

**CITY OF FORT SCOTT  
CITY COMMISSION MEETING**

**Minutes of November 3<sup>rd</sup>, 2020**

**Regular Meeting #20**

The regular meeting of the Fort Scott City Commission was held November 3<sup>rd</sup>, 2020 at 6:00 p.m. in the Corey Larson Gymnasium at Buck Run Community Center, 735 S. Scott Avenue, Fort Scott, Kansas.

**ROLL CALL:**

Commissioners P. Allen, R. Nichols, and L. Watts were present with Mayor J. Mitchell presiding. K. Allen arrived at 6:02 p.m.

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

**AUDIENCE IN ATTENDANCE:** Travis Shelton, Russell Lingerfelt, Susan Bancroft, Nate Stansberry, Dave Bruner, Lynette Westhoff, Megan Felt, Norm Conard, Beth Nuss, Bobbi Kemna, Chris Sevedge, Ally Turvey, Janice Allen, Michael Hoyt, Jack Scheidt, Anne Rawlins, Clayton Miller, Patty West, Jana Walker, Helen Colwell, Michele Dunkeson, Paul Constans, Michael Trim, Angie Trim, Deb McCoy, Lindsay Madison, Sara Ellis, Amy Marsh, Carol Marsh, Crystal Mason, Merl Humphrey, Lynette Westhoff, John Kerr, Margaret Kerr, Ralph Carlson, Max Fanning, Sandy Keating, Mark Gilmore, Kim Bowman, and Amanda Gilmore.

**IV. PROCLAMATIONS/RECOGNITIONS:** None

**V. CONSENT AGENDA:**

- A. Approval of minutes of the regular meeting of October 20<sup>th</sup>, 2020, and special meeting of October 21<sup>st</sup>, 2020 and October 29<sup>th</sup>, 2020, and amended minutes of October 6<sup>th</sup>, 2020.
- B. Approval of Appropriation Ordinance 1274-A totaling \$245,877.23.
- C. Certificate of Appropriateness – Alterations – 3 South Main – Unsung Heroes Park
- D. Certificate of Appropriateness – Signage – 102 S. National – Fort Scott Exploratorium
- E. Certificate of Appropriateness – Alterations – 13 S. National – E-3 Foundation
- F. Certificate of Appropriateness – Signage – 16 N. National – Sharky’s Pub & Grub

G. Certificate of Appropriateness – Alterations/Signage – 23 S. Main  
– Main Street Gallery & Gifts

R. Nichols moved to approve the Consent Agenda. L. 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.**

**Public Comment:**

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

Michael Hoyt – Asked Kevin Allen for another extension in researching the City Attorney invoices. He has been unable to obtain the September billing and doesn't think the October bill is available yet. He also brought up the topic of advisory boards for the City. He gave them a handout of the various advisory boards of the City. He said that the Planning Commission that heard the cell tower case should have a member of the advisory board present to address this case.

City Clerk said that there are copies in their packet of the minutes from the Planning Commission.

Mr. Hoyt said that there are several boards that are expiring in the near future.

City Clerk said that she will get those posted closer to the expiration date.

He also brought up the Genealogy Library and a security incident that recently occurred. He asked that an address be posted above the door, so it is available for 911 calls. He also asked that an address be posted on the Codes entrance.

**Old Business:**

1. Two-hour parking in 100 block Main Street – Approval of final ordinance – Travis Shelton, Chief of Police, informed the Commission that this final ordinance designates Main Street from 3<sup>rd</sup> Street to Skubitz Plaza to be two hour parking between the hours of 7:00 a.m. and 6:00 p.m.

Discussion was held when this ordinance should become effective and it was determined January 1<sup>st</sup>, 2021.

L. Watts moved to approve Ordinance No. 3568 and reflecting that this becomes effective January 1<sup>st</sup>, 2021. K. Allen seconded. All voted aye.

**APPROVED ORDINANCE NO. 3568 DESIGNATING MAIN STREET BETWEEN 3<sup>RD</sup> STREET AND SKUBITZ PLAZA TO BE A TWO HOUR PARKING ZONE AND AMENDING SECTION 10.24.010 OF THE CITY CODE OF THE CITY OF FORT SCOTT, AND BECOMNG EFFECTIVE JANUARY 1<sup>ST</sup>, 2021.**

2. Consideration of update to Vicious/Dangerous Dog Ordinance with removal of Pit Bull ban – Approval of final ordinance – Travis Shelton, Chief of Police, informed the Commission that this is the final ordinance to adopt the vicious/dangerous dog ordinance with removal of the pit bull brand of dog.

