

**CITY OF FORT SCOTT  
CITY COMMISSION MEETING**

**Minutes of October 6, 2020**

**Regular Meeting #18**

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

**ROLL CALL:**

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

**INVOCATION:** Family Minister, Paul Martin, Community Christian Church, said a prayer asking God for guidance for the City, our Government and City officials.

**AUDIENCE IN ATTENDANCE:** Travis Shelton, Russell Lingerfelt, Susan Bancroft, Shirley Hurd, Rick Hurd, Ann Rawlins, Devin Tally, Jenna Campbell, Josh Jones, Patrick Wood, David Lipe, Bill Michaud, Paul Martin, Janice Allen, Max Daly, Michael Hoyt, Michael Mix, Amy Marsh, Carol Marsh, Nancy Whitaker, Mark McCoy, Alison Leach, Kristy Bowman, Max Fanning, Nate Stansberry, 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 September 1<sup>st</sup>. special meeting of September 21<sup>st</sup>, 2020, and special meeting of September 28<sup>th</sup>, 2020.
- B. Approval of Appropriation Ordinance 1272-A totaling \$500,184.22.
- C. Certificate of Appropriateness – Downtown Walking Trail – signage
- D. Request to Pay - HDR Engineering – River Intake Structure - \$6,001.05
- E. Request to Pay - SAM, LLC – GPS/GIS Project – Water Utility - \$35,000.00
- F. Pay Request #13 – Crossland Heavy Contractors, Inc – River Intake Structure - \$21,401.91
- G. Request to Pay – Insituform – Sewer Rehabilitation - \$126,592.72
- H. Request to Pay #4 – Home Center Construction – Water Treatment Plant Fire - \$9,320.00

- I. Request to Pay – Buildet, LLC – Water Treatment Plant Fire - \$45,000.00
- J. Request to Pay – MIH – 3RK – \$46,417.05
- K. Request to Pay – Rory Chaplin - \$1,229.93
- L. Request to Pay – Lauber Municipal Law, LLC – August - \$16,607.50
- M. August financials

L. Watts asked that Items J and K be removed from the Consent Agenda for further discussion.

P. Allen asked that Item G be removed from the Consent Agenda for further discussion.

L. Watts moved to approve the Consent Agenda with the removal of Items G, J, and K. R. Nichols seconded. P. Allen, R. Nichols, L. Watts and J. Mitchell voted aye. K. Allen voted no. Motion carried 4-1.

**APPROVED CONSENT AGENDA WITH REMOVAL OF ITEMS G, J, AND K.**

P. Allen said that on the Request to Pay – Insituform – Sewer Rehabilitation - \$126,592.72, he would like to address the fact that we are sending over \$190,000 to an out of town contractor. This is work that the City of Fort Scott should do themselves and could do.

L. Watts said that when the work was originally approved, it was due to the fact that the lines were currently under buildings, under pavement or concrete and we were unable to do that work.

P. Allen said that he wanted it known that we could have done most of this work ourselves.

L. Watts questioned Items J & K - Request to Pay – MIH – 3RK – \$46,417.05 Request to Pay – Rory Chaplin - \$1,229.93. She asked if we pay out to the individual as well as the contractor.

Susan said that she called the State back in June on this issue to make sure we were following the correct guidelines. He is a sub-contractor that works for him and can be paid directly.

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

**APPROVED ITEMS G, J & K FROM THE CONSENT AGENDA.**

**Public Comment:**

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

Shirley Hurd – Shirley said that she is a lifelong resident of Fort Scott and a past and present member and researcher with the Old Fort Genealogical Society. She wanted to talk to them about a cemetery named Mayhugh Cemetery that is located in Fort Scott. It is an abandoned cemetery but was active from 1868 until 1933. It is located just north of the City of Fort Scott's Wastewater Treatment Plant. Access to the cemetery is by a gravel and dirt road. The land is near the river and floods frequently. This cemetery was set out in a deed in 1885 when the owner, Henry Mayhugh, sold all but a 100' X 100' section where his son-in-law was buried. In 1973, Gerald Wood, member of Old Fort Genealogical Society, met with Chet Ober, owner of the surrounding land. Mr. Ober said that he tried diligently to get someone to help preserve the cemetery, but when they were unable to do so, had it bulldozed since they needed the land. This information was found in the 1980 Old Fort Log newsletter. Additionally, more information about the Mayhugh Cemetery was found in the 1995 issue. Part of the statement in the article read, "No direct evidence has been found recently but in a deep ravine to the northeast was found a sizable portion of a homemade sandstone marker. The lettering on this is not legible. About 1995, she started her research on the Mayhugh Cemetery. She and two other members of O.F.G.S. made a visit to Chet Ober and asked if he would show them where the Mayhugh Cemetery was. The location he took them to was where the Mayhugh Cemetery #2 was located. Mr. Ober told them that he asked Bourbon County several times to fix up the cemetery. He said the County dozed the tombstones into the river and used the ground as farmland. It is unknown when the stones were dozed. During this time, Wilma Witherspoon and herself updated the list of names up to 105 buried in the Mayhugh. In 2006, Sandra Dudley called her and asked about the cemetery. She told her all that she knew about it. She called again when she tried to get into the cemetery area and found a sign that stated Do Not Enter – Hazardous Waste – Keep Out. A City of Fort Scott employee came out and told her that she was not allowed on the property and that it was private property. In 2007, Sandra Dudley published a booklet named, "The Buried Roots of African American Ancestry in Fort Scott, Kansas". This book would have the short history of the Mayhugh cemetery. In 2019, about 25 years after she first started researching the Mayhugh Cemetery, she resumed her search to find all that she could about Mayhugh and those buried there. In 2020, Ann Rawlins joined the research of the Mayhugh and they soon located Mayhugh Cemetery #2 from aerial maps. They believed that Mayhugh #1 could no longer hold any more burials in the 100' X 100' plot. The burials were started north of the original site and then east just south of the riverbank. In August of 2020, she talked with the daughter of Chet Ober who stated she never saw any upright tombstones in the area while riding horses as a child. She did state that she saw large pieces of tombstone with writing on them in the southwest corner of the property. Those buried in the Mayhugh Cemetery were predominantly African American residents of Fort Scott and Bourbon County and most lived on the east side of Fort Scott. The updated list of names has grown to about 175 that are buried in the Mayhugh. Some were early citizens and lifetime residents of Bourbon County that worked, married, raised families, played, and died in our community. There is a Civil War soldier buried in Mayhugh

