

**CITY OF FORT SCOTT  
CITY COMMISSION MEETING**

**Minutes of September 1, 2020**

**Regular Meeting #17**

The regular meeting of the Fort Scott City Commission was held September 1<sup>st</sup>, 2020 at 6:00 p.m. at Buck Run Community Center in the Corey Larson Gymnasium (1<sup>st</sup> gym) at 735 Scott Avenue, Fort Scott, Kansas.

**ROLL CALL:**

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

**INVOCATION:** Children's Minister, Ian Johnson, Community Christian Church, said a prayer asking God for guidance for the City, our Government and City officials.

**Executive Session** - *K.S.A. 75-4319(b)(1) – to discuss matters of non-elected personnel*

P. Allen asked that the City Commission recess into Executive Session. The subject matter of the recess is the discussion of non-elected personnel. The statutory justification for the recess is K.S.A. 75-4319(b)(1) – discussion of non-elected personnel. He said that this executive session is necessary as it could impact this current agenda. The executive session will be for 20 minutes and include the City Commission and Finance Director. The open meeting will resume at 6:24 p.m.

P. Allen moved to go into Executive Session. L. Watts seconded. All voted aye. Motion carried.

Recessed into Executive Session at 6:04 p.m.

Resumed open meeting at 6:25 p.m. in the Corey Larson Gymnasium (1<sup>st</sup> gym) at Buck Run Community Center at 735 Scott, Fort Scott, Kansas.

**Executive Session** - *K.S.A. 75-4319(b)(1) – to discuss matters of non-elected personnel*

K. Allen asked that the City Commission recess into another Executive Session. The subject matter of the recess is the discussion of non-elected personnel. The statutory justification for the recess is K.S.A. 75-4319(b)(1) – discussion of non-elected personnel. The executive session will be for 10 minutes and include the City Commission and Finance Director. The open meeting will resume at 6:37 p.m.

K. Allen moved to go into Executive Session. L. Watts seconded. K. Allen, P. Allen, L. Watts and J. Mitchell voted aye. R. Nichols voted no. Motion carried 4-1.

Recessed into Executive Session at 6:27 p.m.

L. Watts moved to return to open meeting at 6:37 p.m. R. Nichols seconded. All voted aye.

Resumed open meeting at 6:37 p.m. in the Corey Larson Gymnasium (1<sup>st</sup> gym) at Buck Run Community Center at 735 Scott, Fort Scott, Kansas.

**AUDIENCE IN ATTENDANCE:** Travis Shelton, Russell Lingerfelt, Susan Bancroft, Shirley Hurd, Anne Rawlins, Rick Hurd, Jeff Deane, Tony Krsnich, Dave Bruner, Heather Ethridge, June Bloomfield, Maya Ethridge, Bobbi Kemna, Stacy Wood, Traci Coffman, Reitha Clark, Paul Ballou, Rich Clark, Kim Durbin, Darren Crays, Diana Endicott, Sharon Campbell, Debbie Sailors, Seth Needham, Jim Harris, Elaine Kirby, Crystal Mason, Janice Allen, Carolyn K. Sinn, Jon Lowery, Clint Roberts, Patrick Wood, Leah Bowman, Cheryl Adamson, Rhonda Dunn, Mark McCoy, Elisa Clary, Jason J. Findley, Max Daly, Laurie Daly, Afton Brown, Brandi Bolinger, Austin Bahr, Debra McCoy, Bailey Lyons, Ian Johnson, Shane Walker, Jean Parker, Robert Uhler, Michael Mix, Lynette Westhoff, Anne Dare, Michael J. Hoyt, Jason Davis, Bill Michaud, Jocie Allen, Nate Stansberry, Jennifer Michaud, John Coon, Shon Jackson, Tim Culbertson, James Wood, Doug Hurd, Jason Gorman, John Crain, Seth Simpson, David Stewart, Jeane Comstock, Aaron Judy, Diana Mitchell, Dawn Conkling, Jara Martin, Brian Comstock, Robert Coon, Doug Miller, and representing the press, Tammy Helm, Editor, Fort Scott Tribune.

**IV. PROCLAMATIONS/RECOGNITIONS:** None

**V. CONSENT AGENDA:**

- A. Approval of minutes of the regular meeting of August 18<sup>th</sup>, 2020 and special meeting of August 20<sup>th</sup>, 2020.
- B. Approval of Appropriation Ordinance 1270-A totaling \$1,554,358.29.
- C. Request to Pay #2 – Home Center Construction, Inc. - \$29,232.00 – Water Treatment Plant Fire Damage
- D. Request to Pay #3 – Home Center Construction, Inc. - \$30,225.50 – Water Treatment Plant Fire Damage
- E. Certificate of Appropriateness – Sign at 19 S. National – Structures by Margo
- F. Certificate of Appropriateness – Sign at 124 E. Wall – H-Bar Suites – Hole in the Wall Liquor

G. Request to Pay – HDR Engineering, Inc. – River Intake Project - \$6,394.38

H. July financials

K. Allen asked that the minutes of the August 18<sup>th</sup>, 2020 be changed. On page 6 he asked that Nancy Van Etten’s comments be included in the minutes in regards to the three day period to come up with Lake covenants. He also referenced page 14 and the comments made by the City Attorney and asked that be included also.

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

**APPROVED CONSENT AGENDA.**

P. Allen said that he will not approve any spending until a determination on the sales tax issue that he presented to the City Manager and the City Attorney has been resolved. That is still pending which is why he is voting no.

**VII. APPEARANCE/COMMENTS/PUBLIC HEARING:**

**APPEARANCE:** Anne Rawlins – Sewer Incident – Ms. Rawlins appeared before the Commission to ask, “what would you do”. June 17<sup>th</sup>, 2019, her daughter and two granddaughters moved to Fort Scott to 1017 E. Wall Street from Oregon. They fell in love with the Victorian house and could see that it needed some love and were ready to do just that. At the end of July, they were having real issues with the sewer backing up into their main floor, kitchen sink, washing machine, toilet, bathroom sink and worse was the 1 to 2 inches in the bathtub. What would you do? She grew up with plumbers so she bought a snake, chemicals and plungers but nothing worked. She found a plumber in the local phone book. He came right out. This was August 1<sup>st</sup>. He cleaned out the line from the southeast corner of the house to the alleyway. He found unusual things that didn’t belong to them. The house had set empty for a year, so they accepted the problem. This cost \$125.00. What was she to do? On October 14<sup>th</sup>, the issue surfaced again. She attempted to use the snake, chemicals, and plungers but to no avail. She called her favorite plumber and once again he cleaned the line, but further this time out to the City line and found nothing blocking their line. She cleaned up the messes in the house. This cost \$150.00. What else was she to do? Winter comes and they are backing up again. What would you do? This is getting ridiculous. She has never had an issue like this but chalked it up to a 140-year-old home. She called the plumber again on December 12<sup>th</sup>. He came out and cleaned again and found nothing. He suggested I call the City and have them clean their line. She thought to herself that she can’t do that. She hasn’t ever called the City before to take care of an issue like this, but then she’s never had an

