

## Minutes of the Independence City Commission's May 27, 2021 Meeting

The Independence City Commission met for a regular meeting on May 27, 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  
Brian McHugh, Memorial Hall Supervisor  
Jerry Harrison, Police Chief  
Shawn Wallis, Fire/EMS Chief  
Lacey Lies, Director of Finance  
John Garris, City Engineer/Director of Public Works and Utilities

### Visitors

Larry McHugh  
Taina Copeland  
Chuck Goad  
Larry Walker

#### 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 Mayor Ysusi, seconded by Commissioner Caflisch the Commission adopted the agenda.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

#### II. EXECUTIVE SESSION

##### A. Data Relating to Financial Affairs or Trade Secrets of Second Parties.

#### **Motion:**

**On the motion of Mayor Ysusi, seconded by Commissioner Hayse the Commission moved to recess for an executive session concerning confidential data relating to financial affairs and/or trade secrets of a company pursuant to the exception (K.S.A. 75-4319(b)(4)). The open meeting will resume at 5:56 P.M.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

The meeting resumed at 5:56 P.M.

**Motion:**

**On the motion of Mayor Ysusi, seconded by Commissioner Hayse the Commission moved to recess for an executive session concerning confidential data relating to financial affairs and/or trade secrets of a company pursuant to the exception (K.S.A. 75-4319(b)(4)). The open meeting will resume at 6:07 P.M.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

The meeting resumed at 6:07 P.M. with no action taken.

III. APPOINTMENTS

A. Electrical Board – 2 expired terms (1 eligible for reappointment)

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Hayse the Commission reappointed Dennis Royer as the Evergy representative for a term expiring on April 1, 2024.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Caflisch the Commission appointed Joe Long for a term expiring on April 1, 2024.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

B. Independence Farmers and Makers Market – 1 Vacancy

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Hayse the Commission appointed April Nutt to the Independence Farmers and Makers Market for a term expiring on June 1, 2025.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Minutes of the Independence City Commission's May 27, 2021 Meeting**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Hayse the Commission affirmed the Main Street Board's appointment of Tabatha Snodgrass to the Independence Farmers and Makers Market for a term expiring on June 1, 2025.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Hayse the Commission affirmed the Chamber of Commerce Board's appointment of Lisa Wilson to the Independence Farmers and Makers Market for a term expiring on June 1, 2025.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**C. Independence Historic Preservation Resource Commission – 2 resignations**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Caflisch the Commission appointed J.D. Cox to the Independence Historic Preservation Resource Commission for a term expiring on January 1, 2022.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Caflisch the Commission appointed Mary Kathleen Babcock to the Independence Historic Preservation Resource Commission for a term expiring on January 1, 2023.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**D. Independence Recreation Commission – 1 Term Expires July 1, 2021 – Applications are due by noon on June 18, 2021**

**E. Library Board of Trustees – 2 expired terms (1 eligible for reappointment)**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Hayse the Commission reappointed Tom Sewell to a second term on the Library Board of Trustees for a term expiring on May 1, 2025.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Hayse the Commission appointed Bill Kelly to the Library Board of Trustees for a term expiring on May 1, 2025.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

F. Tree Board – 3 terms expire on June 1, 2021 (1 eligible for reappointment)

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Caflisch the Commission reappointed Michelle Anderson to a fourth term on the Tree Board for a term expiring on June 1, 2023.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Caflisch the Commission reappointed Bob Brewster to a second term on the Tree Board for a term expiring on June 1, 2023.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Mayor Ysusi seconded by Commissioner Caflisch the Commission reappointed Leslie Fox to a fourth term on the Tree Board for a term expiring on June 1, 2023.**

**Aye: Ysusi, Caflisch, 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.)

**Motion:**

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

## Minutes of the Independence City Commission's May 27, 2021 Meeting

**Aye: Ysusi, Caflich, Hayse**

**Nay: None**

- A. Appropriations
  - 1. A-1889
  - 2. P-1862
- B. Consider minutes of the April 21 and 22, 2021 City Commission meetings.
- C. Consider approval of food trucks and concession stand during 4-H week.
- D. Consider a resolution adopting the Kansas Homeland Security Region H Hazard Mitigation Plan.
- E. Consider authorizing City Staff to sign an agreement with Global Payments Direct, Inc. "Open Edge" for credit card merchant services.
- F. Consider authorizing the creation of seven new cemetery spaces at Mount Hope Cemetery.

