

**CITY OF FORT SCOTT  
CITY COMMISSION MEETING (AMENDED)**

**Minutes of May 19, 2020**

**Regular Meeting #10**

The regular meeting of the Fort Scott City Commission was held May 19<sup>th</sup>, 2020 at 6:00 p.m. in the City Commission Room, 123 S. Main, Fort Scott, Kansas.

**ROLL CALL:**

Commissioners K. Allen, P. Allen, R. Nichols, and L. Watts were present with Mayor J. Mitchell presiding.

**INVOCATION:** There was no invocation given.

**AUDIENCE IN ATTENDANCE:** There was no audience in attendance other than a very few City staff.

**PROCLAMATIONS/RECOGNITIONS:** Buddy Poppy Day – May 22<sup>nd</sup>, 2020 - Mayor Mitchell read a proclamation which proclaims May 22<sup>nd</sup>, 2020 as Buddy Poppy Day in the City of Fort Scott and urged men and women to wear a buddy poppy as evidence of our gratitude to the men and women of this country who have risked their lives in defense of the freedoms which we continue to enjoy as American citizens.

**APPROVAL OF MINUTES AND APPROPRIATIONS/CONSENT AGENDA:**

- A. Approval of minutes of the regular meeting of May 5<sup>th</sup>, 2020, special meeting of May 12<sup>th</sup>, 2020, special meeting of May 13<sup>th</sup>, 2020, and special meeting of May 14<sup>th</sup>, 2020.
- B. Approval of Appropriation Ordinance 1263-A totaling \$291,622.07.
- C. Request to Pay #4 – Schneider Electric - \$216,807.84 – Energy Service Project
- D. Request to Pay – Lauber Municipal Law Firm - \$17,150.00
- E. Request to Pay – River Intake Engineering – HDR Engineering, Inc. - \$10,955.00
- F. Change Order #1 – Home Center Construction – Water Treatment Plant Repairs – Increase of \$1,320.00
- G. Request to Pay – Home Center Construction – Water Treatment Plant Repairs - \$25,564.50
- H. Request to Pay – Olsson Associates – Electric Vault Project – Airport - \$2,918.31 – Engineering

I. Approval of 3RK – Certificate of Pay Request #5 – MIH Housing Grant - \$21,150.51.

J. April financials

Pete Allen questioned the minutes from the May 12<sup>th</sup>, 2020 special meeting where Olsson Associates was approved to be the engineer on the Horton Street project. He said they are located in Missouri and believes a Kansas company should be supported.

Susan Bancroft informed him that was approved just in case we needed their services on the submission for the KDOT Cost Share application. They ended up not being used in the process.

Pete said that he wanted to go on record that he does not think we should spend money in Missouri when we are located in Kansas.

Pete also questioned the minutes from the May 14<sup>th</sup>, 2020 special meeting where it stated that all utilities from 6<sup>th</sup> Street to Lakin would be updated and what that meant.

Chad said that any City owned utility in that area will be replaced at that time.

Pete is concerned with the total price that is recorded and if it includes sidewalks and everything.

Chad said that the \$569,322.20 cost is just for the asphalt and milling only. Nothing else is figured in those numbers.

Susan said that she can get him a final number from the grant. The utility portion that was submitted for the application is \$1.3 million.

Diane Clay, City Clerk, said that she can amend the minutes to reflect what the application states.

Pete also had a question on the May 5<sup>th</sup>, 2020 minutes on page 9 where we approved to go out for bid in the 500 block of Andrick. The minutes show that we approved to go out for bid for sidewalks and concrete overlay and that is not correct. We approved to go out for bids on the curb and gutter. It is an asphalt project.

City Clerk said she will amend those minutes also.

R. Nichols moved to approve the Consent agenda with the corrections to the May 5<sup>th</sup>, 2020 Commission minutes and May 14<sup>th</sup>, 2020 special meeting minutes. Lindsey Watts seconded. R. Nichols, L. Watts, and J. Mitchell voted aye. K. Allen and P. Allen voted no. Motion carried 3-2.

**APPROVED CONSENT AGENDA WITH CORRECTIONS TO THE MAY 5<sup>TH</sup>, 2020 COMMISSION MINUTES AND MAY 14<sup>TH</sup>, 2020 SPECIAL MEETING MINUTES.**

**APPEARANCE/COMMENTS/PUBLIC HEARING:**

**A. APPEARANCE:** Bourbon County Healthy Action Team Grant – Robert Uhler, Community Development Director, appeared before the Commission on behalf of the Bourbon County Healthy Action Team. He and Dr. Nichols both serve on this committee. The City has received a grant in the amount of \$13,680.00. The funds will be used to purchase and install water bottle filling stations at parks and trails throughout Bourbon County. The total of nine (9) stations will be purchased. They will be located at Gunn Park, Riverfront Park, Fort Scott Community College, and a couple in the county at Elm Creek Lake, Uniontown, and Bronson. He asked for approval to accept this grant.

