

Minutes of the Independence City Commission's July 23, 2020 Meeting

The Independence City Commission met for a regular meeting on July 23, 2020 at 5:30 P.M. at the Memorial Hall. Mayor Leonhard Caflisch by phone, Commissioner Louis Ysusi and Commissioner Dean Hayse were present. Others present included:

City Staff

Jeff Chubb, City Attorney
Kelly Passauer, Assistant City Manager/Zoning Administrator
David Schwenker, City Clerk/City Treasurer by phone
David Cowan, Director of Safety/ADA Coordinator
Terry Lybarger, Director of Utilities by phone
April Nutt, Director of Housing Authority
Brian McHugh, Memorial Hall Supervisor
Lacey Lies, Director of Finance
Mike Passauer, Public Works Director

Visitors

Larry McHugh
Taina Copeland
Ned Stichman
Dorcus Sutton
Shawn Turner
Cody Westerhold
Melissa Ward
Stacey Yakshaw
Janet Demo
Marci Roberts
Kristie Hawley
Beth Shinkle
Toby Iherby
Maxwell Allen
Mike Borovetz
John Borovetz
Rita Ortolani
Lori Kelly
Mercedes Kirby
Catherine Skellinger
Rita Ortolini
Sarah Unruh
Clifford Turner by phone

I. REGULAR SESSION

A. Call to Order

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Vice Mayor Hayse called the meeting to order.

B. Pledge of Allegiance to the United States of America

C. Adoption of Agenda

Vice Mayor Hayse proposed amending the agenda to remove Item C from the Consent Agenda due to the cancellation of the event and adding an additional presentation under Item V from the Neewollah Board.

Motion:

On the motion of Commissioner Ysusi, seconded by Mayor Cafilisch the Commission adopted the amended agenda.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

II. APPOINTMENTS

A. Tree Board – One term expired June 1, 2020 – Applications are due by August 7, 2020

III. PUBLIC HEARING

A. Public hearings to consider condemnation of the following structures as dangerous and unsafe:

1. 1033 N. 17th Place

The structure was involved in a fire on April 22, 2020, that gutted the garage and caused extensive wiring damage. Due to the wiring damage, the power has been disconnected. This structure was also totaled in the 2018 flood, and the owner has until August 2020 to determine whether they will repair or remove the structure. A letter was sent to the owner of the property informing them of the Public Hearing.

Motion:

On the motion of Commissioner Ysusi, seconded by Mayor Cafilisch the Commission condemned 1033 N. 17th Street as dangerous and unsafe.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

2. 1516 ½ W. Laurel Street

This structure was involved in a fire on May 29, 2020, 2020. The fire caused substantial damage to the structure. The owner has been diligently pursuing the removal of the

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structure and has completed the project.

Motion:

On the motion of Commissioner Ysusi, seconded by Mayor Cafilich the Commission rescinded the condemnation of 1516 ½ W. Laurel Street and return any insurance proceeds being held by the City.

Aye: Ysusi, Cafilich, Hayse

Nay: None

IV. 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-1867

2. P-1840

B. Consider authorizing the Independence Chamber of Commerce to use the Park Oval for a Movie Night for August 29, 2020 and September 26, 2020.

C. Consider approving Coffeyville Resources to rent the Park Oval for their Company Picnic for August 22, 2020.

This item was removed from the consent agenda

Motion:

On the motion of Vice Mayor Hayse, seconded by Commissioner Ysusi the Commission adopted the consent agenda with the removal of Item "C".

Aye: Ysusi, Cafilich, Hayse

Nay: None

V. PRESENTATION

A. Presentation of stanchions from Leadership Independence.

B. Presentation from the Neewollah Board.

This item was added to the agenda

The Neewollah Board announced the cancellation of Neewollah activities with the

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exception of the Queen Nellah contest and the medallion hunt.

VI. ITEMS FOR COMMISSION ACTION

- A. Consider whether or not to adopt an ordinance expanding the sale at retail of cereal malt beverage and alcoholic liquor on Sundays.

