

Minutes of the Independence City Commission's February 11, 2021 Meeting

The Independence City Commission met for a regular meeting on February 11, 2021 at 5:30 P.M. at the Memorial Hall. Mayor Louis Ysusi, Commissioner Leonhard Caflisch and Commissioner Dean Hayse were present. Others present included:

City Staff

Jeff Chubb, City Attorney
David Cowan, Assistant City Manager
Kelly Passauer, City Manager/Zoning Administrator
David Schwenker, City Clerk/City Treasurer
Shawn Wallis, Fire/EMS Chief
Terry Lybarger, Director of Utilities
Mike Passauer, Public Works Director
John Garriss, City Engineer/Director of Public Works and Utilities
Kenny Farmer, Chief Wastewater Plant Operator
Brian McHugh, Memorial Hall Supervisor
Dustin Stafford, Police Officer
Lydia Collins, Administrative Aide
Lacey Lies, Director of Finance

Visitors

Larry McHugh
Michael Conway
Nick McCollum
Lisa Wilson

I. REGULAR SESSION

A. Call to Order

Mayor Ysusi called the meeting to order.

B. Pledge of Allegiance to the United States of America

C. Adoption of Agenda

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission adopted the agenda.

Aye: Ysusi, Caflisch, Hayse

Nay: None

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II. PRESENTATION

- A. Recognition of Director of Utilities Terry Lybarger who is retiring after over 40 years of service to the City of Independence.

III. 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-1882
 - 2. P-1854
 - 3. P-1855
- B. Consider approving the minutes of the November 19 and December 10, 2020 City Commission meetings.
- C. Consider adopting resolutions rescinding condemnation action for the following properties:
 - 1. 200 S. 9th Street
 - 2. 321 S. 19th Street
- D. Consider setting the date of April 22, 2021 for a public hearing to consider condemnation of 418 S. Wald Avenue.
- E. Consider authorizing the installation of an audio control processor and wall screen controls for the Memorial Hall audio/visual system.
- F. Consider a lease/purchase agreement from Community National Bank for financing of a new street sweeper.

Motion:

On the motion of Commissioner Hayse, seconded by Commissioner Caflisch the Commission adopted the consent agenda.

Aye: Ysusi, Caflisch, Hayse

Nay: None

IV. ITEMS FOR COMMISSION ACTION

- A. Consider awarding demolition bids for 414 S. Wald Avenue and 416 S. 18th Street.

The City of Independence received a combined bid from one contractor for the

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removal of two structures that were condemned on November 19, 2020. These two structures will complete the 2020 condemnation list of structures previously identified for removal. The balance of the demolition account will be \$123,055.38 if this combined bid is awarded in the amount of \$7,650.00.

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission awarded the removal of 414 S. Wald Avenue and 416 S. 18th Street to JRB Industries in the amount of \$7,650.00 for both properties.

Aye: Ysusi, Caflisch, Hayse

Nay: None

- B. Consider authorizing the City Manager to sign an engagement letter with Tanner LLC to create and analyze the results of a citizen satisfaction survey.

Recently, Tanner LLC facilitated a planning retreat with the Commission and City staff. At the retreat one of the Intention Statements that was identified was "Communication" which included a citizen survey as a measure of success. In addition, we are now at a midpoint after adoption of the strategic plan. As you may recall, a citizen satisfaction survey was part of the initial strategic plan process. We are now at the midpoint of the five-year strategic plan and it is time to conduct another citizen satisfaction survey. The fees for Tanner LLC to create and analyze the survey are \$7,250. There will also be additional printing and mailing costs associated with distributing the survey.

Motion:

On the motion of Commissioner Hayse, seconded by Commissioner Caflisch the Commission authorized the City Manager to sign an engagement letter with Tanner LLC to create and analyze the results of a citizen satisfaction survey.

