

**CITY OF FORT SCOTT
CITY COMMISSION MEETING**

Minutes of February 16th, 2021

Regular Meeting #4

The regular meeting of the Fort Scott City Commission was held February 16th, 2021 at 6:00 p.m. in the City Commission Meeting Room at City Hall, 123 S. Main Street, Fort Scott, Kansas.

ROLL CALL:

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

INVOCATION: Diane Clay, City Clerk, said a prayer asking God for guidance for the City, our Government and City officials.

AUDIENCE IN ATTENDANCE: Travis Shelton, Russell Lingerfelt, Rachel Pruitt, Allyson Turvey, Susan Bancroft, Michael Hoyt, Max Fanning, and Michael Mix.

EXECUTIVE SESSION:

L. Watts moved that the City Commission recess into Executive Session for the purpose of discussing attorney-client privilege in K.S.A. 75-4319(b)(2). The subject matter will be held a legal matter. The open meeting will resume in the Commission meeting room at City Hall at 6:20 p.m. J. Jones seconded. All voted aye. This included the City Commission, City Manager, City Attorney, and Community Development Director.

L. Watts moved that the City Commission come out of Executive Session at 6:20 p.m. J. Jones seconded. All voted aye.

PROCLAMATIONS/RECOGNITIONS:

ADDITIONS TO AGENDA: R. Nichols made a motion to approve the agenda. L. Watts seconded. K. Allen, R. Nichols, L. Watts, and J. Jones voted aye. P. Allen voted no. Motion carried 4-1.

APPROVED AGENDA.

CONSENT AGENDA:

- A. Approval of minutes of the regular meeting of February 2nd, 2021 and special meeting minutes of February 11th, 2021.
- B. Approval of Appropriation Ordinance 1282-A totaling \$481,476.32.
- C. January financials
- D. Lauber Municipal Law Firm – January Invoice - \$16,432.50.

E. Request to Pay – SAM, LLC – Sanitary Sewer System GPS Data Collection - \$9,000.00.

F. Request to Pay – Joplin Roofing Co., Inc – Replacement of Wastewater Treatment Plant roof - \$29,368.00.

K. Allen brought up the Lauber Municipal Law Firm invoice for January and the amount. He thought the Commission had directed for City staff not to contact the attorney unless approved by the City Manager.

Jeff Deane said that is the new procedure. He doesn't respond to a request unless he has heard from the City Manager to approve for him to do so. He is still involved in legal litigation that he charges for. There were some open records requests also that he was involved in.

P. Allen asked about the special meeting minutes of February 12th, 2021 and why they weren't on there.

City Clerk told him she didn't have time to type the minutes before the agenda went out. They will be on the next agenda for approval.

L. Watts moved to approve the Consent Agenda. R. Nichols seconded. J. Jones, R. Nichols, and L. Watts voted aye. K. Allen and P. Allen voted no. Motion carried 3-2.

APPROVED CONSENT AGENDA.

Public Comment:

(Sign up required. Comments on any topic not on the agenda and limited to 5 minutes per person, at Commission discretion)

Michael Hoyt – He said that based on the rules adopted by the committee for Presidential debates, he is invoking his response to his name appearing on the attorney's bill.

His first item is the summary statement said that he inquired about the deeds. He did not inquire about the deeds. He did mention in the meeting that he had not gotten a response from his K.O.R.A. request. What he requested were the comments made by the Mayor that he wanted to the resolution to be adopted to accept the deeds. He said to Mr. Deane that there is no such thing as a limiter liability corporation. He hopes his spell check is fixed. Those deeds are over at the courthouse and they are recorded they are defective in his opinion.

His second item is that Mr. Deane felt the need to respond to him on his K.O.R.A. request on a page and a half letter because it was faxed in and you only received half the page and no one responded. When it says K.O.R.A. request, Michael Hoyt, his phone number, his address, and his email address, but the bottom half is empty, he thinks a phone call would have been warranted instead of ignoring him. Instead, you got to pay for a page and a half letter to him saying why they didn't respond. He said that he would go on record and say that the last time he ever spoke on the phone with Mr. Deane was in December when he called him and said you should have voted and he didn't vote.