issue like this. He charged \$125.00 for this call. She told her daughter that this was going to be a very expensive house if this kept up. She is on social security after all. January 23<sup>rd</sup> comes along with another call to the plumber. This time the pressure was so extreme that it blew off the cover and spewed raw sewage all over the flower bed next to the front porch. You couldn't even go out there because of the stench. The plumber flushed the line out as far as it would go even into the City line. He suggested once again to call the City and have them check their line. What would you do? She followed the plumber's advice and he took pity on her and only charged \$98.00. She did call the City and was transferred to the Wastewater Department where she left a message. She received a phone call and they said that they would check. They called back and said all seemed to be flowing fine. They had another call to attend to and would return and check it further. She said she did not get a call back, but has not had to call a plumber since January of 2020, so her thought is that there was some work done that helped them keep clean. She put in a request to tell her story tonight and received a personal visit from Michael Mix to confirm that our issue was not currently happening. He did tell her that the new internal casings on the line on either sides of our lines were completed, but that her's would be a while since the line was so long. She told him she was hearing gurgling again so he might check the line and see if there is an issue. She is here tonight to ask what would you do, but to state her concern for the transferring of funds from the Wastewater Department to the General Fund. If she had this kind of welcome to Fort Scott, how many others have had the same? The tax monies that are collected should not be moved around, and leave others with unsanitary homes. Why is it necessary to put their health at risk? They spent \$498.00 for something that was not their problem. Would you want her to charge you for something that was not your fault? She thinks not. Her question is what would you have the citizens of Fort Scott do. Do we just sit back and have issues or do we stand up and demand that our tax money remains in the area we have voted for. Use it as we ask and not as you want. Think of us - not your wages, which are extremely high for the this area. New toys which can't be used for their full potential or projects that benefit only a few. Think of us - those who don't have bottomless wallets and have to clean out raw sewage in our homes. She hopes you do the right thing and get the money back where it belongs and do for this community what you, the City Commissioners, were voted and hired to do.

P. Allen asked if the City could refund her money to her.

City Manager said that he will check into this.

**B. CITIZEN COMMENTS** (Concerning Items Not on Agenda – 5 minute limit per citizen)

**Michael J. Hoyt** - Mr. Hoyt said that he has a petition of sufficiency that was determined today to stop the Charter Ordinance No. 31 and to be placed on the ballot so we can all vote on it, instead of the Commission choosing to move that money around like a shell game like they have done for many years.

After viewing the Design Review Committee's meeting, (it was actually the Planning Commission meeting), he shared a picture with them of the proposed cell phone tower and its distance from the airport. It is only 17,000 feet away from the airport or roughly three miles. Any obstruction over 200' is going to come into play with the airport approach. He can use lots of jargon, but won't bore them with that. This was not considered in the \$150,000 F.A.A. E.P.A. study that we did. He hasn't taken the time to read it yet. He doesn't know how many pages there are, but he may choose to do that. This obstruction will play a factor in our precision or non-precision approach to our airport. He also has done a review of other airports in the area. Probably, our biggest competitor in this area is Pittsburg. They don't have much more landing distance on their runway like 4,000 feet, but their precision approach runway is 6,100 feet. In Fort Scott, we have 4,400 feet. The landing weight is roughly the same with a single wheel like we have in Fort Scott at 24,000 pounds. Here's what makes Pittsburg more competitive than Fort Scott. In their verbiage, they advertise that they have fuel, they have a pilot's waiting lounge, but they also have on the ground airport maintenance. He told the story of a friend that flies a Lear 45 from Fayetteville, Arkansas. He was headed to Fargo, North Dakota and had mechanical issues. He stopped in Pittsburg and they repaired him. He told him not to stop in Fort Scott as they have no maintenance. That's for your consideration.

Last meeting, he asked each and every one of you to reply to his email to you. He got one reply from Commissioner Pete Allen and a "we're considering your emails". He got several emails from Ms. Watts, not on that subject, but when I accused her of carrying documents out of City Hall. She proceeded with several emails trying to defend herself, calling me a liar, and he won't go any farther than that.

Lindsey Watts said that she would be happy to share those emails with the public.

Mr. Hoyt said those emails that he shared with them, he is going to share with the public now. He doesn't want to bore them, and he doesn't have the time to read them, but to sum it up was the blame focused on him for all the K.O.M.A. complaints and the costs. If Rhonda Dunn was going to add input, the City shouldn't have to pay for that. He agrees with that. The City should not have to pay for that. The City Commission are representing themselves and they should pay for it. Not only the prior attorney, but Mr. Deane's expense as well, because they should have been up front and transparent, and they were representing themselves when they submitted (time ran out).

**Josh Jones** – Josh said he would make this quick. He has a couple of questions that he hopes Mr. Deane is going to answer later on. He asked when he does his Union Loft talk, if he will address if anything was done illegal or not. He would like him to talk about if anything was done unethically. He would also like to ask that the voice mail that was played be addressed.

**Patrick Wood** – He said that he was not going to get into anything specific right now, but he has been accused of making this personal. I guess it is personal. It's personal because he has a vested interest in Fort Scott and most of us here have a vested interest in Fort Scott. We all want Fort Scott to succeed. It's personal because citizens are not being heard. He's sent emails that have not had any response. It's personal because requests for information and change have been ignored. It's time for a change. He knows that Dave, you think you've done nothing wrong and you may not, but the buck stops with you. A \$400,000 mistake of not getting a contract is not a big deal. Right? According to the attorney's letter, it's no big deal. To him, \$400,000 is a big deal. What else are we missing from City Hall? He thinks the Commissioners are putting way too much faith into your attorney too. You are letting him run, and he thinks that people have been advised not to speak, and that may be why you are not returning my emails, but that's not right. If he's telling you that, you need to think about who's running the business and the City.

K. Allen said that he and Pat are friends. He didn't know what he was going to say. He said it is weird that the citizens send an email or a text to a City Manager asking questions and you get a response hours later from a City Attorney. To Mr. Hoyt's point, you wonder why our attorney fees are so high. Every time we do anything, we have to consult him. He would like to start thinking about using the Kansas League of Municipalities. Tell the citizens that this is something you can't talk about and to come to the meeting. We shouldn't just consult the attorney. How many citizens have you sent letters to?

Jeff Deane said that he has responded to a number of K.O.R.A. requests from citizens including Mr. Hoyt's.

K. Allen asked why Mr. Hoyt's name comes up. We know he has turned in K.O.R.A. complaints. Is there other citizens you have emailed?

Jeff said that whatever is requested by City staff.

Kevin asked if it was fair to say that we have spent thousands of dollars.

Jeff said that the bills are all public record.

Kevin said that City staff needs to determine if it needs to be turned over to the City Attorney from now on. He asked if it costs every time he sends an email out.

Jeff said yes.

Lindsey Watts said that this has not been explained very well. If you think we have an overage of attorney issues, there are only certain things that the League of Kansas Municipalities can answer. She knows that for a fact as she has talked to several lawyers up there.

Jeff said that the League calls them every time someone calls them from Fort Scott. They cannot give you legal advice.

