

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

Minutes of June 30, 2020

Special Meeting #7

A special meeting of the Fort Scott City Commission was held June 30th, 2020 at 11:00 a.m. in the City Commission Meeting Room, 123 S. Main Street, Fort Scott, Kansas.

ROLL CALL:

Commissioners Kevin Allen, Pete Allen, Randy Nichols, Lindsey Watts were present with Mayor JoLynne Mitchell presiding.

AUDIENCE IN ATTENDANCE: Rebecca Johnson, Public Health Officer, was present via telephone.

CONSIDERATION:

1. Discussion of City facilities and the rise in COVID-19 cases – Dave Bruner, informed the Commission that Public Health is on the phone today to discuss the COVID issues and City facilities. There is a resolution back in 1972 that gave the authority for Public Health to made decisions during emergencies like this. She will update us on COVID and Deb Needleman is here to update us on the insurance side of COVID and our facilities.

Becky said as of this morning, Bourbon County has seven (7) new cases of COVID-19 and the majority of those are related to previously listed cases. One case they are still unsure of and have not completed their investigation. Yesterday they were notified that the Governor is going to be issuing an Executive Order ordering most Kansans be required to wear masks out in public effective 12:01 a.m. on July 3rd, 2020. Also, yesterday K.D.H.E. set out travel restrictions for Florida and South Carolina and you would need to quarantine for 14 days. Also, still on the list are Alabama, Arizona, and Arkansas. Maryland was removed from the list. They are looking at other states to be added to the list and she wouldn't be surprised to see Texas, Oklahoma, and Utah in the coming days. In looking at our county in general yesterday, and how things were going, it was not a day with a lot to report. Today there is and we are reassessing to what our county should be doing. She said she is going to hold steady to the 45 number for a gathering through July 8th and she will hold steady to that. She knows there is lots of questions about that. Some of that will be have to be left up to interpretation because there isn't a

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way to have every single specific distancing activity outlined. People to have to responsible and make good choices for themselves and for others. Obviously, we have situations where this hasn't been practiced or we wouldn't be in this situation. She has backing from her medical director and from the State and she is holding steady to this number.

JoLynne asked what to do with someone who interprets the 45 number in capacity different than someone else? Will that go back to that person being responsible?

Becky said that it would go back if there was an outbreak. Some lawyer is out there waiting for something like this. Also then Public Health would be calling you and not be leaving the phone with you for a number of days and then doing contact tracing and all that entails.

Kevin asked again if the 45 number of gathering was a suggestion.

Becky said it was an order.

Kevin asked what the repercussions were with a group that met over 45?

Becky said that you would have to deal with liability knowing you violated an order and if it is known to the public, you would have to deal with all the contact tracing, and the State could step in if it becomes that big of an issue. Also, you could be faced with a misdemeanor if you are going against an order.

Kevin asked about communities that are moving on and still having gatherings and having recreation league games and traveling teams.

Becky asked what communities he was referring to.

Kevin said Pittsburg, Iola, and Nevada.

Becky said that they all have quite a few cases.

Kevin said that they are continuing life. At one point do you stop life because of a few cases?

Becky said that his point of view would change as it gets closer to home. She said that she would love to get back to normal and get out and have fun with her friends and family, but she doesn't want to be the one finding out what kind of adverse effects this could have on

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her child or herself. There are three hospitalizations at this time with these new cases we have. That's something to think about.

Kevin said that with a medical background he can appreciate that. As a Commissioner in town, he listens to people in town and he listens to people in town talk about their businesses and how to keep them running.

Becky said that she heard that Via Christi is doing fairly well at this time, but she has heard that other larger hospitals in this area are not doing as well. When that changes for Via Christi, could be scary.

Kevin asked why we worry about that right now?

Becky said sure. Why wouldn't you?

Lindsey said that you said there were three hospitalizations with our cases? Are any of those recovered?

Becky said that those are current numbers and they are in isolation.

