

**CITY OF FORT SCOTT  
CITY COMMISSION MEETING**

**Minutes of February 18, 2020**

**Regular Meeting #4**

The regular meeting of the Fort Scott City Commission was held February 18<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:** Mr. Gene Payne, said a prayer asking God for guidance for the City, our Government and City officials.

**AUDIENCE IN ATTENDANCE:** Travis Shelton, Rachel Pruitt, Robert Uhler, Deb Needleman, Michael Mix, Susan Bancroft, Josh Jones, Gene Payne, Brian Allen, Travis Battagler, Arnold Schofield, Ralph Carlson, Seth Needham, Dave Bruner, Jerald Mitchell, Nancy Johnson, Deb McCoy, Patrick Wood, Jason Gorman, Stewart Gulagher, Michael Miles, Max Fanning, Lindsey Madison, Jon Lowery, Teri Hulsey, Cheryl Adamson, Michael Hoyt, Greg Schick, Katlyn Harper, Janice Allen, Jara Martin, Clayton Miller, and representing the press, Tammy Helm, Editor, Fort Scott Tribune.

**PROCLAMATIONS/RECOGNITIONS:** Recognition of Bourbon County EMS Crew and Fort Scott Fire Department - Dave Bruner, Fire Chief, introduced Travis Battagler, RN, BSM, RCIS, Manager of the Cardiovascular Services of the Heart Center at Ascension Via Christi Hospital in Pittsburg, Kansas.

Mr. Gene Payne informed the Commission that he had been outside and came back into his house and found his wife unresponsive. He called 911 and the Fort Scott Fire Department crew of Daren Hutchison, Captain, and Andrew McGee, Paramedic, arrived on scene. Then the Bourbon County E.M.S. crew of Jon Lowery, Paramedic, and Katlyn Harper, E.M.T. arrived where it was determined that Mrs. Payne was having a heart attack. Bourbon County E.M.S. transferred her straight to Via Christi to the heart cath lab. The time frame on this transfer was 57 minutes till she was in the operating room. The ambulance crew even came up to her room and visited and checked on her.

Dave Bruner said on January 27<sup>th</sup>, 2020, they were dispatched to a heart related call. The crews alerted the ER here and were told to transport her straight to Via Christi Hospital in Pittsburg.

Travis Battagler, Manager of Cardiovascular Services Heart Center, Via Christi, explained to the Commission and audience about the straight transfer to the hospital. They were at the door waiting and she was put in the cath lab within 9 minutes on arrival to the hospital in Pittsburg. She was back home 58 hours later. He has six other success stories from Bourbon County. He said that E.M.S. has done an amazing job in transporting patients.

**APPROVAL OF MINUTES AND APPROPRIATIONS/CONSENT AGENDA:**

Pete Allen asked that Item C – Ace Pipe Cleaning Invoice be removed from the agenda.

- A. Approval of minutes of the regular meeting of February 4<sup>th</sup>, 2020 and special meeting of February 14<sup>th</sup>, 2020.
- B. Approval of Appropriation Ordinance 1257-A totaling \$738,540.82.
- C. Approval of Ace Pipe Cleaning Invoice - \$37,430 (pulled from last meeting) (5% retainage for work to be completed)
- D. Request to Pay #6 – Crossland Heavy Construction - \$165,086.25 – River Intake Structure
- E. Change Proposal Request #7 – Crossland Construction – \$9,671.00 – River Intake Structure
- F. Change Proposal Request #9 – Crossland Construction – River Intake Structure – No monetary change
- G. Approval of Lauber Municipal Law, LLC Invoice - \$8,872.50
- H. Consideration of Ace Pipe Cleaning Invoice - \$65,756.15 – (5% retainage for work to be completed)
- I. Approval of Resolution No. 7-2020 – 2020 Kansas Pride Program Entrant
- J. Approval of 3RK – Certificate of Pay Request #1 – MIH Housing Grant - \$39,667.89.

Nichols moved to approve the Consent agenda with the removal of Item C. Watts seconded. Nichols, Watts, and Mitchell voted aye. K. Allen abstained. P. Allen voted no.

**APPROVED CONSENT AGENDA WITH THE REMOVAL OF ITEM C.**

Pete Allen informed the Board that he wanted to let them know what the intent of the Joplin Toolbox is. It is to provide the City of Fort Scott with a toolbox of evaluation and rehabilitation methods required for the elimination and ground water infill and infiltration and rehabilitation of the structural integrity of the wastewater collection systems. We have a strict contract with the Joplin Toolbox. Pete went over the items that he believes are incorrect and missing that he listed at the last City Commission meeting. He mentioned several violations of the contractor. He also mentioned performance bonds.