His next item concerns K.D.H.E. and correspondence. He didn't respond to anything concerning those overflows. He only submitted a K.O.R.A. request to K.D.H.E. and not to City Hall. Why he felt the need to put K.D.H.E. and his name on the bill, he doesn't know.

He said that Susan brought up Senate Bill 87. She said it was scary. It is an act concerning sales taxation relating to county wide retailers sales tax discontinuing a portion of revenue for general purposes. They don't have a sales tax at the County for general purposes. It is for hard surface roads so this bill doesn't apply. This bill is only four pages long and is for only non directed funds so it doesn't apply.

The last thing is the holidays that have been approved by the Governor for Kansas. There are only ten. He asked Susan how many we had.

Susan said that she didn't have that in front of her.

Mr. Hoyt said that President's Day was not one of them.

City Manager Report and Comments: Jeremy Frazier, City Manager, informed the Commission that this is the first day of his official third week with the City of Fort Scott. The first two weeks were filled with getting to know City staff. We have had some interesting meetings like the Eagle Block meeting and the Land Bank meeting. He has had the privilege to be on the radio show. He and Ally have been reviewing software for the Codes Department. This would allow the community to report violations. This would make it more manageable. We are looking to hire more staff in that department. He has set up official times to interview and speak with every department one on one. Because of some of the departments and how big they are, an extra meeting had to be set. He has been focused on this the last two weeks. Then there was the snow storm to deal with that we just had. He's had lots of meetings in the last two weeks, probably more than he has had in the last two years. He is learning names with faces. He wants to focus on the operational aspects of the City and work with the Commission to connect their vision with the City staff.

He also informed the Commission that he had been contacted by Pam Henderson of Senator Jerry Moran's office who would like to set up a meeting next week.

He was also contacted by Congressman Jake LaTurner's representative, Whitney Tempel, who wants to set up a meeting once a month and make City Hall the location for their meetings for Fort Scott.

Jeremy was asked about a Codes update. Jeremy said that they have looked at a Codes supervisory position and a building inspection official position. He should know more in the next week or so.

Ally said that they have conducted several interviews over the last few weeks. They have narrowed down their candidate on the codes inspector position and they are working on a potential building official/consultant position. They don't feel like they have the budget for two full time positions but could look at one full time and one part time position. She said that Craig Campbell, with the Good Neighbor Action Team, has volunteered to assist with Codes and possibly with some of the property owners who can't make their own repairs.

Director Reports:

Sick and Vacation Liability Numbers – Susan Bancroft, Director of Finance, shared with the Commission numbers of vacation and sick leave liability. Susan said that if employees retire with 12 years of service or more, they are eligible for half of their sick leave they have remaining. The total amount of vacation liability is \$273,887.18 and the total of sick leave liability is \$149,376.50. The grand total of both is \$423,263.68. These numbers change every pay period. Susan said that these numbers are budgeted when she knows employees are thinking about retirement.

Discussion was held if changes need to be made to the City's policy.

City Manager said that employees sometimes are not reimbursed well in pay, and the benefits are attractive to the employees. He is not alarmed by these numbers.

Susan will bring these numbers to every budget session that we have.

Pete asked if the City had a time card system.

Susan said that we have a system where employees request vacation and/or sick leave and it is tracked.

Review of Purchase Policy – Susan Bancroft informed the Commission that after the last special meeting, the Commission asked that the purchase policy be looked at again. On page 22 it states that "local preference applies to businesses in the following order: 1) Those within the City of Fort Scott corporate limits; 2) those located within Bourbon County; and 3) those located within the State of Kansas. Our policy does specify that preference be shown to companies located in Kansas over other states".

R. Nichols asked about on page 21 as it refers to the City Engineer and we currently don't have a City engineer. He asked if this should be changed.

P. Allen said that we should be looking for another City engineer as the Commission directed Staff to hire a City engineer a few months ago. That direction still stands, and staff should be looking to hire an engineer. We should have an engineer on staff.

J. Jones asked who was in control of severance packages or any bonuses given to employees and if that should go before the City Commission.