along with some that were freed as slaves and retained their slave owner's names. There is an entire family that died in 1911 through 1913 from whooping cough and other complications due to disease at that time. There are newborns, children, family, neighbors, and a couple that lived to be 100 years old. There are so many stories of these families that need to be told. It is too late to restore the area where the cemetery is, but we can honor them with a memorial stone with all the names engraved that have been located. That is what she would like to see happen. Her plan is to have a donation set up for the memorial stone and hopes that the City can help and make a small donation to this. She said to contact her for more information on the Mayhugh Cemetery. She said that Ann Rawlins will discuss the site research they have completed.

Ann Rawlins - Ann said that she is here to update them on the Mayhugh #1 and Mayhugh #2 cemeteries. She also works at the O.F.G.S. It was unknown there was a separate site until the first of this year when her twin brother, Dr. Wayne R. Tucker located the site using lidar aerial photography. Once this was discovered, Phase I was authorized and Phase II soon followed as they located and recorded GPS coordinates of several surface items. They have been authorized by Phase II to dig but are still working on surface finds. She shared photos with the Commission that showed the woods to the west, north and east of the mound where most of the concentration of burials have been suspected in previous explorations and then proven with lidar photos. In the trees on the west side and southward are further burials which continue to the south edge of the plowed field. Crossing a wide ditch, the burials then continue from the grassy area south to the deeded area of Mayhugh #1 which can be seen in another photo she shared. She used the east and west ditch line as the distinction line between Mayhugh #1 to the south and Mayhugh #2 to the north. Shirley has been able to identify and confirm that at least 175 persons were buried in Mayhugh Cemetery. How many in Mayhugh #1 or Mayhugh #2 is unknown. There are many who would never have been posted in the local newspapers or death records so the total number of burials may never be known. The next photo she shared showed the terrain and conditions of one of the debris fields located in Mayhugh #2. In this debris field, she has received confirmation that Commissioner Pete Allen's find was indeed an old headstone. Three debris fields had been located when this photo was taken last week, she and Shirley located a fourth site. The fourth site has remnants of three different marble or granite pieces that would have been too large to be moved in a flood. Mayhugh #2 and other sites have been reported to Robert Hord, who is the State Archeologist with the State Historical Society and he is investing our sites as viable historical or archeological locations. At this moment, we already have a moratorium in effect signed by the City Manager, Dave Martin, and the City crews have been notified they can only use the bush hog to maintain the area and no longer add anything to the ground. She showed a photo of a rock with the letters A N Y as noted by the arrows. The letters are not distinctive of bulldozer or tractor scratches as lines on each letter stops where they should. The letters also have sharp edges and show signs of human workings. The rock on the left side of the photo is covered with substance

that still needs to be identified. They have found two other stones which have been identified as headstones covered in the same substance. They have not been able to read any letters, but the old stones didn't always note a name. A black and white image was left in the O.F.G.S. library some time between 1997 and 2019 but don't know by whom. This image could be the headstone a local woman told Shirley she remembered as a young girl seeing in the grass while riding a horse in the area or what they believe is Mayhugh #1; or, it could be part of the debris field to the north or east side of Mayhugh #2 as reported in previous researchers interviews; or, it could be false information - they just don't know. Shirley has attempted to locate Essex McLemore's name in genealogical research several times but to no avail. They can only assume at this time that this is a true representation of a stone in Mayhugh #1 or Mayhugh #2, but until they have further proof, they are recording him as a possible burial. His date of birth was 3/13/1804 and date of death is 11/23/1868. She showed a photo of Rick Hurd and Pete Allen down in the ravine attempting to locate the site of the bulldozed headstones. None were found, but until it gets cold, a thorough exploration of the site will be put off due to copperheads. She thanked them for listening to her presentation and thanked them for their interest in preserving this very old, very large, African American cemetery.

Kevin Allen said that he would donate a machine if needed for their digging.

Bill Michaud – Bill appeared before the Commission about embarking on a new project in the downtown area. He is starting work and making lots of progress on the old Kress building. This is the B Works Center – the Bourbon County Workforce and Entrepreneurship Resource Center on the second floor of the Kress building. On the first floor, they will be opening a new grocery store. They are pushing to have the store open by the end of the year. A downtown grocery store is not brand new to the downtown and has been brought to the surface several times. A downtown grocery store will be a huge asset but one of the reasons that has elevated the need is the new apartments that are occupied downtown. This will be convenient for those that work in the area, live in the area, and one of the benefits they hope to offer is easy in and out convenience. He asked the Commission to consider and approve one hour parking in the 100 block of Main Street. One of the reasons the business would fail is to not have that easy in and out access to the grocery store. The apartment complex that is opening will have a parking lot and the tenants can migrate to park there as well as the other businesses in that block. The best suggestion is to add one hour parking in that block. He has spoken to Norm Conard, Georgia Brown, Main Street Gallery and Gifts, Stephanie Anthony at Spoiled Brat, JoLynne Mitchell, and Dick and Jan Hedges, and all are in favor of this. He tried to reach Jared Leek, but had to leave a message. He said they do not expect police enforcement of the one hour parking, but only on a call in basis. His request is to allow one hour parking in the 100 block of Main Street.