The Commission held a public forum on July 14, 2020 regarding whether or not to adopt an ordinance expanding the sale at retail of cereal malt beverage and alcoholic liquor on Sundays. Comments were received in writing prior, in person, and on Facebook. City staff has placed this item on the July 23, 2020 agenda for further consideration and possible action.

The Commission has the following option:

1. Take no action.
2. Adopt the ordinance.

Once adopted the ordinance is required to be published once per week for two consecutive weeks in the official City newspaper. The ordinance does not go into effect until 60 days after its publication if a valid petition is not filed. If a valid petition is filed it must be placed on the ballot for a public vote.

3. Place the issue on the ballot.

The City Attorney has advised City staff that if the issue is placed on the ballot and approved by the voters it will be considered an advisory vote as it will still require the Commission to adopt an ordinance, which is then subject to the same requirements as listed in option 2 above. Therefore, if a valid petition is filed another public vote could be required.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission adopted an ordinance expanding the sale at retail of cereal malt beverage and alcoholic liquor on Sundays.

Aye: Ysusi, Hayse

Nay: Caflisch

- B. Consider a resolution banning tobacco and vaping in all forms from all City owned property, except for:
1. All properties operated and/or managed by the Independence Housing Authority, but which are titled to the City of Independence;
 2. All businesses located at the Independence Municipal Airport on property titled to the City of Independence; and

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3. All city streets and rights of way.

The City of Independence has received a request from Marci Roberts representing Young Lungs at Play to ban tobacco products and vaping from all City parks. The IHS Resist students hosted an environmental scan at Riverside Park, and the results were presented to the Park Board. The Park Board recommended approval of the proposal.

The City currently follows the State of Kansas law prohibiting smoking in City buildings. By approving this ban, the City would no longer allow tobacco products or vaping on City property, including properties managed by the Independence Recreation Commission and the Independence Public Library. The Recreation Director and Library Director are both supportive of this resolution. The Independence Housing Authority Director has asked that properties that they manage are excluded from the resolution.

The Young Lungs at Play request and City goal is to promote health and maintain smoke-free environments that protect employees and citizens from tobacco smoke and airborne emissions from e-cigarettes and other electronic nicotine delivery systems. Smoking is a known carcinogen, second-hand smoke increases the risk of heart attack by 30%, and smoking bans can reduce the number of heart attacks by as much as 26% per year.

The City of Independence will be working with our employees to provide cessation programs available for those who would like to stop using tobacco products and for those requesting a location to smoke. BCBS will be presenting a presentation to City Employees at the August 6th City Health Fair that provides for assistance options to cease tobacco products.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission adopted a resolution banning tobacco and vaping in all forms on City-owned property with exceptions as noted in the resolution.

Aye: Ysusi, Hayse

Nay: Caflisch

C. Consider authorizing applying for a grant to replace the Cherry Street Bridge under KDOT's Off-System Bridge Program.

On July 13, 2020 the City received notification about a potential grant program under their Off-System Bridge Program. The deadline to apply is August 31, 2020. Staff met with TranSystems and discussed the potential of applying for replacement of the Cherry Street Bridge. This bridge was constructed in 1930, and in 2011 the City applied for a grant to replace this bridge and the grant was not received. This bridge is part of the Whiskey Creek drainage system and replacement of this bridge represents an opportunity to

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address another section of this tributary.

As indicated in the attached notification, this is a Federal Program and the participation will be 80 percent (80%) federal (up to \$1M) and 20 percent (20%) local for Construction and Construction Engineering. The local agency will be responsible for any Construction and Construction Engineering cost over the \$1M maximum as well as 100 percent (100%) of the design, right of way acquisition, utility relocation, and any non-participating cost.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission authorized applying for a grant to replace the Cherry Street Bridge under KDOT's Off-System Bridge Program.

Aye: Ysusi, Hayse, Caflisch

Nay: None

- D. Consider options for modifications to the filter building as part of Phase II of the Water Treatment Plant project.