P. Allen brought up the issue of individuals doing mechanic work on Main Street.

Chief Shelton said that is something that can be enforced by the Police Department and to call Dispatch and report it.

K. Allen moved to approved Ordinance No. 3567. L. Watts seconded. All voted aye.

**APPROVED ORDINANCE NO. 3567 AMENDING 6.08.020 – REGISTRATION REQUIRED-PROCEDURE-AMENDING 6.08.130-VICIOUS DOG OR OTHER ANIMAL AND DANGEROUS DOG-KEEPING PROHIBITED-REMOVAL OF ITEM D UNDER 6.08.130 REFERRING TO PIT BULL DOG AND ARTICLE II-KEEPING OF REGISTERED PIT BULLS SECTIONS 6.08.240, 6.08.250, 6.08.260, 6.08.270, 6.08.280, 6.08.290, 6.08.300, 6.08.320, 6.08.340, 6.08.350, 6.08,360, AND 6.08.370. ADDING SECTION 6.08.135 – DANGEROUS ANIMALS.**

K. Allen left the meeting room at 6:10 p.m.

3. Skitch's Hauling & Excavation Invoice – Port-A-Potties - \$2,461.50 – Susan Bancroft, Director of Finance, informed the Commission that it was asked that she do a review and breakdown of the invoices for the port-a-potties for this invoice. There are 13 full time port-a-potties supplied by Skitch's Hauling & Excavation. The services provided are toilet paper, water freshener, cleaning inside and outside of all port-a-potties at the cost of \$22.00 per unit, per cleaning. A credit is received on each bill for dump fees every two (2) times because the dumps are not considered full dumps. The locations are seven (7) units at Gunn Park with five (5) during the summer and then two (2) added during the winter months. There is one (1) unit at Riverfront Park, one (1) unit at LaRoche Baseball Complex, one (1) unit at the pickleball court, and three (3) units at Lake Fort Scott. The bills for July and August were also invoiced to Fort Scott Recreation also. He has a new secretary that is doing his billing and she didn't realize that these were separate entities. Susan said that she credited our invoice which resulted in a credit of \$572.00.

The total for this invoice will be \$1,889.50. Going forward, the bills will be more detailed.

R. Nichols moved to approve the invoice for \$1,889.50 for Skitch's Hauling and Excavation. J. Mitchell seconded. All voted aye.

**APPROVED SKITCH'S HAULING & EXCAVATION INVOICE IN THE AMOUNT OF \$1,889.50 FOR PORT-A-POTTIES IN THE CITY OF FORT SCOTT.**

K. Allen returned to the room at 6:22 p.m.

**Appearances:**

Lynette Westhoff – City Insurance – Lynette Westhoff, Billard, Hammer, Hartman Insurance, informed the Commission that she brought them packets of EMC Insurance regarding what services are covered. The City is not losing any benefits at all with EMC. She also informed them that the City will be part of the dividend program and she will have a check for the City in May. The time frame is from January to May and they will accept the City in this program. She also requested that due to the extensive process it takes in moving all the insurance from one company to another, she requested a three-year lock in. This is due to a) show that the City is committed to the company; and b) start working on loss control issues effective January 1<sup>st</sup>. This is something the City did before with KCAMP. This is an extensive process, and she has spent countless hours in compiling information.

Crystal Mason – Front Door Real Estate – Crystal said that she wanted to update the Commission and give them some statistics on real estate in Fort Scott and Bourbon County. These statistics started in 2016 and have continued to date in 2020. In 2016, there were 118 properties sold. Last year in 2019 there were 152 properties sold. In 2020, there have been 122 properties sold with 27 properties pending. In 2019, these sales amounted to \$15,823,000 in properties. To date, there have been \$11,925,200 in sale of properties and this does not include the 27 pending properties before the end of the year. She said that she appreciates Rachel, Ally, and Jody Hoener with their grants and assisting people with buying properties. There has been a lot of downtown activity this year. Via Christi has opened a clinic downtown, the grocery store in the Kress building, Hounds Nutrition in the old Common Ground coffee shop, a barber shop, Common Grounds, Kenny Felt Photography, and the LaRoche complex on the corner of Wall and National. The apartment complex is moving along and a couple just purchased 8 N. National, the old Hammons Realty. They will be renovating this building and moving here in the next year from Kansas City. Properties have been purchased from individuals from Tennessee, Texas, Colorado, California, Kansas City, Chicago, and she is probably missing some states. There are 40 active listings in Bourbon County and Fort Scott. The average is 122 so we are below average, and we need property to sell. The average sale of a house is \$97,748. Most of the houses selling are from \$80,000 to \$155,000.