City Attorney said that you can call and ask for a copy of his performance bonds.

City Manager said that Ace will be here at the next meeting if we want them to.

Pete pointed out several more discrepancies with the contractor verses the contract. This is the whole entire project. The contractor is required to install ADA compliant sidewalks, and this was not done. This was in the contract. He asked for a complete discontinuance of any contract with Ace Pipe Cleaning. He considers their entire work defective which is against the contract. The contractor should bear all the expenses on this defective work that they have performed. He wanted it noted that he just discovered the additional payment to Ace Pipe Cleaning on the agenda tonight and asked that it be removed for payment also. He would like to rescind it.

City Attorney said that there needs to be a motion to reconsider the motion to approve the Consent Agenda from someone on the majority side. If they will, you can reconsider the motion.

Lindsey Watts said that this the second time we have gone over this information. Her biggest concern is how to move forward. What about if we don't pay them?

City Attorney said that the Prompt Payment Act is in favor of the person being paid generally. He thinks a review of the work that has been done can justify withholding the payment. If they don't fix the work, you may need to get an engineer and have them check these issues out, Ace Pipe can do one of two things: 1) Either fix it; or 2) get sued for not fixing it. Whether the bill is paid or not, it doesn't negate our ability to sue them or to recover any losses we have.

City Manager said that we have talked to Ace Pipe. Michael has shared all these issues with them.

Michael Mix said that he completely disagrees with his (Pete's) opinion about this work. He said he sent them each an email and addressed each of the concerns. He thinks it is unreasonable to withhold payment for the work that they have done. Their work is sufficient and adequate.

Kevin Allen asked Michael if he would be willing to say that everything on the job is perfect?

Michael Mix said yes. He could bring engineers to the next meeting. There will be a cost for this.

Pete said that those opinions mean nothing. He is talking strict accordance with the contract. He is interested in facts and they don't meet the specifications – plain and simple.

Michael Mix asked that someone make a motion to approve those two invoices. There are some small issues that still need to be completed. The 5% retainage fee has been withheld on these payments.

City Attorney said that it is a business decision for the City Commission to make. There is a certain risk that they could sue the City. If the work is that bad, you could use that as a lever. We have our own actions if they don't.

City Manager said he will do what the City Commission desires.

Lindsey Watts said that we need specific instructions for Staff. We have discussed this for two weeks now. They have grounds to sue us. She feels like this job has not been done correctly.

City Manager said that he will schedule a meeting with Ace Pipe Cleaning and invite Pete Allen and Kevin Allen to attend.

Mayor asked Pete Allen if he is adamant that they should not be paid?

Pete Allen said absolutely.

JoLynne Mitchell made a motion to table the payment to Ace Pipe Cleaning until the meeting has been held with the City Manager and two Commissioners. Pete Allen seconded. All voted aye.

**TABLED PAYMENT TO ACE PIPE CLEANING UNTIL A MEETING HAS BEEN HELD WITH THE CITY MANAGER AND COMMISSIONER PETE ALLEN AND COMMISSIONER KEVIN ALLEN TO DISCUSS ALL THE CONCERNS WITH THEIR CONTRACT AND THE ACTUAL WORK COMPLETED.**

City Attorney said that the vote on the Consent Agenda needs to be reconsidered now without the payment on both invoices to Ace Pipe Cleaning.

JoLynne Mitchell moved to reconsider the vote on the Consent Agenda previously taken. Pete Allen seconded. Kevin Allen abstained. Pete Allen, Lindsey Watts, and JoLynne Mitchell voted aye. Randy Nichols voted no. Motion carried.

**APPROVED TO RECONSIDER THE VOTE ON THE CONSENT AGENDA PREVIOUSLY TAKEN.**

Lindsey Watts moved to approve the Consent Agenda with the removal of Item C & Item H – Ace Pipe Cleaning invoices. Mitchell seconded. Kevin Allen abstained. Pete Allen voted no. Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted aye. Motion carried.

**APPROVED THE CONSENT AGENDA WITH THE REMOVAL OF ITEM C & ITEM H – ACE PIPE CLEANING INVOICES.**

Lindsey Watts moved to table Item C & Item H until after the meeting with Ace Pipe Cleaning. Kevin Allen seconded. K. Allen, P. Allen, Lindsey Watts, and JoLynne Mitchell voted aye. R. Nichols voted no. Motion carried.

**APPROVED TO TABLE ITEM C AND ITEM H UNTIL AFTER THE MEETING WITH ACE PIPE CLEANING.**

City Manager said that he will visit with AG Engineering, as they would be an independent engineer, and let them know what is going on. He will invite them to this meeting with Ace Pipe Cleaning and the two commissioners.