A Preliminary Engineering Report (PER) was developed in 2017 that outlined proposed improvements to the water treatment plant. Improvements discussed included modifications to the existing filter building. The existing filter building includes administration space consisting of an office, laboratory, restroom/locker room, and treatment process space with chemical feed equipment and filters. The current administration space has a small entry and no breakroom area for staff to congregate for meetings or to eat during shifts in a space away from the office and laboratory. The 2017 PER presented two potential layout options that constructed an addition to the front of the building and reconfigured the existing administration space to add an entry, breakroom, and showers. Figures 1 and 2 show the options noted in the original PER from 2017. Figure 1 shows a stair entrance similar to the existing with shared restroom facilities and separate spaces for a locker room and breakroom. Figure 2 shows an ADA compliant ramp for building access, separate restrooms for men and women and a shared locker room/breakroom space. The 2017 PER included a preliminary look at potential layout options but did not include a detailed code or feasibility review. Once the Phase 2 work was initiated, it was determined that an ADA compliant entrance would be required. The options developed with the 2017 PER are shown for comparison of the internal space configurations.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved option 2 modifications to the filter building as part of Phase II of the Water Treatment Plant project.

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Aye: Ysusi, Hayse, Caflisch

Nay: None

- E. Consider setting the date of September 24, 2020 at 5:30 PM for condemnation of the following structures as dangerous and unsafe:
1. 321 S. 19th Street
 2. 409 S. 17th Street
 3. 416 S. 18th Street
 4. 509 N. 14th Street
 5. 708 S. 16th Street
 6. 813 S. 18th Street
 7. 1101 W. Main Street
 8. 1105 W. Main Street
 9. 1217 N. 9th Street
 10. 1529 W. Laurel Street

The City of Independence has been reviewing homes that are found to be unsound by the County Appraiser office. The committee has reviewed these houses and will be bringing 32 houses to the Commission over the next several months to consider for condemnation as dangerous and unsafe. In addition, the Commission requested that the former trailer park at 1529 W. Laurel also be considered for condemnation.

Letters have been mailed letters to each of the owners informing them of the consideration of condemnation and requesting them to contact the Building Department.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 321 S. 19th Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 409 S. 17th Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

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Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 416 S. 18th Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 509 N. 14th Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 708 S. 16th Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 813 S. 18th Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 1101 W. Main Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

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On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 1105 W. Main Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 1217 N. 9th Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved to set the date of September 24, 2020, at 5:30 p.m. for public hearings to consider condemnation of 1529 W. Laurel Street as dangerous and unsafe.

Aye: Ysusi, Hayse, Caflisch

Nay: None

- F. Consider an ordinance modifying the National Electric Code as previously adopted.

The City Commission at the June 25, 2020, meeting asked for some clarification on the Ordinance related distance of the disconnect and language in item (4). The Electrical Board met on July 13, 2020 and reviewed the Ordinance. A new or upgraded service that has greater than ten wire feet from the meter to the breaker panel shall have a disconnect. The disconnect must be within ten wire feet of the meter base. The NEC requires the disconnect to be on the same building with the meter. The wire feet from the disconnect to the breaker panel are not regulated, but NEC provides for the type of service wire and how it is installed to the breaker panel. The electrical board removed language in item (4) that required board approval.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission adopted ordinance 4332 amending the National Electric Code.

Aye: Ysusi, Hayse, Caflisch

Nay: None

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- G. Consider an agreement with Kansas #15 Limited Partnership authorizing the installation and maintenance of pole attachments in the City rights-of-way.

Kansas #15 Limited Partnership has been working with the City Attorney to negotiate an agreement for placement of approximately eleven (11) communication devices on poles in the City rights-of-way to expand the capabilities and speed of the cellular network that serves U.S. Cellular in Independence.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission approved an agreement with Kansas #15 Limited Partnership authorizing the installation and maintenance of pole attachments in the City rights-of-way.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Vice Mayor Hayse, seconded by Commissioner Ysusi the Commission adjourned for a five-minute recess.

Aye: Ysusi, Hayse, Caflisch

Nay: None

The meeting resumed at 7:45 P.M.

- H. Consider locations for the 2020 street resurfacing program.

