

Minutes of the Independence City Commission's December 27, 2018 Meeting

The Independence City Commission met for a regular meeting on December 27, 2018 at 5:30 P.M. in the Veterans Room at the Memorial Hall. Mayor Leonhard Caflisch, Commissioner Louis Ysusi and Commissioner Gary Hogsett were present. Others present included:

City Staff

Craig Whitehead, City Manager  
Dan Reynolds, City Attorney  
Kelly Passauer, Assistant City Manager/Zoning Administrator  
David Schwenker, City Clerk/City Treasurer  
David Cowan, Director of Safety/ADA Coordinator  
Shawn Wallis, Fire/EMS Chief  
Michael Borovetz, Finance Director  
Terry Lybarger, Director of Utilities  
Jerry Harrison, Police Chief  
Barb Beurskens, Park and Zoo Director  
Don Cushing, Building Inspector  
Ed Sykes, Chief Water Plant Operator

Visitors

Ellie Davis  
Leslie Fox  
Larry McHugh,  
England Porter  
George Eisley  
David Parker  
Blake Escritt  
Ronan Fox  
Nicole Franken  
Sandra Villalobos  
Nathan Chaplin  
Allison Osminer  
April Nutt

I. REGULAR SESSION

- A. Call to Order
- B. Pledge of Allegiance to the United States of America
- C. Adoption of Agenda

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett the Commission adopted the agenda.**

**Aye: Caflisch, Ysusi, Hogsett**

**Nay: None**

II. COMMON CONSENT AGENDA

(*Consent* is that class of Commission action that requires no further discussion or which is routine in nature. All items on the Consent Agenda are adopted by a single motion unless removed from the Consent Agenda.)

- A. Appropriations
  - 1. A-1828A
  - 2. A-1829
  - 3. P-1799
  - 4. P-1799A
- B. Consider approving minutes of the November 29, 2018 City Commission Meeting.
- C. Consider approving the following Cereal Malt Beverage Licenses:
  - 1. AKAS Inc. DBA Jumpstart #2- 3024 W. Main Street
  - 2. Casey's Retail Company – 1305 N Penn Avenue
  - 3. G & W Foods #2747 – 416 W. Myrtle Street
  - 4. Gramp's Tavern – 811 N. 11th
  - 5. Jiffy Mart – 600 W. Main Street
  - 6. Mikie's C Store Inc. – 1901 N Penn Avenue
  - 7. Mariachi Grill LLC- 1901 W. Main
  - 8. Sanctuary – 112 S 25th
  - 9. Pizza Hut of SE Kansas – 1815 N Penn Avenue
  - 10. Walgreens #09454
  - 11. Walmart Store #2893
  - 12. Western Plains DBA Jumpstart – 401 W. Main Street
- D. Consider request for the Community Access Center 5K Run/Walk on March 30, 2019 at Riverside Park.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adopted the consent agenda.**

**Aye: Caffisch, Ysusi, Hogsett**

**Nay: None**

III. PUBLIC HEARINGS

- A. Public hearing to consider condemnation of 609 W. Myrtle Street.

The public hearing was opened. Building Inspector Don Cushing stated that this structure has been in a fire with significant damage inside and he recommends proceeding with condemnation. Allison Osminer indicated that she was the owner and that there was a lady who is purchasing the property on contract with the intention of repairing it. The public hearing was closed.

The Mayor asked if the Building Inspector knew about the sale, to which the Building Inspector replied that he knew nothing about the contract for sale. The Mayor advised the owner to make the Building Inspector aware of what will be

done to repair it. The Building Inspector said that he would like to meet with the owner and go over what needs to be done. He further stated that he can visit with the new owner by phone that is from California. The Mayor asked about the extent of damage, and the Building Inspector stated that there were some structural repairs, fire damage to wiring and water damage and estimated the structural damage at approximately 30%.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission condemned the structure(s) located at 609 W. Myrtle Street as dangerous and unsafe.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

B. Public hearing to consider condemnation of 301 N. 11<sup>th</sup> Street.

The public hearing was opened. The Building Inspector stated that there was fire damage to an upstairs bedroom. He further stated that he has been contacted by a new owner that was present, Sandra Villalobos. Sandra Villalobos stated that she needed time to repair the roof and would repair the electricity in one room in two weeks. She stated that they were starting work on the house next week. No citizens wished to address the Commission regarding this property. The public hearing was closed.