L. Watts asked if there was a time frame for the parking request. She would like to speak to Travis Shelton, Chief of Police about this first. She asked if

he would be opposed to tabling this issue until the second meeting in October.

Bill said if it doesn't happen, the store will die a slow life. It has to be a convenience for people in this area.

P. Allen said that there was an ordinance that already addressed the parking on Main Street that is in effect. We need to research this first.

Bill said that he would be okay with tabling this till the October 20<sup>th</sup>, 2020 meeting.

City Manager said that we need to discuss this with Chief Shelton on implementation.

Michael Hoyt – Mr. Hoyt said he would start his comments addressing the question that Kevin Allen has asked numerous times. What did the taxpayers pay for a Code of Ethics and Code of Procedures produced by Mr. Deane? The exchange of the last meeting was very well chronicled in our newspaper by Tammy Helm and considering all the legal speech and minutia, she did a very good job. As most of you are aware, he's had trouble with Mr. Deane's billings since the very first bill. He is very aware of how lawyer bills are created. Back in the day when Bill Gates of Microsoft was still flying Coach, he worked with some software development teams with three programmers running a legal time billing system. You can bill in ten minute increments and would pick up the phone and \$17.50, he would hang up the phone, and so forth. He knows how it goes. From his review, there would have been some bills in the ball park of \$15,000 to \$20,000 for a 15 page document. He has a competing bid for the same documents that were produced by the League of Kansas Municipalities, where you can get three documents with all the same topics that we paid \$20,000 for, for \$79.00. If Mr. Deane found in his initial review of this engagement for the City of Fort Scott, then shame on him for not ordering us these documents and billing us \$250.00. Most disturbing is the original bills for June and July, and the bills rewritten just a week ago. He highlighted the old bill with the ethics and procedures on the bill with yellow. He showed them a copy with the highlights.

Another topic – transfers. Susan, the financial statements indicate significant transfers this month from the sewer and stormwater funds. You know these transfers, and unless they are used for those purposes, are not legal. Ordinance 31 would change that, but he can report that a sufficient petition with 150% of the signatures required was delivered to the County Clerk yesterday and will require the voters to enact these transfer legalities to make these transfers legal.

The last issue, and he has written each and every one of you about this, but not one of you have responded to him. The advisory boards that are active

for this commission are not being staffed. There are vacant positions that have been vacant since last year. If you're waiting for the City Manager to give to you a suggestion that you might want to staff them, he's only going to do that under his agenda, and we know what his agenda is. You all need to make the initiative and staff those advisory boards.

K. Allen asked him for a copy of his highlighted material.

L. Watts said that there was a statement made and it was made up of opinion. Susan Bancroft has made up a fact-based information sheet about the questions that have been raised. He asked if she could take the time to go over it for the public and the Commission.

Susan said that the first thing she wanted to address was the transfers that Mr. Hoyt is pointing out in the financial statement. She shared it on the screen with the public and the Commission. These transfers are all legal transfers. A transfer from the general fund to debt service is to pay for debt service. If it was in the general fund or the debt service fund, it would not matter as it was still going to pay for debt service. These are transfers that have been cleared with our auditor. These are legal to do this way. It is the same for water, wastewater, and stormwater. You are simply making a transfer to debt service. If it wasn't spent in this debt service fund, it will be spent in the water, wastewater or stormwater fund. It is money from those funds to spend in those specific purposes. It is truly stormwater debt, wastewater debt, and water debt. The transfer from the general fund to the equipment reserve fund, the Commission has an ordinance that covers that from the general fund to special streets and highway. Transfer from water to water capital reserves, there's a statute that covers that. Transfer from wastewater to wastewater capital reserves, there's a statute and an ordinance that covers that. Transfer from stormwater to stormwater reserve, there is no statute that governs stormwater unless you are doing a special assessment. We have a stormwater utility. That is something as a body that you should look at and create an ordinance that governs what that stormwater can be used for. Transfer from the water to the general fund is a legal transfer per statute. Every transfer that has been made to date is legal.

P. Allen said he disagrees. He thinks we need to go back to the ordinance that specifies what the money can be used for and how the accounts are set up. There are two separate accounts that are set up by ordinance and neither of those accounts are set up.

Susan asked what the two accounts are.

P. Allen said that one is the maintenance and repair account, and one is the replacement fund.

Susan said that your sewer fund is your maintenance and repair account and your reserve fund is the other one. It is a legal transfer per our ordinance.

P. Allen said that all the money that comes in goes into the general fund.

Susan said that no it does not. When we have utility dollars, they go into the utility fund.

P. Allen said then they are transferred into the general fund.

Susan said not always.

P. Allen said you are looking at transfers of \$1.6 million.

Susan said you have to look at it by fund. Most of the \$1 million is for debt service.

P. Allen asked debt for what.

Susan said for water lines, water towers, water repairs.

P. Allen said we don't transfer money out of storm sewers for the water lines.

Susan said that everything she is transferring is in your budget. She said that all of her numbers tie out to debt service.

P. Allen said that it doesn't look good that we have crumbling sewers and we are transferring \$1.6 million out of that fund. We should put \$1.6 million into the ground.

Susan told him he was misleading people. It is specifically for water, wastewater, or stormwater – those specific items.

P. Allen said he would like to see it. He said he was not misleading anyone, just expressing his opinion.

Susan said that the debt service that we move out is about \$1.5 million. That's just debt service. We have to pay that.

P. Allen asked what it was for.



Susan said that we had 2009, 2010, 2011, 2012, we had water, storm, streets, sewer, aquatic center, streets in 2012, in 2016 a large sewer project. It's all right in the budget document.

P. Allen said you can't transfer the money out of sewer fund to the water fund.

Susan said that she didn't. She transferred to debt service. She can tie it out to a project specifically. She wants the community to understand when she makes a transfer from the water fund to the debt service fund, it is for a water expense.