Susan said that is controlled by the City Manager as he does the hiring and firing of employees. He could let the Commissioners know in executive session of his actions.

Old Business: None

Appearances: None

New Business:

1. Consideration of Golf Cart Lease Agreement - Susan Bancroft, Director of Finance, informed the Commission that the purchase of 34 golf carts and one beverage cart was approved earlier in the year. This agreement is for the golf cart lease. She asked for approval of the lease with DeLage Landen Public Finance, LLC. This is a five-year lease with annual payments of \$17,641.00.

K. Allen moved to approve the Golf Cart Lease Agreement. L. Watts seconded. All voted aye.

APPROVED GOLF CART LEASE AGREEMENT WITH DELAGE LANDEN PUBLIC FINANCE LLC. FOR A FIVE-YEAR LEASE WITH ANNUAL PAYMENTS OF \$17,641.00.

2. Consideration of Charter Ordinance regarding Residency – Jeff Deane, City Attorney, informed the Commission that he was asked to look into a new charter ordinance regarding residency. There were three existing Charter Ordinances 8, 10, and 21, which exempted us from State Statute. This State Statute was repealed by the State of Kansas. Two of these old charter ordinances were passed in the 1960's and 1970's. Charter Ordinance No. 21 changed to reflect all City employees have to live within a five-mile radius of the City limits. Another regular ordinance was passed that stated employees had to reside in Bourbon County. This Charter Ordinance will repeal the other ordinances (3189) and require employees to reside in Bourbon County.

Josh read the current portion from the Employee Handbook. It states the following: "All Director level and above employees are required to reside within Bourbon County. New employees at this level are expected to establish residency within Bourbon County, Kansas no later than six (6) months after the beginning date of employment in a director level and above position. Employees whose duties include responding to urgent or emergency situations must be able to report to their normal worksite within a thirty (30) minute response time commencing from the time of the request to return to work.

Jeff Deane reminded the Commission that this Charter Ordinance, if approved, will be published for two consecutive weeks and not take effect until 61 days after the final date of publication.

L. Watts moved to approve Charter Ordinance No. 32 repealing Charter Ordinances 8, 10, and 21 and Ordinance No. 3189 regarding residency and other qualifications for appointive office. R. Nichols seconded. All voted aye.

APPROVED CHARTER ORDINANCE NO. 32 REPEALING CHARTER ORDINANCE NO. 8, 10, AND 21 AND ORDINANCE NO. 3189 REGARDING RESIDENCY AND OTHER QUALIFICATIONS FOR APPOINTIVE OFFICE.

3. Consideration of Charter Ordinance to replace vacant City Commissioner position – Josh Jones said that this was brought up before he came into the position. Josh read the proposed Charter Ordinance:

“The Candidate from the last regular election for City Commission receiving the highest number of votes in the results of the regular election, but not seated, shall be seated to fill that vacancy if:

- a. The Candidate is available to be seated;
- b. The Candidate is a current registered voter and resides within the City limits of Fort Scott, Kansas; and
- c. (This was added) – The Candidate received at least the number of votes in the last regular election equal to or greater than 25% of all votes cast in the last regular election of the City Commission.

Kevin said that he likes this ordinance. He doesn't think it should be someone that they select.

Lindsey said that she has discussed this with a lot of people, and she doesn't understand why we need to change the current ordinance. We were voted in by the citizens to make rules and set policies for this city.

Josh said that if this was in place before he wouldn't be here.

Kevin referenced the Presidential election and how the Vice-President moves up to President. This shouldn't be a challenging decision to make.

Josh said that the deciding vote should not be made by the City Attorney.

Randy said that the Commission made the correct decision when Barbara Wood was placed into office. The correct decision was made at that time. They saw her as the best fit for the Commission. He doesn't support this Charter Ordinance, but you are aware of how he feels.

Pete said that you have to look at when the vote is tied, that person who makes the decision is someone who is not from Fort Scott. That's not fair.

Lindsey said that this Commission has made lots of important decisions and came together and even hired a City Manager. We have been forced to work together when it really matters. We haven't had to have the City Attorney break a tie vote.

