

The Independence City Commission met for a special meeting with the Planning Commission on January 15, 2019 at 5:30 P.M. in the Veterans Room at the Memorial Hall. Mayor Louis Ysusi, Commissioner Leonhard Caflisch and Commissioner Gary Hogsett were present. Others present included:

Planning Commission

Mary Jo Meier, Vice Chair
Andy McLenon, Secretary
Jim Hardy
Brian Beecham
Barb Emert
Steve McBride
Philipp Umlauf
Michelle Anderson

City Staff

Craig Whitehead, City Manager
Jeff Chubb, City Attorney
Kelly Passauer, Assistant City Manager/Zoning Administrator
David Schwenker, City Clerk/City Treasurer

Visitors

Ellie Davis
Brent Littleton

I. SPECIAL SESSION

A. Call to Order

Mayor Ysusi called the City Commission meeting to order at 5:30 P.M.

1. Vice Chair Mary Jo Meier called the Planning Commission meeting to order at 5:30 P.M.

The Mayor asked everyone to introduce themselves, which they did.

II. WORKSESSION WITH THE PLANNING COMMISSION

A. Status of previous December 28, 2017 directive by the City Commission to the Planning Commission to review and recommend text amendments relating to the following:

1. Attention-Attracting Devices and Electronic Signs;
2. Downtown Signage;
3. Food Trucks;
4. Gravel parking lots;
5. Recreational vehicles, 5th wheels and travel trailers that are occupied; and
6. Tiny houses.

Assistant City Manager/Zoning Administrator Kelly Passauer reviewed the status of the December 28, 2017 City Commission directive as follows:

Minutes of the Independence City Commission's January 15, 2019
Worksession with the Planning Commission

1. Attention-Attracting Devices and Electronic Signs – Completed – This item had to do with a request from some of the churches to have electronic signage that were located in residential or central business district zones that did not allow such signage -- Text amendment recommended, and Ordinance 4269 was adopted by the City Commission on February 22, 2018.
2. Downtown Signage – Completed – This topic was initiated based on complaints received regarding the current downtown sign regulations, including the number of signs -- The Planning Commission requested Main Street (working with downtown businesses) to review the downtown sign ordinance. After their review, Main Street recommended no modifications to the sign code at the April 3, 2018 meeting. They did recommend updating the IHPRC brochure to include downtown style buildings and suggested sign placements, which has been done. Since no text amendments were recommended, this item did not come back to the City Commission for action.
3. Food Trucks – Completed -- Text Amendment recommended and Ordinances 4272, 4273 and 4274 were adopted by City Commission on July 26, 2018.
4. Gravel parking lots – In Process -- Timeline to follow.
5. Recreational vehicles, 5th wheels and travel trailers that are occupied – Not started.
6. Tiny houses – Not started.

- B. Discussion with the Planning Commission regarding the modified recommendation from the Planning Commission to adopt an ordinance implementing text amendments to the Code of the City of Independence, Kansas, specifically Appendix B – Zoning Code relating to Off-street parking requirements tabled from the December 13, 2018 City Commission meeting.

Assistant City Manager/Zoning Administrator went through the following timeline:

- July 2, 2018 – Original public hearing was held, Planning Commission adjourned the hearing until October 2, 2018.
- October 2, 2018 -- The Planning Commission made a recommendation to the City Commission to modify the language, adding additional definitions related to ADA requirements and gravel, and modified the design requirements in the off-street parking regulations to allow gravel meeting certain specifications in M-1 and M-2 (industrial) districts.
- November 5, 2018 – The City Commission tabled action and returned this item back to the Planning Commission for clarification on specific elements of the original recommendation and provided suggestions.
- December 4, 2018 -- The Planning Commission reviewed and responded to the feedback from the City Commission and modified their original recommendation.
- December 13, 2018 – The City Commission reviewed the Planning Commission's modified recommendation and tabled action until after a joint Worksession with the Planning Commission.

Assistant City Manager/Zoning Administrator then went through Planning Commission's December 4, 2018 responses to the City Commission's November 5, 2018 feedback as follows:

- 11/05/2018 -- The City Commission wants to know the initial intent and purpose of the text amendment.
- 11/05/2018 -- The City Commission wants to know if the text amendment will attract new businesses.
- 12/04/2018 Response from the Planning Commission:
 - To make the City more attractive, to recruit new businesses to the City and to enable flexibility for existing businesses to expand their parking area if need be for growth in alignment with the Economic Development Strategic Directive No 1 of the Community Based Strategic Plan.
- 11/05/2018 -- The City Commission had the following concerns:
 - The appearance of large gravel parking lots.
 - Gravel running off in heavy rains.
 - Ability to adequately mark ADA spots.
- 12/04/2018 Response from the Planning Commission:
 - Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks. ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.
- 11/05/2018 -- The City Commission provided the following suggestions:
 - Limiting the size of gravel parking lots to a maximum number of spaces.
 - Continue to require new buildings or new industries to hard surface required off-street parking to City code standards but allow existing industries that already have a gravel parking lot that is grandfathered in (a non-conforming use) to expand (enlarge) their existing gravel parking lot.
 - However, if they have an existing hard-surfaced parking lot any expansion (enlargement) would have to be hard surfaced.
- 12/04/2018 Response from the Planning Commission:
 - They unanimously approved a motion to not limit the size of non-hard surface parking lots to a maximum number of spaces, nor require new businesses or industries to hard surface, or business expansions to hard surface.
 - The exceptions to this would be:
 - If the business has an existing hard surface parking area, they cannot remove it and replace it with a non-hard surface material.
 - If a business expands an existing hard surfaced parking area, they may do so with non-hard surface material for a period of up to two years, after that the expanded parking area must be removed or hard surfaced.

Assistant City Manager/Zoning Administrator Kelly Passauer then went through the detailed December 4, 2018 Recommended Modifications from the Planning Commission, a copy of which was included in the agenda packet.