L. Watts said that the confusion is valid on both sides. She urged anyone with questions to come and talk to Susan at City Hall.

Susan said that she wanted to point one other thing out. There were some strong statements made about money disappearing. These are bond dollars. She can show you in an audited financial that there are no dollars that disappeared. When you assign a project, you have to designate a project when you issue bonds. If you don't get to that project and there are dollars left over, they go back into the debt service fund to pay off future debt. These funds did not disappear.

P. Allen said that there is no backing to what you just said.

Susan said that there is a line item in the financial statements for those years.

Mayor Mitchell encouraged anyone with questions to go in and visit with Susan.

### **Old Business:**

1. Discussion of Pit Bull Ordinance – Travis Shelton, Chief of Police, said that the pit bull ordinance was adopted in 1987. There are two parts to this ordinance. The pit bull falls under our vicious dog ordinance. There is a section in registering a pit bull, which we no longer require. We do have a vicious dog ordinance but there are some challenges enforcing the pit bull ordinance. There are things we see today that we didn't see in 1987 such as comfort dogs, therapy dogs, companion dogs, and service dogs. They all have different requirements as to what makes each one that. Our ordinance specifies any dog with the characteristics of a pit bull or the appearance is considered a pit bull. These breeds are banned in the City limits of Fort Scott. We do have the vicious dog ordinance. He suggested keeping the vicious dog ordinance so we can use that in Municipal Court. He said he checked into various

cities and found the following. Iola lifted their ban about four years ago. They require if a dog is to be found vicious, they require a \$250,000 insurance policy on it. Chanute still has a pit bull ordinance in effect similar to ours. Parsons is similar to Fort Scott's, but were looking to change it at the beginning of spring but has not been approved yet. Nevada does not have a breed ban ordinance. Pittsburg does have a breed ban ordinance.

K. Allen asked Max Daly, Animal Control Officer, if he would be comfortable with just having the vicious dog ordinance and removing the pit bull section.

Max Daly said a dog can be vicious whether small or large. He will enforce whatever they decide.

L. Watts said she had invited Midge Grinstead, Senior State Director for Kansas Human Society to address the Commission.

Midge Grinstead informed the Commission that she has been in her position with the State for about 10 years and in the animal field about 32 years. She said that when you look at breed bans, it is not about the dog, but about the owner. She assisted the City of Lawrence with their vicious dog ordinance. She said again that it is not the dog, nor the breed, but the owner of the dog.

K. Allen moved to direct City Staff to change the current ordinance to remove the pit bull ban from the current City ordinance and amend the Vicious Dog ordinance. L. Watts seconded. All voted aye.

**APPROVED TO DIRECT CITY STAFF TO CHANGE THE CURRENT DOG ORDINANCE TO REMOVE THE PIT BULL BAN FROM THE CURRENT CITY ORDINANCE AND AMEND THE VICIOUS DOG ORDINANCE.**

2. Update on Parks Advisory Board Ordinance – City Manager said that this ordinance updates the creation of a Parks Board which had been dormant for many years. City Clerk will send a notice out advertising for members for this board.

L. Watts moved to approve the Parks Board Ordinance No. 3565. K. Allen seconded. All voted aye.

**APPROVED ORDINANCE NO. 3565 UPDATING ORDINANCE NO. 2713 AND 2717 WHICH CREATED A FORT SCOTT PARKS BOARD FOR THE CITY OF FORT SCOTT.**

**Appearances:**

Alison Leach & Kristy Bowman – Proposal for Bridal Veil Park – Alison said that she had dropped off some packets for the Commission earlier this week. She wanted to introduce a proposal to take the west side of Bridal Veil Park and start a conservatory pollination habitat. There is a lot of funding available for this. More than 30% of our food relies on insect pollination. There has been a serious decline in bees and monarchs and that is some of the pollination they want to have at this site. The cost would be minimum for the first phase of this project. This would be the only project like this in Southeast Kansas. There are a lot of organizations that could be involved in this such as 4H, the Master Gardeners, etc. She would like to form a steering committee to start the planning process and come back in January so the Commission could see what this project will look like. It could become a great habitat that could enhance that area.

L. Watts made a motion for this group to move forward to form a steering committee for this conservatory pollination habitat project. J. Mitchell seconded. All voted aye.

**APPROVED FOR THIS GROUP TO MOVE FORWARD TO FORM A STEERING COMMITTEE FOR THIS CONSERVATORY POLLINATION HABITAT PROJECT AT BRIDAL VEIL PARK.**

Paul Martin – Community Christian Church – Halloween Alternative – Paul Martin, Family Minister, Community Christian Church, appeared to ask approval for an event they would like to have on October 31<sup>st</sup>, 2020. They usually have a Fallween event, which is a fall festival which included trick or treating and inflatables. Because of COVID, they have had to change their plans. They would like to sponsor a Halloween fireworks show for the community. The fireworks would be shot off from the outfield of Ty Cullor ballfield at Fort Scott Community College. He has received approval from the College. They have asked Dave Bruner and the F.S.F.D. to put out the “No Parking” and “Social Distancing” signs. He has asked Travis Shelton and the F.S.P.D. to be available to patrol and direct traffic if needed. They are planning to use Shaunn Pytlowany to shoot the fireworks which will be purchased from Premier Pyrotechnics Inc of Richland, Missouri.

The Commission thanked them for putting on this event for the community.