Lindsey also asked her about LaRoche Stadium and the number 45 and how we could socially distance with two teams playing baseball. If you could use the two different teams of 45 and them being separated. If they put together a plan on how to implement this, would it be allowed. The number 45 would not be for the whole baseball park, but able to have multiple groups of 45?

Becky said that as a gathering the number is 45. Where are all these people coming from? Out of state? Arkansas? The liability is very high. 45 is a gathering with social distancing.

Lindsey said she doesn't see where it is considered a gathering where there is a baseball field and kids are playing. She said there was a tournament in Joplin this past weekend with two teams in the stadium and then when they finished playing, they would leave and the next teams would come in.

Kevin said that he has a friend that his son plays baseball, and nothing has changed up there. He said that his sister has children that plays travel ball. They need to know now if they can't have this tournament. This is lost revenue for the City, for the ballpark, for every restaurant, and gas station. In his opinion, as a leader of the community, he is not doing the City justice in taking this revenue away from us. We need to get up and get life going in America. If you are in a medical state that you don't feel comfortable in being at the

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ball park, you should stay home. You should wear that mask. If you feel confident and healthy and want to take that risk you should.

Lindsey said that life doesn't go back to 100% normal. We have to implement policies and procedures on how to move forward. If we don't, then we are taking on that liability. If we can't socially distance on a baseball field, how do we expect to start school this fall? This is not going to leave us and we need to make decisions now. If we keep shutting things down, we aren't going to be living.

Kevin said that for this tournament there are teams coming from Emporia, McPherson, Lawrence, Topeka, and Kansas City. How far is this social distancing going to go. How about the Burke Street parade? There will be more than 45 there. How about Walmart? Is there more than 45 people there? That's inside where a lot of disease can be trapped.

Susan said that they need to hear from Deb Needleman as this becomes a liability issue for the City.

Deb said that at this point we are talking about a specific order that is in place right now. An order is a legal directive and according to that we can't have gatherings over 45 people including staff. If we were to have a claim because the gathering exceeded 45 people, then it would be considered illegal and our insurance would not cover something like that. Keep in mind we are talking about a specific order right now that covers through the 8th and from that perspective that is what the insurance is specific to.

Lindsey said that her question in the order where it states 45 people for a mass gathering including staff with social distancing, if we have an arena with social distancing and also three groups of that amount, is that against your order?

Kevin said it would be nice to have our insurance person here.

Lindsey said we need the interpretation of 45 from the health officer.

Becky said that the interpretation can go any way that you want, but you are still going to be held liable if there is an outbreak, whether legally or some other form. Now you are trying to pick it apart and she understands the question. When this happened in our county and people are not listening to the advise and education of public health, then she is the person that has to do that. She is doing the best of her ability and giving directives or orders to fulfill that. She said that she can be pushed and pushed, and people come to her

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work and come after her, and tell her that she should be answering questions, but this is what she is putting out and will stick by. You can do whatever you want or determine whatever you want, but if something were to happen, there will be a liability with it. She isn't saying that she is trying to destroy our economy. She has to go home every night and cares about people in this community and remembers every person. No matter how much back lash she hears, she still cares about people.

Randy said that he supports her and to add clarity, 45 means 45. 45 is a gathering?

Becky said 45 is a gathering.

Kevin said that we are talking about City facilities. Does this stand for everything else in town? Parade? Ball tournament? Is this something they are going to assume the liability for? They can have it but they're going against her recommendation.

Becky said yes.

Kevin asked if there were cases out there where cities had been sued?

Becky said that she doesn't think so yet, but there are people just out there waiting.

Kevin asked if our City Attorney was on the line? That's a good question for him.

Becky said that if you want to do it to go all out for it. We will stand where we stand today.

Kevin said that he appreciates her and honors her position.

Deb said that to clarify this is an order. If you act in the parameters of this order and someone were to get sick and file a claim, there would be a defense there to do that. The fact that if there's a claim outside that order, that makes it an illegal situation and that makes the liability of insurance will not pick up on something that is an illegal action. It would come down to where the attorneys come down to defend, but could be considered illegal activity.