Mayor Ysusi asked how the City could force compliance if a business expanded their hard parking lot with a non-hard surfaced parking material and did not hard surface it after two years because they decide that they do not have the funds.

City Attorney Jeff Chubb said he believes there is a section in the zoning code that they can be cited into municipal court and fined or a civil injunction could be filed.

Mayor Ysusi then related the situation to nuisance fines, and that it ends up being the City's responsibility to maintain. He then asked, "What if they decide they don't have the funds to comply?"

City Attorney Chubb said if they go through municipal court, they can be fined a certain amount each day, or a separate injunction action. District Court is the same way, if they do not do it by the deadline, the Court can find them in contempt.

Mayor Ysusi reiterated that they would eventually have to either comply or the fines would move them in the direction of compliance.

Commissioner Caflisch stated that he could see if an existing manufacturer has an existing gravel lot and they are increasing their production or the size of the plant within reason or just a few spots, they should be allowed to add limited spaces in gravel and should not be required to come back with the addition and pave the existing lot plus the additional spaces. Further stating; "For a new facility, the only paving surface should be a hard surface for long term. Paving solves a lot of problems not only for them, but for us, with runoff, the gravel displacement. You can control runoff much better with a hard surface. Calcium chloride becomes a continued maintenance factor, increase enforcement responsibility, forcing them to apply it. Calcium chloride draws moisture to keep the particles moist, but it creates other problems with tracking it into vehicles or the facility. For new facilities, a paved surface with asphalt, concrete, even chip and seal does provide a hard surface, but it is lesser quality and lesser performance than the other two, but to allow a gravel open surface parking lot I think that is an area that we don't want to go as a City. You look at the new facilities, the cost of building a facility, it's just another cost factor that should be taken into consideration. I can understand with existing gravel parking lots of some industries not requiring hard surface there, but any new facility we should keep it as we had it in the past, has to be a hard surface asphalt or concrete material. The calcium chloride or dust reducing materials are not really intended for a long-term situation."

Commissioner Hogsett said that he was eager to hear what the Planning Commissioners had to say.

Planning Commissioner Mary Jo Meier stated that the initial intent was to attract new businesses and align with growth, and the Planning Commission was very concerned about asking a new business, that even maybe they would purchase an existing building, that did not have pavement and asking them to start that business and add the cost of paving the parking lot might be something that didn't fall in those two points. She further stated; "We felt like it discouraged businesses, and that we felt like it wouldn't be in line with growth and maybe extending that two years would give them a little bit more time."

Mayor Ysusi stated; "An existing facility with an existing lot, but a new facility that is being built from the ground up, enforcing the pavement after two years. Are we willing to take the industry to court to force them to pave their parking lot? It is easier to get it done initially then it is to come back later on once the plant is in operation. I could understand grandfathering the parking to encourage reuse of the building, but a total new facility we would want to keep the surfaces paved."

Commissioner Caflisch stated; "I designed a church in Iola, and they didn't pave the parking lot because of cost initially, but they found within a year they were paving the parking lot because of the increased maintenance they had on the building, the gravel, the dirt tracking into the facility. They found it advantageous for them to go ahead, and it provided a lot of other controls of where they parked, the spacing, and those issues were resolved. But I understand your concern with an existing building for somebody to start up a company, usually they are looking at limited funds and I think we should address those cases. But if we're looking at a brand-new facility coming in ... in those cases they should have a hard surface set up and that's where ... giving the two year ... when we look at alternates such as calcium chloride to keep down dust it's just going to be a continued enforcement issue for the City. We probably should eliminate alternate surfaces, or if there is some magic material specify it directly, but anything that still allows the granules and the gravel to be exposed is going to be an enforcement issue for us and cause us other issues."

Assistant City Manager/Zoning Administrator Kelly Passauer stated that the two years only applies to someone that has an existing hard surface parking lot and they wish to temporarily expand it. Further stating; "So the thought was ... if a refinery has a turn around and they put in some temporary parking for a short period of time and they don't particularly need it beyond the two years. That was the thought behind that ... the two years only is talking about if they have an existing parking lot that's hard surface and then they can expand it with a non-hard surface for up to two years if they had a special need for parking that wasn't going to be long-term ... so the reference to the two years was only for a temporary lot, then they would have to remove it or hard surface it within two years."

Commissioner Hogsett made a comment about the Planning Commission's decision to recommend this change was unanimous.

Planning Commissioner Brian Beecham stated that; "One of the other things we considered was trying to come up with an understand of what industries came to Southeast Kansas. Recently, one of the examples that we looked at was Orizon Aerostructures in Chanute. They invested in a 70,000 square foot facility fifteen million dollars. I was fortunate enough to be able to talk to the builder for that project which was Koehn Construction out of Fredonia. It is asphalt in front of the office, but around the facility is gravel. I asked what stipulated that, and it was cost and when they started looking at ways they could cut cost on the project, that is the first thing to go was doing the hard surface around the entire structure. But for deliveries and everything else, the cost was six to eight dollars a square foot so when you start looking at a 70,000 square foot facility and the amount that went around it, you start talking about real numbers. That was part of the reason that Orizon chose Chanute from what Koehn said, as they had leniency on what they were able to do with the hard surface around it. That came up in part of our conversation, and I believe Philipp [Umlauf] talked with one of the gentlemen at Orizon about it as well."

Planning Commissioner Philipp Umlauf stated; "Exactly the same comments, it was almost verbatim."

Planning Commissioner Brian Beecham stated; "So we used that as a point of reference. I have been in Independence for six years now and I don't know of any industry that has come here in my time. So, are there any examples that anyone can give us?"