### V. PRESENTATION

- A. Presentation of citizen engagement survey results.

Mackey Smith and Jason Knavel of Tanner, LLC., presented the results of the citizen engagement survey.

### VI. PUBLIC HEARING

- A. Public Hearing to consider condemnation of 800 E. Edison as dangerous and unsafe.

The City of Independence adopted a resolution on June 25, 2020 setting a public hearing for August 27, 2020 at 5:30 PM to consider condemnation of this structure as dangerous and unsafe. This public hearing was previously adjourned. City Staff has been in contact with Ms. Wells in regard to this structure. She indicated she is in contact with a local contractor that will begin repairs of the structure. City Staff recommends adjourning for 90 days.

**Motion:**

**On the motion of Commissioner Hayse, seconded by Commissioner Caflich the Commission adjourned the Public Hearing until August 26, 2021 at 5:30 PM.**

**Aye: Ysusi, Caflich, Hayse**

**Nay: None**

### VII. ITEMS FOR COMMISSION ACTION

- A. Consider Approving McCown Gordon as the CMAR for the 1916 City Hall Renovation and Fire/EMS Building.

## Minutes of the Independence City Commission's May 27, 2021 Meeting

City staff conducted Construction Manager at Risk (CMAR) finalist interviews on May 25, 2021. The City interviewed McCown Gordon and Loyd Builders. The committee discovered the top finalist were excellent candidates and reviewed and discussed their proposals for 2.5 hours after the interviews before deciding on a recommendation. The committee ultimately recommends accepting McCown Gordon's proposal for preconstruction services, constant project review, analytics and resources. The final ranking scores were 92 for Loyd Builders and 93 for McCown Gordon. McCown Gordon's proposal also had the lowest fees.

The City is requesting authority to have the City Attorney review and approve the AIA Agreement with McCown Gordon and authorize the Mayor's signature on any related documentation.

**Motion:**

**On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission approved McCown Gordon as the CMAR for the 1916 City Hall Renovation and Fire-EMS project and to authorize the Mayor to sign any related agreements or documentation pending the City Attorney's review and approval.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

- B. Consider proclaiming May 28, 2021 as National Poppy Day and authorize use of the Park Oval.

The City was contacted by Lora Banning, American Legion Post 139 Chaplain, requesting the City of Independence designate May 28, 2021, as National Poppy Day in honor of the falling.

Lora is also asking permission for the American Legion Auxiliary Unit 139 to use the Oval on May 29<sup>th</sup> and 30<sup>th</sup> from 10:00 a.m. to 2:00 p.m. to sell poppies with all proceeds going to assist veterans.

**Motion:**

**On the motion of Commissioner Hayse, seconded by Commissioner Caflisch the Commission designated May 28, 2021, as Poppy Day in Independence, Kansas, to allow the American Legion Auxiliary Unit 139 to sell poppies at the Oval on May 29 and 30.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

- C. Consider adopting a resolution for a conditional use permit for "Storage and warehousing of nonhazardous goods" in a C-4, highway commercial district at 2400 West Main Street.

## Minutes of the Independence City Commission's May 27, 2021 Meeting

The Planning Commission held a public hearing on May 4, 2021 to consider a request for a conditional use permit for "Storage and warehousing of nonhazardous goods" in a C-4, highway commercial district at 2400 West Main Street.

The Planning Commission recommended approval with conditions.