Kevin asked if the City Attorney would agree that K.O.M.A./K.O.R.A. requests should be handled by City Staff more than likely.

Jeff said that he would not. There is a lot of liability from K.O.M.A./K.O.R.A. requests that if the wrong documents were sent, all those documents need to be reviewed so we are not releasing something that is inappropriate.

Lindsey asked if that was a standard policy by every city.

Jeff said that this is a standard policy in Kansas and Missouri. You can't un-produce something. Once you produce it, it's out there. Generally the City staff here is very well trained on when to ask questions. He had a conference today with a member of the Police Department regarding one of their records. They had solved about 85% of the issue and had a portion with a legal opinion regarding what was submissible and what wasn't.

Kevin said that the reason you help out with the K.O.R.A. requests is to make sure everything is legal and our answers are exact.

Jeff said that the penalty for messing up a K.O.R.A. request can be steep. They are very important.

Kevin asked how much the penalty was if you give someone the wrong information by accident.

Jeff said that if there was pending litigation disclosed to the wrong person, it could turn the case from one that the City might win to one that the City might lose and pay a large adjustment on.

Kevin asked if he had ever had any open records requests that you gave back either false information for or wrong information for.

Jeff said never false information. We've had instances where people have asked for records that don't show up in our system, and had our IT people look for it and never found it.

Kevin asked what that was.

Jeff said it was from Robert Uhler. A record was presented to us that should have been as a response to a K.O.R.A. request. When the City staff did the search for the records, they could not find this particular email. He got involved when the email was sent back to us. He asked the IT professionals

to look at it. What we found was a former member of the staff that had been routinely deleting records on their record retention and keeping their inbox clean. Once they discovered this, they were able to recover a number of emails that had been deleted, but unfortunately that process had been going on for a while. We still don't have a copy in our system of the picture that was in question. It was in our system but does not show up in our records. We can only give them what is in the City's files.

Kevin asked how did you find that information with the email?

The attorney that responded asked if we were sure it wasn't in your records. He talked to the attorney and told him we couldn't find it in our records. Once you delete something, it stays in the backup for a while, but then was deleted. Once they discovered this person was deleting those emails, that activity was stopped. IT tried to recover as much as possible.

Kevin said that K.O.R.A. requests can fail.

Jeff said he won't say it will fail, but there were no records.

Lindsey said that they spoke about this issue months ago, and is there or is there not a set guideline to retain records.

Jeff said that different records fall under different retention schedules. As a practical matter, not every record can be kept.

Kevin asked who responded to the person who filed the open records.

Jeff said that he responded to Mr. Scott Anderson, the attorney.

Kevin said that he didn't get a response.

Jeff said that was because you were represented by an attorney, Mr. Anderson. He corresponded with your attorney.

Kevin said that he turned in the open records request. It was false. It was not the right information. He never received a response from you.

Jeff said that the City doesn't have a record. Mr. Anderson was advised of that.

Kevin said that someone just texted him and said that most cities respond to their own K.O.R.A. requests.

Jeff said he gets involved if there is a legal question.

Kevin asked if he had ever received a demand letter for false information?

Jeff said that if we received a demand letter it would be a litigation matter that he could not disclose due to attorney/client relationship.



Kevin asked if he had ever paid one?

Jeff said that it would not be on him, but on the City. They would have the obligation to fill the records for K.O.R.A.

Kevin asked if they had ever paid one?

Jeff said not while he has been here.

Kevin asked if the City had ever been charged with one?

Jeff said that the issue with the missing email, and it was not a demand, but can't discuss the specifics of it. There have not been any as far as he knows.

City Manager said that he would like to reply to Pat's emails that he sent to him. He said that he and Josh Jones had a conversation this week about people taking things personal. When the letters, emails, or texts are sent to him in a demand wanting information that has to do with his position and what he has to make sure to protect the employees, the Commission, and the City, he did not respond. That does not mean he didn't get his email. The email was not asking questions, it was more or less of a demand type letter. In that letter was some things he could not discuss.

Patrick Wood asked about the other emails he has sent that he hasn't responded to.

**C. PUBLIC HEARINGS/COMMENTS:** None

**VIII. CONSIDERATION:**

1. Consideration to adopt Code of Procedures for the Commission of the City of Fort Scott – Jeff Deane, City Attorney, said that back in the spring, we had talked about two things at the request of the Commission. One of those was the Code of Ethics and the other was the Code of Procedures. The Code of Ethics was passed, and the Code of Procedures is before them this evening. A member of the public had asked about Roberts Rules of Order, so others are questioning how our meetings are being conducted. He sent this out to the Commission for input from them and made appropriate changes. This document is a result of that request. This is an internal operating code and can be amended if needed.

K. Allen asked the City Attorney to give us a ball park figure what the Code of Ethics and Code of Procedures has cost the citizens of Fort Scott?

Jeff said it is in the bills. It is part of the City Attorney's function. He doesn't know how to break it out. He said that Susan could maybe break it out.

Kevin asked again how much he charged the City of Fort Scott.

Jeff said that it is in the billing statement.

Lindsey said that the billing is split into K.O.R.A./K.O.M.A. requests and other items.

Kevin asked if it cost \$10,000, \$20,000 or \$30,000?

Jeff said he would not take a stab in the dark at that.

Kevin said that on page 14 there is a section that he does not like. He does agree with this "Commissioners, staff or witnesses debate on policy is healthy, debate on personalities is not. The Chair has the right to cut off discussion that is too personal, too loud, too crude, or in violation of the City's Code of Ethics". He's okay with that. The next paragraph reads, "Debate and discussion should be focused, but also free and open. In the interest of time, the Chair may, however, limit the time allotted to speakers, including members of the Commission". We've already established five minutes. He doesn't like the fact that you can limit another Commissioner. We are all created equal and we all have the same amount of power. He would like to take that part out of it.

Jeff said that he provides guidance and if the Commission directs it he can.

Lindsey said in the rules of procedure that you can make a motion to remove that section and see if it gets a second.

R. Nichols asked for roll call to be taken.

R. Nichols moved to adopt the Code of Procedures for the Commission of the City of Fort Scott. L. Watts seconded. R. Nichols, L. Watts, and J. Mitchell voted aye. P. Allen and K. Allen voted no. Motion carried 3-2.

**APPROVED TO ADOPT THE CODE OF PROCEDURES FOR THE COMMISSION OF THE CITY OF FORT SCOTT.**

Mayor Mitchell reminded the audience that we are up here to conduct City business. If you have issues or opinions on subjects, it is important for you to contact City Hall and voice those opinions. We cannot make every decision and hear every objection and still move the City forward. That does not mean that we will not listen to you. We appreciate and respect your input but it is impossible to sit here all night long and come to a resolution.

Lindsey added that there have been several issues that have come up since she was elected into office. When she knows they are on the agenda, she contacts the Director or the City Manager to get

additional information. She thinks there is so much discussion that we are unable to conduct proper meetings and move forward.

Kevin said that he feels that we have had orderly meetings and thinks that the discussion needed to happen. He doesn't care about the time. He wants to have the discussion needed to properly discuss items. He doesn't need the Code of Ethics or the Code of Procedures to hold a meeting. We could have saved the citizens \$20,000.