Commissioner Caflisch stated; "What you could do is consider it with a variance, maybe that way you are looking at exact use, you're not throwing a blanket but you're allowing the manufacturer to bring in a variance because if you've got a pipe yard there you would want something other than grass to keep your maintenance down and I could see a gravel surface while the drives going through the pipe yard I could see that being gravel too, that you wouldn't want to require it. But when you look at employee parking and other areas, I think that is where we want some controls. So instead of saying a blanket and they determine what they want to do, I think we should say what we expect, and require them to come present the alternate for us to approve. That way, you know because the way we have it, you don't have to put it around the building, and you can't really without knowing the use of the facility. You can't create an ordinance that's going to address those, but if you allow a variance, is really the only reason for a variance is to address a hardship of a developer in a case that you're describing there can be hard case conditions that you know you would want to look at areas for their deliveries, short-term parking or material storage yards that wouldn't necessarily have the problem created with a high traffic area but you know a definite parking lot and constant traffic is different we would want to see that. What I would see the variance case, you come talk to us and you know we could address each specific case like the one your describing and how it can be compatible to them."

Planning Commissioner Brian Beecham said; "That is our intent what you're talking about, and that has been our intent to provide some flexibility not some hard line that 'Hey, it's just going to be this way with no exceptions' and to have the ability to try to get in that game and draw some industry here, and I really think, and I'm not trying to speak for everybody, but I think that was part of the intent of what we were trying to do."

Planning Commissioner Philipp Umlauf stated; "Yeah, I would 100% agree with that, you know, that does increase the amount of variances that we have, and as we get more and more variances at some point in time it makes a case then why do we even have the rule if we're going to give a variance every time. It makes it very difficult, you know, to say you have to have this hard surface, but if you don't want to put it in then come see us and we will back off of that. So, at that point of time, what is even the point of having that ordinance there if we are just going to back off of it every time. If you give them some leeway to do that, that does a couple of things for us, it opens us up to allowing companies to see, 'Oh, well we're not going to have to spend a third of what we spent on our building to hard surface a lot and that helps us out and we can get into this place and it is a good community, so we want to give them a shot', rather than ruling us out right off the jump street. Secondly, you know that also allows us to . . . sorry, I lost my train of thought there, but I am going to talk to about something else I have been hanging onto. As far as their building maintenance goes, that is really their call, I mean if they want to save that money up front and they figure out in the future that they want to hard surface that, then more power to them, that is a plus for us. However, when you start dictating how their facility needs to look in every aspect and dictating how they have to set up everything, now you are starting to kind of get into how they run their business and now you are opening yourself up for even more possible

enforcement issues and just being completely skipped over for those new businesses that want to come to our town. Or, you know part of me wanted to ask the Montgomery County Action Council as to what their thoughts are on this, what are they seeing? Are they seeing the same types of issues attracting businesses to towns that don't have these requirements?"

Commissioner Hogsett stated; "I was just thinking the same thing, I wish they were here for this discussion."

Planning Commissioner Philipp Umlauf stated; "That was something I just thought about like an hour ago, otherwise I would have reached out to her."

Commissioner Hogsett stated; "I just met with Trisha this afternoon with Nathan Berg, does anybody know Nathan Berg? So, I guess he was born and raised here and started a business in Oklahoma and he wants to come back so he just bought a building south of Dearing where he is going to move his business. And you know he's got the gravel drive, I mean he is in the County so he can get back to Southeast Kansas for a lot less money than if he were building a place in Independence. And I am all for attracting new industry, whatever it takes, and if this is really a legitimate concern, that would keep people from building here I am very interested in changing it. But we also just did a Community Based Strategic Plan and the number one concern of people was "Let's make our City beautiful again, it is not looking so great" and I think this is a little bit of a detraction to that."

Planning Commissioner Philipp Umlauf stated; "In speaking to that, we are talking about strictly M-1 and M-2."

Commissioner Hogsett stated; "Right".

Planning Commissioner Philipp Umlauf stated; "... We are not talking about residential, you know these are places that are off the beaten tracks, back near behind the Hackney area, down near where Atmos is, out near the airport. These are not intown places where you are going to see this on a daily basis unless you are physically going to these places."

Commissioner Hogsett stated; "Yeah, I agree Philipp. I think it is definitely something to be considered. It's just, my alley, I don't know if you know where I live, but there are only two houses on my block so there are only a few cars that use my alley and it is so bad that you sink up into your axles because of the gravel."

Planning Commissioner Umlauf stated; "I know your neighborhood very well."

Commissioner Hogsett; "Yeah, so it just seems like gravel is not permanent and it is not well taken care of in many cases. Certainly not our alley, or most alleys around town are looking pretty sad right now because of the weather, so I don't know. I guess I would like to see some statistics. Maybe you have others besides the fact that Chanute has been more successful than us, that this will really make a difference in attracting industry."

Planning Commissioner Umlauf stated; "As far as the permanency and heavy use goes, I worked for Layne Energy for eleven years. They had a gravel parking lot for the entire eleven years, ran a box blade over it once a year and never really had to do much more than that to it, and we are talking heavy equipment in and out of there all day long,

trucks in and out of there all day long. It was never an issue. Dart had a facility on the same road, same thing with them, I think it does hold up well as long as it is done correctly. I've traveled lease roads for the last sixteen years of my life and those are roads that are made straight through farmer's fields that were never intended to have a road, but if when they are built right, they stay."

Commissioner Hogsett stated; "But those would have very, very low traffic on them, wouldn't they?"

Planning Commissioner Philipp Umlauf stated; "Well a couple of times a day, every single day. And you are not just running a pickup up and down them, there are chemical trucks going up and down them, there are pulling units going up and down them, it is a lot more than people think."

Commissioner Hogsett stated; "Okay, thanks for that."

Planning Commissioner Jim Hardy stated; "I know when we discussed this I was picturing a smaller industry coming in starting up, just employed 50-100, that is what I was picturing, not to compare with a Fortune 500 where the resources wouldn't be a problem for paved or concrete the whole thing, but 50-100, like Philipp said a small business like that would be ideal for Independence but right off the bat a third of that cost would go to that surface, where it could be used for capital inside, for employees."

