Star Utilities, Inc., was received, and it was in the unit price bid amount of $184,130.00.

The engineer, GFT (formerly TranSystems), has reviewed the bids and recommended award to Koehn.

The Engineer's Estimate is $100,000.

Motion:
On the motion of Dean Hayse, seconded by Tim Emert, the Commission authorized an award for construction of a sanitary sewer line for the lots south of Rainbow Drive to Koehn Construction Services, LLC in the amount of $131,365.43 and for the execution of any necessary documents.

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

I. Consider rescheduling the start time and location of the Wednesday, October 8, 2025 City Commission meeting.

City staff has recently learned that the candidates forum is also scheduled for the evening of Wednesday, October 8, 2025 at 5:30 PM. Due to one of the Commissioners being involved in the forum it is recommended to hold the Commission meeting earlier to avoid any conflicts.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission modified the start time of the October 8, 2025, City Commission meeting to 3:30 p.m. and changed the location to the Veterans Room of Memorial Hall.

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

J. Consider awarding a Downtown Independence Building Grant for improvements to 117 S. 8th Street.

B&Z Enterprises, the owner of the property at 117 S. 8th Street, has submitted an application for a Downtown Building Grant. The project includes exterior renovations to the property, specifically the installation of new exterior doors, tuckpointing, window frames, awnings, and new guttering. The owner would like to start the project as soon as possible and to complete it by October 20, 2025.

The estimated total cost of the improvements is $17,500.00, of which $11,000.00 qualifies as eligible expenses. The grant fund request is $2,750.00.

117 S. 8th Street is in the Downtown Historic District and a meeting of the IHPRC Board to review this request is set to occur in the next week. The Downtown Building Grant funding would be contingent on the approval of the IHPRC.

The Downtown Grant Committee has reviewed the application and voted to approve it. The committee further requests that, should additional materials be required during the course of the project, the City be authorized to approve additional grant funding, if available.

Motion:
On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved the Downtown Building grant for 117 S. 8th pending the approval of the IHPRC and to allow for expenditure up to $6,000.00 and if additional approved material is required and approved by staff to the maximum allowed by the grant.

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

K. Consider approval of an easement in the vacated 15th Street south of Laurel, between Myrtle and Laurel Streets.

The alley behind Building D was vacated in 1990 to accommodate the former Mercy Hospital's facility expansion. To ensure continued access for the Fire/EMS Department, now located at 900 W. Myrtle, the City has requested that the City Attorney prepare the attached easement for filing with Montgomery County.

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission approved the easement for the right to continued use and access of the vacated portion of 15th Street, which intersects with West Laurel Street, so that the City's fire department vehicles, ambulances, and other emergency vehicles will have access to the Fire/EMS building adjacent thereto.

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

V. REPORTS

A. Monthly Project and Public Works Report

Engineer Garris presented the report.

B. Appropriations

VI. CITY MANAGER'S COMMENTS

City Manager Passauer reminded the Commission of upcoming meetings.

VII. COMMISSIONERS' COMMENTS

None.

VIII. PUBLIC CONCERNS

DJ Gofourth had concerns about ADA accessibility in the City.

IX. EXECUTIVE SESSION

A. Consultation with an attorney on matters that would be deemed privileged in an attorney-client relationship.

Motion:
On the motion of Scott Smith, seconded by Dean Hayse, the Commission recessed for an executive session for consultation with an attorney representing the City regarding a legal issue pursuant to the attorney/client privilege exception found at K.S.A. 75-4319(b)(2). The open meeting will

resume at 6:55 p.m. in the Commission Room of City Hall.

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

The open meeting resumed at 6:55 p.m.

X. POSSIBLE ACTION AFTER EXECUTIVE SESSION

A. Consider authorizing the sale of City-owned property.

The Housing Authority Director, City staff, City Attorney, and representatives of the Economic Development Advisory Board have been collaborating with a development company to redevelop an existing structure into a mixed-use complex of commercial and residential units. This project meets the goals previously set by the Commission to address the need for additional quality housing units.

Motion:
On the motion of Dean Hayse, seconded by Scott Smith, the Commission authorized an agreement with Rural ReDevelopment Group, LLC to acquire the former Mercy Hospital property located at 811 West Laurel Street, 900 West Laurel Street, and 908 West Laurel Street for the purpose of redevelopment in alignment with the Commission's housing priorities and the Community Development/Comprehensive Plan goals, subject to approval of the City Attorney.

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

XI. ADJOURNMENT

Motion:
On the motion of Tim Emert, seconded by Dean Hayse, the Commission adjourned the meeting.

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

W. Scott Smith, Mayor

Dean A. Hayse, Commissioner

Tim Emert, Commissioner

Attest:

City Clerk/Treasurer