L. Watts moved to approve the Fireworks display on October 31<sup>st</sup>, 2020. K. Allen seconded. All voted aye.

**APPROVED FIREWORKS DISPLAY BY COMMUNITY CHRISTIAN CHURCH ON OCTOBER 31<sup>ST</sup>, 2020.**

Mark McCoy – Letter of Support for the 1% Sales Tax – Mark McCoy appeared before the Commission and said he was here to discuss the 1% Countywide sales tax that will appear on the November 3<sup>rd</sup>, 2020 election

ballot. This tax will affect all seven of the cities in Bourbon County. In the County, 100% of the money is spent on hard surface on the roads. The City is having much discussion on how things are spent. He asked the City Commission to approve the 1% sales tax and that you will commit to apply 100% of this money to streets and roads as necessary. This tax is a renewable tax and will renew on June 30<sup>th</sup>, 2021. Negatives, if this tax is not passed, there will be no money in the County on the 600 miles to maintain. There are 78 miles to maintain in the City. He said there are actually six cities in Bourbon County: Redfield, Bronson, Mapleton, Uniontown, Fort Scott, and Bourbon County. Many of these cities have a very low budget and it would affect them adversely. He asked them to approve this important tax and state that those dollars would be used in your city for streets.

K. Allen asked what funds are brought into the City with this sales tax and where it goes.

Susan said currently it brings in about \$750,000 into the City. \$500,000 of that is transferred to the Street Department, which is about 67%, and another portion goes toward capital improvements, which could be a piece of equipment or a building needing repaired. This amount is roughly \$250,000. The remainder is dispersed into the general fund which is a small amount.

K. Allen asked if we could say that 100% of this sales tax will go into the Street Department.

Susan said she would have to go in and rework the budget. There are other decisions to make now. There is \$250,000 over the next two budget years where a scheduled transfer has been allocated and now that the charter ordinance has been repealed, that has to be cut out.

K. Allen said that people want to talk about streets and where the money is going. They want to see something for their money.

P. Allen said that back when we had a Street Department that functioned as maintenance, we did not have a street improvement program. The maintenance program was funded by the general fund. When the 1% City sales tax came about, it was for street improvements, not for maintenance. That was additional money to improve our streets – not maintenance. If you are looking at us making a choice to either dedicate it all to streets, he would say no. We need street improvements, but we don't need to take the money we are using for maintenance and supplement it with this 1% sales tax. Street improvement is lacking and street maintenance. We have to get into a street improvement mode and dedicate a certain amount to it.

Mark McCoy said that the 1% should be spent on anything to do with streets. He doesn't think that excessive funds should be used on new equipment.

L. Watts said she doesn't know if we can make a 100% commitment without Susan being able to look at the budget now and having that information in front of us.

Mark McCoy asked what a realistic amount would be that you could commit. You don't want to have to lay off people. This is the whole county.

Susan said that 67% of that budget is going towards streets. It is even worse than the \$750,000. If the sales tax fails, you are still going to have to maintain streets. You are really cutting \$1.25 million. There is no other place to cut unless we cut people.

P. Allen said that we are 30 days away from the vote. He is concerned about where that money is coming from and where it will be used and how are we ever going to get our streets improved and maintained.

Nate Stansberry, City Engineer, said he met with the Street Advisory Board last week. We need about \$700,000 to \$800,000 per year just to maintain street surfacing. This does not include personnel. Our mill levy has not increased for the past ten years. Sales tax has been left to cover the inflation costs. If you want a street improvement program, to vote down the sales tax would not suffice unless you cut other quality of life.

P. Allen asked what he would qualify as a street improvement program? Like the National Street program when it resurfaced 13 blocks? Are we going to have a street improvement program? A sewer replacement program? Where will we come up with money to fund these programs?

Susan said there are two sales taxes that are important. There is another sales tax coming due next April.

L. Watts said that if we make this decision now, we will have to make large sweeping cuts and will we be able to move the City forward. She asked if Kevin would look at a different amount to dedicate towards streets.

R. Nichols said that everyone at this table is for the 1% sales tax, but he told Mark McCoy that he has put them in an awkward position to say that you have to dedicate 100% towards streets when we have other obligations in this community that people need and want. Now we are negotiating, and we don't know all of our budgetary needs. It makes it difficult to vote for a motion when he thought you were coming with a letter that says that we support the 1% sales tax. Now you come in and say we're going to commit 100% of the money towards streets. We only have so much in our pod. Every time you take one segment of that money, you shrink another segment. He thinks we are pretty bare boned right now.

P. Allen said that we have 30 days and that's it. On social media and talking to people, the public wants action. We have to sell it to the community. We have to show the people that we are willing to do this and come out and make a bold statement.

R. Nichols said that he doesn't know tonight that we can commit a certain percentage without knowing all the budgetary constraints.

P. Allen said that we need to agree to the max. The people will decide. It doesn't matter what we say. The people will make the call. He said he was willing to negotiate but we have to say what we're going to do. He said that Mark has asked for 100% and we should give him that.

R. Nichols asked Susan what the maximum amount we could put in and not have budgetary demands that you can't meet.

Susan said a good example is if you take the \$250,000 amount. You would have to cut about \$60,000 out of the police fund. It is one of the biggest funds. She would have to ask Travis if he could cut \$60,000 out of his budget.

City Manager reminded the Commission that they will eventually have to approve any cuts that would be made.

Susan said since this sales tax does not go off until June 30, 2021, you are really talking about the following budget year. She said that 85% would be comfortable.

L. Watts asked if 90% would be acceptable. We need to compromise on this amount and what we are committing.

K. Allen said that we have to make a presence in this community with streets. He has asked for nine months to have street repairs made, and a stop sign straightened, and it has not happened yet.

Susan said that we are down three street employees currently. We have two employees and Chad.

R. Nichols asked what other quality of life issues would have to be cut? Before long we will be making roads to nowhere if we get rid of all of our other quality of life programs. He thinks there are other obligations besides streets. You could lose citizens without the quality of life programs.

City Manager said that he and Susan have discussed cuts. You could sell the golf course and not maintain LaRoche Stadium. It's dangerous to make a commitment.