City Attorney said you could invite Ag Engineering to the next meeting to update the Commissioners on this issue.

Pete Allen said that it should be noted that any costs associated by AG Engineering should be paid by the contractor.

City Attorney said that could become part of our damages if we have to sue them.

City Manager will invite Pete Allen to the AG Engineering meeting.

**APPEARANCE/COMMENTS/PUBLIC HEARING:**

**A. APPEARANCE:**

Ralph Carlson – Consideration of Tree Program – Ralph informed the Commission that since 1970, the Men’s Kiwanis Group started a tree program with the City. It is a collaboration between the State Forester, the City of Fort Scott, and the Kiwanis group. The City purchases the trees and City staff digs the holes. The Kiwanis group has a coupon published in the newspaper and the State Forester determines the trees that are available. The State Forester also determines if there is room in the person’s yard for a tree, and if so, Dig Safe is called, the City will dig the hole, and then the Kiwanis group will plant the trees on a Saturday morning. There was \$1,200 allocated for this in the budget he was told by the City Manager.

Kevin Allen moved to approve the Tree Program in the amount of \$1,200 for 2020. Lindsey Watts seconded. All voted aye.

**APPROVED TREE PROGRAM FOR 2020 IN THE AMOUNT OF \$1,200.00.**

Seth Needham, Gunn Park Improvements – Seth appeared before the Commission to update them on an upcoming event called Spring Blitz. It will be held on Saturday, March 14<sup>th</sup> at Gunn Park. This will be a big workday. There are companies that have donated materials, labor, and money. There are big projects and small projects. There are two major projects, one of which is the swing set by the second lake, and also the

first playground area by Shelter #1. He asked the Commission if they had any questions or concerns about this workday.

City Manager asked what his group needed from the City.

Seth said that Chad Brown has been great on guidance on the projects and Susan Bancroft has been wonderful to work with.

Commissioners thanked him for taking on this big project.

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

Deb McCoy – Ms. McCoy said that she appreciates the donations for the trees and the parks. She asked when it was appropriate for the City to make donations without violating the public purpose spending requirements. Because the City generates the majority of the revenue through impositions of taxes and fees upon their citizens, the expenditures of City funds must be for the common good and not for the benefit of a select few. The opportunities for a local government to make a contribution that will serve only generalized public like purpose are very limited. The local government should not make expenditures of this type. Again, in reviewing the budget there were contributions made ranging from \$100 to \$4,000, and again, she asked them to review the government gifting policies and expenditures of the taxpayer's dollars. She reviewed the expenditures from January 2019 through February 18<sup>th</sup>, 2020, and there were some concerns about the expenditures of our tax dollars. Credit card spending – we have approximately 90 to 100 City employees and we have about 53 of these employees that have credit cards. Do we have policies and procedures on what items that can be purchased with these credit cards and do we have a cap on the amount on what can be spent. There are numerous credit card expenditures on multiple items. When you have numerous departments going out and charging items from cleaning supplies, to computers, to clothing, to other miscellaneous items, that they think they need, the bi-weekly charges begin to add up. Where's the accountability and who is in charge of overseeing all the expenditures in each department? If office and workplace equipment is purchased, are these items inventoried and is the equipment marked as City property? Again, in review of the expenditures, there were some big item purchases that popped out. \$4,000 for two office chairs. \$1,500 for a ring for an employee with ten years of service. The expenditure of \$4,052 for a telescoping light for the new pumper truck that was just purchased. Why was this not included in the purchase price of the truck? She is thankful that we received the \$665,303 grant towards the ladder truck and I hope that the specs will be sent out for bid, as it is my understanding that other cities that purchased the desired truck that we want, got it for under our projected price of \$1.3 million. Clothing allowances – what is the determination of who gets the clothing allowance and what is the cap on how much is allowed. She knows that certain departments are required to have uniforms and safety equipment for their jobs. What is their allotment

per year? The total spending for the City on clothing, uniforms, and safety equipment for this past 13 months was \$28,942.00. That seems pretty steep for the chosen few who are required these expenditures. What policies do we have in place for clothing allowance? The last department expenditures that jumped out was tourism. This is not including the Chamber of Commerce. She said that she believes in the promotion of our City and its history, but to the tune of \$97,438.00 over the past 13 months? This does not include salaries and benefits. Do all of these expenditures meet the means that we are trying to accomplish? Expenditures from January 2019 to January of this year included travel, advertising, equipment, computer programs, contractual expenses, events, and memberships and dues. Stated in the July 16<sup>th</sup>, 2019 meeting, the goals of the tourism department was to attract more teens to the LaRoche Baseball Complex, and they said in 2020 they were hosting the N.C.A.A. Baseball tournament for a second time. The second item was to attract more group tours. It was noted that we did have a few group tours that visited our city. The third item was to host more conventions and conferences. How many have we hosted? We spent \$9,000 on chairs for Memorial Hall with the stipulation that these chairs would not be loaned out. We also spent \$500 on cocktail tables for another event. Where are these items presently? Were they all marked as City property? There are concerns that the stipulations were not followed. We, as citizens, again ask you to follow the guidelines of government spending of tax dollars. We need policies and procedures. We need department managers to be held accountable for their expenditures based on their budgets, and most of all we need you as our City employees to be mindful of our tax dollars. The tax dollars pay your salaries and benefits. We need oversight and transparency on how you spend our money.