2. Report from City Attorney on Union Lofts project –

Lindsey Watts made a motion for the City Commission to have a timed discussion on this subject and if further questions from citizens or Commissioners present that in writing so factual information can be given. She recommended 20 minutes after the attorney and the guest speaker have spoken. Randy Nichols seconded. R. Nichols, L. Watts, and J. Mitchell voted aye. K. Allen and P. Allen voted no. Motion carried 3-2.

**APPROVED TO HAVE A TIMED DISCUSSION OF 20 MINUTES ON THIS SUBJECT OF THE UNION LOFTS PROJECT AND IF FURTHER QUESTIONS FROM CITIZENS OR THE COMMISSION ARE NEEDED AFTER THAT TIME FRAME, WRITTEN QUESTIONS CAN BE SUBMITTED TO CITY HALL SO FACTUAL INFORMATION CAN BE GIVEN.**

Jeff Deane, City Attorney, said that the Union Lofts Project has been a source of much discussion and confusion. He was asked to look into it and provide a summary of the project and what the City's records reveal. He said he will summarize the project and the timeline and then address several questions that have been raised in public on this matter. The developer, Tony Krsnich, from Flint Hills, is here to address the project, some of the rumors, and provide us facts about the project. He will give a statement as well.

1. Beginning in early 2017, the Commission heard from Economic Development Director, Pruitt, and representatives including Tony Krsnich, the Developer/Flint Hills, about their plans for the Union Building in the Union Block Project. He said he went and walked the property today to get more familiar with it.
2. The initial commitment from the City Commission was based upon a pledge of approximately 7% in City grant funding toward the project. This was based on the initial projection of the project cost at about \$5.6 million and the commitment was \$400,000, or 7.2%.
3. The City offered letters of support for the project signed by the whole City Commission on April 17, 2017 and by the City Manager and Economic Development Director on February 7, 2017. These were used to help secure the additional funding necessary to fund the

project. This included various applications for tax credits and loan financing.

4. On October 3, 2017, the Commission heard an update on the project that it was seeking additional tax credits and incentives because the project couldn't go forward without some other incentives. The Commission approved a motion authorizing the City Manager and then-City Attorney to prepare a stabilization contract for the Union Block Building and move forward.

K. Allen asked if roof repair was included also.

Jeff said no and read the motion from the minutes of October 3, 2017 – **“APPROVED TO ALLOW THE CITY ATTORNEY AND CITY MANAGER TO WORK TOGETHER TO PREPARE A STABILIZATION CONTRACT FOR THE UNION BLOCK BUILDING LOCATED AT 18, 20 & 22 SOUTH MAIN”**.

5. Over the rest of 2017 and through July 2018, the developer continued to solicit additional funding sources to make the project happen.
6. Work on the project began with demo work in August 2018.
7. In January 2019, the developer asked for the first draw on funds for initial marketing expenses for the Union Project. This was paid from the funds allocated in 2017 for this purpose.
8. In June 2019, the Stout Building at 11 E. 1<sup>st</sup> Street was acquired and became part of the Union Block Project. The Stout building was to be demolished and at the end of the project, donated back to the City to develop and use as a parking lot. That is still the plan at this point.

K. Allen asked who purchased the Stout building.

Jeff said that this area where the building was will be donated back to the City, so the City does not own it currently.

9. The Developer submitted bills for reimbursement for work on the Union Project through July 2019. Each request for reimbursement was supported by an invoice and written request for payment certifying that the amounts requested were within the Union Lofts Project.
10. The payments were made from several funds, the bulk of which were the funds specifically committed to the project, the \$400,000 or the 7.2%, and the rest was from approved economic development and codes funds.
11. The Commission approved each expenditure that was billed to the City on this project. All the funds were from moneys appropriated by the Commission for the purpose of economic development. Mr. Krsnich can explain that each billing was vetted by title companies

and state agencies and verified before being submitted to the City for payment. He reviewed the bills and they all seem to be proper.

12. Between the initial project estimate and now, the project has grown from a \$5.6 million project to an almost \$8 million dollar project.
13. The total of payments, the City's investment in the project, was about \$442,000, which is about 5.9% of the total project, well under the 7.2% participation initially discussed.
14. The project is nearing completion and the City's contribution/investment leverages its monies (that would likely have been used for demo) to create a successful housing and retail project that benefits the City and preserves a piece of its history. This is something that the City can be proud of.

He said he would now discuss some of the common misconceptions that have been raised regarding this matter.

**A. A written contract** – Several groups have raised the issue of there not being a written contract between the City and Flint Hills. The City had a written contract with Flint Hills on the Western Building project. He has reviewed that contract and it contains all the terms he expected. For the Union building, and all similar projects, the best course of action is to have a written contract because that is better evidence than an oral contract if the deal falls through. In this case the project has continued, through the change of a General Contractor, without any breach or problem that a written contract would have been needed to address. The City and the Developer recognized that a written contract had not been finalized, but no agency, funding source, bank, title company or auditor raised that as an issue. A written contract could still be prepared, at a not insignificant cost to the City and the Developer, and would, but was not done by agreement of the City and Developer. No funds were misappropriated because there was no contract in place. The Commission authorized the payment of all the invoices.

K. Allen asked if he was okay that no funds were misappropriated?

Jeff said from what he has reviewed with the financials he received from the Finance Director, they were all appropriated correctly. If what you are asking is could someone have inflated a bill or fraudulently submitted a bill, he has no way to tell that. If someone did that's something we could remedy through fraud, and it wouldn't require a written contract. It would be a criminal matter if they committed fraud.

K. Allen said that you're not saying there isn't something in there, you just haven't seen it.

Jeff said that it's always possible to have another piece of information, but everything he has looked at, and has been gone through state and federal government agencies, and to date no one has suspected the City of Fort Scott has done anything wrong in regards to this project.

P. Allen asked if we had a written contract, could we have gotten the \$400,000 back.

Jeff said no.

Pete asked why not.

Jeff said that he would address that next.

- B. Loan vs. Grant** – Allegations have been made that the City’s investment in the project was to be paid back and was a loan not a grant. The minutes of every meeting, the text of the motions passed, and the statements of the Commissioners that discussed and then approved the support for the project and payment make clear that this was a grant of City funds and an investment, not a loan to be paid back. It is never characterized as a loan and the parties knew it was the City’s contribution that was to be pooled with other invested monies from other sources to fully fund the project. There is no basis to support the allegation that the funds were to be paid back. All the Commissioners signed a statement supporting this.

Pete asked when the documents were signed.