Commissioner Hogsett stated; "I was saying to a few of you when I walked into the room that I am going to be repaving a big chunk of our alley behind our building, because we have had to tear it up to replace a drain lines and it is just prohibitively expensive. So, I totally get where you are coming from, and that is just 400 square foot."

Planning Commissioner Brian Beecham stated; "I think the number we came up to by asking people that do it was \$6 to \$8 per square foot is the cost."

Commissioner Hogsett stated; "I can't picture how many square feet on the top of my head how much they would typically need to do, but I'm guessing it is a huge number."

Commissioner Brian Beecham stated; "Yeah, I think so."

Commissioner Philipp Umlauf stated; "If you think about it, a 10,000 square foot parking lot is really not that big, when you start putting vehicles in there that the average length of them is 20 feet."

Commissioner Hogsett stated; "So that would be \$60,000 to \$80,000"

Commissioner Philipp Umlauf stated; "You are basically talking about a parking lot that is the size of McDonald's parking lot, that is a huge expense."

Commissioner Caflisch stated; "Well why should M-1 zone be excluded from paving a parking lot, where you've got a small business that is opening an office and you are going to require them to pave a parking lot, so they're start-up cost, you will have a lot more businesses coming in to expand so why are you granting an industry that we don't have coming in a gap, but then what we have every day we are going to hold the line or you're going to consider a small industry coming in that we want them to come and they don't have to pave their parking lot, but I'm going to build a new house and I'm going to

build a garage and now I've got \$5,000 to \$6,000 for a driveway that has to be paved and it's harder for me to get the \$5,000 or \$6,000 for the driveway than it is for an industry that is selling a product?"

Commissioner Hogsett stated; "That is a good comparison, but on the other hand you have to be a good neighbor, you have to match what the neighborhood is doing. I mean if I've got a downtown business, we can't have the next-door neighbor have a gravel sidewalk out front, it has got to be consistent."

Commissioner Caflisch stated; "So your 400 square foot of concrete in the alley is justified."

Commissioner Hogsett laughed and stated; "Touché. I just think in a neighborhood that, you know, houses need to sort of match. You can have a dump next door to a nice house, but you would rather not because it is unfair to the person...."

Commissioner Caflisch stated; "When we are looking at businesses, we are looking at the same thing to encourage. Basically, we have to look at the long-term use of what we want the City to be. An industrial park setting, what do we see the need for in our industrial park dealing with the gravel run off in our drainage, in our streets, how are we going to control that, are we going to require heavy traffic areas to be hard surfaced or are we going to allow them all to be gravel, if you know..."

Planning Commissioner Philipp Umlauf stated; "Well, to answer your statement, Michael Conway is opening a car shop in the industrial zone, I think he would be greatly appreciative of the fact that he does not have to hard scape all of his potential parking area. I think that would help him dramatically."

Commissioner Caflisch stated; "But his is already under, since he already . . he's not allowed to participate in this is he, since his already...."

Planning Commissioner Philipp Umlauf stated; "He's in a M-1/M-2 zone."

Commissioner Caflisch stated; "But he has already built, he should be required to pave now, not wait."

Planning Commissioner Philipp Umlauf stated; "The point that I am trying to make is would that have made things easier for him, would he have been able to pull that whole thing off in a shorter period of time, would he have been up and running faster. Would it have been a more attractive thing for him to do sooner. That is just one example, but it speaks directly to what you were just saying for a smaller business that comes into our area. If they want to be in that M-1 or M-2 zone, that is their prerogative, if they want to be in our downtown district or in one of our commercial districts that has stipulations to go along with it. What we are trying to convey is, manufacturing jobs pay well, employ a lot of people, and the buildings can go up very quickly, they can be put online very quickly, and we are afraid that we are not in the running because of the additional costs required to facilitate them bringing their business here. Whether they are publicly looking at us or not, when push comes to shove, is that a consideration? Case in point, our Amazon distribution center that yes was out in the county, but they left stating the reasons they were leaving was due to the fact that it was going to cost them more money to refit their facility than it would cost them to build a new one. Would it have been more attractive for them, if we had said 'Hey, come to Independence, put this thing in our industrial zone back here, you don't have to hardscape your parking lot, you can put

your new facility here and stay where you are at, instead of moving to Olathe, which is where they are now. In a facility that is actually smaller than the one they were in here. Would that have kept those several hundred jobs here, and those several thousand people that were a part of our countywide community that are now gone. That's a huge hurdle for us to overcome and hindsight is 20/20 but these are the type of things that I think about when something like this comes across our table."

Commissioner Hogsett stated; "When Annie and I were looking around at cities deciding where we wanted to move, one of the cities that we were really impressed with was McPherson. They are just booming, they have got industries springing up all over the city, does anyone know if they have requirements regarding this?"

Planning Commissioner Philipp Umlauf stated; "I don't know, I've spent a fair amount of time in McPherson, but I don't know any of the requirements."

Commissioner Hogsett asked City Manager Craig Whitehead; "Craig, you have been in eight or nine cities, have you seen this issue before?"

City Manager Craig Whitehead stated; "Not really, other than in my last city you had to pave no matter what you were bringing in, even manufacturing. Granted that we didn't have M-1 zones that are industrial, so you just had to pave, and they had to take care of the run off of that water, and we started getting into permeable concrete to solve drainage, cheaper for the developers. The other thing we saw in getting business was incentives, and gravel parking lots was not an incentive that I ever ran across. So, you could still require a hard surface, but through other financial incentive it might offset. Because right now, if there is an industry coming the City already has incentives in place per job, so much dollar amount, that we will give to an industry as well as some property tax abatement, so I've never seen this specifically affecting a development."

Commissioner Hogsett asked; "Weren't you previously in some fairly small cities, much smaller than American Fork?"