Aye: Ysusi, Caflisch, Hayse

Nay: None

- C. Consider authorizing TranSystems to prepare and submit KDOT City Connecting Link Improvement Program (CCLIP) grant applications for two projects: 1) Pavement Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits and 2) Surface Preservation – Chestnut Avenue (US 75) from near Penn Avenue to 9th Street.

Kansas Department of Transportation (KDOT) City Connecting Link Improvement

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Program (CCLIP) applications for state fiscal year 2023/2024 are due on March 12, 2021. Last year the Commission authorized submitting the following applications which were not funded:

1. CCLIP Application, Pavement Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits
 - a. 3" mill, construct 2' widening with 6" gravel and 4' asphalt base, then 4" overlay cross section.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$716,554.00	\$59,692.10	\$119,633.00	\$179,325.10

2. CCLIP Application, Surface Preservation – Chestnut Street (US 75) from near Penn Avenue to 9th Street.
 - a. 2" mill & overlay; replace non-compliant curb ramps that abut new asphalt.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$268,552.00	\$20,001.20	\$68,540.00	\$88,541.20

Staff believes we should resubmit these applications for state fiscal year 2023, (July 1, 2022 – June 30, 2023).

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission authorized TranSystems to prepare an application for KDOT's CCLIP Pavement Restoration Program for Penn Avenue (US 75) from Morningside Drive to North City Limits and for Staff to submit the application to KDOT.

Aye: Ysusi, Caflisch, Hayse

Nay: None

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission authorized TranSystems to prepare an application for KDOT's CCLIP Surface Preservation Program for Chestnut Avenue (US 75) from near Penn Avenue to 9th Street. and for Staff to submit the application to KDOT.

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Aye: Ysusi, Caflisch, Hayse

Nay: None

- D. Consider setting a Special Commission meeting on February 17, 2021 at 9 AM to discuss City facilities.

In a previous meeting Commissioner Hayse brought up possible alternatives to utilize Memorial Hall for administrative City offices and to relocate all of Fire/EMS into 1916 City Hall with the Police Department.

In addition, the marketing of Building D has also been discussed and City staff has started drafting an RFP which we would like to review with the Commission.

City staff suggests utilizing the previously scheduled third Wednesday at 9 AM Special Commission meeting to discuss the above topics.

Motion:

On the motion of Commissioner Hayse, seconded by Commissioner Caflisch the Commission set a Special Commission meeting on February 17, 2021 at 9 AM to discuss City facilities.

Aye: Ysusi, Caflisch, Hayse

Nay: None

V. DISCUSSION

- A. Discussion relating to Use of Public Property and Right-of-Way Policy, including consumption of alcohol.

The City Commission directed City Staff to develop an application form for citizens to utilize when requesting permission to use City Property or Right-of-Way for an event. The attached document is designed for any activity outside of Riverside Park in which the public or organizations wish to use public property, street, or right-of-way. An issue that is often not considered when the City approves R.O.W. or City property use is insurance coverage. Discussions with E.M.C. recommend the City require a "special event" policy for \$1,000,000 that names the City of Independence as an additional insured. City insurance does offer some coverage, but our insurance excludes several things. It is also critical that when approving events, the City identifies who is actually "hosting" the event to understand who is responsible for the special event insurance policy. The application form will clearly identify who is holding the event.

In addition, while reviewing this agenda item the question came up regarding

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whether or not alcohol would be allowed on City rights-of-way during an event or through a temporary use agreement. The City Attorney suggested we discuss this issue before preparing a draft resolution or ordinance.

VI. REPORTS

A. Financial Reports

1. 4th Quarter Treasurer's Report
2. January Sales Tax Report

B. Airport 5 Year CIP

City Engineer Garris gave an update on various airport improvement projects.

Assistant City Manager Cowan and City Engineer Garris gave an update on the de-icing of the runways at the airport.

