

**CITY OF FORT SCOTT  
SPECIAL CITY COMMISSION MEETING**

**Minutes of September 21, 2020**

**Special Meeting #9**

A special meeting of the Fort Scott City Commission was held September 21<sup>st</sup>, 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, and Lindsey Watts were present with Mayor JoLynne Mitchell presiding.

**AUDIENCE IN ATTENDANCE:** Patty West, Lynette Westhoff, Travis Shelton, James Charlesworth, Nate Stansberry, Deb Needleman, Michael Hoyt, Rachel Pruitt, and Allyson Turvey.

**CONSIDERATION:**

**I. CONSENT AGENDA:**

- A. Approval of Appropriation Ordinance 1271-A totaling \$428,590.44.
- B. Certificate of Appropriateness – 113 S. National – Signage and Alterations to building

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

**APPROVED CONSENT AGENDA.**

**II. CONSIDERATION:**

- 1. City Insurance Liability Update – James Charlesworth, Charlesworth Consulting, informed the Commission that he was going to give them an update on the City's insurance. He gave some history on the City's insurance. A Request for Proposal (RFP) was done in January 2014. Traveler's was the incumbent insurance carrier with the cost of about \$325,000. He received two proposals - one from Traveler's and one from Midwest Public Risk. Midwest Public Risk was about \$70,000 less and that was going to be the recommendation, but they withdrew their proposal at the last minute. The City renewed with Traveler's for about \$360,000. In early 2014, Mr. Martin, your Finance Director at the time, and he visited with Midwest Public Risk at their offices in Independence, Missouri. Due to the savings, the

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City wanted to meet with them and find out what the issue was. We met with their board president and their board and resolved their issues, which was really unfounded. Because of the savings, we decided to do another RFP for July 1<sup>st</sup>, 2014 and understood there would be some short term penalties if we left Traveler's. Midwest Public Risk quoted and Traveler's offered their same terms and conditions, and then to our surprise, we received a quote from Birkshire Hathaway which was approximately \$130,000 less than Traveler's so the change was made to Birkshire Hathaway effective July 1<sup>st</sup>, 2014. It is generally accepted practice to shop for insurance every three to five years. In 2017, quotes were received from Birkshire Hathaway, Midwest Public Risk, and KCAMP. The City Commission approved the KCAMP quote of \$194,000. If you will remember, the premium was at \$360,000 a few years earlier. The City was trending in the right direction. There was a three-year rate stabilization guarantee, so basically depending on the losses, the rate would not fluctuate a lot. From July 1<sup>st</sup>, 2017 to January 1<sup>st</sup>, 2018, there was a window to get them on their policy which would begin on January 1<sup>st</sup>, 2018. Fast forward to today, a RFP was drafted and published in the local newspaper and on the City's website. Quotes were to be in by the latter part of November so the Commission could review the amount at their first meeting in December. There have been some changes, so he needs some direction from the Commission. KCAMP requires a notice of withdrawal in the amount of 60 days. They aren't a big insurance company so they need to know who is going to renew so they can establish their rates. We would have to provide them with a notice of withdrawal by the City Commission by November 1<sup>st</sup>. Most companies will still compete even after receiving a notice of withdrawal. KCAMP notified the City that their notice of withdrawal is non-rescinding, that states they will not participate. They would offer us a renewal by November 1<sup>st</sup>, and we would either have to accept it or not to accept it. That leaves the City with three options:

- a. The first option is to proceed as planned. Receive quotes in late November and present them before the City Commission in December with an effective date of January 1<sup>st</sup>, 2021. KCAMP will not be an option for this and would not offer a renewal.
- b. The second option would be to forego the RFP for this year, negotiate a renewal with KCAMP, and start earlier in 2021. KCAMP has implied that they will look at a 15% increase in their quote. Right now their cost is a little over \$219,000 and they will be looking at a cost of around \$250,000.
- c. The third option is to condense our project. We could get quotes by October 12<sup>th</sup>, research the quotes, and come back before the

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Commission at the October 22<sup>nd</sup> Commission meeting. He has talked to the two local agents that are working with Traveler's and EMC. Birkshire Hathaway is updating their government policy and will not be participating.

K. Allen said that as a small businessowner, he would like to see the City's insurance kept local.

R. Nichols asked if KCAMP would continue to cover the City on any outstanding claims if they did not renew their coverage.

James Charlesworth said yes, they would continue to represent the City until the claims were closed.