Commissioner Hogsett asked when the house was purchased, and the owner stated one month ago. The Building Inspector said the issues can be addressed. He further stated that he has been on vacation for a week and that the new owner had contacted one of the ladies in the office when she bought the house, so he knew there was a new owner, but nothing beyond that.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adjourned the public hearing for 301 N. 11<sup>th</sup> Street to 5:30 PM on February 27, 2018.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

**IV. ITEMS FOR COMMISSION ACTION**

A. Consider authorizing City staff to set the date to receive bids for the removal of 419 South 2nd Street, 804 West Main Street, 1320 West Locust Street, 725 North Pennsylvania Avenue, and 520 South Pennsylvania Avenue.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission authorized City staff to set the date to receive bids for the removal of 419 South 2nd Street, 804 West Main Street, 1320 West Locust Street, 725 North Pennsylvania Avenue, and 520 South Pennsylvania Avenue.**

**Aye: Caflisch, Ysusi, Hogsett**

**Nay: None**

- B. Consider bids received on December 13, 2018 for Water Treatment Plant Electrical Improvements.

The Mayor reviewed the scope of work that was emailed to him earlier which read: "The project includes design of electrical improvements at the water treatment plant including relocation of primary electrical feed, replacement of the filter building MCC and panelboards, plant control system replacement, remote site control system replacement, a new fiber optic cable to high service pump station, and a standby generator."

Director of Utilities Terry Lybarger stated that the low bidder excluded some of the items in the bid package, so they were excluded as PEC recommended to disqualify their bid as not acceptable. The Mayor asked about the Davis Beacon wage requirements. Terry Lybarger said that was because of the loan. The Mayor asked about the engineer's estimate, which was \$1,500,000. Commissioner Hogsett said he was glad to see the project moving forward. Commissioner Ysusi said he was happy to see the bids lower than estimated. The Mayor said it was so close, but still so far away. Commissioner Ysusi said the feed is being moved by Westar out of the floor area and up to the top which will be a more stable service, and another win for us too. The Mayor asked about other remote controls working on a prayer due to availability of parts. Terry Lybarger said that they were looking at doing some upgrades anyway. He further said one of the radios to one of the towers went down recently. The Mayor asked if the new generator included in the bids can run the entire plant and Terry Lybarger said it could. Nicole Franken from PEC was present and addressed a question from Commissioner Ysusi on the timeline. She went through the process, 300 calendar days for substantial completion after the notice to proceed is issued. The Mayor asked how the completion days were broken down, and if it was by component. Nicole Franken said it was for the entire scope of work. Terry Lybarger stated the way it is phased the new service entrance must be installed first, it is all sequenced, so they cannot drag things out. Nicole Franken said the contractor has to submit a detailed sequence of how they are completing the work. The Mayor said 300 days is quite a while to look at scope of work. He said some of the system is more job assembled. Terry Lybarger said he does not think it will take 300 days. The Mayor wanted to be clear that we are not paying for additional engineering services. Nicole Franken said that is covered under liquidated damages. The Mayor asked if it was interior work. Terry Lybarger said most of it, but not all.

**Motion:**

**On the motion of Commissioner Hogsett, seconded by Commissioner Ysusi, the Commission awarded the Water Treatment Plant Electrical Improvement Project contract to Kelly Electric Inc., the lowest qualified bidder, per the**

**recommendation of PEC and City staff, in the amount of \$1,217,557.00.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

- C. Consider awarding the bid from Nelson-Fowles, LLC. in the amount of \$22,150.00 for the livestock catch pens.

Park and Zoo Director Barb Beurskens stated that earlier this year they went out for bid for fencing and those bids were rejected due to exceeding the budgeted amount. She stated that she reduced the bid package to include a crowing tub and two squeeze alleys to accommodate animals as large as bison and as small as deer. She indicated that she was requesting approval for a crowding tub and two squeeze alleys, and she will have money in next year's budget to finish the fencing. She further stated that right now they have no working facilities, and these improvements were needed for animal and employee safety. Commissioner Hogsett asked about the timeframe. Barb Beurskens stated approximately 30-60 days. Barb Beurskens further stated that they are nicely made and she handed out pictures to the Commissioners. She further stated that animals will not go into something if it is something straight ahead, that these are curved.