### **Motion:**

**On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission to adopted a resolution granting a conditional use permit for "Storage and warehousing of nonhazardous goods" in a C-4, highway commercial district at 2400 West Main Street with the following conditions:**

- 1. The conditional use permit is not transferable to another location.**
- 2. The conditional use permit shall be reviewed for compliance every five years.**
- 3. The primary use of the proposed shipping container will be warehousing, and storage of non-hazardous goods related to the food truck business. All such goods will be stored inside the shipping container or food truck.**
- 4. The access road from West Main Street and West Laurel Street will remain accessible to employees and patrons of the business, unless required to be modified by KDOT.**
- 5. The location of solid waste equipment shall be designated by the company and will need to be approved by City staff. All solid waste containers shall be screened from adjoining properties.'**
- 6. The parking lot shall be maintained in appearance and shall not be used for overnight storage of vehicles not directly related to the business.**
- 7. Any additional exterior lighting on site will need to be approved by City staff.**

**Aye: Ysusi, Cafilisch, Hayse**

**Nay: None**

- D. Consider adopting an ordinance vacating a portion of East Myrtle Street and North Wald Avenue.

The Montgomery County Commission held a worksession with the City Commission on May 24, 2021. During that worksession both Commissions provided direction to proceed with vacating a portion of East Myrtle Street and North Wald Avenue in conjunction with a rezoning and conditional use permit request for a County parking lot located southwest of Myrtle Street and Wald Avenue.

### **Motion:**

**On the motion of Commissioner Hayse, seconded by Commissioner Cafilisch the Commission based upon a finding that no private rights will be injured or endangered and that the public will suffer no loss or inconvenience, adopted Ordinance 4362 vacating East Myrtle Street starting 50' west of the southwest corner of the intersection of Wald Avenue and Myrtle Street right of way, then eastward approximately 420', and vacating North Wald Avenue starting at the southwest corner**

**of the intersection of Wald Avenue and Myrtle Street, then southward approximately 90'.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

- E. Consider adopting a resolution authorizing a conditional use permit for supplementary parking at 117 North Wald Avenue; and consider adopting an ordinance rezoning a tract of land at 117 North Wald Avenue from R-3, low density multifamily district to M-1, light industrial district.

At the May 4, 2021 Planning Commission meeting two public hearings were held to consider rezoning a tract of land from R-3, low density multifamily district to M-1, light industrial district; and to consider a conditional use permit for supplementary parking at 117 North Wald Avenue. The Planning Commission made the following recommendations:

- Approve the rezoning request for a tract of land located at 117 N. Wald Avenue from R-3, low density multifamily district to M-1, light industrial district; and
- Approve a conditional use permit for supplementary parking with the following restrictions which shall be binding on all future owners, assigns or heirs:
  - 1) The applicant must be in compliance with all City Codes and continue to be in compliance with all City codes including:
    - a)** Meeting all the requirements set forth in Article VII (Off-Street Parking and Loading Regulations) and Section 1013.0 (Supplementary Parking); unless the City Commission “deems it in the public good to waive such requirements” per Section 1013.2 (Minimum Standards).
    - b)** Obtaining any applicable permits if required; such as a demolition permit, curb cut permit, etc.
  - 2) Utility location: The applicant will notify Kansas One-Call and have the utilities located prior to any additional construction.
  - 3) Restrictions on use: The lot will be utilized for Montgomery County employee parking only and will not be utilized for storage of materials, equipment or disabled vehicles.
  - 4) Sound system: There will be no sound amplification to be placed on the parking lot.
  - 5) Landscaping and structures: Any landscaping or structures that are constructed adjoining any other properties will be the responsibility of Montgomery County to maintain and keep in good repair.
  - 6) Litter: The applicant shall police the parking lot and adjoining areas to remove any litter.
  - 7) Signage: If the applicant wishes to provide signage on this lot, such signage shall be limited to informational signs, i.e. directional signs and exiting and entrance signs. The size, type and placement of such signage shall be approved by the City.



## Minutes of the Independence City Commission's May 27, 2021 Meeting

- 8) If the applicant changes the use of the facilities served by the parking lot to any other use, then the continuation of the conditional use permit will require review and approval by the City.
- 9) If the applicant sells the adjoining facilities and the sale does not include the parking lot or if the parking lot is no longer needed to serve the adjoining facilities, then the lot will be cleared of all improvements and returned to an unimproved tract containing grass.
- 10) The Planning Commission may review continuation of this conditional use permit at its discretion for continuation of the conditional use. Such approval shall not be unreasonably withheld.
- 11) The conditional use permit is not transferable to another location.