**New Business:**

1. Consideration of Conditional Use Permit – Cell Phone Tower at 910 Burke Street – Ally Turvey, Community Development Manager, informed the Commission that this Conditional Use Permit is for a proposed cell phone tower that would go next to the Water Treatment Plant on Burke Street. This has been heard by the Planning Commission at two separate public hearings. At the end, the Planning Commission did vote to not recommend the Conditional Use Permit to the City Commission. All of the information provided to the Planning Commission as well as the minutes is included in your packet. Jack Scheidt, with AT&T is here and would like to give a short presentation to the Commission. There are also residents that would like to speak on this issue.

Mayor Mitchell said that they have all had several individuals speak with them on this issue. They have been given information and some they have been able to review and some of it they have not. She made a motion to table this issue at this time.

K. Allen said that if there are people here to speak, he would like to hear from them.

Margaret Kerr said that the City has been given information that they have not and she would like to get this same information.

Ally said that the only new piece of information she is aware of is the cell tower height. AT&T is now willing to look at a 150' monopole instead of the 210' tower. The Planning Commission heard the case on a 210' tower.

R. Nichols seconded the Mayor's motion to table this issue at this time.

L. Watts asked if this new information would need to go back to the Planning Commission.

Ally said it is up to the City Commission if they want to hear it or send it back to the Planning Commission.

City Clerk reminded them the motion was to table the discussion on the Conditional Use Permit at this time. Motion was made by J. Mitchell and seconded by R. Nichols. R. Nichols and J. Mitchell voted aye. K. Allen, P. Allen and L. Watts voted no. Motion denied 3-2.

**DENIED MOTION TO TABLE THE DISCUSSION ON THE CONDITIONAL USE PERMIT AT THIS TIME.**

Jana Walker spoke and asked if a location south of town would be more beneficial to AT&T.

Ally said that there are pros and cons that were addressed at the two Planning Commission meetings.

Pete said that everyone he has heard from is against it. He doesn't see any reason to go any further into this issue.

K. Allen asked the City Attorney if there was any truth to litigation that could come against the City.

Jeff Deane said that he has not gotten any notice of litigation against the City. There are appeals rights that are available. You can either accept their recommendation, reject their recommendation, or send it back to the Planning Commission for further study.

K. Allen said that he thinks that sending it back to the Planning Commission is the best choice.

K. Allen made a motion to send this case back to the Planning Commission for further study. P. Allen seconded. All voted aye.

**APPROVED TO SEND THE CONDITIONAL USE PERMIT FOR THE CELL PHONE TOWER LOCATION AT 910 BURKE BACK TO THE PLANNING COMMISSION.**

2. Consideration of Wastewater Treatment Plant Roof Bid – Nate Stansberry, City Engineer, informed the Commission that bids were taken for the replacement of the roof at the Wastewater Treatment Plant facility. There were two bids received. The bid specifications were drawn up by Zingre' & Associates. The low bid was from Joplin Roofing Co. Inc. of Joplin, Missouri in the amount of \$29,368.00. Mr. Zingre' has sent a letter of recommendation to approve the low bid also.

Discussion was held regarding how big the roof was, the condition of the roof, and the amount of the bid received.

Nate said that the City was trying to get this job done during this budget year.

K. Allen moved to table this issue at this time until the next meeting. P. Allen seconded. K. Allen, P. Allen, and L. Watts voted aye. R. Nichols and J. Mitchell voted no. Motion carried 3-2.

**TABLED THIS ISSUE UNTIL THE NOVEMBER 19<sup>th</sup>, 2020 MEETING.**

3. Discussion of Charter Ordinance No. 31 – Jeff Deane, City Attorney, said that an Executive Session is needed to discuss various options and choices that you have on this ordinance and the petition that was filed.

Executive Session – L. Watts moved to recess into Executive Session for the purpose of attorney-client privilege exception in K.S.A. 75-4319 (b)(2) to discuss the protest petitions. The open meeting will resume at 7:07 p.m. in the Corey Larson Gymnasium at Buck Run Community Center, 735 Scott Avenue, Fort Scott, Kansas. R. Nichols seconded. All voted aye. This included the City Commission, City Attorney, and Director of Finance.

