

**CITY OF INDEPENDENCE  
SPECIAL COUNCIL MEETING MINUTES  
MAY 6, 2008 4:45 P.M.  
COUNCIL CONFERENCE ROOM**

Mayor Kurtz called the meeting to order at 5:01 p.m. Present were Mayor Gregory Kurtz and Council Members Jim Crooks, Dave Grendel, George Klepacz, Tom Narduzzi, Jim Riley and Anthony Togliatti. Also present were Finance Director John M. Veres (left at 5:06 p.m., Service Director Dave Snyderburn (left at 5:06 p.m.), Engineering Coordinator Don Ramm (left at 5:06 p.m. Law Director Greg O'Brien and Economic Development Director Ron White.

Also present were Jackie Haddad, Jim Piteo and Dr. Carl Asseff.

**FIRST READING**

**RESOLUTION 2008-60** A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 TO THE 2007/2008 ROAD MAINTENANCE AND REPAIR CONTRACT BETWEEN THE CITY AND ANTHONY ALLEGA CEMENT CONTRACTOR AND DECLARING AN EMERGENCY

**Moved by Riley, seconded by Grendel, to read by title only. Council polled: 6 yes/0 no; motion carried.**

**Moved by Grendel, seconded by Riley, to suspend the rule requiring two separate readings. Council polled: 6 yes/0 no; motion carried.**

**Moved by Riley, seconded by Crooks, to adopt. Council polled: 6 yes/0 no; motion carried.**

**RESOLUTION 2008-61** A RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 TO THE 2007/2008 ROAD MAINTENANCE AND REPAIR CONTRACT BETWEEN THE CITY AND ANTHONY ALLEGA CEMENT CONTRACTOR AND DECLARING AN EMERGENCY

**Moved by Riley, seconded by Grendel, to read by title only. Council polled: 6 yes/0 no; motion carried.**

**Moved by Riley, seconded by Togliatti, to suspend the rule requiring two separate readings. Council polled: 6 yes/0 no; motion carried.**

**Moved by Grendel, seconded by Riley, to adopt.**

Discussion: Finance Director Veres stated, I'll probably prepare an amendment for the Street Resurfacing Fund for next week to capture these change orders. I'll be using the anticipated savings from the Rockside Road Project of \$700,000.

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**Council polled: 6 yes/0 no; motion carried.**

**RESOLUTION 2008-62** A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A SETTLEMENT AGREEMENT AND RELEASE BETWEEN FRANK AIELLO AND THE CITY OF INDEPENDENCE AND LETTER OF UNDERSTANDING BETWEEN THE CITY OF INDEPENDENCE, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 2375, AND FRANK AIELLO AND DECLARING AN EMERGENCY

**Moved by Riley, seconded by Togliatti, to read by title only. Council polled: 6 yes/0 no; motion carried.**

**Moved by Grendel, seconded by Riley, to suspend the rule requiring two separate readings. Council polled: 6 yes/0 no; motion carried.**

**Moved by Grendel, seconded by Riley, to adopt.**

Discussion: Mayor Kurtz commented I believe everyone is up to speed with respect to what has transpired with our agreement with the Fire Fighters Union. The conclusion is we're able to hire Frank and bring him in to help fill in where necessary. He'll be a good addition to the future of the fire fighter/paramedic crew.

**Council polled: 6 yes/0 no; motion carried.**

**OTHER MATTERS:**

Mayor Kurtz stated as you can see, based on what has transpired on Wisnieski Parkway improvements, all the pavement has been put in place. All they're going to finish up now is the white-topping of the parking lot transitioning the curbs from the new elevation to the existing road. They'll be doing the knockouts and pouring around the catch basins.

I don't think there were any problems this past weekend with the Kiwanis Fishing Derby. Everything went off without a hitch?

Councilman Klepacz replied wonderful, except for the rain.

Mayor Kurtz continued so we were able to accomplish that event without any problems. We're anticipating opening this road before we open the pool. I thank Council for their quick action on the changes resulting in a project well done.

