

Minutes of the Independence City Commission's August 26, 2021 Meeting

The Independence City Commission met for a regular meeting on August 26, 2021, at 5:30 P.M. at the Memorial Hall. Commissioner Leonhard Cafilisch and Commissioner Dean Hayse were present. Mayor Louis Ysusi was present by phone. 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
Shawn Wallis, Fire/EMS Chief
Lacey Lies, Director of Finance
John Garris, City Engineer/Director of Public Works and Utilities
Mike Devore, Memorial Hall Maintenance
April Nutt, Director of Housing Authority
Jason Reddy, Police Officer

Visitors

Larry McHugh
Taina Copeland
Dave Chism
Camen Chism
Cory Standridge
Amy Diaz
Todd Campbell
Rosanne Hogge
Victoria Jensen
Mitchel Jensen
Todd Elliott
Lee Stroble
Anne Bertie
Brienne Ford
Rob Eisenhart
Norman Chambers
Teresa O'Rourke
Richard Basham
William Smith
Mona Saleh
Kari Barrera
Paul Vaughn
Derrick Davis
Mitchell Skellenger
Zachary Lyon
Thomas Blakemore

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William Webb
Tim Kaiser
Madison Mays
Butch Holum
Mason Carter
Sam Weinberg
Gary Janzen
Bob Schroeder
Marcus Taylor
Edwin Munninger
Anthony Royse
David Rood
Mary Fritze-meier
David Andres
Austin Fin
John Blakemore
Brent Littleton
Michael Borovetz
Brenda Lumm
Dorcas Sutton
Jennifer Sanders
Pam Davison
Jerry Shanks
Chrystal Witwer
Sandy Witwer
Herman Witwer
Lux Wright
Don Smith
Dyann Trollope
Jerry Trollope
Joseph Housel
Mitchell Winebrenner
Jenny Rood
Ashley Hiller
Bill Schadeberg
Ilona Schadeberg
Matt Bateson
Alicia Unruh
Melody Kikkert
Janet Stuckey
Kathy Collins
Mike Collins
Tom Schwarz
John Francoean

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Lurinda Francoean
Gary Davidson
Alberta Smith
Arlene Dalton
Harry Smith
Joe Loffer
Lisa Wilson
Zach Unruh
Lisa Cagle
Abby Cagle
William Davison
Jacob Arnold
Kensi Hanson
Dale Bowser
Anne Sager
David Fritzemeier
Jacob Lyon
Tallon Mitchell
Jerry Mitchell
Jim Kelly
Larry Witwen
Sheri Conger
Joleen Medford
Walter Hudibars
Jason Wright
Susan Thompson
Sara Kaufman
Kurt Harris
Carol Harris
Linda Osborn
Bill Wallenschneider
Tom Hoffert
Dereck Renfro
Yvonne Martinez
Terry Martinez
Judy Moore
Geo Eisele
Michael Leonard
Reeda Leonard
Dale Lemon
Carrol Lemon
Jeff Weimer
Larry Weimer
Justin Martin

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Magan Martin
Joey Bagley
Drew Demo
Cory Bowder
Karl Johnson
John Smart
Susan Smart
Jerry Alexander
Terry Woodruff
Christy Jones
Lynn Jones
Larry Walker
Kari Walker
Louie Hernandez
Margaret Hernandez
Dahrla Hinton
Thelma Wells
Wendall Wells
Glenna Lawrence
Cherylane Pope
Kenneth Kaiser
Crystal Walsh
Rick Hufferd
Lori Wesselowski
Omar Elshabassy
Lois Janzen
Ned Stichman
Jason Elmore
Deana Combs
Trisha Purdin
Keaten Kistler
Maudia Kistler
Miles Kaiser
Joyce Kaiser
Joyladene Walsh
Mark Mays
Steve Pratt
Wilma Davis
Tim Christensen
Greta Gilstrap
Jim DeVore
Jeremy Robertson

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I. REGULAR SESSION

A. Call to Order

Vice Mayor Hayse called the meeting to order.