L. Watts moved that the City Commission come out of Executive Session at 7:07 p.m. R. Nichols seconded. All voted aye.

Jeff said that the Commission needs to approve the Resolution No. 17-2020 to hold a special election.

Susan read the proposed resolution to the Board.

**A RESOLUTION NO. 17-2020 TO SUBMIT TO THE QUALIFIED ELECTORS OF THE CITY OF FORT SCOTT KANSAS, THE QUESTION PRESENTED IN THE PROTEST PETITION CHALLENGING CHARTER ORDINANCE NO. 31.**

**WHEREAS**, The City Commission passed Charter Ordinance No. 31 relating to the procedure of utility fund transfers; and,

**WHEREAS**, a qualified number of electors have timely submitted a proper protest petition to the county challenging Charter Ordinance No. 31, requiring a special election for voters to decide the question.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FORT SCOTT:**

**Section 1.** A special questions election shall be held in the manner prescribed by law on Tuesday, January 5, 2021, for the purpose of submitting to the qualified electors of the City of Fort Scott, Kansas, the question of approving Charter Ordinance No. 31.

**Section 2.** If approved by a majority of the electors voting thereon, such Charter Ordinance No. 31 shall become effective, thereafter.

**Section 3.** The City Clerk and County Election Officer shall cause notices of this special question election to be published as provided by law.

PASSED AND ADOPTED BY THE CITY COMMISSION AND SIGNED BY THE MAYOR OF THE CITY OF FORT SCOTT, KANSAS THIS **3rd** DAY OF **November, 2020.**

L. Watts moved to approve Resolution No. 17-2020. R. Nichols seconded. All voted aye.

**APPROVED RESOLUTION NO. 17-2020 TO SUBMIT TO THE QUALIFIED ELECTORS OF THE CITY OF FORT SCOTT, KANSAS, THE QUESTION PRESENTED IN THE PROTEST PETITION CHALLENGING CHARTER ORDINANCE NO. 31.**

4. Consideration of Bids – Asphalt Pavement Crack Sealing - Nate Stansberry, City Engineer, informed the Commission that four (4) bids were received for the Crack Sealing project that was let recently. The low bid was from ProSeal in the amount of \$38,000. He asked for approval for the low bid from ProSeal.

P. Allen said that the City should be doing this project and wants to know why we aren't doing it.

Discussion was held regarding this project, and working with the County on this project.

R. Nichols moved to approve the bid from ProSeal in the amount of \$38,000. L. Watts seconded. R. Nichols, L. Watts and J. Mitchell voted aye. K. Allen and P. Allen voted no. Motion carried 3-2.

**APPROVED PROSEAL BID IN THE AMOUNT OF \$38,000 FOR THE ASPHALT PAVEMENT CRACK SEALING PROJECT ON NATIONAL AVENUE.**

5. Consideration of Bids – Emulsified Maltene Base Asphalt Rejuvenation - Nate Stansberry, City Engineer, informed the Commission that bids were taken for the asphalt rejuvenation of National Avenue from 13<sup>th</sup> Avenue to the North City limits. There were two (2) bids received with the low bid from ProSeal Inc. in the amount of \$35,000. There were two options on the bid with one option for the City sweeping and the other option for the contractor sweeping. He is recommending the City sweeping on this project.

Discussion was held regarding the amount of the two bids and the type of product bid.

R. Nichols moved to approve the bid from ProSeal in the amount of \$35,000. L. Watts seconded. R. Nichols, L. Watts and J. Mitchell voted aye. K. Allen and P. Allen voted no. Motion carried 3-2.

**APPROVED PROSEAL BID IN THE AMOUNT OF \$35,000 FOR THE ASPHALT REJUVENATION PROJECT ON NATIONAL AVENUE FROM 13<sup>TH</sup> TO THE NORTH CITY LIMITS.**

6. Resolution of Project Sponsorship – Riverfront Authority – Susan Bancroft, Director of Finance, informed the Commission that this is a resolution of project sponsorship for a Transportation Alternatives



Program Application and Maintenance Commitment for the Riverfront Authority for the Pedestrian and Bicycle Bridge at Riverfront Park project. Any match would come from the Riverfront Authority.

J. Mitchell moved to approve Resolution No. 18-2020 – Resolution of Project Sponsorship. R. Nichols seconded. All voted aye.