The next item on the agenda is moving forward with the replacement to the open Council position.

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Councilman Crooks stated I would like to start by saying that we concluded last week's meeting publicly and we left the opportunity open for us to have some correspondence in terms of how we would vote – whether it would be by secret ballot, or whether it would be done publicly. To my knowledge there was no group correspondence. Perhaps that indicates some sort of agreement for a public vote when we vote. Does anyone have any thoughts on that?

Councilman Riley replied, I have no problem with that.

Councilman Riley asked Law Director O'Brien, how do we go about doing this vote? Do we now decide to vote and then we make a motion after we vote?

Law Director O'Brien replied informally we discussed between everybody and if you come to an agreement that there is no need for a vote. There are two types of voting - through a ballot or through a hand vote. If some people want one or the other, then you're going to have to put that to a vote and go by whatever the majority desires.

Councilman Klepacz stated I agree with Councilman Crooks. I would just as soon vote publicly.

Councilman Riley responded I have no problem voting publicly. Do we want to raise our hands for a certain candidate?

Councilman Togliatti responded I thought we were going to have some discussion regarding our perception and take on the interview prior to the vote. Is that what we're going to do?

Councilman Riley replied yes. If you want to say something about a particular candidate I guess now is the time.

Councilman Crooks responded I'm fine with discussion beforehand.

Councilman Togliatti stated based on sitting in on the interview and then reading through the minutes I would still have to say that I support Jackie Haddad over Jim Piteo. There were a lot of good points and good ideas that she brought forth in the interview.

Dr. Carl Asseff asked if he could make a public comment.

Mayor Kurtz replied right now I'm here to facilitate the meeting. I would like for Council to exhaust their discussion first. This meeting is for them and their benefit.

Councilman Narduzzi stated, my view is not going to change. I stated from day one that I was going to follow the vote of the people and that's exactly what I intend to do. Mr. Piteo came in eighth. I have nothing against Jackie. She's a great person and she would probably bring a lot to the table, but I am following the vote of the people. Jim worked hard. He still works hard to this day. He attends everything he is capable of attending and he hasn't given up. He's going to be a great candidate for 2010 if he decides to run. I think Jim is my guy and I'm going to follow the vote of the people.

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Councilman Togliatti responded the one thing that stands out in my mind is that in general the constituents disagree with Jim Piteo on the statement that Jim made, *If you slap some condominiums on that hillside, apartment maybe, away from the center of town but close enough where young professionals can come in.* I don't think the general constituents of Independence would be in agreement with that. I think that the past four senior housing ballot issues are evidence of that. I disagree with him on that, and I think all of us here at the table disagree on that.

Councilman Crooks asked, what was the comment again?

Councilman Togliatti replied the comment was, *We have a hillside sitting over there and the Cavs kind of stole an idea of mine. You have a beautiful overlook over the valley. If you slap some condominiums on that hillside, apartments maybe, away from the center of town.*

Councilman Riley responded, that's one issue. I think if we all wrote down our ideas on senior housing or downtown development, I have ideas that differ from you, differ from Dave, differ from Tom, George and Jim. I'm not going to hold him to that one comment that that's the only thing that can happen there.

In my opinion, the votes, and I appreciate other candidates, Jackie coming in for the interview, but I stated my opinion.

Councilman Togliatti responded and there is another comment I came across in the minutes. I don't know if Jim fully has a complete understanding of City workings and the budget. This is Jim Piteo I'm quoting, *I think we have Pleasant Valley Road. I think we have Rockside Road. We have the extension of Route 21 down there toward the Cloverleaf. I think we have enough office buildings.* I know all of us sitting here at this table can agree that we don't have enough office buildings. We're striving. We have an economic development director who is out there trying to pursue more companies, more office buildings. So with a compilation of a few of these comments, I'd have to support Jackie Haddad.