P. Allen said it is necessary to make a commitment.

Susan said in the general fund this is what you will have to cut. Public safety and that includes police, fire, dispatch, animal control. You would have to cut 4% out of each of those budgets and some of those budgets don't have 4% to cut because they are wages. You would have to furlough people. You will have quality of life – airport, parks, LaRoche, aquatic center, Buck Run Community Center, and Memorial Hall. Memorial Hall is in desperate need of repairs. It is on the capital improvements for next year. We have a liability issue with the steps going into Memorial Hall. Codes enforcement is another way to cut. One of those ways is to cut demolition.

P. Allen said that anything we do today in the future can be changed. Any Commission at any time can change this.

Susan said her concern is to cut \$250,000 out of everyone's budget, which is 4% and now she needs to add another 4% onto that because she can't do a transfer from sewer utility into general fund. You are really cutting \$500,000 from the general fund.

P. Allen said he noticed in the capital program was the purchase of three new police cars. Do we really need that? It could be cut.

Travis Shelton said he has already cut two vehicles from next year's budget.

Susan said you are cutting from now until forever. Our budget has been flat for many years. We are heavily dependent on sales tax. There is no new money being generated.

K. Allen asked if she could handle 90%.

Susan said she could do 90%.

Mark McCoy said he didn't come here to put the Commission under any stress. He is here as a citizen. He knows it is not a thankful job, but a thankless job. The life of a City Manager is three to five years. He came here willing to negotiate. He has no strength, no power, no bonding. He has heard 80%, 85%, 90% and 95% and 100%. He said that the citizens want more. The most important thing is that the citizens should come away with a better understanding on how the funds are being spent. Bourbon County is a declining population in which 55% live in the City. He just wanted this presented to them.

Susan said that 85% would amount to about \$112,000 in cuts. 90% would amount to \$150,000.

K. Allen made a motion to dedicate 100% of the 1% sales tax to the Street Department. P. Allen seconded. K. Allen and P. Allen voted aye. R. Nichols, L. Watts, and J. Mitchell voted no. Motion denied 3-2.

**DENIED A MOTION TO DEDICATE 100% OF THE 1% SALES TAX TO THE STREET DEPARTMENT.**

K. Allen made a motion to dedicate 90% of the 1% Countywide sales tax to streets. L. Watts seconded. All voted aye.

**APPROVED TO DEDICATE 90% OF THE 1% COUNTYWIDE SALES TAX TO STREETS IF APPROVED AT THE NOVEMBER ELECTION.**

City Manager said that we are working hard to fill these open street positions.

Mark McCoy also said he also wanted to talk about Bourbon County Economic Development. This is just informational. This has gone forward and formed a committee. They will be hiring a director and this person will be employed and work for Bourbon County Economic Development. This will be a not for profit organization. This is modeled after Thrive Allen County where in the last ten years they have received over \$9 million in grants. They are able to achieve these grants because they are an independent and not for profit entity. There has been a high recommendation to change the name of Bedco. This has left years of people thinking that they haven't accomplished a lot. There is a board of eleven people and Steve Buerge is retiring from the Bedco board. They will be forming a committee of three people to hire the new Economic Development Director. The County has committed to eliminating their Economic Development Director. Allen County has one Economic Development Director for their county that is sourced through this organization. Economic development should happen at a County level and is best for all residents. Allen County will help establish this at no charge. This is about moving forward and sharing services.

**New Business:**

1. Downtown Building Improvement Grant – Sharky's – Rachel Pruitt, Economic Development Director, informed the Commission that grant funding for the remodel of Sharky's Pub and Grub needs to be approved. The grant application was awarded in 2018, and due to several factors, the improvement project was delayed. Significant building improvements have been made including \$35,000 in solar panels. Sharky's employs approximately 30 people. She asked approval for the amount of \$9,378.50. This will be from the Economic Development fund. Dave Lipe is also here if you would like to hear from him.

Dave Lipe said that with help from Peerless, new windows were installed ascetically changing the building to an open air concept. The original bid was \$55,000. This improvement has made a substantial investment in our community.

J. Mitchell moved to approve the Downtown Building Improvement Grant for Sharky's in the amount of \$9,378.50. L. Watts seconded. All voted aye.



**APPROVED THE DOWNTOWN BUILDING IMPROVEMENT GRANT FOR SHARKY'S IN THE AMOUNT OF \$9,378.50.**

2. T. A. Grant and Resolution of Support – Allyson Turvey, Community Development/Tourism Manager, informed the Commission that she provided history and planning into this type of project in your packet. We are using priority projects from the PedNet plan that was done by the Bourbon County Healthy Action Team back in 2017 when it was adopted by the Commission. She worked with Jody Hoener at the County and looked for shovel ready projects. She is proposing the completion of the sidewalks on Margrave, and the addition of bike lanes on Margrave from the National Cemetery to 6<sup>th</sup> Street, across 6<sup>th</sup> Street and up National Avenue to 15<sup>th</sup> Street. There would also be a small addition of sidewalk on Shepherd Street by the Fort Scott Middle School. This will meet some overall objectives. This will increase walkability and bike-ability. This will create a great connection between our two national assets. It will also help with safety measures. We have a wonderful Safe Routes to School project that was done in 2014. This will help connect some missing links in those sidewalks. The City match of this grant is \$83,000 with K.D.O.T. or 20%. She is researching other grants to make up the 20%. This is included in the capital outlay budget. She asked for approval of Resolution No. 15-2020 declaring the eligibility to apply for this grant.

R. Nichols moved to approve Resolution No. 15-2020 declaring the eligibility of the City of Fort Scott to submit an application to the Kansas Department of Transportation for use of Transportation alternatives program funds set forth by MAP-21 for the Fort Scott Kansas Bicycle and Pedestrian Master Plan for the Phase I PedNet Project in the City of Fort Scott and authorizing the Mayor to sign this application. J. Mitchell seconded. All voted aye.