Pete Allen asked how she would propose to get this spending under control.

Deb said that you have advisory committees for everything. You could have a committee come in and go over the budgets and make suggestions.

Pete Allen asked how do we have 53 credit cards.

Lindsey Watts said that your concerns are great. She met with Susan Bancroft and asked many questions. Susan is reviewing the purchasing policy with them this evening.

Kevin Allen asked for a list of items before the meeting so he can review it.

Deb mentioned a central supply possibly between the City and the County.

Michael Hoyt – At the last meeting, he left Dr. Nichols with a few dates of the attorney bills that he wanted feedback on. So far, he hasn't gotten

that. The response of Mr. Deane was that he wasn't giving him free legal advice in questioning his bills. He will do it again tonight. He referred to the billing packet which started on page 80 in your agenda packet. On the 2<sup>nd</sup> and 3<sup>rd</sup> of January, the attorney said that he sent an additional complaint (and it was not an additional complaint) and backing up from that, if you recall, he believes it was the second meeting when the new law firm was in attendance, he handed him a copy of the first letter he had received from the Attorney General where they had assigned a CB number that day. So Mr. Harding, or Mr. Burton, whatever his last name was, he can't remember, he said he sent that. He doesn't believe that. They got that CB number and they started billing. He counted no less than three times that they have charged the City for the same letter that they wrote on 12/30. 1.1 hours spent on January 2<sup>nd</sup> and January 3<sup>rd</sup>, to read the same information that they used to write their letter on the 30<sup>th</sup>. Skipping ahead to the 17<sup>th</sup>, prepared correspondence regarding a resolution put forward? When did he put forward a resolution? He asked to be on the agenda and Mr. Martin you sat there many times and said just call ahead and he would get you a time on the agenda, but it was a big fat no to me.

City Manager said that he told you that you could speak under citizen comments.

He said that they could argue that later. He did not put forth any resolution, so why are you spending 2.4 hours. Anytime he sees his name on a bill that he's not getting paid for, he has a point to bring up. He has no money on this. He's not doing this maliciously either. If he sees something wrong, he will just say this once. He said he will make a comment to Ms. Watts about doing City business on your personal Facebook page. On the Saturday session, Mr. Deane advised you not to do that.

Lindsey Watts said no – it wasn't City business.

Mr. Hoyt said yes it was. There was a court decision that just came out that says that if you do anything with your Facebook page, as an elected official, if you block me, you violated my civil rights.

Ms. Watts said correct.

Mr. Hoyt said Ms. Mitchell said that he has called you out for making three decisions that used City funds during the work session. Now why Mr. Deane felt like you need to spend 4 more hours on the 20<sup>th</sup> is beyond him. He put those to rest on the 13<sup>th</sup> of February. On the 24<sup>th</sup> his complaints to City Hall, does that require a lawyer to sign off on a permission slip to City Hall? Then refer to a Letter to the Editor to the Tribune? Want to tell me what letter you are talking about? The only letter to the editor, and Ms. Helm would verify this, to the Tribune was about helicopter safety.

Kevin Allen asked if this was still on January 24<sup>th</sup>?

Mr. Hoyt said yes and the 29<sup>th</sup>, 1.3 hours about his letter to the editor on helicopter safety and whatever this phone call is. Mr. Deane shared that Ms. Mendoza never returns his calls. If you would like to talk to her, call him and he will let you talk to her. He has overbilled and is misbilling and he is going to report it to the Kansas Bar.

**C. PUBLIC HEARINGS:** None

**CONSIDERATION:**

1. Discussion of roof at 123 S. National – Shiney Studio – Robert Uhler, Community Development Director, informed the Commission that they are proposing to do a metal roof. The Design Review Board asked that you deny this roof.

Kevin Allen asked if there were any metal roofs in the historic district.

Robert Uhler said that there are metal appendages – not roofs.

Discussion was held regarding the historic district, where it was, and if any penalties could be assessed.