C. City Board Minutes

1. December 16, 2020 Library Board
2. January 5, 2021 Planning Commission/Board of Zoning Appeals
3. January 20, 2021 Recreation Commission

VII. CITY MANAGER'S COMMENTS

Assistant City Manager Cowan gave an update on the City's preparations for the upcoming cold temperatures and snowstorm.

City Manager Passauer announced that the City was awarded a CDBG grant of \$700,000.00 for the 1.4-million-dollar sewer improvement project.

VIII. COMMISSIONERS' COMMENTS

IX. PUBLIC CONCERNS

Nick McCullum would like to see the City draft regulations for the use of "utility vehicles" on city streets.

X. ADJOURNMENT

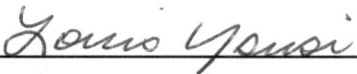
Motion:

Commissioner Hayse moved to adjourn. Commissioner Cafilisch seconded.

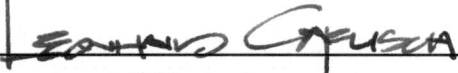
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Aye: Ysusi, Caflisch, Hayse

Nay: None



Louis Ysusi, Mayor

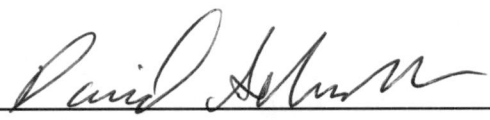


Leonhard Caflisch, Commissioner



Dean Hayse, Commissioner

Attest:



City Clerk/Treasurer

ARTICLE 4. MICRO UTILITY TRUCKS AND ALL-TERRAIN VEHICLES

14-401. Operation of micro utility trucks; penalty.

(a) Micro utility trucks may be operated upon the public highways, streets, roads, and alleys within the corporate limits of the city.

(b) No micro utility truck shall be operated on any public highway, street, road, or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated.

(c) A violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the City may then have in effect.
(Ord. 08-4562; Code 2014)

14-402. Same; definitions.

Micro utility truck means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured, and is manufactured with a metal cab.

(Ord. 08-4562; Code 2014)

14-403. Same: valid driver's license required; penalty.

No person shall operate a micro utility truck on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

(Ord. 08-4562; Code 2014)

14-404. Operation of all-terrain vehicles.

(a) All-terrain vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(b) "All-terrain vehicle" means any motorized non-highway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low pressure tires, and having a seat to be straddled by the operator. As used in this subsection, "low pressure tire" means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(c) No all-terrain vehicle shall be operated on any public highway, street, road or alley between sunset and sunrise unless equipped with lights as required for motorcycles.

(d) Every person operating an all-terrain vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

(e) A person operating an all-terrain vehicle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on an all-terrain vehicle, unless such all-terrain vehicle is designed to carry more than one (1) person, in which event a passenger may ride upon the

permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the allterrain vehicle at the rear or side of the operator .

(f) A person shall ride upon an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on each side of the all-terrain vehicle.

(g) No person shall operate an all-terrain vehicle while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.

(h) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the all-terrain vehicle or the view of the operator.

(Ord. 08-4562; Code 2014)

14-405. Same; roadways laned for traffic.

(a) All all-terrain vehicles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any all terrain vehicle of the full use of a lane. This subsection shall not apply to all-terrain vehicles operated two (2) abreast in a single lane.

(b) The operator of an all-terrain vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate an all-terrain vehicle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) All-terrain vehicles shall not be operated more than two (2) abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

(Ord. 08-4562; Code 2014)

14-406. Same; clinging to other vehicles prohibited.

No person riding upon an all-terrain vehicle shall attach himself, herself or the all-terrain vehicle to any other vehicle on a roadway.

(Ord. 08-4562; Code 2014)

14-407. Same; equipment on all-terrain vehicles for passengers.

Any allterrain vehicle carrying a passenger shall be equipped with a seat and footrests for such passenger.

(Ord. 08-4562; Code 2014)

14-408. Operation of all-terrain vehicles; equipment required for operators and riders.