Any non-conformance with any of the above conditions may result in revocation of the conditional use permit upon reasonable notice and opportunity to cure by applicant.

On May 24, 2021 the County Commission met with the City Commission in a worksession and reviewed the County's request to waive certain requirements of the conditional use permit recommended by the Planning Commission. Requirements contained in Section 1013.0 (Supplementary Parking) may only be waived if the City Commission "deems it in the public good to waive such requirements" per Section 1013.2 (Minimum Standards).

The following amended conditions were discussed:

1. The applicant must meet the conditions set forth in "Section 1013. Supplementary Parking" of the Zoning Code with the following modifications as deemed by the Governing Body in the public good to waive such requirements:
  - a. Surface material: Areas used for parking of vehicles shall have a compacted gravel surface and shall be maintained in a dust-free, all weather use condition, and shall be graded and maintained as to avoid flow of water across sidewalks.
  - b. Screening and buffer setback: Site obscuring fencing or landscaping adjoining residential zoned property on the south and west shall remain or be installed within one year of issuance of the conditional use permit. No buffer setback shall be required.
  - c. Lighting: Lighting shall not be required so long as the property continues to be used solely for supplementary parking purposes.
  - d. Service drives: Service drives shall be maintained as they currently exist.
  - e. Plan: The parking lot shall continue to be used as currently existing and no additional plan shall be required.
2. Drainage plan: If drainage from the property becomes an issue, the applicant shall provide a drainage plan prepared by a licensed engineer and construct those improvements designed to limit an increase in runoff drainage from the property above its current rate or, in the alternative, applicant may terminate usage of the property for supplementary parking and return the property to grass.

## Minutes of the Independence City Commission's May 27, 2021 Meeting

3. Minimum parking space dimensions: There shall be no requirement for minimum parking space dimensions.
4. Compliance with City Codes: Unless waived by the Governing Body, the applicant must be in compliance with all City codes and must continue to be in compliance with all City codes including the requirement to obtain any required permits, such as a demolition permit, curb cut permit, etc.
5. Utility location: The applicant will notify Kansas One-Call and have the utilities located prior to any additional construction.
6. Restrictions on use: The lot will be utilized for Montgomery County employee parking only and will not be utilized for storage of materials, equipment or disabled vehicles.
7. Sound system: There will be no sound amplification to be placed on the parking lot.
8. Landscaping and structures: Any landscaping or structures that are constructed adjoining any other properties will be the responsibility of Montgomery County to maintain and keep in good repair.
9. Litter: The applicant shall police the parking lot and adjoining areas to remove any litter.
10. Signage: If the applicant wishes to provide signage on this lot, such signage shall be limited to informational signs, i.e. directional signs and exiting and entrance signs. The size, type and placement of such signage shall be approved by the City.
11. If the applicant changes the use of the facilities served by the parking lot to any other use, then the continuation of the conditional use permit will require review and approval by the City.
12. If the applicant sells the adjoining facilities and the sale does not include the parking lot or if the parking lot is no longer needed to serve the adjoining facilities, then the lot will be cleared of all improvements and returned to an unimproved tract containing grass.
13. The Planning Commission may review continuation of this conditional use permit at its discretion for continuation of the conditional use. Such approval shall not be unreasonably withheld.
14. The conditional use permit is not transferable to another location.

Any non-conformance with any of the above conditions may result in revocation of the conditional use permit upon reasonable notice and opportunity to cure by applicant.

Since "supplementary parking" is a miscellaneous conditional use in the zoning code, it is suggested to adopt the conditional use permit resolution first, and then adopt the rezoning ordinance which includes a condition to follow the requirements of the conditional use permit.