Councilman Grendel commented, I was glad that we had a chance to compare both candidates. It was a good forum. They were able to side by side answer the same questions. Again, both are wonderful individuals and that's goes without saying, and good residents. But, comparing the answers given, and again, I've known Jim socially and I can't say anything bad, but when you compare who has more to offer, and this is our opportunity to use our better judgment on what is best for the City. This is our chance to look at where we can improve this body as far as ideas, as far as the dynamics of who has a grasp on what is going on.

I know that Jim has been to a lot of meetings lately. Jackie has been to meetings for at least five or six years almost faithfully. She's been sitting here almost as much as anybody else, sitting at not only the regular meeting, but committee meetings and school board functions. She has been very active in the community. With no offense to Jim, I think she has more to offer, ideas, thinking outside of this small community. She has experience from living in other parts of the state that I think would make us better. We may not like it, but she tells us how it is. We're here to perform a job that we were entrusted to do. We're supposed to make this a better community

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and I think she brings a little different thinking to the table and will keep us on our toes, and we will perform better as a legislative body.

I'm not here to blast anybody. Anybody that would want to take this position you would have to commend for showing interest even to run. I give the other candidates who ran credit also because it's not easy to go up there and make yourself a target. We have a chance to weigh the pros, cons and merits of both candidates.

Councilman Riley commented the way the election finished Jim was eighth, Mike Osysko was ninth and Jackie was tenth – a difference of roughly 600 votes.

Councilman Crooks commented I like what Dave said in terms of having two good candidates who are both considerable speaking worthy of the position. It's no secret now how each of us stand. It has been already reported publicly in the paper.

I have been consistent in terms of communicating with the papers and I believe in my heart that Jim Piteo, we're enacting the will of the people, and I think that's the decision that Council has to make. Are we enacting the will of the people? I think Jim's place, and the fact that he ran in the first place makes him a qualified candidate. The fact that he finished eighth in a contest that selects seven I think makes him a better candidate. He has continued to come to meetings even though he lost. I'm sure it probably wasn't easy for him to lose but he continued to not only come to council meeting, but to caucus meetings, committee meetings and the planning commission meetings. That shows something to me. That shows that he wants to continue to serve. And he has asked for it. He has asked for our support and I give him a lot of credit for doing that.

We've heard that some of the answers in the interview may not comparably speaking be better, one person's wasn't as good as the other's, but I would encourage Council to the fact that that's only one small component of the total equation in terms of making a decision. The fact of the matter, in my opinion, is that none of us know how the City really works until we're sitting in this seat.

Councilman Klepacz commented, I'm going to continue to support Mrs. Haddad. I thought clearly in the interview she was focused and articulate. She has a clear understanding of the City's issues. I didn't agree with all of her positions, but I think that is actually an important point in that, in my opinion, she clearly would be an independence voice.

The other thing that she brings to the table is she has a vast outside experience far outside of this town. The other issue is that if you look around this table we have all males. I think this would be the first time in years and years and years that we did not have some gender diversity on Council. I think that would be a very important issue.

I would argue regarding the argument about following the vote of the people that it is totally off. If Mr. Blaze had not been in the election the election in all probability would probably have been different. I think clearly when the fact that this happened that in effect it negates the entire election in my view. Clearly Mr. Blaze was a popular candidate because he did get the most

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votes. We don't know how many people plunked Mr. Blaze. And for those people who don't know what plunking is, plunking is when you vote for one person. So I think the argument with following the vote of the people is not relevant to this because of the circumstances.

Clearly in my mind the performance of Mrs. Haddad both here and in her Courier interview, which I had the opportunity to sit in on that particular interview, she was focused, articulate and really has a handle on what we need to do as a City. I will still be supporting her.

Councilman Togliatti commented, I would like to agree with George that I'm really not taking the vote into consideration. The fact of the matter is that the last and only time that there was ever a vacancy on Council in the City of Independence, Vern Blaze was appointed. Vern Blaze did not run for Council that year. He had never run for Council, and he was appointed as a Councilman.