K. Allen made the motion to approve the Charter Ordinance No. 33. P. Allen seconded. K. Allen, P. Allen, and J. Jones voted aye. R. Nichols and L. Watts voted no. Motion denied.

Per Jeff Deane, the motion had to have four (4) yes votes to be approved and it did not.

MOTION TO APPROVE CHARTER ORDINANCE NO. 33 - REPLACING VACANT CITY COMMISSIONER WAS DENIED.

Josh asked Lindsey and Randy to come up with a solution, so the City Attorney doesn't have the deciding vote in case of a tie.

Kevin asked about the possibility to look at splitting the city into wards so there can be representation from all over the city.

4. Consideration of Wastewater Treatment Plant upgrades – Request for Engineering Services – Michael Mix, Public Utilities Director, informed the Commission that the next step towards accomplishing the Wastewater Treatment Plant Project for this year is a request for engineering services. There are four ways this can be accomplished. 1) This can be done with a Design Build and no Request for Qualifications; 2) Design building with Request for Qualifications; 3) Traditional Design Bid and Build with No Request for Qualifications; and 4) Traditional Design Bid with Request for Qualifications.

Lindsey asked why we would go out for RFQ's when Burns and McDonnell has already completed the engineering previously.

Josh said that he feels like this is the best route to go.

Michael said that this will just take time to send out all the requests and publicize it. It will take two to three months.

Lindsey said that we just went out last year on this. She doesn't understand why we would go back out again for RFQ's.

Josh said that we might get a lower cost by doing this.

J. Jones made a motion to approve the Traditional Design Bid with Request for Qualifications. K. Allen seconded. K. Allen, P. Allen, and J. Jones voted aye. R. Nichols and L. Watts voted no. Motion carried 3-2.

APPROVED THE TRADITIONAL DESIGN BID WITH REQUEST FOR QUALIFICATIONS FOR THE WASTEWATER TREATMENT PLANT UPCOMING PROJECT.

5. Consideration of Water Treatment Plant – Request for Engineering Services – Michael Mix, Public Utilities Director, informed the Commission that the first rehabilitation of the water clarifier was completed in 2020. This is for painting of the clarifier. This agreement is for engineering at a cost not to exceed \$9,800.00 with Allgeier, Martin & Associates of Joplin, Missouri. This project will be sent out for bid and is included in the 2021 capital improvement plan.

Discussion was held regarding the project and the engineer. City Attorney recommended going into executive session if you are talking about specific performance of a company to prevent any possible litigation.

EXECUTIVE SESSION:

L. Watts moved that the City Commission recess into Executive Session for the purpose of discussing attorney-client privilege in K.S.A. 75-4319(b)(2). The subject matter will be potential litigation. The open meeting will resume in the Commission meeting room at City Hall at 8:10 p.m. J. Jones seconded. All voted aye. This included the City Commission, City Manager, City Attorney, Finance Director, and Public Utilities Director.

L. Watts moved that the City Commission come out of Executive Session at 8:10 p.m. J. Jones seconded. K. Allen, P. Allen, L. Watts, and J. Jones voted yes. R. Nichols voted no. Motion carried 4-1.

EXECUTIVE SESSION:

L. Watts moved that the City Commission recess into Executive Session for the purpose of discussing attorney-client privilege in K.S.A. 75-4319(b)(2). The subject matter will be potential litigation. The open meeting will resume in the Commission meeting room at City Hall at 8:22 p.m. R. Nichols seconded. All voted aye. This included the City Commission, City Manager, City Attorney, Finance Director, and Public Utilities Director.

J. Jones moved that the City Commission come out of Executive Session at 8:22 p.m. R. Nichols seconded. All voted aye.

R. Nichols moved to approve Allgeier Martin & Associates engineering proposal and move forward with this project. L. Watts seconded. R. Nichols, L. Watts, and J. Jones voted aye. K. Allen abstained. P. Allen voted no. Motion carried 3-1-1.

APPROVED ALLGEIER, MARTIN & ASSOCIATES ENGINEERING PROPOSAL AT A COST NOT TO EXCEED \$9,800.00 AND MOVE FORWARD WITH THE WATER CLARIFIER PROJECT.