**APPROVED RESOLUTION NO. 15-2020 DECLARING THE ELIGIBILITY OF THE CITY OF FORT SCOTT TO SUBMIT AN APPLICATION TO THE KANSAS DEPARTMENT OF TRANSPORTATION FOR USE OF TRANSPORTATION ALTERNATIVES PROGRAM FUNDS SET FORTH BY MAP-21 FOR THE FORT SCOTT KANSAS BICYCLE AND PEDESTRIAN MASTER PLAN FOR THE PHASE I PEDNET PROJECT IN THE CITY OF FORT SCOTT AND AUTHORIZING THE MAYOR TO SIGN THIS APPLICATION.**

3. Approval to update CDBG-CV Grant Parameters - Allyson Turvey, Community Development/Tourism Manager, informed the Commission that this is to update them on the CDBG-CV Grant. Since June, the City was awarded \$132,000. She asked for approval to update the CDBG-CV parameters to allow the submission of up to 120 days of working capital receipts.

R. Nichols moved to approve the grant parameter extension to 120 days. L. Watts seconded. P. Allen, R. Nichols, L. Watts and J. Mitchell voted aye. K. Allen abstained. Motion carried 4-1.

**APPROVED TO EXTEND THE GRANT PARAMETER EXTENSION TO 120 DAYS FOR THE CDBG-CV GRANT.**

Ally then asked for approval for the grant applications from H & L Transport in the amount of \$2,500; Designing Edge Graphics in the amount of \$2,500; Romax Electric in the amount of \$2,500; and Reifschneider Chiropractic in the amount of \$2,500.

L. Watts moved to approve the four grant applications be submitted to the State of Kansas. All voted aye.

**APPROVED THE FOUR GRANT APPLICATIONS BE SUBMITTED TO THE STATE OF KANSAS.**

4. Approval to accept a grant from Fort Scott Area Community Foundation on behalf of Pioneer Kiwanis for a friendship swing – Susan Bancroft, Director of Finance, informed the Commission that Pioneer Kiwanis Club has requested the City partner with them in applying for a grant for a friendship swing for our parks. The City received notice that they were awarded this grant in the amount of \$2,000. The grant just needs to be accepted.

The Fort Scott Fire Department was also awarded a grant from the Fort Scott Area Community Foundation in the amount of \$2,500 to assist in funding the refurbishment of the Safety Trailer.

Susan asked for approval for both grant awards.

K. Allen moved to approve both grants. L. Watts seconded. All voted aye.

**APPROVED FORT SCOTT AREA COMMUNITY FOUNDATION GRANTS ON BEHALF OF PIONEER KIWANIS FOR A FRIENDSHIP SWING IN THE PARKS FOR \$2,000 AND THE FORT SCOTT FIRE DEPARTMENT IN THE AMOUNT OF \$2,500 TOWARDS THE REFURBISHING OF THE SAFETY TRAILER.**

5. Recommendation from Lake Advisory Board to remove the sale of all City property at Lake Fort Scott – City Manager said that the Lake Advisory Board met on September 26<sup>th</sup>, 2020 along with three City Commissioners

at the Airport. Their recommendation was to remove all City property at Lake Fort Scott until an overall plan for the Lake has been established.

K. Allen made a motion to remove the sale of all City property at Lake Fort Scott until an overall plan for smart growth can be established. J. Mitchell seconded. All voted aye.

**APPROVED TO REMOVE THE SALE OF ALL CITY PROPERTY AT LAKE FORT SCOTT UNTIL AN OVERALL PLAN FOR SMART GROWTH CAN BE ESTABLISHED.**

6. Recommendation from Lake Advisory Board to approve Ordinance No. 3566 amending terms of the Lake Advisory Board members – City Manager said that this board requested changes. The Commission asked him to read the new proposed section.

**Section 2. Membership – Term.** That said board shall consist of a minimum of seven (7) voting members, five (5) members who are residents of Lake Fort Scott equally representing each side of the lake – and each type of lake lot owner (Full-time resident, and Part-time resident), one City resident at large, and one Bourbon County resident, and acting as ex-officio's, one (1) non-voting member representing the Fort Scott City Commission, and one (1) non-voting member representing the Bourbon County Commission, and a City employee for the City of Fort Scott. Said persons shall be appointed by the Governing Body and their term shall be for three years with no person to serve more than two consecutive terms, hereafter the approval of the chapter by the governing body. The expiration dates will be staggered so that four (4) members terms of office shall expire during the same year and the other remaining three (3) members terms of office shall expire the following year and continuing in this fashion thereafter. Vacancies shall be filled by appointment for the unexpired term only. Board members shall serve without pay. The terms will start in January of 2021.

K. Allen moved to approve Ordinance No. 3566. L. Watts seconded. All voted aye.

**APPROVED ORDINANCE NO. 3566 AMENDING ORDINANCE NO. 3550, SECTION 2, MEMBERSHIP – TERMS OF THE LAKE FORT SCOTT ADVISORY BOARD.**

City Manager said that he would like to address the property at 120 N. National. Paul Ballou has talked to Randy Vilela about the demolition of this structure. He asked the Commission to hold off on selling this property at this time.

K. Allen said that he would still like a soil test taken at this location.

City Manager said that there is other City property that could be sold.

L. Watts moved to remove the property for sale at 120 N. National at this time. R. Nichols seconded. All voted aye.

**REMOVED THE PROPERTY FOR SALE AT 120 N. NATIONAL AVENUE AT THIS TIME.**

7. Recommendation from Lake Advisory Board to allow private buoys be placed in front of residences at Lake Fort Scott, but that the City purchase the buoys so they match what the State requires – City Manager said that currently we have enough buoys and they are where Kansas Wildlife and Parks wants them located.