The Mayor asked why only one bid was received. Barb Beurskens stated that she has went to farm shows, and talked to other vendors and she does not know why they did not submit bids. The Mayor asked if she mailed them out, to which Barb Beurskens replied that she sent out several. Bids were also advertised on the City's website. Commissioner Hogsett asked how many bids that she got last time, and she said only one from the same bidder. She said he came down several thousand from his original bid. Commissioner Hogsett said based on what he paid for a handrail this seems like a steal. Barb Beurskens said that his original bid was around \$38,000, and he came down \$16,000. The Mayor said if they can cut out that amount of money it was because the bidder knew he was the only bidder and knew you had money. The Mayor said that is the problem, that you need to make sure to send out as many as you can to solicit bids. That this was specialized, and he had not seen too many vendors for this type of equipment. Barb Beurskens said she found some in other areas, but the shipping cost was too much.

The Mayor said the cost to stay overnight to assemble adds up. Barb Beurskens said there was an alternate for him to unload it, and they may need assistance which would be an additional \$1,250. Barb Beurskens further stated that the alley ways were no problem, but the big tub is huge. The Mayor asked when it would be coming, and it would be an advantage if the bidder unloads it, because if he bends it then it is his problem.

Commissioner Ysusi asked what other facilities do. Barb Beurskens said they have this equipment. She further stated that this will allow them to treat the animals without having to just dart them with antibiotics, and the USDA Inspector

has emphasized that we need facilities to take care of the animals and right now we do not, and we will have runs from all pens with a quarantined area. She further stated that there are several things that need to be done in taking care of the animals for next year's budget.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission awarded the bid from Nelson-Fowles, LLC. in the amount of \$22,150.00 for the livestock catch pens, plus an additional \$1,250 for unloading if needed.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

- D. Consider approval to amend City Code Section 2-141 (Ordinance No. 4214) having to do with membership of the Tree Board.

Tree Board Chair Leslie Fox asked to amend the ordinance to give their board the ability to have between five (5) to seven (7) members. Leslie Fox further stated that they would like to add two more members that have tree specific expertise. She further stated that they do have advisors, but also wanted the flexibility to be able to include people that are not within City limits as members. She further stated that some have better tree expertise than we do, it is modeled after the Park Board and the way their ordinance is written. The majority of members would have to be within city limits. Commissioner Hogsett said that would allow you to bring in tree professionals outside the city but are engaged in the city. The Mayor said he did not like the language on the members being flexible between five to seven. A quorum was discussed as being the majority of the number officially appointed.

**Motion:**

**On the motion of Commissioner Ysusi, seconded by Commissioner Hogsett, the Commission adopted Ordinance 4287 amending City Code Section 2-141 (Ordinance No. 4214) having to do with Membership of the Tree Board; with the number of members being modified to seven (7) who shall be appointed by a majority of the governing body, and the majority of the tree board members must be residents of the City.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

**V. CITY MANAGER'S COMMENTS**

The worksession with the Planning Commission was confirmed for 5:30 PM on January 15, 2019 in the Veterans Room of Memorial Hall.

VI. COMMISSIONERS' COMMENTS

Commissioner Ysusi stated that he went back and read past minutes of old meetings, and Public Works Director Mike Passauer talked about the drainage area on Cedar and South Penn which had a blockage in it and was going to set something up with the railroad on their right-of-way to monitor the work and wanted to know if something had been done. City Manager Whitehead said he would talk to Mike Passauer and get back with the Commission on that.

Commissioner Ysusi asked about the resident's request that lived in the house on Circle Drive and Whiskey Creek to make sure the drainage pipe was open. City staff was not sure if a camera had been ran to see if there was a blockage or not, and they will check on that.

Commissioner Ysusi asked about positions using Express Personnel, and the workers at the street department, and if those positions were initially put on the website. City Manager Craig Whitehead said that we go through Express, so it is kind of a probationary period and then we can hire them. He further stated that Express does background and drug tests.

Commissioner Ysusi further stated that the last topic that he wanted to bring up was to thank City staff for the brush pickup in the Whiskey Creek area, as they had picked up the remaining brush piles that had not been turned in. He asked if there a plan to rethink how the brush handling is going to be handled in the future. People that call in, there are piles that never get called in, and sit on the property for five to six months. He asked if Mike Passauer was looking at a system of working a quadrant whether brush has been called in or not, and then moving into another area, to pick up brush piles that have sat for a long period of time. City Manager Craig Whitehead stated that he wanted to look at things dealing with beautification. Commissioner Ysusi said that when he worked at Westar they would come to the workforce and if their ideas were efficient, they had suggestions that might work and improve the process, they could at least vent those before their boss and City Manager to see if that would be feasible. City Manager Whitehead stated that he agrees totally, Six Sigma is about having the people do the process to get good ideas.