Jeff said that the most recent statement was from April 28<sup>th</sup> and was released to Tammy Helm, Editor, of the local newspaper. All of the Commissioners who were seated at the time of 2017 signed this statement. It states, “Considering the confusion and misinformation in the public discourse regarding the Union Lofts Project, we, the City Commissioners of 2017 to 2019 state: We approved the use of City economic development funds to support the Union Lofts project and the buildings and properties that it covers. We did this to support the creation of affordable housing, which the City needs, from several historic properties that the community would otherwise lose, or spend money just to demolish. After ten months of discussion between the City, its staff, and the owner/developer, we authorized the City Manager in late 2017 to provide grants of economic development funds through the economic development staff to support the Union Lofts project. The preliminary grant commitment in support of the Union Lofts was \$400,00 based on the initial project cost estimated of about \$5.5 million dollars. Over the next two years we continued to approve the use of City economic development funds to support this project as it grew. The Union Lofts project grew to a total cost of almost \$8 million dollars and is a successful project near completion. The total of the funds we approved is about \$442,000. The total remains under the maximum City percentage we anticipated. This money was a grant of City economic development funds and was not meant to be repaid to the City by the developer. We authorized the grant of City funds toward this worthwhile program. City staff worked toward the goal we set for them in providing economic development assistance to this project to create affordable housing in our community. The City’s contribution to the project has

helped the project grow to successful completion fulfilling the purpose of redevelopment and preservation of a part of our City's rich history". Signed by Cheryl Adamson, Cindy Bartelsmeyer, JoLynne Mitchell, Randy Nichols, and Jean Parker dated August 28, 2020.

Jeff said that was released to the press recently.

Pete asked if there was a document put out at the time. This is a recent document. He said this was hearsay.

Jeff said it was not hearsay. This is made of facts from the City Commissioners at the time who approved the project as opposed to speculating what was approved.

Kevin said that the minutes from October 3<sup>rd</sup>, 2017 state "if tax credits were not approved". Is that a typo from the City Clerk?

Jeff said that was not part of the motion. This probably happened back in April of 2017. He doesn't know that it was the City Clerk's mistake but whoever said it. You can go back to the documents when they were completed and they say nothing about the repayment of the \$400,000.

Lindsey said this was backed up by evidence.

Jeff said that the City took a back seat to the loan. The City endorsed the project and used that to get other economic development interests, such as tax credits and incentives. These are the facts as he found them. He doesn't expect these facts to change your mind.

- C. Misuse of funds/ gross negligence** – The Commission found that use of City funds, up to 7.2% of the project cost, to be contributed by the City toward the Union Block Project was an appropriate use of funds for a valid public purpose. The City's investment in the project allowed it to go forward and the status of the project proves out the public purpose the Commission stated. No funds were spent except from validly appropriated and approved funds for this purpose. The bills submitted were audited, examined, and approved by numerous agencies, title companies, and cost certifiers before being submitted to the City for payment. There is just no evidence to support the allegation that the use of funds on this project was a misuse of City funds. As well, the failure to secure a written contract, if an error at all, was within the discretion allowed to the City under the Commission's mandate. There is no basis in support of the allegation that this was gross negligence, or even wrongdoing.

Kevin asked if it was ever announced at a meeting that the two projects were going to be joined together.

Jeff said that it just showed up on the bills submitted to be approved. They voted and the bills were approved.

Pete asked Jeff in his opinion why there was not a written contract? Why would Fort Scott, Kansas put out \$400,000 without a contract.

Jeff said it wasn't only Fort Scott, Kansas. Not only did we miss it, but all of Flint Hills attorneys miss it, the loan people missed it, the title companies missed it, and everybody that looked at it missed it. It would have only been a page or two but was overlooked.

Pete asked if this was intentionally neglected by City staff.

Jeff said it was a discretionary issue left up to the City Manager and City Attorney at the time. When it was discovered it was not done, they discussed going ahead and doing one and formalizing it. They could have paid attorneys on both sides to formulate a contract, but at that point the City decided not to throw good money after bad. When you make a mistake, you just move forward.

Pete asked if he would suggest always having a written contract.

Jeff said always. He doesn't suggest it. The City recognized this error along with Mr. Krsnich and moved forward.

Kevin asked who asked him to make a response to the media on the City's behalf.

Jeff said that he received three emails. One from Tammy Helm, Lauren Johnson and Zack Dodge. One is with the Tribune and the other two are from news agencies. He shared documents with them.

Kevin asked if he posted on social media.

Jeff said that he does not post on social media.

Lindsey said that the City posted your response on the City's website.

Kevin asked if this was the first time he had been alerted after hearing from the news media, that there was accusation of misuse of funds.

Jeff said no, and he had heard about this right after he started as City Attorney. He heard several opinions on this issue. He reviewed all the documents and checked into it.

- D. The Stout Building** – When the Union Project started it was just the Union Building at 18, 20, and 22 S. Main. However, during the project the developer acquired the Stout building (which had long been condemned as unsafe by the City), and it became a part of the larger Union Lofts Project. That building was razed by the developer, using local contractors, and construction materials and supplies were stored there. The project documents call for that property to be donated back to the City at the end of the project and it was discussed that the City would convert it into a parking lot associated with the Lofts. There was a conflict between the prior general contractor (Flex Build) and the local



contractor (Skitch's Hauling) over who did the work and payment for it. The City has been provided documents that indicate that the parties settled their differences and the contractor was paid in full and released any lien they asserted on the property.

On a final note: Since the new general contractor took over the project, as Mr. Krsnich can explain, the project is back on track and stands ready for completion in just a few months. The purpose of the Commission in committing City fund to invest in this project in 2017 is shown by hindsight to have been a valid use of public funds for a great public purpose that is about to be fulfilled. Diligent search has been made by not only me, but by various agencies, auditors and parties on a number of levels and no evidence of wrongdoing or any basis found the insinuations, slanders and complaints heaped on this project have been found. The allegations just don't stand up to the weight of the facts and are baseless.

Mr. Krsnich now has a statement to make on several matters:

Tony Krsnich introduced himself as the CEO of Flint Hills Holdings to the Commission. He said he looked forward to giving everyone updates at the meeting tonight on the project. "The project is on track to finish and begin moving people into their brand new apartment homes in November. Since Rau Construction took the project over, we have had very little delays even with COVID. Sheet rock is nearly 50% complete, new windows have begun being installed, and you can now clearly see the unit layouts. The units are fantastic and offer a lot of closet and storage space which is oftentimes rare due to spatial constraints.

He also wanted to speak to some of the continued rumors and skepticism in regard to the project and the investment the City has made. While he believes 99% of the community is thrilled about saving historic buildings and bringing people back to work, live, and shop downtown, every 3 months or so he hears a negative comment and he'd like to shed some light and facts on the project.

He said Kevin Allen asked if we got a good deal. He can envision what the finished project will look like. The answer to that question from the four states that they work in and the 15 to 20 projects that they completed, not only did the town of Fort Scott get a good deal, it might be the largest impact of any project that he has ever been a part of. When he heard of the rumblings, he decided to come down and address them. In regard to the former general contractor, he will not field any questions in regards to that. That matter turned into a legal issue and went through litigation. A new general contractor was hired. He has done all of our historic projects to date. Their contract was \$1.5 million higher than the original project or another way of looking at it is the cost to complete the project is 30% than they were told at the beginning.