City Manager Whitehead replied; "Yes, my first City Manager job was in a City half this size, a very rural area. I don't remember coming across it, but we didn't have much development either. This was north on the Canadian border, so you didn't get a lot of development other than the state. But again, I never faced that. It was other development. My last two cities, some were larger, more urban, and incentives. Talk about why companies locate, why do they move, why do they locate where they locate. Well moving to Olathe was because it was Olathe and Olathe was in that area next to a lot of services, there are lots of reasons companies choose a site selection so you can't, it's hard to tell why a company and sometimes it is where the CEO's wife wants to live. That always plays into it, where they like to shop. And we had industries, we had a Gateway Computers that eventually moved their headquarter to San Diego because that's where the CEO's wife wanted to live, not South Dakota. There are a lot of things in site selection, and sometimes maybe the gravel parking lot tips the scales, you never know, but I'm more on the Mayor's side as you can tell."

Planning Commissioner Brian Beecham stated; "I think one of the things we are looking for is to get the ball rolling and that's why we are trying to come up with ways when we see an opportunity and we see something close by and that was part of their stimulus in doing it, and there was economic assistance in it and that is readily available online as well. Where do we get started?"

Commissioner Caflisch stated; "We have the economic development fund, but we don't have any hard guidelines on how that would be distributed, that could be tied in as an incentive to help out offset some of the initial costs, or like Craig mentioned some other abatements that we have. We just did the West Laurel Street Industrial Park and West Main Revitalization zones.

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "Probably 2015 we redid it."

Commissioner Caflisch asked; "Didn't we split it so that there is West Main and also the industrial park?"

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "Yes"

Commissioner Caflisch stated; "So we have handled some ways that can get tax abatement to an industry, but we still have our economic development money that we could look at distributing other ways to get financial assistance to attract businesses. I think you would use some of those to off-set the paving, but still there are some areas in industrial, plant or development that, pipe yards, material, steel storage yards that I would see exempt from paving but when you look at actual vehicular traffic, I still think..."

Assistant City Manager/Zoning Administrator Kelly Passauer replied; "I think those are already exempt. It's the actual parking area"

Commissioner Caflisch stated; "Yeah, I thought we had something about pipe storage, but the alleys as you mentioned, the graveled alleys are a maintenance problem for us, but you look at the effect in the street how much gravel washes out in every rain out into the street, that becomes our problem and it increases our cost of maintenance and in operations. That is why I am hesitant to allow parking areas to be excluded from hard surface, or to allow a gravel surface."

Planning Commissioner Philipp Umlauf stated; "That was actually one of the requirements in there was to design your lot in such a fashion that it negates that gravel run off into the street, and also having that hardscaped surface service drive is another barrier point to keep that from meeting our streets. I kind of feel like we've hit this impasse and we . . . now we are talking incentives and abatements verses cost savings. But all those incentives and all those abatements are more cost to the City, and this is something that could be a cost savings to an industry or a business that has really no cost to the City or the county or state. This is simple economics, as opposed to macroeconomics here."

Planning Commissioner Andy McLennon stated; "So a couple of thoughts are rolling through my head here, based on what I've heard, I appreciate your comments Leonhard on the tax incentives, but I think, and I also understand from Craig's point that there is as much art as there is to science on business recruitment and retention. At the end of the day every City is offering very similar incentives as far as tax incentives, so what are we doing to differentiate ourselves to even be on the map is kind of the thought process too. The other thing I am thinking that we talked about as a group here I believe was although I'd like to be a dreamer and think we could land a Fortune 500 company, I'm also pretty realistic on the model that we have developed whether intentional or unintentional over the last several year of bootstrapping entrepreneurship coming out of the college through the Fab Lab, through returners, so on and so forth, the budgets that I

would suspect, the capital outlays that I would suspect that those companies have to start with are in the tune of several hundred thousand dollars to get a business up and running, verses a multimillion dollar backing. Just on the simple math we did earlier on a 10,000 square foot parking lot at \$60,000 if your budget is half of million dollars, 10% of it just goes to parking, that doesn't even go to permitting and structure and hiring and IT and services and all that type of stuff, setting up for a new facility. With our strategy we've employed in the last several years is that we would rather have lots of little eggs, verses one big egg in a basket. I see this parking lot as giving flexibility to attract more littler eggs, that maybe someday would grow up to be a great big egg for us, and then we could have that conversation. The variance structure, although I like it, and I like the flexibility to it, I'm afraid from a site selection standpoint a company doesn't get through the funnel far enough for a site selection model to even have that opportunity to even offer up that there is a variance. We are probably eliminated before we even know we were on the short list so to speak. So those are some of the thoughts that were coming through in the conversation we had as a group. I think we have reached a consensus that the temporary expansion, if you have a hard surface going to gravel makes a lot of sense, so if Hackney wants to take on some new business, but you know what, it looks like it's a cyclical feature that's going to be around for eighteen months and they need to bring on another dozen people per shift and they don't have parking, throw out the gravel let's get it on and let's get that going, let's get the jobs, let's get the revenue streams that are generated by that because there is the taxation on the backside that would help offset some of these incremental costs that we have been discussing of water runoff and road cleaning for gravel and that kind of stuff. The stance we have taken is that we have had this model in place for a number of years, we have had some victories, but could we get some more victories by adding some additional flexibility. And if it doesn't work, we can revisit it and you know in forty-eight months and go back to the old way. So, it is, that was some of the conversation we had as well. That is a lot I just puked out there in two minutes but there it is. I totally get from a beautification standpoint and from cleanliness, I get it, I do get it. But I also have seen the feedback from the community, in their survey that we took earlier last year, you know, jobs, jobs, jobs. People want to come back to Independence, we hear it every year at Neewollah, but I don't have anything to do. So here is another opportunity to say come back and start your own gig, we are going to be a low-cost solution to start your own business and we are going to try to make it happen. I would much rather tell them that then, 'Yeah, Mercy closed, that sucks. Amazon left, that's too bad', you know, 'Come back and start your own business, we're going to make it as capital friendly as we possibly can, and maybe we have to settle on having a gravel parking lot with chloride on it for a while, until they get big. Then we have to keep them from moving to San Diego.'