(a) No person under the age of 18 years shall operate or ride upon an all-terrain vehicle unless wearing a helmet which complies with minimum guidelines established by the national highway traffic safety administration pursuant to the national traffic and motor vehicle safety act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

(b) No person shall operate an all-terrain vehicle unless such person is wearing an eye protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant, except when the all-terrain vehicle is equipped with a windscreen which has a minimum height of 10 inches measured from the center of the handlebars.

(Ord. 08-4562; Code 2014)

14-409. Same; penalties.

A violation of any provision in sections 14-403 through 14-408 shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, as amended, or such other similar provision as the city may then have in effect.

(Ord. 08-4562; Code 2014)

14-410. Same: valid driver's license required; penalty.

No person shall operate an all-terrain vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

(Ord. 08-4562; Code 2014)

14-411. Liability insurance.

All insurance requirements of Section 200 of the Standard Traffic Ordinance shall apply to both micro utility trucks and ATVs, and shall carry the same penalty.

(Ord. 08-4562; Code 2014)

14-412. Registration of micro utility trucks and all-terrain vehicles.

Upon proper application, the City Clerk shall issue a registration sticker to an owner of a micro utility truck or all terrain vehicle. The application shall be on forms prescribed by the City Clerk but shall include proof of ownership and proof of current liability insurance. The registration fee shall be set by the City Administrator. All registrations shall be on or before August 1 of each year. The registration sticker issued by the City Clerk shall be attached and displayed clearly on the rear of the micro utility truck or all terrain vehicle. A conviction of any traffic rule or regulation, or any section of this ordinance, may result in revocation of registration by the Chief of Police, provided however, before any registration is revoked, notice of intent to revoke a registration shall be sent to the registered owner stating the reason for the revocation and stating that the registered owner may within ten days request in writing that the owner may be provided a hearing on the issue of revocation. Any registration so revoked is eligible for reinstatement after ninety days from the date of revocation, upon written application to the Chief of Police."

(Ord. 08-4564; Code 2014; Ord. 14-4645)

14-413. Prohibited conduct.

It shall be unlawful for any person to:

(a) Operate, or for the owner thereof knowingly to permit the operation, upon any city street of any Micro Utility Truck or All-Terrain Vehicle which is not registered with the City of Cherryvale, or which does not have displayed a current and valid registration sticker issued by the City of Cherryvale. Violation of this subsection shall be punishable by a fine of not less than \$500.

(b) Display or cause or permit to be displayed, or to have in possession, any registration receipt or registration sticker knowing the same to be factitious or to have been canceled, revoked, suspended, or altered. Violation of this subsection shall be punishable by a fine of not less than \$100.

(c) Lend or to knowingly permit the use by one not entitled thereto any registration receipt or registration sticker issued to the person so lending or permitting the use thereof. Violation of this subsection shall be punishable by a fine of not less than \$100.

(d) Remove, conceal, alter, mark, or deface the registration sticker or other mark or identification upon any Micro Utility Truck or All-Terrain Vehicles. Violation of this subsection shall be punishable by a fine of not less than \$100.

(e) Carry or display a registration sticker upon any vehicle not lawfully issued for such vehicle. Violation of this subsection shall be punishable by a fine of not less than \$100.

(Ord. 08-4564; Code 2014)

14-414. Hours of operation.

Drivers of All-Terrain Vehicles shall not operate the vehicles between Dusk and Dawn, unless the Vehicle is owned or operated by the Federal Government, the State of Kansas, or a political subdivision of the State of Kansas. Violation of this section shall be punishable by a fine of not less than \$100.

(Ord. 08-4564; Code 2014)

14-415. Prohibited use.

No All-Terrain Vehicles shall be operated inside of Fairview Cemetery or any city park, unless the Vehicle is owned or operated by the Federal Government, the State of Kansas, or a political subdivision of the State of Kansas. Violation of this subsection shall be punishable by a fine of not less than \$100.

(Ord. 08-4564; Code 2014)