1. Everyone has been paid on this project. The project is lien free which is confirmed by the monthly date downdraws by the title company. If

anyone has a question about this process, Intrust Bank or Kansas Secured Title would be happy to explain. Further, as with all projects of this nature, there is a third-party auditor who performs a cost certification on this project.

2. The \$400,000 City Grant was necessary for the project and was always to supplement the affordable housing tax credits, state historic tax credits, and federal historic tax credits. This is confirmed by every pro forma submitted to the City, State, and National Agencies. I'm not sure where this confusion could have come from except we had looked at the project as a student housing community for the Community College, previously (he believes in 2017) but the math was nowhere close for a feasible project as the college did not have the funds at the time.
3. He has heard there was concern about how the grant was documented. While he is not sure what the City Council or City Attorney's process is, he thought the City Council approval and minutes clearly stated it was for the overall project. Again, he is not familiar with the process. However, what he can tell you is oftentimes there is very little documentation on a project like this as the bank loan is always in first lien position. This has always been a grant.
4. The return on investment for the community has actually increased as the project has grown to nearly \$8.0 million from the original estimate of \$6.4 million. We did not ask the City for the additional funds to cover the overages. Major overages included site demolition and cleaning, structural repairs, increases to higher end historic windows, and general inflation. The project will be higher quality and more sustainable than originally projected without having to ask for additional funds from the City. If the historical housing tax credits had not been awarded for this project, the request to the City could have been \$2 million, and the project still would have not been feasible.

Lindsey asked if there was ever a situation where a City allocated funding in a grant form and then expected it returned. That seems to be a big question.

Tony said absolutely not. Every single pro forma sent to the City, does not contemplate a \$400,000 loan. These projects cannot support any permanent debt. The rent is not high enough to outrun the operating expenses.

5. The investment of the City is necessary for a project of this nature. Despite the lack of economies of scale for a project of this size and the higher cost nature of historic preservation, the investment the City made is in-line with other communities we are working in. We have requested \$585,974 for Marshalltown Lofts in Marshalltown, IA (new construction 50 unit apartments), \$998,000 in grants for Penn Street Lofts in Lawrence, KS (new construction 57 unit apartments),

\$500,000 for the Lee Lofts in Salina, KS (53 unit historic rehab), and \$600,000 for a project in Beatrice, NE (30 unit historic rehab). All affordable housing in lower-rent areas need gap financing especially when the projects are smaller, historic rehabs, and have outside factors such as COVID working against them.

While these projects are extremely difficult (especially during COVID), this project is the envy of smaller communities throughout the Midwest. The opportunity to save Nationally significant historic buildings while providing housing for all income levels downtown is extremely rare. We work on these projects in a 4 state area and have always found a way to provide successful projects to the communities we work in. This specific project will be one of the best we have ever worked on". They have 20 buildings/parcels in multiple states all debt free. They used local contractors such as Skitch's, R-2 Concrete, CDL, Peerless and WinVent, and MCM. People are looking to Fort Scott as a model. We looked to the City of Parsons as a model on the Western building. We are an envy of the state and the Midwest and beyond. This is very possibility the largest housing project on Main Street in the State. The current and former staff that began working on this project, started before we were done with the Western building. Current staff have done an outstanding job. This project will be celebrated on state and national levels. He believes it will win national awards. His advice is when it is finished, continue to support the people who made it happen so it can happen again. While you can never please everyone, for the sake of Fort Scott, he hopes historic preservation, job creation and retention, and the combination of affordable housing and market rate housing, and the desire to bring people to live, work, and play downtown remains a top priority that the community will continue to invest and celebrate.

Kevin said that the confusion lies between the Union Block and the Stout building and asked if he purchased the Stout building.

Tony said that the Stout building was purchased by Flint Hills Investment Group or possibly Krsnich Investment Group. The Stout building – the land that was sitting underneath was always contemplated to be used by the Union Loft apartments, never to be owned by the legal entity of the Union Loft Apartments. This has been documented and submitted to the State Housing agencies as well. This building was condemned on a local level and we have documentation from the State Historic Preservation Office that it had been approved to be razed as well.

Kevin asked if the Stout building was purchased from the Boyd's.

Tony said he believed the company paid \$12,000 for the building. The cost to raze the building and excavate and fill the building came in at almost 300% more than what was originally estimated. We had to pay money in addition to what the original per forma was and at the end of the project was are donating it back to the City within the next 60 to 90 days. That will be a gift from Flint Hills Investment to the City of Fort Scott. The vast majority of the overruns before Rau Construction was in

relation to the interior demolition and hauling. The projects are brutal and every developer that wants to save a building in a moderate to low income community like Fort Scott, is like one in a hundred to succeed. He wanted to make sure that the concerned citizens hear from him and he would like to continue to work in towns like Fort Scott. It will be celebrated on a national level and the catalytic efforts will come back three, four, five fold on the City's investment. He appreciated the opportunity to work on this project and the Western project.

Jeff said he neglected to answer the question about the voice mail earlier and wanted to clear that up. There has been much talk in the press about the voice mail. He has heard it once now and he doesn't know the date it occurred or who it was to but it was from Rachel Pruitt, our Director of Economic Development. Today she provided an explanation to the Tribune when Tammy asked what it was about. He told her he did not know, and she needed to ask Rachel. Rachel's explanation and he would like to read it as she isn't here tonight. "Tammy, this is the explanation I gave when the voice mail was posted on social media. I've only heard the voice mail once yesterday on Dave's speaker phone so I may not have all the details especially since the voice mail was recorded over a year ago. However, I can confidently say that the reason for the voice mail was to ensure Kevin Allen's company, Skitch's Hauling, was paid by Flex Build. The voice mail from me was left for Paul Wagner, the CEO of Flex Build. Kevin Allen had repeatedly asked the City to help him collect payment from Flex Build. She had attached one of several emails regarding his lack of payment. Paul with Flex Build told her that Skitch's Hauling had been paid for the Stout demolition. Kevin Allen claimed that he had not received any payment for the Stout demolition and further, Flex Build was telling Kevin that they had not been paid by Flint Hills Holding, the development company. The City treated the development as one project. Union Lofts was also referred to as the Fort Scott Lofts. There was not a separate allotment for the Stout property. The City followed what was previously done for the Flint Hills Holding development, the Western, led by former Economic Development Director, Heather Smith, which had also included a demolition. As you heard, keep it on the down low on the voice mail, it was due to the fact that the City has one project, Union Lofts as all of the project documentation proves". That is Rachel's reply. He has no other information on the voice mail. He understands the concern to the public. After hearing it, he could not find anything.

Mayor Mitchell started the question and answer period.

Michael Hoyt said that this is for Mr. Deane and asked about the statute of fraud for a real estate deal.

Jeff said that his question is about the statute of fraud. That is a legal theory about real estate. His answer is the statute of fraud would require purchase of real estate that you have a contract. The City of Fort Scott did not acquire any property yet. They will be getting the Stout

building property. The statute of fraud would not apply for a written contract for real estate.

Josh Jones asked if K.B.I. or I.R.S. has asked for a K.O.R.A. or K.O.M.A. request over Flint Hills or Flex Build?