Becky said that there are people in this community that have gone out of here knowing that they are positive and that is a major problem. She is trying to avoid any further problems like this.

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Randy asked Tom Robertson and Chasity Ware if they have looked at their structures to see if they could operate within the 45 person capacity. He got an email from the swim team that they can divide up their practice times and have less than 40. Should we open the pool? Can you shuffle the kids out in two hour groups? He said that we are trying to legislate social responsibility and that's what making this so difficult. We have an order for 45 people for a gathering. We have an expanding COVID number in our community. He hears this side that says if they get sick, they get sick. We are trying to keep our businesses open in town, and it continues to grow, instead of adding restrictions, we will end up closing and shutting down our businesses again. That is what concerns him. If we don't put out the fire and it grows and no one knows if that will happen, he will recommend following this. Her order of 45 people. Is there a way for us to open? Can you limit the amount of people at the ball games? Do we send the kids home to their grandparents? No one here wants to shut down the community. This order is reasonable. We don't want to be Houston or one of those places.

Tom Robertson said that on behalf of the Recreation Commission, that their board met yesterday. They decided to cancel any camps and classes they had planned. On behalf of the ball leagues, they will wait until July 9th and then pick up where they left off at until the end of the month. If they end up canceling the rest of the games, they will, but for now they are still scheduled.

Chasity Ware asked Becky with Governor Kelly's plan with going to masks on Friday, if she sees the County as adopting and enforcing it. She said that through the Kansas Parks and Rec Department, they are still being told that as lifeguards, masks are not required nor is social distancing. She said they will do whatever they need to keep the facility open. If Bourbon County is going to adopt this face mask, how that will look to our patrons that come to the pool. She also asked if she had any idea if this order would be extended past July 8th. If this order is going to be extended, she isn't sure that they were willing to tackle the 28 people along with employees into the pool every day.

Becky said that she has not seen the orders. She listened to her yesterday and saw the press release but has no official order and doesn't think it will come out till Thursday. It says that most Kansans will wear masks beginning July 3rd. It says that most Kansans will wear masks in public places as well as outside and in stores and shops and restaurants and where social distancing cannot be maintained. It doesn't say specifics and she doesn't have any

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Frequently Asked Questions. She would like to recommend to follow her order.

Lindsey said that the Bourbon County Commission can override her order. In this case it would be the Public Health Officer.

Randy said that the other half of her question was if the order would be extended past July 8th?

Becky said she couldn't answer that.

JoLynne asked if there was any way to prep for any activities that are going on?

Lindsey asked if the Rec Commission would put limitations for 45 people?

Kevin said that there are so many variables and many things we don't know. A lot of these big companies have 300 people. They aren't limited to 45 people. You can't police this situation. He thinks we should walk lightly especially with this mask situation. If it comes down to our decision as a City, he doesn't feel comfortable with this.

Pete said that we need a definition of a gathering. He has watched sports all his life and saw many gatherings. A gathering of the outfielders which was three. A gathering of the mound to get strategies which could be five. A gathering at the dugout could be 25 players. What is a gathering? The City of Fort Scott at 7,800 could be defined as a gathering. There is no clear cut definition and what the order states. He feels that a gathering of one team at a dugout and another team at another dugout, there could be many gatherings at one location. They could be less than 45. It's hard to put a number on what is a gathering. How is this defined? What about the fair? There is a gathering at the horses. There is a gathering at the hogs. The overall function could be 1,000 people.

Kevin asked who enforces the gathering?

Lindsey said that it is an order, but would be considered a misdemeanor.

Kevin asked if Chief Shelton if he was ready to write tickets for gatherings over 45 people in a group?

Travis said that he doesn't understand this either. Everything is up for interpretation. As a police officer, it is black and white.

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Kevin said that he thinks you would have trouble suing the City of Fort Scott for being in violation of 45 people. There will be people out there that violate this. What about the golf course? Will it be restricted to 45 people? You have to include all the employees out there.