**APPROVED RESOLUTION NO. 18-2020 – RESOLUTION OF PROJECT SPONSORSHIP FOR A TRANSPORTATION ALTERNATIVES PROGRAM APPLICATION AND MAINTENANCE COMMITMENT FOR THE RIVERFRONT AUTHORITY FOR THE PEDESTRIAN AND BICYCLE BRIDGE AT RIVERFRONT PARK PROJECT.**

7. Discussion of Interim City Manager position – City Attorney asked that they enter into Executive Session to discuss the next two topics.

L. Watts moved that the City Commission recess into Executive Session for the purpose of discussing non-elected personnel exception in K.S.A. 75-4319(b)(1). The open meeting will resume in the Corey Larson Gymnasium at Buck Run Community Center, 735 Scott Avenue, Fort Scott, Kansas at 8:25 p.m. R. Nichols seconded. All voted aye. This included the City Commission and City Attorney.

L. Watts moved that the City Commission come out of Executive Session at 8:25 p.m. R. Nichols seconded. All voted aye.

L. Watts moved to approve that the Mayor be the contact person for Directors at City Hall. R. Nichols seconded. All voted aye.

**APPROVED FOR THE MAYOR TO BE THE CONTACT PERSON FOR THE DIRECTORS AT CITY HALL DURING THIS ABSENCE OF AN INTERIM CITY MANAGER.**

L. Watts moved to amend the purchasing policy for a temporary period without an Interim City Manager, that we amend the purchase policy and any purchases from \$5,000 to \$10,000 would be brought to the City Commission either by a special meeting or a phone special meeting if necessary at the discretion of the Directors. Also, a second signature for the checks will be Diane Clay, City Clerk, as the City Manager is not hired yet. R. Nichols seconded. All voted aye.

**APPROVED TO AMEND THE PURCHASING POLICY FOR A TEMPORARY PERIOD WITHOUT AN INTERIM CITY MANAGER, THAT ANY PURCHASES FROM \$5,000 TO \$10,000 WOULD BE BROUGHT TO THE CITY COMMISSION EITHER BY A SPECIAL MEETING OR A PHONE SPECIAL MEETING IF NECESSARY AT THE DISCRETION OF THE DIRECTORS. ALSO, A SECOND SIGNATURE FOR THE CHECKS WILL BE DIANE CLAY, CITY CLERK, AS THE CITY MANAGER IS NOT HIRED YET.**

8. Discussion of search for new City Manager

L. Watts moved to table this discussion to search for a new City Manager until a special meeting can be held, and we find out the results from the sales tax ballot vote being held today. R. Nichols seconded. All voted aye.

**TABLED THE DISCUSSION OF THE SEARCH FOR A NEW CITY MANAGER UNTIL A SPECIAL MEETING CAN BE HELD AND THE RESULTS FROM THE SALES TAX BALLOT VOTE ARE AVAILABLE.**

**Reports and Comments:**

**A. Director Reports:**

Susan Bancroft – Short Term Financing – Fire Truck - Susan updated the Commission that short term financing bids have been sent out to local banking establishments. This is being done late in the year, but we need to have the financing established by the end of the year. The truck has been delayed due to COVID and it will not be ready until the middle of the year. The bid has been set so the first payment will not be due until July 1<sup>st</sup>, 2021.

Golf Cart Lease Bid – Susan also updated the Commission that the bid has been sent out for the golf cart lease. There are 36 carts to be leased and specifications to be met. She also added add-ons that can be added or removed.

**B. Commissioner Reports and Comments:**

K. Allen – Suggested that a quarterly meeting be held between the City, County, USD 234, and F.S.C.C. He can call the County and try to set up a meeting.

Randy said he would like to see an agenda set for a meeting like this.

He also asked that all Directors be present at City Commission meetings and be able to give progress reports for their departments.

P. Allen – Pete asked about the boiler at Memorial Hall.

Ally said that the boiler is turned on and working now.

Pete also asked about the lighting in Memorial Hall.

Ally said she is waiting on Jeff Allen to secure some scaffolding so he can reach the lights and get them replaced.

Pete also inquired about roller skating at Memorial Hall and if that could be a possibility.

R. Nichols – Nothing to report.

L. Watts – Lindsey welcomed any citizens regarding the cell tower issue to reach out to her.

J. Mitchell – Nothing to report.

**City Attorney Report and Comments:** Nothing to report.

**Adjournment:**

R. Nichols moved to adjourn the meeting at 8:43 p.m. L. Watts seconded. All voted aye.

**ADJOURNED MEETING AT 8:43 P.M.**

Respectfully submitted,

Diane K. Clay, MMC  
City Clerk