### **Motion:**

**On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission adopted a resolution authorizing a conditional use permit for supplementary parking at 117 North Wald Avenue with the conditions as discussed with the Montgomery County Commission on May 24, 2021 and recommended by staff.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission adopted an ordinance rezoning a tract of land from R-3, low density multifamily district to M-1, light industrial district at 117 North Wald Avenue with a requirement to be in compliance with a conditional use permit for supplementary parking approved on May 27, 2021 by Resolution 2021-017.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

- F. Consider authorizing purchase of standardized sanitation/trash carts.

Bidding was approved in April for new standardized trash carts. The bid tabulation results are attached. Based on price, physical features, and responsiveness, the Otto cart proposal was selected. References checked on Otto's performance with other consumers were uniformly positive.

Based on current sanitation customer base, the suggested quantity for purchase would be 3,700 units, which would provide an approximate 7% buffer of spare carts for either growth or replacement.

**Motion:**

**On the motion of Commissioner Hayse, seconded by Commissioner Caflisch the Commission authorized the purchase of 3,700 blue standardized sanitation carts from Otto at a total price of \$193,695.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

**Motion:**

**On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission recessed for five minutes. The open meeting will resume at 7:38 P.M.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

The meeting resumed at 7:38 P.M.

## Minutes of the Independence City Commission's May 27, 2021 Meeting

- G. Consider awarding the Zoo Master Plan project to PGAV Architects.

The Ralph Mitchell Zoo is currently in early stages of pursuing Association of Zoo and Aquariums accreditation, with the application date for submittal projected to occur in March of 2026. One of the AZA accreditation documents that is needed is a Zoo Master Plan, which serves as the cornerstone document that provides a roadmap for all changes to the zoo for the next twenty years. This document will discuss building needs, landscaping, the acquisition and deposition of animals, other secondary plan creation and implementation (such as educational and conservation plans) as well as personnel needs. This document is necessary to pursue accreditation and to further the mission of the zoo. PGAV Architects was one of two firms that submitted a proposal for the Zoo Master Plan for Ralph Mitchell Zoo. Based upon the proposal submitted, PGAV provides the best value for the Zoo Master Plan including site visits, exhibit planning, circulation diagrams, and avenues to improve revenues.

**Motion:**

**On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission approved PGAV Architects bid for a Zoo Master Plan for \$74,250.00.**

**Aye: Ysusi, Cafilisch, Hayse**

**Nay: None**

- H. Consider setting the date of July 22, 2021 for a public hearing to consider condemnation of 505 N. 24<sup>th</sup> as dangerous and unsafe.

The structure was involved in a fire on May 6, 2021 that destroyed the house, and it is unhabitable.

**Motion:**

**On the motion of Commissioner Hayse, seconded by Commissioner Cafilisch the Commission set the date of July 22, 2021, at 5:30 p.m. for a public hearing to consider condemnation of 505 North 24<sup>th</sup> Street.**

**Aye: Ysusi, Cafilisch, Hayse**

**Nay: None**

### VIII. REPORTS

- A. Treasurer's Quarterly Financial Statement for Quarter Ending March 31, 2021

Director Lies presented the Treasurer's Statement and answered questions from the Commission.

- B. Engineering/Public Works Project Status

## Minutes of the Independence City Commission's May 27, 2021 Meeting

Engineer Garris presented answered questions from the Commission on the status of various projects around the city.

### C. City Board Minutes

1. March 2, 2021 Independence Historic Preservation
2. March 2, 2021 Planning Commission

### IX. CITY MANAGER'S COMMENTS

City Manager Passauer reminded the Commissioners about the upcoming employee health fair, possibly revising the street light policy and street extension projects.

### X. COMMISSIONERS' COMMENTS

None

### XI. PUBLIC CONCERNS

Larry Walker asked the Commission to consider returning a shotgun he had found that no one had claimed.

### XII. ADJOURNMENT

#### **Motion:**

**Mayor Ysusi moved to adjourn. Commissioner Caflisch seconded.**

**Aye: Ysusi, Caflisch, Hayse**

**Nay: None**

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Louis Ysusi, Mayor

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Leonhard Caflisch, Commissioner

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Dean Hayse, Commissioner

Attest:

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City Clerk/Treasurer