Arnold Schofield, Chairman, Design Review Board, informed the Board that this church was built in 1903. On 7/24/2019, the Design Review Board recommended to the City Commission not to approve the metal roof on the church as it was inappropriate and would denigrate the historic building of the church and district. In the historic district, there are 59 contributing buildings and 24 non-contributing buildings. This building in 1903 had concrete tin shingles. Those shingles are still available today but very pricey. The owner wants to put a channel roof on similar to what is on barns and butler buildings. On 8/20/2019, the City Commission voted not to approve the Certificate of Appropriateness for the installation of that roof. It was up to the owner to consider alternatives and come back to the Design Review Board. He has not done that. He has asked for advice from the State, but it is contrary to what he wants to do. He asked the Commission not to approve his proposed roof. You will be placing the City and the owner in an awkward position. The State Historic Preservation Office in Topeka will find it in violation of their law. The owner will have violated that law and the S.H.P.O. office and the Attorney General's office could result in a fine from \$5,000 to \$50,000. They could also find the City complicit in providing the owner with their permission. He asked them not to revoke the prior City Commission's decision.

Discussion was held on what will happen to the building if it keeps deteriorating and his other options.

Arnold said that the roof could collapse. He is an absentee owner. According to the State, if the metal roof is allowed to be installed, the

classification on the church will change from a contributing building to a non-contributing building. If it is a non-contributing building, that means that it is not eligible for tax credits, or a historic preservation grant from the City. It would be declassified.

Kevin Allen asked about meeting with the owners to discuss this issue again.

Kevin Allen made a motion to table this issue on the roof and have Staff visit with the owner and Commissioner Kevin Allen regarding the roof material and a solution. Pete Allen seconded. All voted aye.

**APPROVED TO TABLE THIS ISSUE REGARDING THE ROOF AT 123 S. NATIONAL AVENUE AND TO VISIT WITH THE OWNER and CITY STAFF AND COMMISSIONER KEVIN ALLEN REGARDING THE ROOF AND A SOLUTION.**

2. Update on 421 W. 5<sup>th</sup> Street – Robert Uhler, Community Development Director, informed the Commission that he met with the owner, which is the McKenney family, on this structure again. They are sending a written notice to repair this building within the next 30 days. He will provide another update at the March 10<sup>th</sup>, 2020 meeting.
3. Consideration of Fort Scott Chamber 2020 Membership Dues - Robert Uhler, Community Development Director, informed the Commission he is seeking approval for the 2020 Chamber of Commerce dues. The City is a silver sponsor which is \$800.00 annually. This supports four members. The City supports their annual Chamber dinner amounting to \$1,200.00. The City has reduced their Chamber dues for the last few years. The Golf Course does join separately.

Lindsay Madison, Director, Chamber of Commerce, informed the Commission that dues were restructured a few years ago. She appreciates the City and all they do to support the Chamber and their many events.

Kevin Allen moved to approve the 2020 Chamber Membership Dues in the amount of \$800.00. Pete Allen seconded. All voted aye.

**APPROVED 2020 CHAMBER MEMBERSHIP DUES IN THE AMOUNT OF \$800.00.**

4. Consideration of Flood Plain Extension Permit LBB-0055-FF - Robert Uhler, Community Development Director, informed the Commission that Greg Schick has asked that the flood plain extension permit be extended once again until July 30<sup>th</sup>, 2020. This is due to weather delays. He has removed three buildings and numerous items.

Pete Allen said that he would like to see this completed by the All School Class Reunion. He would like to see progress reports on this project the first meeting of each month.

Commissioners discussed making this a hard deadline with no additional extensions.

Kevin Allen moved to approve the Flood Plain Extension Permit LBB-0055-FF for 520 E. Wall Street until July 30<sup>th</sup>, 2020 with monthly progress reports. Lindsey Watts seconded. All voted aye.

**APPROVED THE FLOOD PLAIN EXTENSION PERMIT LBB-0055-FF FOR 520 E. WALL STREET UNTIL JULY 30<sup>TH</sup>, 2020 WITH MONTHLY PROGRESS REPORTS.**

5. Replacement of submersible mixer for Wastewater Treatment Plant facility – Michael Mix, Public Utilities Director, informed the Commission that he is asking to waive the purchase policy to replace a burnt-out submersible mixer at the Wastewater Treatment Plant basin. He received three quotes: Letts, Van Kirk & Associates of Kansas City, Kansas in the amount of \$7,235.00; Douglas Pump Service of Overland Park, Kansas in the amount of \$8,682.00; and Controls and Electric Motor Company of Joplin, Missouri in the amount of \$8,895.25. He asked for approval for the low bid from Letts, Van Kirk & Associates in the amount of \$7,235.00 and to waive the purchasing policy for this item.