Mayor Ysusi stated; "So that gives a company that's coming in some flexibility, so they are not paying that out on the initial startup cost. Gives them a little time frame to see how this is going to progress, and either it will, or it won't in that timeframe, and if it does then at that point they know what the stipulations are and . . ."

Commissioner Caflisch stated; "There are no, once they build a building or they buy an existing they never have to pave it, only if they are expanding a temporary parking area. If they are expanding an existing"

Mayor Ysusi stated; "Or new."

Commissioner Caflisch stated; "No"

Assistant City Manager/Zoning Administrator stated; "Expanding an existing hard

surfaced area temporarily is the two year.”

Commissioner Caflisch stated; “That is the two-year limit. If they build a new facility, and it goes gravel they never have to pave it. The two year was only on an existing paved, that you have two years to use it as gravel, then you either remove it or pave it.”

Mayor stated; “Okay”.

Brent Littleton asked if he could say something; “I didn’t sign up, but I should have, but this is ironic, this is about parking lots.”

Commissioner Hogsett stated that he had to come up to the microphone.

Brent Littleton stated; “I think what they are trying to help too, if you think like Murphy Oil out there and the funeral home where they do the sandblasting and stuff, when you go into those businesses there are driveways, and when you want to go into the lobby to plan a funeral it is asphalt, whatever it is. And the same way at Murphy’s place. And I don’t know if they are out in the county, so it doesn’t apply to them, but if you think about what they are doing if you go around their buildings it is gravel, you know they pull in and back up and unload tombstones or whatever they are doing. They don’t drive on asphalt. As a matter of fact, asphalt is a very, when you have big vehicles like US Food Trucks, I know driving on blacktop, man your sealant, and you are fixing cracks and stuff like that all the time, so that is cost prohibitive too unless they can afford concrete. And like Sonic’s new concrete, that is \$150,000 probably worth of concrete and I guarantee it is in that neck of the woods. That drive through lane we put around Dairy Queen, I just put a concrete drive through lane around there and it was \$26,000. Because it is cheaper to go ahead and spend it now while the constructions down, then for me to always have to go through there and fix that black top because cars are constantly turning. So, I shared this with Kelly the other day, but Lou Holtz one time said, ‘It is never a good time to make a bad decision, but it is always a good time to make the right decision.’ So whatever you all think the variance needs to be, you all need to put it in place and help them because they can keep answering these questions and keep coming back and forth and this could go on for a year, you know. But just realize if you’ve got to worry about drainage going to the road, there has to be a driveway there, and if they have a customer entrance it needs to be hard surfaced, but if it’s around a building where they are getting deliveries and trucks and some employees are parking back there, there ought to be some variances on that and it ought not to be real complicated. Anyway, that is all I have to say.”

The Mayor thanked Brent Littleton for his comments.

City Attorney Jeff Chubb stated; “I don’t have a vote. You have required hard surface, not require hard surface, there’s probably room to compromise, like Brent said, maybe a hard surface where retail customers might be required to park as opposed to employee's parking, or phase in the hard surface over a period of time so that it is not an upfront cost prohibitive thing for new business. There are a lot of areas you could compromise on.”

Mayor Ysusi stated; “And still get the desired effect that you want in the long term over a period of time, yeah.”

Commissioner Philipp Umlauf stated; “In the spirit of that, you know a visitors/ADA parking area that is hard surfaced is something I wholeheartedly agree with, and some of

us argued back on forth about that on the zoning side.”

Commissioner Hogsett joked; “Was it Michelle that argued the most? I bet it was.”

Planning Commissioner Philipp Umlauf stated; “Not at all. But I see that being something that kind of fits this mold which is if the employee parking is out of site, and the visitor/ADA parking is on the forefront then you have maintained that beautification, reduced cost, that visitor and ADA parking area might be for a small business like Andy was saying that has a half million dollar budget that might be four spots, they might only need two ADA's and two visitors, but still allows them to adhere to some of the beautification requests that we have as well as saying ‘alright, all my employees park back here’ and ...”

Commissioner Hogsett stated that he agreed and that is very common, stating; “In my job I do consulting for manufacturing firms and whether it is in Kansas City or Salina, you drive in on an asphalt drive and there is parking there for visitors, but you go around the back side, the side of the building and the back is generally not paved, where the heavy equipment is running and all.”

Mayor Ysusi agreed, stating that; “All the facilities that he has been involved in the hard surface parking was up front for visitors, customers and ADA, but once you initially go through the initial parking lot everything behind the building was gravel because you've got your heavy trucks unloading poles, pad mount transformers, it was just a gravel surface, and it was a huge area and every facility I've ever visited with Westar that is how it was maintained. They met the letter of the law as far as ADA and the front of the building you want that to look nice when you drive in for the first impression, but once you got past that initial driveway everything behind the building was gravel. And it's just been like that, even at our building out here east of town, with all our heavy trucks, that whole parking lot if concrete and storage area, but when we've had extra equipment brought in that we didn't have room to park on the concrete we have just went out to grassy area and laid rock, laid gravel out so we could put in pole trailers, two or three extra pole trailers that we had accumulated and we didn't put a hard surface there because they are not going to get any traffic, it is just basically to sit a piece of equipment there that is not sitting in grass we have to mow around and it gave us an easy way to drop off equipment like that on a site without it being paved, so even we found a way to work around that. So I'm more inclined to find a way to make a compromise here where we can accommodate what you are bringing to us, and some concerns that we have and we always have the ability down the road, whoever is sitting here, if they want to go back and revisit that and make some changes that does gives us the advantage and ability to do that if that doesn't seem to meet the intended purpose that we want, we can go back and revisit that and then come up with something different. But on this strategic planning, and I hear this all the time, people that would like to come back and there is not a job here for me, not with my education and my background, there is not a job I could come back to Independence and work. I'm familiar with Chanute and McPherson, some of the advantages they have, they run their own utilities, they have more staffing, they have the ability to do that because they are making money by having their own municipality, they provide their own power. So yeah, they can have a lot more staffing, they can do a lot of things and offer an attractive rate for a business coming in. As a matter of fact, I'm familiar with Chanute they had an abandoned building that was a previous manufacturing tenant that had left, and they worked out a very reasonable fair price with an industry coming in and sold them that building. But I guarantee you they also offered them a pretty sweet deal on their electric rates too. They have other incentives they can offer that gives them a leg up on us that do not have that ability.