B. Pledge of Allegiance to the United States of America

C. Adoption of Agenda

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission adopted the agenda with the following modifications: add an executive session regarding "Data related to financial affairs or trade secrets of second parties" after "Adoption of the Agenda"; add an action item to consider an inducement agreement with an industrial prospect directly after this executive session.

Aye: Ysusi, Caflisch, Hayse

Nay: None

II. EXECUTIVE SESSION

A. Data related to financial affairs or trade secrets of second parties.

This item was added to the agenda.

Motion:

On the motion of Commissioner Hayse, seconded by Commissioner Caflisch 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 found at K.S.A. 75-4319(b)(4). The open meeting will resume at 5:49 P.M.

Aye: Ysusi, Caflisch, Hayse

Nay: None

The meeting resumed at 5:49 P.M. with no action taken.

III. ADDITIONAL ITEM

This item was added to the agenda.

A. Consider an inducement agreement with an industrial prospect.

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The agreement allows the City to transfer a 14.51-acre tract of land to Precision for construction of a new facility where the company will expand its business, which involves the remanufacturing of railroad track surfacing and maintenance equipment and providing related contract services. The company currently operates a facility on South 19th Street in Independence and intends to retain that facility as well.

City Manager Kelly Passauer explained the property is valued at \$145,100 and, under the agreement, will be transferred to Precision with the purchase price forgiven over a six-year period, provided the company meets specific terms for employee retention and hiring. The company currently employs 32 and expects to create an additional 15 jobs over the next six years.

In addition to the property agreement, the City is applied for Kansas Department of Transportation (KDOT) funding to support the enhancement of driveways and construction of two new entrances to the property to facilitate truck and heavy equipment traffic. We were notified late this afternoon that KDOT has modified their original grant from \$790,070 to \$1,103,992 to encompass street improvements to serve both the distribution center and Precision.

Precision's project is expected to cost approximately \$2 million, and construction could begin as early as October.

In addition to more local jobs, Passauer explained, the project will have a positive ripple effect for other local businesses in terms of materials, goods and services purchased in the process of facility construction and among business travelers for the parent company, located in Texas.

"We are very pleased Precision Railway has made the decision to expand its operations here," Passauer said. "The company evaluated out-of-state options, and its choice to remain in Independence is an economic win for our community."

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission authorized the Mayor to sign an inducement agreement for Precision Railway Equipment Company, LLC subject to the City Attorney's review and approval.

Aye: Ysusi, Caflisch, Hayse

Nay: None

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IV. APPOINTMENTS

- A. Economic Development Advisory Board – One Resignation – Applications Due by September 17, 2021

V. 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 Cafilisch, seconded by Commissioner Hayse the Commission adopted the consent agenda.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

A. Appropriations

1. A-1895
2. D-2019
3. P-1869

- B. Consider authorizing the Mayor to sign an Interlocal Cooperation Agreement between the City and the Independence Area Public Library.
- C. Consider third amendment to the Water Supply Loan Agreement with KDHE.
- D. Consider increasing the incentive package for the Distribution Center.
- E. Consider authorizing the City Manager to sign a contract for vending services with Stephens Vending.
- F. Consider formal approval of a Change Order for airport marking work.
- G. Consider authorizing the KAN-OKLA 100-Mile Highway Sale on Friday, September 10th and Saturday, September 11th, 2021.

VI. PUBLIC HEARINGS

- A. Public hearing to consider adopting a resolution authorizing the City to exceed the Revenue Neutral Rate.

The City of Independence is requesting the authority to increase the mill levy to a maximum of 63 mills from 55.249 mills. Total taxes levied for 2022 would be \$3,002,780 a \$403,281 increase from the \$2,599,499 levied each year since 2017. The increase is driven by two main factors, 1) employee compensation. Our employees are our largest operating expense in the General Fund and our biggest

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asset; and 2) rising operating costs to the City, such as property, auto, and health insurance, workers compensation insurance, utilities, gasoline, parts, equipment, and many other daily inputs and supplies. A 14% increase cost in health insurance, 2% cost of living increase and a 2% average merit raise yields a \$317,613 increase to payroll expenses in the General Fund and General Fund Employee Benefits. It should be noted that the actual merit increase per employee is determined by the results of a performance evaluation and may be less or more than 2%. Adding two additional police offers adds an additional \$96,773, bringing the total payroll related increase to \$414,386.