We were elected to do what the people think is best for the City of Independence. And I'm basing my decision on what I think the people would want. And based on the interviews, I have to agree with George. I do think Jackie did a wonderful job. And based on the comments that I read to you, I do not think the residents of Independence would be in favor of condominiums or apartments as Jim mentioned, nor should we stop building office buildings. I think if the residents were aware of those responses, it may be a bit different.

Councilman Klepacz commented, maybe I didn't make it explicit when I mentioned the Courier interview. The Courier also found Mrs. Haddad's answers to be more appropriate than some of the other ones. They did endorse Mrs. Haddad for election to the Council.

Councilman Crooks stated I understand that we're probably not going to change each other's minds, but I would like to respond to a comment made by George. I understand that it's your prerogative that you are not considering the will of the people. I couldn't disagree with you more, but that's why we're all here. We disagree and agree on some matters. The comment about having a woman's perspective on Council I guess would be equally irrelevant in my opinion from the standpoint that from my perspective that policy making knows no gender, knows no race. It almost separates the value or the importance of having a different gender's perspective. I couldn't disagree with that comment more.

Councilman Riley stated Tom didn't receive the endorsement of the Sun Newspaper in the last election and neither did Chuck Cichocki and they both won and were on Council.

Mayor Kurtz asked, anybody else on Council want to comment?

Mayor Kurtz stated to Dr. Asseff that he had three minutes to comment.

Dr. Asseff stated this appears to me as a sham. The people voted along the lines of who they wanted in. None of you had to go through this kind of scrutiny to run for election. No one asked you questions. No one said were you fit to sit on the ballot. You didn't have to do that. You (inaudible) and you took your fortitude and went forward.

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Now, we have a hierarchy process where eleven or twelve people got votes. If one is out, everybody should move up. Because under that same process Riley should be Vice Mayor. There is no doubt about it. That is a legitimate process. And if it has to be voted, and if you, Mr. Mayor, have to vote to break the tie, you cannot vote to put somebody on a legislative body that will approve what you do or don't do. That is really a violation of constitutional type approach to what goes on here. You have a process. The people spoke. You might not like what the people said, but they spoke, they set the format, they gave you all the numbers, and No. 8 will be and should be now No. 7 because of the abdication of his seat. There is your process. That process cannot be challenged. There has no bias in it, no favoritism, no he's on our side or on their side, there is no elitism to it. It's the vote of the people and this individual will sit on Council for the next 18 months and is subject to election.

Now, one of issue, Mr. Dann. I'm bringing that up. What do they do if they put him off? What will they do for attorney general? They will appoint somebody and at the next general election that comes up in November they will vote for the candidates up for attorney general. Do you want to do that and then have another election for just one seat in November? That's another process. But you can't really negate what the people have said. Whether they want condos or no condos or apartments, that's all nonsense. That is so superficial to the real issue. The people voted. They gave you a group, and now you have to decide do we accept what they wanted, or do we go with our own biases and prejudices to make or break the power of Council?

Mayor Kurtz replied, by way of information, people in this room did not make the Independence Charter. The Charter dictates the process of the replacement to Council. The Charter dictates that. And so we're following the Charter, which is our constitution.

In terms of the Mayor breaking ties, that's the way it is in legislative action too. That's just our process. If there is a tie on a piece of legislation, the Mayor breaks the tie.

Dr. Asseff responded you have the opportunity to rise above this and do what is best for the City, or go with your biases.

Mayor Kurtz stated, the next step is, to be consistent, for clarification purposes, we didn't make the Charter. The people made the Charter. We're following the rules that were established when they voted for the Charter, and this is the way our Charter reads, with all due respect to your comments.

I guess at this point it's pretty clear that there is a impasse in terms of Council's decision. And I guess before I get involved I just want to make sure that you've reached an impasse. The only reason the Mayor ever gets involved is if there is an impasse. So I want to go on record of saying that Council has reached an impasse before you vote on this and make sure that I haven't missed anything. The only reason I get involved in this decision is because you're reached an impasse and were not able to make a decision. Is that correct?

Councilman Riley replied maybe for the records we should officially go around and say who we support.

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Councilman Klepacz commented we need to vote.