Kevin Allen moved to approve the low bid from Letts, Van Kirk & Associates in the amount of \$7,235.00 and to waive the purchasing policy for this item. Randy Nichols seconded. All voted aye.

**APPROVED THE LOW BID FROM LETTS, VAN KIRK & ASSOCIATES IN THE AMOUNT OF \$7,235.00 AND TO WAIVE THE PURCHASING POLICY FOR THIS ITEM FOR THE PURCHASE OF A SUBMERSIBLE MIXER FOR THE WASTEWATER TREATMENT PLANT.**

6. Consideration of Acceptance of Grant Agreement 20-PF-005 – Approval of Ladder Truck Purchase – Rachel Pruitt, Economic Development Director, appeared before the Commission to inform them of a competitive grant award that the City received. The City received notification last Thursday that they were awarded the Ladder Truck Fire Grant but was asked to keep it quiet until the official notice from the State was announced. This is a grant in the amount of \$665,303 for the ladder truck purchase for the Fire Department. We will apply again in 2021 for sewer projects. Susan Galemore, Southeast Kansas Regional Planning Commission, will work with the City on additional paperwork for this grant. There was \$17 million awarded by the State and the City is very fortunate to receive this grant.

Kevin Allen asked about the current ladder truck.

Chief Dave Bruner said we have the pumper truck right now that we need to find a home for. He would like to keep both of these trucks in Bourbon County. If there are volunteer fire departments that need them, that will be definitely looked at. This is the third ladder truck that the City has owned. The first was in 1956, 1991, and now 2020 so they last about 30 years. It will take ten months to a year for the new truck to arrive.

Kevin Allen moved to approve Grant Agreement No. 20-PF-005 between the City of Fort Scott and the State of Kansas Department of Commerce for the ladder truck for the Fire Department. Randy Nichols seconded. Kevin Allen, Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted aye. Pete Allen abstained. Motion carried.

**APPROVED GRANT AGREEMENT NO. 20-PF-005 BETWEEN THE CITY OF FORT SCOTT AND THE STATE OF KANSAS DEPARTMENT OF COMMERCE FOR THE LADDER TRUCK FOR THE FIRE DEPARTMENT.**

7. Review of City of Fort Scott Purchasing Policy – Susan Bancroft, Director of Finance, informed the Commission what she is giving them is more for informational purposes. When she came back to the City, she asked if the purchase policy had been changed. She found out that it had not been changed. She found out that some of the guidelines had not been followed. She asked them to look at these policies and let her know if you have any suggestions to these policies. As the Finance Director, her job is to enforce your policy. She makes sure all the expenditures are within your guidelines. She updated the cheat sheet for the purchasing policy and gave them an updated copy of it. For purchases under \$200.00, it states a small requisition will be used. We no longer have those small purchasing books. So, an employee can go and make a purchase under \$200.00. The employee brings the receipt back and the supervisor signs off on it.

Trip Expense Report – Susan said that she would like to say that we have been following this policy, but we have not. When an employee goes on a trip, a City vehicle should be used. We do not have a City vehicle that can be used, so mileage is reimbursed at the current I.R.S. rate. On meals the current rate is \$6.00/breakfast; \$9.00/lunch; and \$12.00/dinner. This should be in our handbook instead of a separate policy.

Credit Card Purchase Policy – Susan said that a topic of conversation has been credit cards. We have a big policy on credit cards. The same policy has to be followed as the purchase policy. There are some areas that aren't being followed and this will be tightened down on. There are repercussions for violations of this policy. The City has 37 purchase cards. These go to Directors, supervisors, and cards that are specified for departments for when travel is needed. She is

concerned with some of the limits and this will be addressed tomorrow at their staff meeting.

**COMMISSION/STAFF:**

**A. Director Updates:**

Susan Bancroft – Susan said she wanted to address some of the comments that have been made regarding expenditures. The Commission has three options. We can ignore what Deb is saying, reject what she is saying, or embrace it. She has some good recommendations she has suggested. She said she can't change the past, but she can change the future. She also wanted to address misinformation. She told Pete she owed him an apology. She looked at the Wastewater ordinance and it clearly defines that we cannot make transfers out of that fund. It's been going on for years. As a Commission, you have some decisions to make. The City makes transfers, called franchise fees, in the budget. It is misleading. It is not a franchise fee. It is a utility. We make all of the franchises in our City pay a franchise fee. We are making a transfer from the Wastewater fund to the Water fund, totally legal, but we have one ordinance stating we can't do it out of the Wastewater fund. These funds are moved into the general fund. What happens when this transfer is taken away – There are three choices: 1) Change the ordinance; 2) cut \$175,000 out of the general fund budget which means cutting programs, streets, personnel, repairs at park, no aquatic center, 3) or transfer this amount from the Water fund. Her concern is that \$175,000 amount, you will either cut programs or look at a 4 mill increase by a City vote. This ordinance is from 1982 which is an old ordinance. Not only does it say it has to stay in that fund, but you must create two other funds which are for replacement of sewer lines, and operation, and maintenance. We can't go back and change the past but move towards the future. We will need to have some budget discussions quickly.