Pete said that there could be a gathering on every hole.

Deb said that it depends on the definition.

Lindsey said that the definition is up for interpretation. What is covered in the insurance company's eyes?

Deb said that it would come down to what that interpretation is from whoever placed the order.

Susan said what complicates this order is that it states 6' social distancing. It's hard to social distance in a dugout.

Lindsey asked if we were going off the Governor's order?

Susan said it is off the Public Health Officer's order.

Randy asked if a motion needed made? He said as far as the golf course, by common sense a gathering is when people are clustered together. There are four to five in golf wandering all over the place. There are growing cases in the community and we have a recommendation about this.

Randy moved that we follow her continued recommendations not to exceed 45 and to continue social distancing, and let the pool and Buck Run, and LaRoche legislate social responsibility until July 8th. His motion died for lack of a second.

Kevin Allen asked about the City meetings.

Randy said that is the next item. He believes that everyone should wear a mask. He's had people reach out to him.

Kevin said he would make a motion for people to practice safe distancing and to continue on until we receive more information from the Governor. If Tom wants to continue games, he can. If the pool wants to start up, they can. Be safe and practice social distancing. If the ball tournament wants to occur, they can. He wants the town to move on, until there is a law that states otherwise.

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Lindsey said that the City can't supersede her order. If the ball tournament has liability insurance, they are taking that liability on. They can make a plan on how to proceed with social distancing. With Buck Run and the pool, her understanding from yesterday is different than today.

Susan said that this discussion needs to be specific. She needs to know if we can open up the Pool, Buck Run, the Golf Course and allow 45 people and abide by her order? She needs specific direction.

Kevin asked the Clerk to read his motion.

Diane said that Kevin's motion is to continue to practice safe distancing, and to continue until more information is available from the Governor, and to practice safe distancing for the pool and Buck Run until July 8th when the Governor's order ends. Pete Allen seconded. Kevin Allen and Pete Allen voted yes. Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted no. Motion denied. 3-2.

Lindsey Watts made a more specific motion per City entity. She asked if Parks were included? Buck Run, LaRoche, Pool?

Lindsey said that we are not practicing social distancing at the Parks.

Susan said that the shelter houses at the Parks needs to be their focus.

Lindsey made a motion to let the public know when they rent a shelter house at Gunn Park they should keep their number at 45 or under. Randy seconded. Pete Allen, Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted aye. Kevin Allen voted no.

APPROVED TO LET THE PUBLIC KNOW WHEN THEY RENT A SHELTER AT GUNN PARK TO KEEP THEIR GROUP AT A NUMBER OF 45 OR UNDER UNTIL JULY 8TH, 2020.

Lindsey made a motion for Buck Run to allow no more than 45 individuals at Buck Run Community Center including staff until July 8th, 2020. Kevin Allen seconded.

Tom said that they don't have 45 people in the weight room. He said that they can control the amount of 45 at the facility and not have a lot to have to ask to leave.

Roll call was taken. All voted aye.

APPROVED TO ALLOW BUCK RUN COMMUNITY CENTER TO OPEN TO ALLOW NO MORE THAN 45 INDIVIDUALS INCLUDING STAFF UNTIL JULY 8TH, 2020.

JoLynne asked Chasity if she was comfortable with the number of 45 at the pool.

Chasity said that the patrons need to understand that there will be different guidelines and they need to trust her judgement to make these decisions.

Susan said that some concerns will be the cost which is not something to be voted on today.

Dave Bruner said that when time frames are looked at, they will set aside time to spray everything down. The chemical takes 10 minutes to activate.

Lindsey made a motion to open the pool under the restrictions needed to allow 45 individuals including staff until July 8th, 2020. Randy seconded. All voted aye.

APPROVED TO ALLOW THE AQUATIC CENTER TO OPEN ON JULY 1st, 2020 TO ALLOW NO MORE THAN 45 INDIVIDUALS INCLUDING STAFF UNTIL JULY 8TH, 2020 WITH NEW GUIDELINES IN PLACE.