The need to hold a RNR Hearing was derived from Senate Bill 13. The City will still need to hold a separate Budget Hearing where they determine the final levy amounts. These amounts shall not exceed the rate set at the RNR hearing.

Motion:

On the motion of Commissioner Cafilich, seconded by Commissioner Hayse the Commission adopted Resolution 2021-028 authorizing the City to exceed the Revenue Neutral Rate of 54.550.

Aye: Ysusi, Cafilich, Hayse

Nay: None

Motion:

On the motion of Commissioner Cafilich, seconded by Commissioner Hayse the Commission recessed for five minutes. The open meeting will resume at 7:27 P.M.

Aye: Ysusi, Cafilich, Hayse

Nay: None

The meeting resumed at 7:27 P.M.

Motion:

On the motion of Commissioner Cafilich, seconded by Commissioner Hayse the Commission recessed for five minutes. The open meeting will resume at 7:33 P.M.

Aye: Ysusi, Cafilich, Hayse

Nay: None

The meeting resumed at 7:33 P.M.

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- B. Public hearing to consider condemnation of 800 E. Edison as dangerous and unsafe.

The City of Independence adjourned the public hearing on June 24, 2021, for August 27, 2021, at 5:30 PM to consider condemnation of this structure as dangerous and unsafe. Tyler has been in contact with the family, and they have had several deaths recently in the family. The family plans on meeting in Independence within the next 30-days to determine what they wish to do with the property.

The City recommends adjourning the public hearing until October 27, 2021, to allow the family time to decide what to do with the property.

Motion:

On the motion of Commissioner Caflisch, seconded by Commissioner Hayse the Commission adjourned the Public Hearing until October 27, 2021, at 5:30 PM.

Aye: Ysusi, Caflisch, Hayse

Nay: None

VII. ITEMS FOR COMMISSION ACTION

- A. Consider a request to modify a conditional use permit for a "Children's Home" in a R-3, low-density multifamily dwelling district at 517 S. 4th Street.

On August 3, 2021, the Planning Commission held a public hearing and recommended approving a modified conditional use permit for a "Children's Home" At 517 S. 4th Street with the following conditions:

1. The facility shall be licensed by the state and shall meet all city, county and state requirements pertaining to operation, facilities, equipment, and other features.
2. Off-street hard surfaced parking spaces shall be provided to accommodate one vehicle for each six beds. Any fraction shall be rounded up. Such parking shall meet the requirements of the Off-Street Parking and Loading Regulations.
3. A "hard surfaced" loading zone capable of accommodating one car for every ten occupants shall be provided in addition to the required parking spaces in order to provide for easy pickup and discharge of passengers.
4. Any visitors of the facility shall not block the alley or private drives.
5. The total number of residents cannot exceed eight (8).
6. The residents shall be from any county contracted with the Kansas Department of Children and Family Services.

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7. No occupants may be criminal offenders, juvenile delinquents and/or going through law enforcement proceedings.
8. The facility shall be operated in a manner that will not adversely affect other properties and uses in the area.
9. The facility shall provide a visual screen along all property lines abutting any residential use, such screening shall be a 6' privacy fence on the north property line.
10. Said facility shall be allowed one sign, not to exceed 18 inches by 36 inches in dimension, which shall be attached to the house.
11. Outdoor storage of materials shall be permitted insofar as such materials or equipment are utilized as part of the facility operation.
12. The conditional use permit is not transferable to another property owner or to another location.

The applicants must be in compliance with all City codes and must continue to be in compliance with all City codes. This would include the requirement to acquire a City occupation license which must be renewed annually.

Motion:

On the motion of Commissioner Caflich, seconded by Commissioner Hayse the Commission accepted the recommendations from the Planning Commission and adopt a resolution rescinding Resolution 2020-009 and approving a conditional use permit for a "Children's Home" at 517 S. 4th Street with modified conditions.