Monet, Missouri buys wholesale power and they sell it to their commercial, industrial and residential base and they are generating 16-18 million dollars per year, and they are using that to build infrastructure in Monet. They are buying it on the wholesale market and then reselling it, selling it for a price. There are so many different other incentives out there that all these communities have to offer, and they all play a hand in this. You know your tax abatements for how many years, all of these things play into that. I think we need to figure out some way to accommodate what you are asking us to do, and some of the concerns that we have and move forward on that. And we can always revisit it down the road, I don't want to be like the federal government where they make a hard-fast rule and you comply, and it always the citizens comply, but the federal government gets to do what they want to do because they are the federal government. So, that's my concerns on this."

Commissioner Caflisch stated; "The hard part is setting up an ordinance or any code that is applicable in every situation, and you've got to look at what the intent of what the requirement is, what was the general, in this case what was perceived as a benefit of paved parking, what were you trying to accomplish with a paved surface. You look at this, we are concerned about a small business, so a small business has a bigger financial impact, but if you start looking at ADA spots, or visitor spots you are down to a smaller area that it might be cheaper just to pave everything, but you know when you are looking at a large manufacturing plant that has 100 cars you have a difference condition, if you've got a business or industry that has high truck traffic coming in that that is mainly their job is distribution with multi-axle vehicles and heavy weight, then you've got different requirements you are generating, different dust conditions and you are limited on how effective the calcium chloride is because of all the traffic that keeps stirring and breaking down the surface, so what you guys and we are doing is not an easy task, any time. Because we are trying to establish something for the betterment of the community to give us direction, and we are trying to look at every case under the sun that we are going to encounter and make one blanket that is going to be applicable for everyone, and we can't do it. That's where variances come in and you know, the best attempt that we can make, and we go with it. Because there is always, I guess from my past I've always had to deal with these conditions. I've always had code restrictions, zoning issues, that it is just part of doing business, so we have to look at investing and the cost and operate within that. So, you know it kind of gives me a different perspective when I look at it, but it is something that is quite difficult, and the Planning and Zoning Commission has a difficult task. I do appreciate all your time that you are trying to look at so much and the list to go through, signage, attention, getting signage, downtown signage, and now you know throwing in tiny houses and recreational vehicles that people that are going to live in, you know this is times of change that we have to consider that. I appreciate each of you, the time that you have put into this and tolerated listening to our opinions, and I appreciate you sharing your opinions too, but you know thank you for being willing to sit in that chair and make these decisions."

Mayor Ysusi stated; "I agree, this is a little different for me because this is the first time I have had to sit in and go through a process like this. Where my background is I've always been in a position to where you could sit down and you could hammer something out, and you would come to a compromise that maybe wasn't, neither side was completely happy with, but it was something that you could both live with. You know, I come from a union side where we would negotiate with the company, there were certain things we would like to see, certain things the company would like to see, and the bottom line was that we would give up something to get something. So, for me, this is quite different, because this is not. The process does not always work out that way. So, for me this is different, and I am really listening to what Gary and Leonhard are saying

because they have a lot of experience, he's worked with regulations being an architect and his design work, and Gary the same way, he's served on a Commission or Council previously from here. So I am drawing my information listening to these two gentlemen because this is something that is foreign to me, so I'm going to depend on both of you and I will continue on the meetings that we have for you input and what your thinking is on a lot of different issues, because we collectively decide as a unit. It is helping me understand what it is we are trying to do. Anything else?"

Commissioner Caflisch replied; "Yes."

Assistant City Manager/Zoning Administrator Kelly Passauer stated; "Doing it as a variance can be problematic because, as Philipp mentioned to, they have those people before them, and it's going to be hard. You're going to make all these people come before them, it's going to be hard for them to deny that variance. And the variances before the Board of Zoning Appeals do not come to the Commission, they go to the district court if they are appealed. It's kind of like, dealing with something on a case by case basis means you have no policy. So, you know you want a policy you can apply consistently to everyone so you don't have this issue 'well this guy can do it, but this guy can't do it' because you will get into that. And, that is why I think it is better to have clear expectations, whether the front of the building has be paved for visitor or ADA or maybe the back if it is screened can be gravel for employees, or maybe you say if the parking lot is X size it doesn't have to be, and behind the building if it is larger. I mean there are different things you could look at, but I get a little worried about saying doing the variance thing and then no offense to you Leonhard, I don't mean that at all, it's just sitting in those meetings for years where people come for variances. It's hard for this board to tell somebody 'No, you can't do that.' So, it puts them in a bad position, and I think it's better if you have clear cut regulations or rules that are clear so that that can be applied, and then if that doesn't work you change the code, not say 'Oh, just go request a variance.'"

Commissioner Caflisch stated; "Yeah, variances are minimally used unless extreme hardship."

Assistant City Manager/Zoning Administrator stated; "We get a lot of them on setbacks and things like that."

Commissioner Caflisch stated; "Yeah, because then you start getting into, because this company is a friend of mine, or this person is a friend, I'm going to give them a variance and it is like, and even the same with rezoning of property that it is not applicable to the area, but it's a good buy or good gift so we will rezone just because we will want to help you out."