6. Discussion of First Source building -Selling, Renting, Marketing – Rachel Pruitt, Economic Development Director, informed the Commission that she was here to give them an update on the First Source building.

Josh wondered if it would be good to lease with an option to buy.

Rachel said that the previous tenant was given the option to purchase the property, but they did not want to own property. She said that she has 23 years of data. The last real estate option we had was back in 2017 and that amount of \$961,000. It is costing the City about \$3,000 in utilities each month on this empty building. This amount is not budgeted. We do need to make a decision. She asked for more time to get a real estate opinion on this property. This could be put out for an R.F.P. for a real estate agent also. The Public Health Office is utilizing this building and their next clinic is February 23rd. They are predicting three to six more months of usage. She said that there is some private industry interested in the property. She would like to go forward with getting a real estate opinion on the property. She will bring this opinion back to them at the next meeting.

7. Approval of Bid and documentation for Mayor to sign for Mayco Ace Project – CDBG Grant – Rachel Pruitt, Economic Development Director, informed the Commission that there were three bids received for the rehabilitation of the Mayco Ace Hardware project. The low bid is from Triangle Builders, LLC of Paola, Kansas in the amount of \$212,715.00. The State has approved this bid and has been sent to the City for approval of the Notice of Award, Notice to Proceed, and approval for the Mayor to sign all the pertinent documentation.

R. Nichols moved to approve the Notice of Award to Triangle Builders, LLC in the amount of \$212,715.00. L. Watts seconded. All voted aye.

APPROVED NOTICE OF AWARD TO TRIANGLE BUILDERS, LLC OF PAOLA, KANSAS IN THE AMOUNT OF \$212,715.00.

L. Watts moved to approve the Notice to Proceed and authorize the Mayor to sign all pertinent documentation. R. Nichols seconded. All voted aye.

APPROVED THE NOTICE TO PROCEED AND AUTHORIZED THE MAYOR TO SIGN ALL PERTINENT DOCUMENTATION FOR THIS GRANT.

8. Approval to apply for the Rural Preservation Grant for Memorial Hall – Allyson Turvey, Community Development Manager, informed the Commission that the City has an opportunity to apply for a State Historical Society for the Rural Preservation Grant for the preservation of the front steps of Memorial Hall. It is a 90/10 reimbursement program with an upfront cost of \$39,600 of which \$35,640 of the project cost would be reimbursed after completion. The City received a proposal from Mid Continental Restoration in the amount of \$39,600. She gave the Commission a list of an upcoming schedule for events to be held at Memorial Hall this coming year. She shared with the Commission a priority list of repairs for Memorial Hall. The first priority is for the steps is \$33,000; 2) Window and Door Sealant is \$11,340; 3) Wood Floor Resurfacing is \$10,000; and 4) General repairs to the Building Exterior is \$84,698.00.

These repairs total \$139,038.00. The steps are the first prioritized item. She asked for approval to apply for the Rural Preservation Grant and have the Mayor sign the letter of support for this grant.

L. Watts made a motion to approve to submit the Rural Preservation Grant to the State Historic Society for the Memorial Hall steps. R. Nichols seconded. All voted aye.

APPROVED TO SUBMIT THE RURAL PRESERVATION GRANT TO THE STATE HISTORIC SOCIETY FOR THE MEMORIAL HALL STEPS.

9. Consideration to accept Request for Qualifications for City Attorney – Josh Jones, Mayor, informed the Commission that this is something that he brought up a meeting or two ago. He has spoke with Jeff Deane on this also. He thinks all contracts should be reviewed. He wants to see what else is out there to consider.

Randy said that he doesn't see the purpose of this and why the short time frame of 11 days. He knows there are concerns with the cost, but it was a difficult year last year. We have a great legal service and great legal advice. Jeremy is going to be involved in our legal issues now. What about continued representation in our ongoing legal issues? Where are we putting this out at? Is 11 days long enough? He thinks it is premature to post this and should give it another couple of months. He asked to table this issue at this time and let Jeremy put his thoughts in on it.

Josh said that we can just go and see what is out there. He said that he has talked with Jeff Deane and they will be putting in an R.F.Q. also. He asked him to put in a joint effort request also, and if there is someone local here, he can always assist with the bigger projects.