Aye: Ysusi, Caflich, Hayse

Nay: None

- B. Consider a request for a conditional use permit for "Retail trade not elsewhere listed" in a M-1, light industrial district, at 1001 North 13th Street.

On August 3, 2021, the Planning Commission held a public hearing and recommended the following action:

1. Accepting the recommendation of the Planning Commission to approve a conditional use permit for "Retail trade not elsewhere listed" in a M-1, light industrial district at 1001 N. 13th Street with the following conditions:
 - a. The conditional use permit is not transferable to another location.
 - b. The applicant must follow all City codes.
 - c. The retail space shall not exceed more than fifty (50) percent of the building.

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Motion:

On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission accepted the recommendations from the Planning Commission and adopt a resolution approving a conditional use permit for "Retail trade not elsewhere listed" in a M-1, light industrial district at 1001 N. 13th Street with conditions.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

- C. Consider a text amendment to Appendix B-Zoning of the City code to add "Utility substations not elsewhere listed" to Appendix A. "Listing of Permitted and Conditional Uses."

On August 3, 2021, the Planning Commission conducted a public hearing to adopt a text amendment to Appendix B-Zoning of the City Code to add "Utility substations not elsewhere listed" to Appendix A. "Listing of Permitted and Conditional Uses."

The Planning Commission recommended that the City Commission approve a text amendment to Appendix B-Zoning of the City code to add "Utility substations not elsewhere listed" to Appendix A. "Listing of Permitted and Conditional Uses," which is consistent with 1604.2 a, b, and c as described by City staff and as included in the staff report with the following determinations:

- a. That such change is consistent with the intent and purpose of these regulations;
- b. The areas which are most likely to be directly affected by such change include A-1, R-1, R-2, R-3, R-4, R-5, and C-1 as a conditional use; and C-2, C-3, C-4, M-1, and M-2 as a permitted use which is consistent with the conditional and permitted uses for "Electricity regulating substations"; and
- c. The proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected due to infrastructure required for changing technology.

Motion:

On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission accepted the recommendations from the Planning Commission and adopt an ordinance amending Appendix B-Zoning of the City Code by adding "Utility Substations Not Elsewhere Listed" to Appendix A. "Listing of Permitted and Conditional Uses".

Aye: Ysusi, Cafilisch, Hayse

Nay: None

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- D. Consider adopting a Resolution and a Proclamation for the Neewollah Celebration.

The Neewollah Festival has been a great source of pride for the City of Independence since 1919. The festival includes numerous activities for families, entertainment for the citizens of Independence, and for the neighboring communities to enjoy.

Lori Wesselowski, Neewollah Generalissimo, has requested street closures in the downtown and Riverside Park areas for October 22nd through October 30h for the 2021 Neewollah festival, which includes the carnival, food vendors, parades and other associated activities.

Motion:

On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission adopted a Resolution and a Proclamation for the Neewollah Celebration.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

- E. Consider adopting a resolution approving the form of Supplemental Bond Agreement No. 1, amending and supplementing a certain bond agreement entered into in connection with the issuance of taxable industrial revenue bonds, Series 2016A and Series 2016B, Montgomery County Assisted Living Project.

In 2016, the City of Independence issued its Taxable Industrial Revenue Bonds, Series 2016A and Series 2016B (Montgomery County Assisted Living Project) for the purpose of financing the construction of an assisted living facility leased to Montgomery County Assisted Living, LLC (the "Tenant"). Community National Bank (the "Bank") purchased and remains the sole owner of the Series 2016A Bonds, which will mature in 2038. The Tenant and the Bank have negotiated modifications to the interest rate provisions of the Series 2016A Bonds in order to reduce the debt service requirements for the Tenant. The proposed modifications require consent of the City, as issuer of the Bonds. Approval of the modifications will not affect the property tax exemption granted, or the liability, debt limit, or credit rating of the City.