P. Allen said that he would like to hear from the local agents that are present.

Lynette Westhoff, Billard-Hammer-Hartman said that she appreciated the fact that they could appear before them and they would accept quotes from the local agents. She would be quoting EMC. She has checked with the loss history that the City has, and they have said they would entertain a quote. Three years ago, when she quoted she was about \$7,000 less than KCAMP, but her quote came in after the deadline. She thinks they can be competitive. They are local and only a phone call away.

K. Allen asked when James Charlesworth was hired by the City and what the City pays him to evaluate our insurance.

James Charlesworth said he was hired in 2014. He said that he is paid a monthly fee by the City in the amount of \$500.00. When a special project is done, there is an upgrade for that. Normally, his fee is from \$9,500 to \$12,000 if not a retainer client. If a retainer client, it would be around \$3,000.

K. Allen said basically it is about \$9,000 a year to make sure the City's insurance is evaluated correctly. We could be saving our citizens about \$15,000 by letting our local insurance agents do the job they are supposed to be doing.

James Charlesworth said that they had a past relationship with the former Finance Director. This director was concerned about the City's insurance and he came in and evaluated it. He said he had a conversation with Deb Needleman that once this project was over, he would no longer be the City's insurance consultant. He wants to do whatever is best for the City.

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City Manager said that he was not aware of this conversation. He asked how it would work if he was no longer evaluating the City's insurance.

James said that you could use information he has provided on renewals. You can take the bids you get this year and next year, send it back to whoever the successful agent is, and ask that the renewal be compared.

K. Allen said that in visiting with the insurance companies locally, that they are willing to do this absolutely free. He asked Susan Bancroft if she could look at the numbers and see if we were getting a good deal.

Susan said it was more complicated than that. Because of the type of coverage that we need as a City, you need to know quite a bit about the insurance. You just can't walk in and get a quote because there are big packages that are put together. Mr. Charlesworth gave us assistance in evaluating all of the insurance quotes. He has also stepped in and assisted us with claims in the past. He has brought value to the City.

Deb Needleman said that she and James had talked about the City's insurance and where we are today is better than where it was before. He has brought a lot of value to the City.

Patty West, Atkins Insurance, said that their company wrote the City's insurance starting in 1990 through 2013. In 2014, the Commission moved to Birkshire Hathaway. In 2013, their firm paid over \$890,000 in claims from the 2013 hailstorm. Birkshire Hathaway was new to the municipality business and they came in and undercut everyone on premiums. She doesn't know about their claim service. Her daughter was the first claim and that was not good. She was not aware of any problems with risk management and her firm. She said that your local agent can be used with risk management. They have a vested interest in the success of this community. We are on a time crunch and ask that you consider that. There are a limited amount of markets on municipalities because the package is very unique.

K. Allen asked how long we knew this was going to be bid out.

James Charlesworth said that was on him and that it should have been sent out earlier for a quote.

P. Allen asked if there were requirements and specifications sent out with the bid packets to insurance companies.

James said yes there are requirements. He will go through with City staff line by line to make sure everything is covered.

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P. Allen asked if an Insurance Advisory Board needed to be created. It would save City staff time.

James said that some cities do and some don't.

Lynette Westhoff said that it will just add another thing for your City employees to do. With Charlesworth, they are good at comparing things or using a local agent for. You don't need a separate committee to do this.

James said that he will present your insurance options to you. After that decision is made, he will submit a detailed proposal of what his firm does and you can make a decision on moving forward.

L. Watts moved to approve Option 3 and to use the condensed time frame and to open quotes up to local agencies with a time frame of October 12<sup>th</sup>, 2020 when quotes are due. R. Nichols seconded. All voted aye.

**APPROVED TO ACCEPT OPTION 3 AND USE THE CONDENSED TIME FRAME AND TO OPEN QUOTES UP TO LOCAL AGENCIES WITH A TIME FRAME OF OCTOBER 12<sup>TH</sup>, 2020 WHEN QUOTES ARE DUE.**

2. Acceptance of Community Development Block Grant No. 20-CR-004 – Mayco Ace Hardware – Approval to accept grant and for Mayor to sign all pertinent documents – Rachel Pruitt, Economic Development Director, informed the Commission that the City received a letter from the Kansas Department of Commerce and the Governor of Kansas notifying us that Mayco Ace Hardware was awarded the 2020 Small Cities Community Development Block Grant in the amount of \$224,437.00. This will include repair and replacement of roof, ceilings, windows and doors, ADA accessibility and emergency fire disconnects. She asked for approval for the Mayor to sign all pertinent documents in reference to this project. There are no matching funds from the City for this project.