Deb McCoy asked about the ½ cent sales tax for the pool.

Susan said that would help. It sunsets next year. We will have to go to a public vote and there are two big public votes coming up. The first one is the countywide sales tax. It will be coming up this fall. This tax supports our general fund. If that does not get reintroduced, we will be in bad shape. More information will come out regarding this tax. The ½ cent sales tax is what funded Buck Run improvements and the Aquatic Center. If it is renewed, it can help fund streets, sewers, and transportation.

Pete Allen said that the success of these two taxes passing are going to hinge on what the City does. Are we going to show improvement, are we going to dig? If we show the people something, they will have something to vote for.

Susan said that she wanted to point out that there are NO fake funds. There are expenditures in those funds that are very important. There is one called 711 which is the water fund. 712 is the sewer fund. This is the water administration fund. These were identified as fake funds, but they are not fake funds. These funds help pay for software to run the utility office, or to help pay for insurance. Susan said the water utility billing is being brought back in house which will save money. Our Cintas contract is also being looked into to save money.

Deb Needleman – Kansas Municipal Insurance Trust (K.M.I.T.) is our work comp carrier. Every year they conduct an audit on the City. They were here last week and went through a questionnaire and did an inspection of one of our facilities. The City scored 163 points out of 175 possible. This score allows us to retain our gold star level as a City. This allows us a 5% discount on our work comp insurance premium. She also serves on the K.M.I.T. board as the Treasurer and it is an honor to do so.

In late 2017, as part of the Blue Cross/Blue Shield Healthy Pathways initiative, we formed a wellness committee and developed a physical activity policy within the City which we put into place. That physical activity policy qualified us for a \$12,500 grant that could be used for items related to wellness. We spent over half of that money in 2018 for exercise equipment and risers for desks. There was \$5,650 left to spend and she has ordered water bottle filling stations for City Hall, Buck Run, Golf Course and the Public Safety facility which will be installed soon.

## **B. City Commission:**

Randy Nichols – Dr. Nichols said that he wanted to raise some questions and express some concerns he has regarding the currently proposed sewer plan, but first needs to make a couple of general comments so you know where he is coming from. We have a commission/manager form of government and he strongly supports our City workers, directors, administration, and Mr. Martin as our manager. They are knowledgeable, dedicated, and want what's best for Fort Scott. They introduce innovative ideas, are self-motivated, but are also willing and anxious to publically criticizing their work or them personally. It seems to me a more productive way to work with staff is to set goals and expectations, to offer support and education and when problems do arise to work through Dave to correct any problems or errors made in good faith. His second point is that although infrastructure is important to all of us, it is only part of our overall responsibility to the community and we can't neglect other issues. There is a lot of passion for this project but sometimes that needs to be tempered with practicality and pragmatism. For instance, the decision on January 21<sup>st</sup> was to utilize an existing City crew to start and explore the feasibility of open cut sewer repair. It actually didn't require a vote and is being done within the scope of the street and sewer departments. It also did not exclude lining as an

option. Also, for clarity, not all of our sewer system is 180 years old. The new parts are well within the stated 50-100 years of their life expectancy. Moving forward, here are some of his concerns and questions about the plan currently being presented. Just so you know, I don't have to be right about any of these concerns, but I don't want to make an uneducated decision and find out later I was completely wrong about the decision.