R. Nichols made a motion to table this issue at this time.

(His motion died for lack of a second).

Kevin said that there are no hard feelings towards Jeff Deane.

Lindsey also questioned the 11 day time frame and thinks it is too short.

Josh said that we can have them in before the next meeting. He said that when we went out for City Manager we have 14 days for them to submit resumes.

Lindsey said that was a different situation as we had an Interim City Manager at the time.

Josh said that we also shouldn't ever publish anything with a stated salary in it like the City Manager position was advertised for.

J. Jones moved to accept Request for Qualifications for City Attorney until 1:00 p.m. on Friday, February 26th, 2021. K. Allen seconded. K. Allen, P.

Allen, L. Watts, and J. Jones voted aye. R. Nichols voted no. Motion carried 4-1.

APPROVED TO ACCEPT REQUEST FOR QUALIFICATIONS FOR CITY ATTORNEY UNTIL 1:00 P.M. ON FRIDAY, FEBRUARY 26TH, 2021.

Reports and Comments:

A. Commissioner Reports and Comments:

L. Watts – Thanked the City employees and all the Public Works employees for the great job they did during this last snow storm. She knows that they spent some long days and nights.

P. Allen – Nothing to report.

K. Allen – Also thanked the Public Works crews and Bill Lemke, who has been unthawing water meters like crazy. He thanked Buck Run and Tom Robertson for having Buck Run as a warming station in Fort Scott. He thanked Josh Jones for volunteering to give rides to people.

He asked Travis Shelton about animals that are out in this weather tethered up without proper water and food and shelter. He asked if there was any programs that could be started to help with this?

Travis said that they have also received several calls. He has had Max Daly go out and check these concerns that were called in. There are State standards that they have to go by. The State requires food, water, and shelter. If they are meeting the State standards, they can't do anything.

Kevin said that the stop sign removal at 1st and National has been well received. He thinks that citizens are adjusting to it. He said that maybe we can look at 2nd Street in the future.

Kevin asked about UTV's licenses and why they have to have the County bill of sale.

Travis said that this was discussed, and documentation was given to the Commission at the February 2nd meeting on this issue. He explained the process to them again.

Discussion was held about the process for golf carts and UTV's and if there are inconsistencies.

City Clerk will send them information on both licensing the UTV's and golf carts.

R. Nichols – Thanked the City crews for all their assistance in cleaning the streets.

Randy said that we are two weeks away from the sales tax vote and asked if there was a campaign in promoting this vote.

Randy asked Jeremy as we move forward and as we buy equipment, and then hire more employees, his concern is at the federal level to increase minimum wage. He asked if projections can be made to see how it will impact our community. We need to see a long-term impact of this.

Randy said that we get money from special streets that is based on fuel sales in our community. The world is changing, and vehicles are changing to electric vehicles. He asked how much our fuel sales contribute to our street fund, and how much sales tax comes from the percentage of fuel sales. We need to be thinking about this. We don't need to be hiring above our level.

Susan can put some numbers together for them.

J. Jones – Josh had several items to discuss:

He asked to see the Craw-Kan bill and all the fees and services provided.

He asked to see the cost of Incode software and if there are other opportunities besides Incode that the City can use.

He mentioned the possibility of the City and County sharing a building to save money.

He mentioned crosswalk painting by the school. He said that there are several artists in town that could paint murals in the downtown area or painting in the crosswalk areas.

He asked about the possibility of having paddleboats at Gunn Park and a concession stand area. He thinks there are volunteers that can work the concession stand area.

He asked about the Fort Scott High School student representation and where we were with that.

He asked if a subject had been determined for the February 23rd, 2021 work session. He asked if it could be on economic development.

Randy said that he won't be here for that work session and he would like to be present for that.

Josh said that we can pick a different subject.

City Attorney Report and Comments: Nothing to report.

Adjournment:

J. Jones moved to adjourn the meeting at 9:31 p.m. L. Watts seconded. All voted aye.

ADJOURNED MEETING AT 9:31 P.M.

Respectfully submitted,

Diane K. Clay, MMC
City Clerk