**Moved by Riley, seconded by Narduzzi, to take a vote for Jim Piteo to fill the open position on Council left by the resignation of Vern Blaze. Council polled: 3 yes/3 no (Grendel, Klepacz, Togliatti).**

Councilman Klepacz stated, by the same token, I would like to make a motion.

Mayor Kurtz replied we haven't finished this one. I think I have to vote. If there is a tie on the motion, I have the option of voting or not voting?

Law Director O'Brien replied you have the option of not voting. It says "may." It doesn't say "shall."

Councilman Klepacz stated my point was that I make this other motion and then it's on record. Just because we voted against that motion does not mean that we were voting for Jackie.

Mayor Kurtz replied by Roberts Rules of Order we have to finish one motion before you can start another one, correct?

Law Director O'Brien replied if the next motion is a general motion. What Councilman Klepacz is talking about is a general motion.

Mayor Kurtz stated you have to create a motion that supersedes this motion in order not to vote on it. You finish this one and then you go to the next one. We're not done with this one yet. We can do that next but we have to finish this one.

I guess I have to reiterate my earlier statement that Council has reached an impasse. Following our Charter, the only way you resolve that impasse is the Mayor has the option of voting on this issue, or waiting 45 days and picking anybody I want. So that is really what Council is telling me to do, to make the decision, correct? Is that right?

Councilman Riley replied yes.

Councilman Crooks replied yes.

Mayor Kurtz stated if you're asking me to make the decision then I don't have to make the decision and just sit here and wait for 45 days and I can take anybody I want. But, I don't need that. It's not even a guess for me at this point. I have no problem with dealing with the situation that Council has put in my hands in making that decision. If in fact Council's impasse results in my involvement then I would make a decision, so that's my decision.

**Mayor Kurtz broke the tie and voted yes for Jim Piteo; motion carried.**

Law Director O'Brien stated then the position is filled.

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Councilman Klepacz stated then I will make the motion, and again, my motion is moot. The three of us voted against that particular motion but it doesn't really indicate that we voted for Mrs. Haddad.

Law Director O'Brien replied no. If three Council people did not vote then that's the way the record is, but three Council people did. The Charter is clear that the Mayor can cast a vote, and he did. So therefore, the position by majority vote Mr. Piteo is seated as a member of Council as of right now.

Councilman Klepacz responded my only point was that I wanted it on record that I was voting for Mrs. Haddad.

Councilman Grendel replied I think you did that.

Councilman Riley stated I think by your statements. That's why I asked if we could go around and state.

Councilman Klepacz asked, does that satisfy us?

Law Director O'Brien replied yes. I think the record is clear who is voting for whom before you took the vote.

Councilman Riley asked if Jim Piteo would be sworn in now.

Mayor Kurtz replied I can but there is really no reason to, unless you want to wait until next Tuesday. It's pretty semantic.

Law Director O'Brien responded yes. It's a formality. It's not necessary. As it sits now, as of that vote, Mr. Piteo is a member of Council.

Councilman Riley stated he has to accept the oath.

Law Director O'Brien replied not through the Charter.

Mayor Kurtz stated once the Board of Elections certifies you.

Law Director O'Brien stated our Charter is very clear on this issue – by motion of Council, by majority vote and the Mayor breaks the tie.

Mayor Kurtz asked, so now Council can convene their meeting?

Law Director O'Brien replied, Council needs to decide on a vice mayor.

Mayor Kurtz stated, that might be something you guys want to do now.

Councilman Klepacz replied we do have a Utilities meeting scheduled next.

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Councilman Crooks stated I prefer that we not do it tonight. I wasn't intending to be here for that discussion.

Councilman Klepacz stated I agree with Councilman Crooks. I'm ready to move forward with the Utilities meeting.

**Moved by Grendel, seconded by Riley, to adjourn the Special Council Meeting. Council polled: 6 yes/0 no; motion carried.**

There being no further business to discuss, the Special Council Meeting was adjourned at 5:33 p.m.

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Susan E. Kurshuk, Clerk of Council

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