Kevin Allen moved to accept the Bourbon County Action Team Grant in the amount of \$13,680.00. Lindsey Watts seconded. All voted aye.

**APPROVED BOURBON COUNTY ACTION TEAM GRANT IN THE AMOUNT OF \$13,680.00.**

**B. CITIZEN COMMENTS** (Concerning Items Not on Agenda – 5 minute limit per citizen) - Comments will not be taken during this meeting. If you have a topic to discuss not listed on the agenda, please contact a City Commissioner or send a written request to [dclay@fscity.org](mailto:dclay@fscity.org).

**C. PUBLIC HEARINGS:**

JoLynne Mitchell moved to open the Public Hearing at 6:13 p.m. Randy Nichols seconded. All voted aye.

**OPENED PUBLIC HEARING AT 6:13 P.M.**

6:00 p.m. Public Hearing - 2020 Budget Amendment – Susan Bancroft, Director of Finance, informed the Commission that she is seeking approval to amend the 2020 budget. There are four funds which need amended:

	<u>2020 Adopted</u>	<u>2020 Proposed</u>
Special Alcohol & Drugs	\$12,850	\$47,679
Special Parks & Recreation	\$12,580	\$37,617
E911	\$135,500	\$140,333
Storm Water Utility	\$189,493	\$979,375

There were no comments from the public call-in number regarding the budget amendment.

Lindsey asked about the large increase in the Storm Water Utility fund.

Susan said that in 2016 there were funds in a rate stabilization fund. That fund was from years ago that had built up cash reserves. There was a resolution that was passed that said that those dollars were to be

used for capital projects for utilities. In 2016, my predecessor collapsed that fund and put it into the storm drain fund. These funds have set there since 2016. This will allow the use of expenditures by increasing the budget authority for this fund which will help pay for capital outlay projects for this year.

JoLynne Mitchell moved to amend the 2020 budget. Randy Nichols seconded. All voted aye.

**APPROVED 2020 BUDGET AMENDMENT.**

Lindsey Watts moved to close the public hearing at 6:17 p.m. JoLynne Mitchell seconded. All voted aye.

**CLOSED PUBLIC HEARING AT 6:17 P.M.**

**CONSIDERATION:**

1. Consideration of purchase of 100' Ladder Fire Truck – Dave Bruner, Fire Chief, informed the Commission that the City of Fort Scott was awarded a Community Improvement Grant in the amount of \$665,303.00 in January of 2020. This grant was awarded to provide matching funding for a 100' aerial platform apparatus. Bids were sent out to purchase this fire truck and were opened on April 22<sup>nd</sup>, 2020. There were three bids received as follows:

Jon's Mid-America Fire Apparatus/KME in the amount of \$1,250,807.00. This bid was disqualified due to the CDBG grant specifications and did not meet bid specifications.

The next bid was from Hays Fire & Rescue in the amount of \$1,149,963.00 and with discounts came to \$1,128,579.00. This bid which did not meet bid specifications in regards to the wheel base and the large diameter hose bed.

The last bid was from Conrad Fire Equipment, Inc in the amount of \$1,418,693.46 with a pre-pay discount amounting to \$1,354,178.21. This bid meets all the specifications listed. The remainder of the amount from the grant will be paid for by a lease purchase for 10 years.

Chief Bruner informed the Commission that in discussions with Conrad Fire on this truck there were options to reduce the costs further. These options include changing the color scheme to all red and not two toned; reduced the monitors on the platform from two to one and changed the brand to a different model; and changed from a Velocity cab to an Arrow cab and removed two seats to make it a four seat truck instead of a six seat truck. These reductions brought the total price down to \$1,335,827.20.

Michael Miles shared a power point with the Commissioners regarding the three different fire trucks. The City's portion after the grant is \$670,524.20.

Susan Galemore, Grant Administrator, Southeast Kansas Regional Planning Commission, was also present via telephone to answer any questions they had regarding the bid process.

Kevin Allen said that he would like a couple of weeks to think about the bids and allow the public to give some input.