Assistant City Manager/zoning Administrator stated; "Or this company comes in and says, 'Well if we don't get this variance we are not coming to your town, so what position does that put them in?'"

Commissioner Caflisch stated; "You can't be so lax that you have no control."

Assistant City Manager/ Zoning Administrator stated; "Right, that's why my opinion as Zoning Administrator it makes it a lot easier for the people sitting on this board and for staff to administer if we have clear cut guidelines that we can follow. And yeah, there could be variance on some things, but usually a variance is when you are going to deviate a small amount, like okay, I'm building this and instead of a ten foot setback, I

need to encroach on that reduce that a couple of feet or something and we do that all the time and it's not. They look at that, but somebody going from not having to follow the hard surface requirement, that is something that is a lot bigger impact and I'm concerns it's going to put our Board of Zoning Appeals in a bad position."

Commissioner Caflisch stated; "That's why you just stay, pave everything."

Assistant City Manager/ Zoning Administrator stated; "And that is certainly up to you. I will say on the equipment, like you said, of course Westar is not in the City but say that they were, any equipment that is owned all under one ownership of that company currently that is exempt from the hard surface requirement now. So, if somebody, if it is their equipment or whatever that they are parking there, it doesn't have to be hard surfaced, but employee parking is where it comes into, or visitor parking or whatever, but it does not apply to equipment parking now. They do not have to hard surface where they store vehicles all under one ownership, that is already an exception."

The Mayor stated; "Well, we sure don't want to put these folks in a bad position, and the variance that would be, wouldn't be the rules it would be an extreme exception that you would make, it wouldn't be something you could continually fall back on and then you get to the point that you both have made that now you are picking and choosing who gets one and who doesn't."

Assistant City Manager/ Zoning Administrator stated; "Once you make that first one, you have basically set precedence."

Commissioner Caflisch stated; "And because I can't afford it isn't an excuse for a variance."

Assistant City Manager/ Zoning Administrator stated; "But I will guarantee you that they will say that is the hardship, 'then we are not coming to your town', that is what they will tell the board."

Commissioner Caflisch stated; "But a financial is not a hardship."

City Attorney Jeff Chubb stated; "That is correct because under the variance City code section 2-116 there are five specific factors that all five must be met before the variance can be granted and the problem is that you go to any board, there is a lot of subjectivity that shouldn't come into play, but always does, but one of the factors is 'The situation cannot be created by the action of the property owner or applicant.' And the decision to hard pave or gravel, that is 100% under the control of the applicant."

Assistant City Manager/ Zoning Administrator stated; "Yes, so they wouldn't be able to even apply for a variance."

City Attorney Jeff Chubb stated; "The board may grant it, but then actually the City could appeal and probably get it overturned in district court, so that's kind of a time waster there. The variance would not be a good way to go"

Mayor Ysusi stated that he had a better understanding after listening to all the comments.

Assistant City Manager/ Zoning Administrator asked the Mayor; "Are you wanting the Planning Commission to go back and revisit this and make another modification and

bring it back? I think they need some direction.”

City Attorney Jeff Chubb stated; “As of right now, the way the State statute goes back and forth, it is in their court, and they have taken no action. They can't take action tonight.”

Assistant City Manager/ Zoning Administrator asked the Mayor; “So put it back on the next Commission agenda and then they can determine if they want to...”

City Attorney Jeff Chubb stated; “...they can make a decision, or they can remand it”

Mayor Ysusi stated to place it on the next agenda, further stating that; “This is just a worksession so there is no decision making during the session, so let's do that. Thank you for your input, it is a huge learning process for me. And I'm sure it is for some of you that are first time members on Planning and Zoning. Let's put it on the agenda for the 24th and we will take it up at that time.”

Assistant City Manager/ Zoning Administrator asked the Mayor; “And they are all invited to attend that meeting.”

Commissioner Hogsett stated; “Yeah, they are riveting, you will want to be there.”

C. Discussion with the Planning Commission of possible future directives or additional topics for the Planning Commission to review.

Assistant City Manager/ Zoning Administrator stated; “The Planning Commission does recommend, as we review the Comprehensive Plan every year, and every year they have recommended that that be included in future budgets.”

Commissioner Caflisch stated that he just found on his bookcase a Comprehensive Plan and started looking through it. He further stated; “That it might be beneficial to read the Comprehensive Plan and be prepared. There is something interesting under housing it actually said there were I think 36 or 38 that needed immediate condemnation, or being razed, and there was an initial 53 it would be interesting to see if we ever did address those that needed to be razed.

Commissioner Hogsett asked when it was written.

Commissioner Caflisch stated it was written in 1981 and Assistant City Manager/ Zoning Administrator said it was adopted in 1982.

Commissioner Caflisch stated that it helped me to know what we have got. He further asked who initiated the neighborhood revitalization plan, and Assistant City Manager/ Zoning Administrator stated it was done by City Commission, she further stated that staff will be bringing that to the Commission.

The Mayor asked if there were any other items that needed to be brought up, at which time there was none.

III. ADJOURNMENT

A. Adjournment by the City Commission.

Motion:

Commissioner Caflisch moved to adjourn. Commissioner Hogsett seconded the motion.

Aye: Ysusi, Caflisch, Hogsett

Nay: None

1. Adjournment by the Planning Commission

Motion:

Planning Commissioner Umlauf moved to adjourn. Planning Commissioner Andy McLenon seconded the motion.

Aye: Meier, McLenon, Hardy, Beecham, Emert, McBride, Umlauf, Anderson

Nay: None

Louis Ysusi, Mayor

Leonhard Caflisch, Commissioner

Gary Hogsett, Commissioner

Mary Jo Meier, Planning Commission Vice Chair

Andy McLenon, Planning Commission Secretary

Attest:

Kelly C. Passauer
Assistant City Manager/Zoning Administrator