Jeff said had an agency requested through subpoena powers those documents, anyone who responded to such a request would not be allowed to discuss that at all. He will also state if the City had been a target of such an investigation, he would have gotten a target letter, and the City has, to his knowledge, not received any target letters from any agency of any wrongdoing. Other than that, he cannot comment because of prohibitions.

Josh asked if he cannot disclose if they have asked for these documents, does that mean just you or anyone privileged to that information. Who are you not allowed to disclose this to?

Kevin asked if that was privileged information if it would be shared with the Commission who are the leaders of the community?

Jeff said that if such a thing would occur theoretically, such a document would tell him that he couldn't discuss it except with the required person or persons at the City that would be necessary to answer their request. That would be federal or state prohibition.

Josh said you were told not to discuss nor to let the Commission know what they asked for or requested.

Jeff said that such a document would indicate that the existence of an investigation are protected from any party not necessary in the eyes of the person or agency seeking information, so if you found yourself in the unfortunate position of be subject to some sort of a subpoena, you would be severely curtailed to who you could release that information to. It would preclude almost every other obligation he would have as an attorney.

Josh said so you were not allowed to tell anyone.

Jeff said that he can neither confirm nor deny the existence of such documents.

Josh said that Dave Martin informed him that K.B.I. had requested documents, so Dave knew that these documents were requested.

Jeff said that various state agencies have asked for documents.

Josh asked if it was not his job to inform the Commission when these documents are requested.

Jeff said that not necessarily, but it would depend if it was precluded by law.

Josh said that you've never received information from the I.R.S. asking for documents?

Jeff said he has not received any sort of subpoena for documents.

Josh said that he has a record of him saying there was. K.B.I. or I.R.S. asked for documents.

Jeff said if that was discussion in the City, he can say with authority he has no idea about a K.B.I. investigation.

Josh asked about an K.O.R.A./K.O.M.A. request.

Jeff said if an open records request was filed, it would go through Diane Clay, the City Clerk. He is not aware of one.

Lindsey clarified that all open records requests go through Diane.

Jeff said that the K.O.R.A. requires that all requests go through the Custodian of Records clerk, which is Diane, so all requests go to her. She is in charge of those responses. Her best practice is to make sure what she discloses is correct and legal to disclose. She will ask his opinion if she questions it. The Police Department also has a records custodian for their records.

Josh asked Dave to confirm that they had a conversation on the phone two days ago and he contacted the lawyer.

Dave said that Josh told him he heard from Rhonda Dunn that the I.R.S. and K.B.I. was here in January and he wanted to know if there was any truth to that. He said to have the City Attorney email him if that was the proper way. He said that he thought it was going to be discussed on Tuesday. He asked for a yes or no. He said that he was going to ask during the citizen comment time.

Josh said that they had two conversations on the phone that day.

Dave said that his reply was that we provided documents, but we were not a target per the City Attorney.

Jeff said that we have provided documents to a number of people. He was not here when Rhonda Dunn was here. He is aware of what has happened since he was here.

Josh asked Dave if he remembered having two conversations on the phone and what did they discuss.

Dave said yes.

Josh said he asked if we were investigated by the K.B.I. or I.R.S. and you said no. They asked for records on this matter.

Jeff said that he has not dealt with K.B.I. on this matter. There are things he is not able to discuss under a seal that prevents them from discussing these items.

Kevin asked if he couldn't discuss it with the City Commission?

Jeff said he couldn't discuss it with anyone other than the people to help him respond to the request.

Josh asked how much you paid out to Tony Krsnich regarding tearing down that building altogether. How much property tax will this bring in. How many employees will this generate?

Lindsey said if you will submit it in writing we will get it answered.

Jeff said that all he has is the \$442,000 for the Union Block building. If you want everything, you will need to get it from Dave.

Michael Hoyt asked if any of his bills have been subject to mitigation.

Jeff said that in all his time frame of 25 years, none of his bills have ever been subject to mitigation. His legal bills are open to the public.

Michael said that he asked for two items on his bill that he requested. It was denied for attorney/client privilege.

Jeff said that he needed to discuss this with the City Commission but decided to wait due to the length of this meeting.

Kevin asked when he investigated the bills, and talked to Mr. Krsnich, and to Flex Build?

Jeff said that he did not talk to Flex Build.

Kevin asked why he did not contact Flex Build.

Jeff said that the bills appeared to be in order from Flex Build. There was no indication there was something wrong.

Kevin said it would be a good idea to contact them.

Jeff said that he has no evidence that anything was submitted wrongly. If fraud was committed, it would be a criminal investigation. All of the records were approved by yearly audits done by an outside audit company.

Josh said that he hates confrontation. Whether it was against the law or not, transparency and code of ethics is important. The written agreement or verbal agreement – if there was a written agreement it would probably say pay back the \$400,000. If there was one thing that was written it would be to pay back the \$400,000 if tax credits were received. The other things are all verbal. He asked that the verbal agreement be put down on paper so we can see what it was. He said that he and Pat have messaged Dave, called Dave, and they just don't want to cause trouble. He asked them to look at how things are done ethically and sit down and look at other towns. Mr. Deane was notified about this in January and it took a facebook post before this came to light.

Kevin said that ethics is very huge, and we need to have good ethics.

Jeff said that to clarify that Mr. Jones said the only thing that was written down was the verbal agreement. That is not correct. There was a motion made by the City Commission on October 3<sup>rd</sup>, 2017.

Jeff said that he also has one last statement regarding Rachel Pruitt, the City's Economic Development Director. He is reluctant to discuss this matter.

“The question has been raised much in the public about the City's Director of Economic Development. Please remember that the City has already dealt once with the allegations of harassment and inappropriate behavior made against Commissioner (Kevin) Allen. That situation formed the basis of the Commission's Censure of Commissioner (Kevin) Allen. Those allegations have now grown into a legal proceeding that deals directly with all the matters associated with Commissioner (Kevin) Allen and Director Pruitt and the censure. While it might satisfy the prurient interests to share the details of this matter with the public, the City's insurance carrier has hired legal counsel to defend the City against the allegations and that counsel has advised that the City cannot openly discuss personnel matters, especially when there is pending legal matters. The City is aware of the all the known facts and circumstances and continues to monitor the situation. It has acted in accordance with the established personnel policies in this matter and will continue to monitor the situation as the claims against the City and all the associated matters progress”.

That is all he will say on this matter.

3. Sale/Destruction of firearms – Travis Shelton, Chief of Police, informed the Commission that about a month ago, he brought up the subject of the destruction of twelve (12) firearms that had been acquired through seizures. There were two of the firearms that should not be sold but destroyed. The other ten (10) can be destroyed, sold, or given to another law enforcement agency. He is prepared tonight to have these guns destroyed if they desire.



Lindsey asked if the Chief had any idea of what these guns would bring. She asked what the monies raised would go for.

Travis referenced the statute number and said that proceeds of the sale would go to the asset/forfeiture fund of the agency. With both statutes, he can follow the law and destroy all of them.

Lindsey asked if the funds were budgeted and could be used for training and equipment for the Police Department.

Travis said that the City sold cars in the past and that was not a budgeted item. None of these items are budgeted.