Motion:

On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission adopted a resolution approving the form of Supplemental Bond

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Agreement No. 1, amending and supplementing a certain bond agreement entered into in connection with the issuance of taxable industrial revenue bonds, Series 2016A and Series 2016B, Montgomery County Assisted Living Project.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

- F. Consider adopting an ordinance related to the security and operation of the City of Independence Municipal Airport.

This spring after an incident with a plane partially blocking a runway along with other incidents, the ordinances governing the City of Independence Airport were reviewed and compared with airports of similar size and capabilities.

After review, it was found that there was an opportunity to clarify responsibilities related to vehicles and activities in and around the flight area to maintain safe and secure airport operations. Some of the main features include the ability of the Airport Manger to:

- make sure the vehicles are parked in a safe manner in appropriate locations,
- that traffic shall not be impeded,
- that restricted areas may be created for public safety,
- that the presence of animals shall be regulated for public safety, and,
- that restrict airspace uses to those approved by the City.

Motion:

On the motion of Commissioner Cafilisch, seconded by Commissioner Hayse the Commission adopted an ordinance related to the security and operation of the City of Independence Municipal Airport.

Aye: Ysusi, Cafilisch, Hayse

Nay: None

- G. Consider authorizing proposals for a Geotechnical study of City Hall and Fire-EMS.

City Staff is requesting permission to seek proposals for Geotechnical studies at City Hall and the Fire-EMS building. These studies will consist of borings to study the soil up to 20' outside, 12-14' inside the building and 3' in the basement. They are also requesting Piezometer installation to be placed in the apparatus bay and the East and West drive outside the apparatus bay to determine water levels. Fire-EMS building will have borings at the new building for analysis.

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Motion:

On the motion of Commissioner Caflich, seconded by Commissioner Hayse the Commission authorize the City to seek proposals for Geotechnical Services.

Aye: Ysusi, Caflich, Hayse

Nay: None

- H. Consider RFP for Professional Real Estate Services for marketing and the sale of Building "D."

The City of Independence received the survey with the land split of the Hospital Complex and would like to submit an RFP for a professional real estate company to market Building "D."

Motion:

On the motion of Commissioner Caflich, seconded by Commissioner Hayse the Commission directed the City Staff to issue an RFP for Professional Real Estate services for marketing and the sale of Building "D".

Aye: Ysusi, Caflich, Hayse

Nay: None

VIII. REPORTS

A. Public Works Projects

City Engineer Garris gave an update on various city projects.

IX. CITY MANAGER'S COMMENTS

Chief Wallis announced that a grant was received from CVR Refinery for 10 SCBA units.

X. COMMISSIONERS' COMMENTS

Mayor Ysusi thanked the Commissioner for their help at this meeting.

XI. PUBLIC CONCERNS

Bill Wallenschneider commented on the lack of participation from the public in Commission meetings.

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XII. EXECUTIVE SESSION

- A. Data related to financial affairs or trade secrets of second parties.

Motion:

On the motion of Commissioner Hayse, seconded by Commissioner Caflich 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 found at K.S.A. 75-4319(b)(4). The open meeting will resume at 8:39 P.M.

Aye: Ysusi, Caflich, Hayse

Nay: None

The meeting resumed at 8:39 P.M. with no action taken.

- B. Consultation with an attorney on matters that would be deemed privileged in an attorney-client relationship.

Motion:

On the motion of Commissioner Hayse, seconded by Commissioner Caflich the Commission moved to recess for an executive session for consultation with an attorney representing the City regarding a legal issue pursuant to the attorney/client privilege exception found at K.S.A. 75-4319(b)(2). The open meeting will resume at 9:00 P.M.

Aye: Ysusi, Caflich, Hayse

Nay: None

The meeting resumed at 9:00 P.M. with no action taken.

- C. Personnel matters of non-elected personnel.

This item was cancelled.

XIII. ADJOURNMENT

Motion:

Commissioner Hayse moved to adjourn. Commissioner Caflich seconded.

Aye: Ysusi, Caflich, Hayse

Nay: None

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Louis Ysusi, Mayor

Leonhard Caflisch, Commissioner

Dean Hayse, Commissioner

Attest:

City Clerk/Treasurer