Randy Nichols moved to approve the bid from Conrad Fire Equipment for the Pierce apparatus in the amount of \$1,335,827.20. JoLynne Mitchell seconded. R. Nichols, L. Watts and J. Mitchell voted aye. K. Allen abstained and P. Allen voted no. Motion carried 3-1-1.

**APPROVED THE BID FROM CONRAD FIRE EQUIPMENT FOR THE PIERCE APPARATUS IN THE AMOUNT OF \$1,335,827.20, WITH THE GRANT ALLOCATING FOR \$665,303.00 AND THE CITY PORTION \$670,524.20.**

2. 2020 Capital Outlay Program – Chad Brown, Michael Mix, and Susan Bancroft all addressed the Commission regarding this item. This documentation is attached to the minutes. Approval of this program was requested. This includes changing Cooper Street to an Arterial Street from East National to 23<sup>rd</sup> Street and approval of all the projects.

Michael thanked his Water Plant Crew of Scott Flater, Todd Bond, Roger Rodriguez, Brandon Russell, Kathy Michael, Bill Rost, Bill Lemke, and Aaron Ashley for assisting with a valve issue at the Water Plant this weekend. He also thanked Phil Pavey, a certified diver, who was willing to dive in the bottom of the clarifier pit. He thanked Darren Crays who fabricated a metal plate, and Jason Solomon from Kansas Rural Water Association for their assistance in opening this valve.

This 2020 Capital Outlay Program was explained in depth to the Commission by Susan Bancroft, Chad Brown, and Michael Mix.

Kevin Allen asked for two more weeks to look this information over.

R. Nichols moved to approve the 2020 Capital Outlay Program and to reclassify Cooper Street as an Arterial Street. L. Watts seconded. R. Nichols, L. Watts, and J. Mitchell voted aye. K. Allen abstained and P. Allen voted no. Motion carried 3-2.

Kevin Allen made a motion to reconsider the vote to allow more discussion. Pete Allen seconded. K. Allen and P. Allen voted aye. R. Nichols, L. Watts, and J. Mitchell voted no. Motion denied 3-2.

Pete said that he would like the minutes of the May 19<sup>th</sup> meeting to include a statement from him that he made. “While the discussion of the Capital Outlay Program was going on, I, Pete Allen, informed the Commission that he was having a hard time hearing the discussion due to a malfunction of his hearing device. Before the vote was confirmed, I asked for the issue to be reopened for discussion because I was unable to hear the discussion due to the disability and was unable to hear the previous discussion. After advice from our attorney, Kevin Allen, made a motion to reconsider the vote to allow more discussion and I seconded. Commissioner Allen’s both voted yes. Commissioner Nichols, Commissioner Watts, and Commissioner Mitchell voted no and the motion was denied 3 to 2. I feel that was a violation of, if nothing else, the American Disabilities Act. I don’t think that there was much consideration given to a reasonable request and I would like that entered into the minutes of that meeting.”

**APPROVED 2020 CAPITAL OUTLAY PROGRAM AND TO RECLASSIFY COOPER STREET AS AN ARTERIAL STREET.**

3. Consideration of CIPP Sewer Rehabilitation Proposal – Michael Mix, Public Utilities Director, informed the Commission that as part of the 2020 Capital Outlay Program it included the lining of sanitary sewer gravity mains of 1.4 miles within the City of Fort Scott. He has a proposal from Insituform out of Independence, Missouri using their cooperative purchasing contract. The proposed estimated cost of this project is \$190,315.82. The City Attorney prepared this contract between the City and Insituform. Approval to enter into a cooperative purchasing contract with Insituform was requested.

Discussion was held regarding why this wasn’t bid out. Michael said that our project is very small and we can piggyback off of their contract. There are only three companies in this area that provide this service.

R. Nichols moved to approve the cooperative purchase contract with Insituform out of Independence, Missouri in the amount of \$190,315.82. L. Watts seconded. R. Nichols, L. Watts, and J. Mitchell voted aye. K. Allen abstained. P. Allen voted no. Motion carried 3-1-1.

**APPROVED THE COOPERATIVE PURCHASE CONTRACT WITH INSITUFORM OUT OF INDEPENDENCE, MISSOURI IN THE AMOUNT OF \$190,315.82.**

4. Consideration of Ozone cooling system – Dave Martin, City Manager, asked the Commission to remove this item from the agenda at this time.
5. Repeal of Free Water/Sewer Service for residents in 500 block of Andrick Street – Jeff Deane, City Attorney, informed the Commission

that he investigated the motion that was made at the previous meeting to provide free water and sewer for the residents in the 500 block of Andrick Street. He has discovered that Kansas Statutes prohibit free use of City water services in K.S.A. 13-2412 which states:

KSA 13-2412 – “Free use of water and discrimination unlawful. No person, firm, corporation, or association, nor any city department, shall be allowed free use of water, nor shall there be discrimination among water users of like classes as to rates, and rebates in rates shall never be allowed to any person, firm or corporation or city department except as an inducement to prompt payment of water rates”.