Bids were received in partnership with Montgomery County for asphalt work with one bid received as follows:

Contractor	Virgin Asphalt Laid Per Ton	Asphalt Picked Up by City Per Ton*
Heckert Construction	\$79.90	\$61.40

*The asphalt picked up by the City per ton will be used for patching by City crews at other locations.

The above bid for asphalt laid calculates as follows:

Locations	Estimated Total
Links Lane from Taylor Road to Birdie Drive	\$44,323.40
Morningside Drive from Penn to 5 th	\$13,708.39
Morningside Place from Penn to 5 th	\$13,627.27
Coffeyville Avenue from South Cement Street to South 2nd Street	\$40,719.59

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West Pine from North 16 th to North 20 th	\$34,471.82
North 19 th Street from West Pine to West Laurel	\$32,040.31
North 20 th from Pine to Cottonwood	\$7,191.00
Dean Street (gravel) from Sycamore to Cottonwood	\$7,240.94
Dean Street (gravel) from Railroad to Sycamore	\$7,240.94
North 15 th Street (gravel) from West Sycamore to West Cottonwood	\$15,980.00
Overlay terminal entrance at Independence Municipal Airport	\$4,234.70
Total Proposed 2020 Asphalt Overlay Project	\$220,778.36

The following additional expenses are estimated relating to ADA compliance:

Locations with ADA	Estimated Total
Coffeyville Avenue from South Cement Street to South 2nd Street	\$1,200.00
West Pine from North 16 th to North 20 th	\$25,600.00
North 19 th Street from West Pine to West Laurel	\$34,800.00
Dean Street (gravel) from Sycamore to Cottonwood	\$5,400.00
North 15 th Street from West Sycamore to West Cottonwood	\$4,800.00
Estimated Design, Inspection & Contingencies	\$28,720.00
Total ADA Work for Proposed 2020 Asphalt Overlay Project	\$100,520.00

Total 2020 Asphalt Overlay with ADA Project Estimated Cost	\$321,298.36
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If the proposed locations are approved, then City staff will place an engineering agreement for the design of the ADA work on a future agenda. Staff recommends approving these locations for the 2020 street resurfacing program.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission authorized the Mayor to sign a contract with Heckert Construction to overlay the locations as recommended by staff.

Aye: Ysusi, Hayse, Caflich

Nay: None

- I. Consider setting the date of August 13, 2020 at 5:30 PM for a public hearing to consider adopting the 2021 budget.

The City must hold a public hearing prior to adopting the 2021 Budget. Public Hearings must be held prior to August 14, 2021.

Motion:

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On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission set the date for the 2021 Budget Public Hearing for August 13, 2020 at 5:30 pm in the Memorial Hall Civic Center.

Aye: Ysusi, Hayse, Caflisch

Nay: None

- J. Consider finalizing ballot language for renewing the special use sales tax.

On July 15, 2020 the City Commission reviewed the draft ballot language, and also requested that City staff contact bond counsel and ask the following questions:

- If the Commission determined they wished to fund a Street Condition Study to prioritize street projects, could that be funded from "improvements to streets and sidewalks," or would that need to be specifically stated?
- If the Commission determined they wished to fund a Comprehensive Plan, could that be funded from "economic development initiatives," or would it need to be specifically stated?

City staff also asked the following question:

- Would the construction of new streets and/or new sidewalks that do not currently exist also be considered as part of "improvements to streets and sidewalks"?

The bond attorney responded that the answer to the above questions was yes, if the following edits were made:

DRAFT November 3, 2020 Language:

Shall the City of Independence, Kansas, be authorized, pursuant to the authority of K.S.A. 12-187 et seq., to impose a special purpose one percent (1%) Citywide retailers' sales tax, the revenues to be derived therefrom to be used for the purpose of financing the costs of the following **and related expenditures**:

- a) 0. __% *for mill levy support and debt repayment*, including repayment of general obligation bonds of the City issued or to be issued to pay the costs of previous or future improvements;
- b) 0. __% *for equipment, building and facility improvements*, including but not limited to Riverside Park and Ralph Mitchell Zoo; Riverside Beach Family Aquatic Center; neighborhood parks; ballfields, and other recreational facilities; Public Safety including Police and Fire/EMS; City Hall; Library; Public Works; and City government technology and communications infrastructure;
- c) 0. __% *for **street and sidewalk** improvements ~~to streets and sidewalks~~*, including