L. Watts asked if a certain fund could be established that members of the public offered to donate in lieu of destroying these firearms.

Jeff said that he talked to Chief Shelton and those individuals can make those donations in their own free will and specify where they want it to go.

R. Nichols moved to approve to destroy the twelve (12) firearms. J. Mitchell seconded. P. Allen, R. Nichols and J. Mitchell voted aye. K. Allen voted no. L. Watts abstained. Motion carried 3-1-1.

**APPROVED TO DESTROY THE TWELVE (12) FIREARMS THAT HAD BEEN SEIZED FROM THE POLICE DEPARTMENT.**

4. Furniture at First Source building – City Manager said that First Source has graciously donated all the furniture and equipment in the building to the City for their use or sale. There are two interested parties in the building. One party is interested in leasing the building and the other party is interested in purchasing the building.

Mayor Mitchell thanked First Source for this generous donation.

L. Watts moved to approve to keep the furniture and equipment at the First Source building. J. Mitchell seconded. All voted aye.

**APPROVED TO KEEP THE FURNITURE AND EQUIPMENT AT THE FIRST SOURCE BUILDING.**

Kevin stepped out of the room at 9:16 p.m.

5. Skitch's Hauling & Excavation Invoice – July port-a-potties - \$2,370.50 – Susan Bancroft, Director of Finance, informed the Commission after reviewing Mr. Allen's invoice, they noticed there was a rental included on the invoice. She has removed that and will notify him to submit amount that on a different invoice.

J. Mitchell moved to approve the Skitch's Hauling & Excavation Invoice for July of 2020 in the amount of \$2,370.50. R. Nichols seconded. All voted aye.

**APPROVED THE SKITCH'S HAULING & EXCAVATION INVOICE FOR JULY OF 2020 IN THE AMOUNT OF \$2,370.50.**

Kevin returned to the room at 9:19 p.m.

6. Approval of Airport Storage Facility Lease Agreement and Hangar Lease Agreement – Heinen Brothers Agra Services, Inc. – Jeff Deane, City Attorney, said that Phillips Spraying operation has sold to Heinen Brothers Agra Services which is a spray plane operation that has been housed at the airport for several years. He and their attorney have looked over the contract and changed it and the hangar lease agreement also. Their hangar lease is \$140.00 a month. The storage lease agreement goes through 2037.

Pete asked if the Airport Advisory Board was advised of this.

City Manager said that the Airport Advisory Board approved the original lease and hangar agreement.

R. Nichols moved to approve the Airport Storage Facility Lease Agreement and Hangar Lease Agreement for Heinen Brothers Agra Services, Inc. L. Watts seconded. K. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. P. Allen abstained. Motion carried 4-1.

**APPROVED THE AIRPORT STORAGE FACILITY LEASE AGREEMENT AND HANGAR LEASE AGREEMENT FOR HEINEN BROTHERS AGRA SERVICES, INC.**

**IX. COMMENTS:**

**A. Director Updates:** None

**B. Commission:**

Randy Nichols – Nothing to report.

Lindsey Watts – Lindsey remarked that she was working with the League of Kansas Municipalities and looking at other cities dog ordinances and will bring this to the next meeting.

Pete Allen – Thanked everyone for coming to the meeting tonight. He wished we could in the future talk about how we are going to fix things in Fort Scott, specifically our infrastructure.

Kevin Allen – Kevin said he had several items:

- He asked where we were on Andrick Street. He was contacted by Schery Rupprecht and asked where we were.

-

City Manager said Chad Brown talked to the County and they are finishing up at the Lake Road and will move to Andrick Street next week.

- Flood Permit – Greg Schick – He said he was contacted by Greg Schick about his flood permit. He said he was working with Paul Ballou.

Nate Stansberry, City Engineer, said that his flood plain permit has expired.

Kevin asked the City to work with Greg on this.

- Parks Advisory Board – Kevin asked if there was an update on this.

Dave said that the ordinance needs updated, and he will bring this back at the next meeting.

- Codes Advisory Board – Kevin asked about the idea of creating a Codes Advisory Board. He asked this to be on the next agenda in two weeks.
- Soil testing – 120 N. National – Kevin asked the City Manager if he found out anything on the soil testing at the property at North National.

Dave said that he hasn't decided to sell the property for sure yet.

- Seasonal help – Kevin asked if Dave had checked into the Golf Course seasonal employees helping out in the Parks Department.

Dave said that the Golf Course seasonal employees go off in the winter and if they are not at the Golf Course, they are working at LaRoche.

- Vicious Dog Ordinance – Kevin asked about where we are on that.

Dave said that Travis is checking into this and it will be on the next agenda.

- Lake Advisory Board/City Commission Meeting – Is there a date set?

Dave said that we have not been able to schedule a Saturday when everyone can be there. There is a Lake Advisory Board meeting scheduled for September 19<sup>th</sup> and if the City Commission can come, they could possibly meet on that date. It will be held from 9-11 a.m.

- Location of Meeting changed – Kevin thanked whoever changed the location of the meeting for tonight to Buck Run.
- Executive Session – Kevin asked for an 8 minute Executive Session at the end of the meeting.
- Kevin thanked Pete Allen and his many volunteers for the work on the tennis courts at the Golf Course.

JoLynne Mitchell – Nothing to report.

**C. City Attorney:** Jeff updated that Commission that he has spoken to Assistant Attorney General Mendoza who has recommended that our motions to come out of executive session state where we are reconvening into.

**D. City Manager:** Dave stated that he wanted to go on record that he made a mistake in not getting the contract for the Union Lofts building. When he realized it, he contacted Tony Krsnich and they did discuss it. With the cost of attorneys, they decided to move forward, but he takes responsibility for this.

**Executive Session** - *K.S.A. 75-4319(b)(1) – to discuss matters of non-elected personnel*

K. Allen asked that the City Commission recess into Executive Session. The subject matter of the recess is the discussion of non-elected personnel. The statutory justification for the recess is K.S.A. 75-4319(b)(1) – discussion of non-elected personnel. The executive session will be for 8 minutes and include the City Commission. The open meeting will resume at 9:55 p.m.

K. Allen moved to go into Executive Session. L. Watts seconded. All voted aye.

Recessed into Executive Session at 9:47 p.m.

R. Nichols moved to return to open meeting at 9:55 p.m. J. Mitchell seconded. All voted aye.

Resumed open meeting at 9:55 p.m. in the Corey Larson Gymnasium (1<sup>st</sup> gym) at Buck Run Community Center at 735 Scott, Fort Scott, Kansas.

**ADJOURNMENT:**

R. Nichols moved to adjourn the meeting at 9:57 p.m. J. Mitchell seconded. All voted aye.

**ADJOURNED MEETING AT 9:57 P.M.**

CITY OF FORT SCOTT  
CITY COMMISSION MEETING

Minutes of September 1, 2020

Regular Meeting #17

The next regularly scheduled meeting is to be held on September 15<sup>th</sup>, 2020 at 6:00 p.m.

**RECORDED BY:**

**DIANE K. CLAY  
CITY CLERK**