Discussion was held how to legally give people breaks when they have a water leak.

Kevin Allen asked if there has ever been a program in the past when free water has been given as an incentive.

Susan said she will research it.

Lindsey Watts moved to repeal the motion to provide free water and sewer service in the 500 block of Andrick for a one year period. JoLynne Mitchell seconded. K. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. P. Allen abstained. Motion carried 4-1.

**APPROVED TO REPEAL THE MOTION MADE AT THE MAY 5<sup>TH</sup>, 2020 TO PROVIDE FREE WATER AND SEWER SERVICE IN THE 500 BLOCK OF ANDRICK FOR A ONE YEAR PERIOD AS IT IS ILLEGAL.**

Lindsey asked that City staff review something we could provide for these residents that is not illegal.

6. Consideration of sale of City property – Robert Uhler, Community Development Director, informed the Commission that he is asking approval to receive sealed bid for two parcels of land that the City currently owns. One piece of property is located at 120 N. National and the other piece of property is located on the east side of Lake Fort Scott. He has contacted Phil Hammons, local broker, who has given the City a minimum bid amount for each property. These two parcels will be listed for 30 days per Kansas Statute before the sealed bids will be received.

Discussion was held regarding sealed bid versus a real estate agent versus a live auctioneer.

Robert said that per Kansas Statute 75-6602, a City can sell property at a fixed price, a negotiated price, advertise for sealed bids or a

public auction. Sealed bids is the lowest cost to the City. This is the way the previous Economic Development Director sold property.

Kevin said that he needed more time to think about this.

Robert said that the broker's opinion will be available to the public. He said that he brought this item before them about a month ago. He was wanting to move forward on it.

More discussion was held regarding a public auction for this property and if it would bring more money.

City Attorney said it sounds like you are requesting City staff to come back with alternatives between sealed bids and costs associated with the other options.

Kevin Allen moved to table this item for two weeks and for City staff to come back with alternatives between sealed bids and costs associated with the other options. Lindsey Watts seconded. K. Allen, P. Allen, L. Watts, and J. Mitchell voted aye. R. Nichols voted no. Motion carried 4-1.

**TABLED THE SALE OF CITY PROPERTY FOR TWO WEEKS AND FOR CITY STAFF TO COME BACK WITH ALTERNATIVES BETWEEN SEALED BIDS AND COSTS ASSOCIATED WITH OTHER OPTIONS.**

**COMMISSION/STAFF:**

**A. Director Updates:**

Robert Uhler – Robert said that he had two items to bring up.

1. Lake Advisory Board – He said that the Lake Advisory Board met last Saturday and the minutes are in front of them. They were scheduled to meet quarterly but they would like to meet every other month. Their next meeting is scheduled for July.
2. Resignation – Robert said that effective May 22<sup>nd</sup>, 2020 he will no longer work for the City of Fort Scott. He has tendered his resignation. He feels the environment here is not up to his liking. He said he appreciates Dave Martin as a leader, and he has helped him through some trying times.

Randy Nichols said that the City will miss him and his involvement with Smart Growth America and his legislative expertise and wished him the best.

Susan Bancroft – Financial Policy Update – Susan said that back in January she talked about looking at the City's financial policies. She also worked with Deb McCoy on this policy and they reviewed other cities



policies together. Susan developed this new financial policy. She did take some of this information from other cities and used some of their information for our document. A lot of the items in this document we are doing, but it was not in black and white. There are some recommendations on the procurement policy on page 16 and the numbers have changed. The travel policy on page 49 has also changed. She and Deb Needleman have looked at other cities and their policies in regards to travel and this is more in line. The ultimate decision will be the City's Commission.

**B. City Commission:**

Lindsey Watts – Lindsey said that some of the items that she has brought up over the past few weeks have been about procedural issues. She said that our parliamentary procedure is lacking. We are a governing body that should be respected and respect each other. She has spoke with the Mayor and City Attorney and he is working on some procedures and code of ethics for the City Commission. This will give us some parameters on how to run our meetings. This will come before them at the next meeting.