R. Nichols moved to approve the CDBG Grant No. 20-CR-004 for Mayco Ace Hardware and for the Mayor to sign all pertinent documentation. L. Watts seconded. R. Nichols, L. Watts and J. Mitchell voted aye. K. Allen and P. Allen abstained. Motion carried 3-2.

**APPROVED THE COMMUNITY DEVELOPMENT BLOCK GRANT NO. 20-CR-004 FOR MAYCO ACE HARDWARE AND FOR THE MAYOR TO SIGN ALL PERTINENT DOCUMENTATION. THIS AWARD IS IN THE AMOUNT OF \$224,437.00.**

3. Kansas Housing Grant Application Opportunity – Allyson Turvey, Community Development/Tourism Manager informed the Commission,

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that the Kansas Housing Resource Center has opened the Moderate Income Housing program which is a developer's grant program that does not require any City contribution. The City does have to submit the application. The application process was opened last week and was announced on the City's Facebook page, the radio, and the Chamber. The due date is this Thursday, September 24<sup>th</sup>, 2020 at 4:00 p.m. Applications will begin to be reviewed on Friday. As a City, we can only submit one application. The evaluation guidelines set up are on page 76 and 77 of your packet. There are no specific ratings for the guidelines. She asked for a Resolution of Support for the City from the City Commission to apply for this opportunity.

K. Allen asked when this grant application became available.

Ally said that it was announced at the end of July. That is the City's fault as we missed the grant opening. We became aware of it early last week and got information out on it as quickly as possible.

K. Allen said that he has had several contractors contact him and are upset about the short time frame to fill out all the paperwork.

Ally said that we missed the opening of the application process.

L. Watts asked if something could be brought to them on how the applications were evaluated.

Ally asked if the Commission was comfortable with City staff reviewing the applications and choosing the applicant to be submitted or if the Commission wanted to be included in this process. A special meeting would need to happen either Friday or Monday as the applications are due on Monday, September 28<sup>th</sup>.

K. Allen said that he feels the Commission should be a part of this discussion and approval process.

R. Nichols moved that the Resolution of Support for this program be approved. J. Mitchell seconded. P. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. K. Allen abstained. Motion carried 4-1.

**APPROVED RESOLUTION NO. 14-2014 – RESOLUTION OF SUPPORT – THE CITY OF FORT SCOTT INTENDS TO APPLY TO THE KANSAS HOUSING RESOURCES CORPORATION FOR THE DEVELOPMENT OF KANSAS MODERATE INCOME HOUSING TO BE LOCATED WITHIN THE CITY OF FORT SCOTT, KANSAS.**

L. Watts asked if City Staff would create a specific spreadsheet for them to determine candidates that would be eligible for approval.

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R. Nichols said that City staff knows the guidelines and he believes that City staff should be able to select the best candidate due to the short time frame.

Rachel passed out the guidelines that the State will look at.

City Manager said that the Commission could select a City Commissioner to sit with City staff on this project.

R. Nichols moved, that due to the short time frame, that City Staff select a candidate for this program.

L. Watts said that having a Commissioner sit with City staff to evaluate the applications and they could bring that back to the City Commission or at a special meeting.

R. Nichols withdrew his motion.

K. Allen said that he believes a special meeting needs to be held to announce to the public who the candidate selected is.

Susan said that confidential information will be dealt with and asked the City Attorney if an executive session would need to be held for this.

Jeff Deane said it would depend if it would match up with the motion allowed for executive session.

L. Watts said she didn't think the whole Commission needed to be a part of this process.

K. Allen said that we need to be a part of this process.

P. Allen said that he agrees that the whole Commission should be a part of it.

L. Watts said that she would be willing to serve as the City Commission representative on this selection process.

R. Nichols moved that a special meeting be held on Monday, September 28<sup>th</sup>, 2020 at 11:00 a.m. to approve the final applicant that has been approved by City Staff and a City Commissioner. L. Watts seconded. P. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. K. Allen abstained. Motion carried 4-1.