L. Watts said that there are private owners that want to place a buoy in front of their property. There are boats going into the no wake zone and doing damage to personal docks. She feels like there needs to be a program for the property owner to purchase this through the City and then reimburse the City.

K. Allen said that there are 175 property owners at the Lake, but we don't want 175 buoys out there. He thinks this should be discussed more with the Lake Advisory board and the residents.

Discussion was held regarding all the details regarding the buoys and was tabled at this time.

**Reports and Comment:**

**A. Director Reports:**

Nate Stansberry, City Engineer: Nate gave the Commission an update on the Codes Department. Since September 1<sup>st</sup>, there have been 61 Weeds letters issued; 25 letters for nuisances; 33 letters for Inoperable Vehicles; and 13 citations; and 15 permits issued.

Consideration of recommendation from the Street Advisory Board to add two (2) additional laborers so additional manpower can assist with street maintenance – At the September 3<sup>rd</sup>, 2020 Street Advisory Board meeting, the board recommended to the City Commission to add two additional street laborers to the Street Department. Since then we have had three resignations.

Discussion was held regarding the wage and benefits that employees make.

Nate said that the Street department is working at the alleyway behind Union Lofts to cover all the utilities. They plan to concrete the alley.

K. Allen asked to see the numbers between concrete and asphalt at this location.

Cooper Street will not be accomplished this year due to the time frame and the limited staff.

Nate asked for the City to apply a reclamite product on National Avenue from 6<sup>th</sup> to 13<sup>th</sup>. He met with a contractor in Pittsburg. He asked for approval to solicit bids for this project.

R. Nichols moved to get bids for reclamite for National Avenue from 6<sup>th</sup> to 13<sup>th</sup> and that the cracks be sealed first. K. Allen seconded. All voted aye.

**APPROVED TO GET BIDS FOR RECLAMITE FOR NATIONAL AVENUE FROM 6<sup>TH</sup> TO 13<sup>TH</sup> AND THAT THE CRACKS BE FILLED FIRST.**

Flood Plain Permit Request from Greg Schick - Nate said that he is now the Flood Plain Administrator for the City. He has extended Greg Schick's permit at 520 E. Wall until January 31<sup>st</sup>, 2021.

Susan Bancroft – Susan said that currently on our agenda we have listed all the projects over \$10,000 and are split out under the Consent Agenda. If you want, they could be in the appropriations and shorten the agenda.

Water Utility Bills – Susan said that changes have been made in the last couple of months. They were being mailed out of house and this could save the City significant money. We are back to printing our bills again and mailing them out at our local post office. We had an issue with the bills being torn at the post office and that has been corrected. Also, there was an issue on some of the water reads and some people were billed too much and some not enough. That will be rectified with this next billing. This will save the City about \$15,000.

Michael Mix – Update on Lake Intake Valves – Michael said he was here to update the Commission on the valve. He reminded them the primary purpose of the lake is for drinking water. There is a 24” valve at the Lake. When he tried to open the valve to take water out it was discovered the valve was damaged. They have been working diligently to get the valve repaired with divers going in the water.

**B. Commissioner Reports and Comments:**

K. Allen – Kevin asked why the meeting was changed back to City Hall from Buck Run. He would like to see it held at Buck Run until the COVID pandemic is over to allow more people to attend.

K. Allen moved to change the City Commission meetings to Buck Run Community Center until the COVID pandemic is over. L. Watts seconded. K. Allen, P. Allen, L. Watts, and J. Mitchell voted aye. R. Nichols voted no. Motion carried 4-1.

**APPROVED TO CHANGE THE CITY COMMISSION MEETINGS TO BUCK RUN COMMUNITY CENTER UNTIL THE COVID PANDEMIC IS OVER.**

Kevin asked when the alcohol sales can begin on Sunday.

Diane Clay told him on October 23<sup>rd</sup>, 2020 unless a petition is received by the County Clerk.

Kevin thanked Pete Allen and all the volunteers who worked on the tennis court renovation.

Kevin asked the City Attorney again how much the Code of Ethics and Code of Procedures cost the taxpayers of Fort Scott.

Jeff Deane said that there was a total of 10.3 hours as best as he can determine totaling 22 pages which total approximately \$1,800.00.

P. Allen – Pete discussed the condition of Main Street. Numerous street lights are not working, there is trash on Main Street, and cars being worked on.

Discussion was held regarding if the street lights had switches on them.

Max Fanning was present and said the switches can be turned off and on.

City Manager said that the lights are being worked on.

R. Nichols – Nothing to report.

L. Watts – Lindsey remarked that she is glad to see the City moving forward. She is proud of the volunteerism in this community.

J. Mitchell – Nothing to report.

**C. City Attorney Report and Comments:** None

**D. City Manager Report and Comments:** None

**Executive Session:**

L. Watts moved that the City Commission recess into Executive Session for the purpose of discussing litigation, claims, and other legal matters, pursuant to the attorney-client privilege exception in K.S.A. 75-4319(b)(2). The open meeting will resume in the Commission meeting room at City Hall at 10:20 p.m. R. Nichols seconded. K. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. P. Allen voted no. Motion carried 4-1 (Pete Allen did not attend). This included the City Commission and City Attorney.

**Executive Session:**

L. Watts moved that the City Commission recess into another Executive Session for the purpose of discussing litigation, claims, and other legal matters, pursuant to the attorney-client privilege exception in K.S.A. 75-4319(b)(2). The open meeting will resume in the Commission meeting room at City Hall at 10:41

p.m. R. Nichols seconded. All voted aye. This included the City Commission and City Attorney.

**Adjournment:**

L. Watts moved to adjourn the meeting at 10:43 p.m. J. Mitchell seconded. All voted aye.

**ADJOURNED MEETING AT 10:43 P.M.**

Respectfully submitted,

Diane K. Clay, MMC  
City Clerk