Randy Nichols – He said that he is excited to move forward with the plans for this year. The Street Advisory Board came up a couple of years ago and was delayed. This is a steppingstone as a more unified Commission. They may well be part of an infrastructure board also as streets, storm water, and sanitary sewer interact with each other. He hopes that a policy can be developed which interfaces all those projects together and gives us some idea of a financial commitment and a detailed way to budget and move forward.

He also remarked about the Horton Street project that was voted on last week. Those decisions were made on the facts presented. The street was deteriorating, there was an urgency to get it repaired, it was in our 2021 budget to get it repaired, and identified by City staff to have it repaired, and it is unlikely that another KDOT grant would be available for this street. The other streets have potential for KDOT grants. That's why he voted for it. It had nothing to do with location or housing or other parameters. He thinks the right decision was made and he hopes the community understands that it was the best way to leverage the dollars that we had. When the 1% sales tax comes up on the ballot this fall, it is critical that this is passed so more projects can be completed.

Kevin Allen – Kevin said that he has taken some pictures he wanted to share with his fellow Commissioners. He showed pictures of the following:

500 block of Andrick – Barricades were down – sandbags not by barricades – gravel washed out – did not clean up job very well – section of bricks that need salvaged – gravel in resident's yards and barricades in yards.

City Hall sewer drain – concrete is torn up – located by back door of City Hall – this is a liability issue – this could be repaired with a steel plate and concrete bolts

1800 block of Wall Street – big humps across Wall Street that need cut out and patched

Wall Street – East of Aunt Toadies – Big sink hole that needs crack filled and made smooth – this is a liability issue – This is highway 54.

He said that we need to have a crew out there fixing these streets right now.

Pete Allen – Nothing to report.

JoLynne Mitchell – JoLynne said that she wanted to reiterate that the Horton Street project is for everybody. Some of us may live closer but that's not the reason why we voted for it. That was the direction and the project that made sense for City dollars.

She asked the City Attorney to visit about proper etiquette and guidelines for our City Commission meetings.

Jeff Deane, City Attorney, said that most cities use Roberts Rules of Order, but that is for larger cities. Smaller cities have rules to help the meeting flow. The Rosenberg Rules of Order are simplified, and the League has a Code of Procedures for meetings also. He is tailoring these for our use and will put together a draft for us to review. The document will have a cheat sheet and have the motion out there for the Commission to use. He will have these documents available and send them out to review.

City Attorney said that there was another KOMA complaint filed against the City. He has received an extension from the Attorney General's office. He will bring this before them at the next meeting and bring this information to them.

Lindsey remarked that it is important for Commissioners not to Reply All when receiving emails when other Commissioners are copied on this also. This is a K.O.M.A. violation.

**C. City Manager:**

1. City Engineer Candidate – Dave announced that we have had one candidate apply. He came to Fort Scott and met with City Staff. An offer has been made to him and we are waiting to hear if he accepts.
2. Inmate Assistance – Dave said that he and Kevin met with the Sheriff's Department about assistance with City street projects. They will be available after the COVID-19 restriction lifts.

3. Grinder Pump Issue – Lake Fort Scott – Dave said the lake residents don't want to move forward with a utility for their own grinder pumps.

Kevin said that they need to divulge into the contract before they move forward.

Dave said that the lake owner is responsible for the grinder and it is a 40 year term. The sewer district can pick who does the work on the sewer pumps.

4. Lake Fort Scott empty lots- Dave said that Kevin asked for documentation that the district approved people who had empty lots and didn't have to have grinder pumps put in. He left that documentation on Kevin's table.

5. He said that he talked to Jared Dauben.

6. Signs on Highway 54 – Dave said that he has talked with KDOT about signage.

Kevin said that he talked to an older couple recently with a trailer issue and they had no idea there was any retail located on south highway 69. He asked to get signage on 54 east and west pointing out gas stations, restaurants, etc.

Dave said that this is funded by KDOT and he is getting information on this.

7. Rural Water District – Dave said that he is waiting for Rural Water District to get back with them after their board meeting to discuss when they have water leaks in the county and how they are handled.

**ADJOURNMENT:**

Randy Nichols moved to adjourn the meeting at 8:52 p.m. Kevin Allen seconded. All voted aye.

**ADJOURNED MEETING AT 8:52 P.M.**

The next regularly scheduled meeting is to be held on June 2<sup>nd</sup>, 2020 at 6:00 p.m.

**RECORDED BY:**

**DIANE K. CLAY  
CITY CLERK**