**APPROVED TO HOLD A SPECIAL MEETING ON MONDAY, SEPTEMBER 28<sup>TH</sup>, 2020 AT 11:00 A.M. TO APPROVE THE FINAL**

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**APPLICANT THAT HAS BEEN APPROVED BY CITY STAFF AND A CITY COMMISSIONER, WHICH HAS BEEN SELECTED AS LINDSEY WATTS.**

4. Lauber Municipal Law Firm July Billing Statement – Susan Bancroft, Director of Finance, informed the Commission, that in our June billing for Lauber Municipal Law Firm, there was some confusion. Part of the June billing had not been paid. There is a recap in your packet. Part of June’s bill as well as July’s bill is included in this invoice. This amount is \$29,026.50. In June there was \$11,187.50 paid. There was \$13,363.00 missed from the June billing. The July billing is \$15,663.50 totaling \$29,026.50. We need to get payment to the Lauber Municipal Law Firm.

K. Allen asked if Jeff was able to put together what the Code of Ethics and Code of Procedures cost the citizens of Fort Scott.

Jeff said that he has not done that. It is difficult to split out.

K. Allen said that he just wants an estimate.

L. Watts said that she has worked with City staff and that is your job as a City Commissioner to do.

K. Allen said that he breaks down invoices for his customers all the time.

Jeff said that he splits his invoices up by topics, for example, KORA/KOMA, litigation, etc.

K. Allen asked for an estimate so he can tell the citizens of Fort Scott what it cost. He asked that the citizens not be charged for his work in doing this.

P. Allen asked if the City had a stamp that the City uses on the date we receive invoices. He doesn’t see a date on this.

Susan said that there were issues with the June invoices and there were issues getting this information back and forth due to a new staff person at Lauber Law Firm.

Pete said that he was advised that the original June bill does not represent this June bill that is here. He asked if he was correct?

Susan said no.

Jeff said no that is not correct.



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K. Allen asked that in the future any special projects he works on be billed separately.

Susan said that she questioned some of these expenditures and went back and forth with the law firm on their billing. This invoice is approved by City staff to be paid and she is completely comfortable with the paying of this invoice.

R. Nichols moved to pay Lauber Municipal Law Firm the amount of \$29,026.50. L. Watts seconded. R. Nichols, L. Watts, and J. Mitchell voted aye. K. Allen abstained. P. Allen voted no. Motion carried 3-1-1.

**APPROVED TO PAY LAUBER MUNICIPAL LAW FIRM THE AMOUNT OF \$29,026.50 FOR JUNE AND JULY 2020 INVOICES.**

5. Consideration of application of Cost Sharing Program through K.D.O.T. – Susan Bancroft, Director of Finance, that the City has an opportunity to apply for another application through K.D.O.T. Cost Sharing Program. This would be the same application that was applied for previously for the Horton project. It is extremely competitive and there is only \$5 million available. The due date is October 1<sup>st</sup>, 2020. She and Nate have updated the application that they will be submitting.

K. Allen moved to approve to apply for the K.D.O.T. Cost Sharing Program for the Horton Street project. K. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. P. Allen voted no. Motion carried 4-1.

**APPROVED TO APPLY FOR THE K.D.O.T. COST SHARING PROGRAM FOR THE HORTON STREET PROJECT.**

K. Allen wanted it reflected that he and Pete were late to the last City Commission meeting, due to the fact that they were at the Airport public hearing. It ended at 6:00 p.m. and he arrived at 6:07 p.m. He had worked with the City Manager to get the meeting changed but was unable to. He felt the Airport public hearing was important to attend. He also was disappointed that the You Tube video did not work for the public hearing. He would like in the future where meetings are not scheduled on the same date. He said that the City Manager needed to be present at the public hearing for the Airport also. It should have been at a bigger venue also. He had to set chairs out for people.

L. Watts pointed out that there was confusion with the meetings. The public hearing for the airport had to be published 60 or 90 days beforehand and it could not be changed. The City Commission meeting possibly could have been changed, but was not. The City Commission meeting had to have a quorum when the time was scheduled, and the meeting could not be delayed.

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Jeff said that you are not supposed to wait for a meeting to start. He does have a presentation to make at the next regular meeting. This is a special meeting and the topics have to be abided by. We have to be on time.

City Manager said that he talked to the Mayor about this meeting and she didn't want the date or time to be changed.

**III. MOTION FOR ADJOURNMENT: ROLL CALL**

R. Nichols moved to adjourn the special meeting at 12:29 p.m. L. 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 October 6<sup>th</sup>, 2020 at 6:00 p.m.

**RECORDED BY:**

**DIANE K. CLAY  
CITY CLERK**