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but not limited to multimodal routes to schools, healthcare, recreation, and business; drainage and stormwater management; alley improvements; required ADA improvements; public parking; traffic control; and

d) 0. ___% *for economic development initiatives*, including but not limited to incentives for business retention and recruitment; Memorial Hall improvements; initiatives for new recreational facilities; Senior Citizens Center; wayfinding signage; housing initiatives; airport improvements; healthcare facility expansions; industrial park improvements; beautification initiatives, and expanded community broadband access;

the collection of the special sales tax to commence on the expiration date of an existing 1% special Citywide retailers' sales tax approved at an election held on April 3, 2012, in the City for the purpose of financing all or a portion of the costs associated with debt repayment and mill levy support; building and facility improvements, including Riverside Park and Ralph Mitchell Zoo; improvements to streets and sidewalks; and improvements required for compliance with the requirements of the Americans with Disabilities Act of 1990 (which is expected to be October 1, 2022); with the special sales tax to expire ten (10) years after its commencement?

In order for the bond attorney to have the resolution finalized one week prior to the August 13, 2020 meeting, the Commission will need to determine the percentages and any additional language modifications at this meeting.

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission modified the draft ballot language as modified by the bond attorney.

Aye: Ysusi, Hayse, Caflisch

Nay: None

Motion:

On the motion of Commissioner Ysusi, seconded by Vice Mayor Hayse the Commission called for a special meeting on July 28, 2020 at 9:00 A.M. to discuss the special use sales tax.

Aye: Ysusi, Hayse, Caflisch

Nay: None

VII. DISCUSSION

A. Discuss programming for City facilities.

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Acting City Manager Passauer gave an update on the programming for City facilities.

- B. Discuss the process for selecting an engineer for the West Maple Cost Share project.

Acting City Manager Passauer gave an update on the process.

VIII. REPORTS

- A. TranSystems projects update.

Shawn Turner gave an update on various projects they are working on for the City.

- B. 223 West Main Street Update.

Director Cowan had nothing to report.

- C. Report on 225 S. 16th Street clean up.

Director Cowan reported that the property was cleaned up.

- D. 2020 Census Update.

Acting City Manager Passauer gave an update on the census.

- E. Update on KDOT CCLIP Applications.

Acting City Manager Passauer noted that the City did not get approved for these projects.

- F. Update on South Apron Runup reconstruction project at the Independence Municipal Airport.

Acting City Manager Passauer reported that the bids came in over the estimates and the City has called the State for additional funding.

- G. City Board Minutes

1. June 8, 2020 Electrical Board
2. June 30, 2020 Recreation Commission

IX. CITY MANAGER'S COMMENTS

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Acting City Manager Passauer reported that the retirement party for Brenda Weaver is July 31, 2020 at 4:00 P.M. in front of Memorial Hall.

X. COMMISSIONERS' COMMENTS

Vice Mayor Hayse asked for a list of gravel roads inside the City limits.

XI. PUBLIC CONCERNS

Nick Skellinger asked why the City let the problem at 225 S. 15th Street got as bad as it did in the first place.

XII. EXECUTIVE SESSION

A. For the purpose of reviewing and considering City Manager applications.

Motion:

On the motion of Mayor Cafilisch, seconded by Commissioner Ysusi the Commission moved to recess for an executive session for review and discussion of City Manager applications pursuant to the non-elected personnel exception (K.S.A. 75-4319(b)(1). The open meeting will resume at 8:50 P.M.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

The meeting resumed at 8:50 P.M. with no action taken.

XIII. ADJOURNMENT

Motion:

Commissioner Ysusi moved to adjourn. Vice Mayor Hayse seconded.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

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Leonhard Caflisch, Mayor

Louis Ysusi, Commissioner

Dean Hayse, Commissioner

Attest:

City Clerk/Treasurer