The Mayor asked if the treasurer's reports would be put back into the packet, as well as the sales tax reports. City Manager Whitehead replied; "Sure". The Mayor asked about notice that KDHE awarded us the sewer projects. Finance Director Mike Borovetz said that he did not think the sewer project had been awarded. The Mayor asked about the status of the application for sewer improvements. Mike Borovetz said he talked to Shawn Turner about a month ago and there was one additional item that needed to be done. City Manager Craig Whitehead said he will check on it. The Mayor said the engineering was complete, and they were going to use the original \$4 million. Utilities Director Terry Lybarger said Lakeside lift station and the sewer line work is all engineered and ready to bid also. Terry Lybarger said we were also going to look at some control improvements and upgrade the control panel because it is quite old. The Mayor said that this has been four years ago, and the lift stations and some of the issues, and Lakeview was critical at that time, and he has lost track. Terry Lybarger said had to close out the other loan first as the state did not want to give us any more money because it was an old loan, and it took some time to get that done. The Mayor asked how much was budgeted in 2019 for

projects. Terry Lybarger said there is money budgeted. Mike Borovetz said there is a reserve set up in 2018 that will be moved into a capital reserve with a \$250,000 split between water and sewer. He further stated that he did not believe outside of the work on the wastewater loan, that there were sewer projects specific. He mentioned improvements to Wald lift station, but not sewer line replacement. The Mayor asked about automated meters. Mike Borovetz stated on the water side we had \$300,000. The Mayor said he got those mixed up. Mike Borovetz said that there will be funds from 2018 going into 2019. The Mayor said he was concerned about the contamination of fresh water with a malfunctioning lift station. Mike Borovetz and Terry Lybarger both said they have not received anything from KDHE yet. They still had a few draws left, but those are done, so that is closed out and they can move forward. The last time they checked with Shawn Turner there was still something that needed to be done. They discussed the draws from the sewer loans. The Mayor asked if they would stay on top of the drawdowns on the water loan so that they would be done online. The Mayor restated that we are still waiting on notification regarding the sewer loan.

The Mayor asked about the special meeting on December 31, 2019 at 10 AM. City Manager Craig Whitehead said that information will be sent out tomorrow with the RCA, public hearing notice and the certificate to submit to the County. The Mayor said that timeframe limits their time for review. Mike Borovetz stated that he was welcome to email him over the weekend if he had questions. The Mayor said he does not like working on weekends, either.

#### VII. PUBLIC CONCERNS

None.

#### VIII. EXECUTIVE SESSION

A. Personnel matters of non-elected personnel.

##### **Motion:**

**On the motion of the Mayor the Commission recessed for an executive session for discussion of an employee's performance pursuant to the non-elected personnel exception, (KSA75-4319(b)(1)). The open meeting will resume at 6:55 p.m. (20 minutes) in the Veteran's Room of Memorial Hall. Those in attendance include City Commissioners and the City Manager. Commissioner Ysusi seconded the motion.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

The Commission came out of executive session at 6:55 p.m.

##### **Motion:**

**On the motion of Commissioner Hogsett the Commission extended the executive session until 7:10 p.m. (15 minutes). Commissioner Ysusi seconded the motion.**

**Aye: Cafilisch, Ysusi, Hogsett**

**Nay: None**

The Commission meeting reconvened at 7:11 p.m. with no action taken.

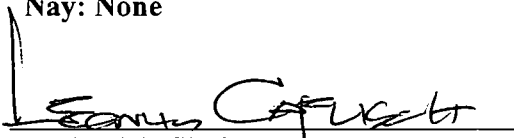
IX. ADJOURNMENT

**Motion:**

**Commissioner Ysusi moved to adjourn. Commissioner Hogsett seconded the motion.**

**Aye: Caflisch, Ysusi, Hogsett**

**Nay: None**

  
\_\_\_\_\_  
Leonhard Caflisch, Mayor

  
\_\_\_\_\_  
Louis Ysusi, Commissioner

  
\_\_\_\_\_  
Gary Hogsett, Commissioner

Attest:

  
\_\_\_\_\_  
Kelly C. Passauer  
Assistant City Manager