Randy moved to keep the golf course open but not to allow tournaments at this time until July 8th, 2020. Lindsey seconded. Pete Allen, Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted aye. Kevin Allen abstained. Motion carried 4-1.

APPROVED TO KEEP THE GOLF COURSE OPEN BUT NOT TO ALLOW TOURNAMENTS AT THIS TIME UNTIL JULY 8TH, 2020.

Kevin moved to allow LaRoche Stadium to open and have their tournament this coming weekend and to encourage social distancing.

Deb said that for an event they purchase their own even insurance so this would fall under their own insurance.

Chasity said that Chase Brown is very good at spraying down the facilities and restrooms continually.

Randy offered an amendment that we acknowledge that there is a 45 person limit gathering.

Kevin said that he approves that amendment with his motion. Lindsey seconded his motion and the amendment. All voted aye.

APPROVED TO ALLOW LAROCHE STADIUM TO OPEN AND HAVE THE TOURNAMENT THIS WEEKEND, BUT TO ACKNOWLEDGE THAT THERE IS A 45 PERSON GATHERING LIMIT, AND TO ENCOURAGE SOCIAL DISTANCING.

Kevin asked about property at the lake especially the beach area.

Pete asked about the fireworks display. He asked if the City sponsored it?

Susan said that the City gives a donation to the fireworks. We do not put it on.

Pete said that there is a gathering still.

Susan said that the City talked to Becky about this before. She said if there was social distancing going on, and people and family members stayed together, it should be fine.

Randy said that they are using College facilities and that is not our's to regulate. He doesn't think we can control that.

Dave said that they can put up social distancing signs up to remind people.

Kevin asked about the beach at the lake. He said that people use the beach at the lake and we should leave it alone.

Discussion was also held regarding the Bourbon County Rodeo.

The Rodeo is put on by the Fair Board and not the City.

2. Discussion of opening City Commission meetings and the COVID-19

Lindsey asked if it was legal for us to ask citizens to sign up beforehand and then come and speak and leave.

Kevin asked if it could be held at a different place than here.

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Susan said that we have committed to televising our meetings. The bandwidth is a problem at Buck Run. That will be a problem with moving the location.

Kevin asked about the college or the middle school.

JoLynne said that we need to be cautious where we go to make sure that Pete will be able to hear the meeting.

Lindsey asked if this is possible for the next meeting? Another meeting?

Randy said that we are asking a lot of Staff to move this meeting and all their equipment.

Randy moved to continue to allow the July 7th meeting to be closed to be public based on social distancing and the Public Health Officer's order and to address it after that. JoLynne seconded. Randy Nichols and JoLynne Mitchell voted aye. Kevin Allen, Pete Allen, and Lindsey Watts voted no. Motion denied 3-2.

Kevin asked if it could be put back on facebook live like it used to be.

Susan said that there were complaints with the volume and clarity of the meeting.

Kevin asked if he could make a motion for Susan to check into the college and she could send out a message saying it could be used?

Lindsey said she would make a motion to open the meetings to the public, but to allow them to sign up by appointment for public comment but to enable social distancing. Pete Allen seconded. Kevin Allen, Pete Allen, Lindsey Watts, and JoLynne Mitchell voted aye. Randy Nichols voted no. Motion carried 4-1.

APPROVED TO OPEN THE JULY 7TH, 2020 MEETING TO THE PUBLIC, BUT TO ALLOW THEM TO SIGN UP BY APPOINTMENT FOR PUBLIC COMMENT BUT TO ENABLE SOCIAL DISTANCING.

JoLynne Mitchell moved to adjourn the special meeting at 12:29 p.m. Lindsey Watts seconded. All voted aye. Motion carried.

ADJOURNED SPECIAL MEETING AT 12:29 P.M.

The next regularly scheduled meeting is to be held on July 7th, 2020 at 6:00 p.m.

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RECORDED BY:

**DIANE K. CLAY
CITY CLERK**