1. Proposed structure of organization and cost benefit verses risk of project. a) Is a separate corporation legal? b) We already have capable administration to manage the project. Why would we duplicate that expense? c) Commission should not be directly supervisory reporting of any project including from outside corporation. Our job is not to manage/micromanage projects and in fact, we should be held to a standard of non-interference.
2. He is unclear about the return of money to our community. As he understands the calculations shown, the yearly cost is \$2,000,000 and the return is \$500,000. That is not a 75% return to the community. This plan purposes funneling financing into a quasi-government agency. If it's that good for the community shouldn't we just bid it to local contractors? It's been said we should pay more for local services but how much more? Also, would bidding the project stabilize our financial commitment and planning? To some degree this feels to me like we are taking from Peter to pay Paul.
3. Questions with conflicting answers regarding lining verses open digging. A few he can recall: durability and longevity of lining system, ability to repair lining, hooking to laterals, ability to prove initial integrity of system, cost of lining verses open trench, disruption to private properties and areas not accessible by open cut, amount of money spent in town when lining crews are here. We could have engineering/experts clarify these conflicted opinions for us.
4. Infiltration/Inflow: Is there a way to determine which lateral systems need replaced instead of doing them all? How much would be relieved by replacing just the 18-24 inches closest to the sewer lines? How much would be relieved by just enforcing codes about direct drainage into the sanitary sewer lines via downspouts, etc.? At \$1,000 per replacement how much will homeowners have left to do neighborhood revitalization, especially if we don't have grants? On that note are the "we" that are exploring grants working with the City staff or does the City staff or does the City not need to participate in these proposed grants?
5. Estimated yearly cost: What happens if digging costs are more than estimated related to complicated trenching, collateral damage to other structures in the trenches, ditches deeper than 8' or pipes larger than 8", or if we don't maintain 211 feet per day? How do we budget for cost overruns? Do we want to assume this responsibility by hiring ever enlarging crews or again are we better to use private business and bid the program or continue 30 year replacement staying within the budget and just prioritizing the most at risk areas to be done first? Also, he doesn't think estimated cost included suggested simultaneous work on water system or streets.

6. Community development: Need to recognize current efforts for revitalization that include variety of civic organizations, City codes enforcement, community involvement with groups like YAT, Good Neighbor Action Team, the recent parks volunteer group and the ongoing bike trail group. Also, safe sidewalks, Healthy Bourbon County, and its related trails initiative, and the developing Landbank with goals to get delinquent tax properties into private hands for development, or community gardens or green spaces, put all back on the tax rolls.
7. Bigger than all these other issues though is: How do we pay for it? What are budgetary guidelines/risks/restrictions/limits? If we cap our borrowing just on the sewer what about our other needs including those that may not be foreseen like deteriorating buildings in the downtown? Without guaranteed outside money, there are four options to financing these projects: 1) continue to work within our budgetary limits which the current sewer rebuild is doing; 2) cut services – so what goes? a) Quality of life like Buck Run Parks, Ball Parks, Pool, Golf Course, or b) Public Safety services like Police, Fire; or c) other projects needed to expand or stabilize our community like airport expansion or possible contributions to health care? 3) Raise taxes or increase sewer rates but both of these would do the greatest harm to the most economically vulnerable. Also increases may discourage business expansion or recruitment of new business and could even discourage people from buying locally. 4) The long run option is continue to support existing businesses and recruit new business to expand our tax base and thereby improve our ability to finance community needs and services.

In summary, we all agreed that upgrading our sewer infrastructure is important, but we need to get it done in a way that allows us to meet our ongoing obligations and doesn't adversely impact our citizens at greatest risk or suppress our economic business development. Furthermore, we need to shepherd our resources so we can either transition into or simultaneously work to improve our overall infrastructure. We can't do that if we cap out or utilize all our resources on sewers only.

His point is we need to know all our options: financial, other construction options, how do we integrate sewer/water/streets for a global infrastructure plan? How does all this impact our ability to move forward with other priorities? To answer these questions is going to take several months.

Having said all this, he made a motion to direct Mr. Martin to organize his staff to bring us an analysis of Pete Allen's plan as well as optional plans (Michael Mix's) and his plan for bidding to contractors with local preference, etc. so we can have details to make educated decisions about the choices. These plans should include, but not be limited to financial details, implications, expert opinions about construction and engineering techniques and materials like lining options, full integration of street/sewer infrastructure work and

any related topics. Also, there should be progress reports at least every 3<sup>rd</sup> commission meeting. Lindsey Watts seconded. Kevin Allen, Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted aye. Pete Allen voted no. Motion carried 4-1.

**APPROVED TO DIRECT MR. MARTIN TO ORGANIZE HIS STAFF TO BRING US AN ANALYSIS OF PETE ALLEN'S PLAN AS WELL AS OPTIONAL PLANS (MICHAEL MIX'S) AND HIS PLAN FOR BIDDING TO CONTRACTORS WITH LOCAL PREFERENCE, ETC. SO WE CAN HAVE DETAILS TO MAKE EDUCATED DECISIONS ABOUT THE CHOICES. THESE PLANS SHOULD INCLUDE, BUT NOT BE LIMITED TO FINANCIAL DETAILS, IMPLICATIONS, EXPERT OPINIONS ABOUT CONSTRUCTION AND ENGINEERING TECHNIQUES AND MATERIALS LIKE LINING OPTIONS, FULL INTEGRATION OF STREET/SEWER INFRASTRUCTURE WORK AND ANY RELATED TOPICS. ALSO, THERE SHOULD BE PROGRESS REPORTS AT LEAST EVERY 3<sup>RD</sup> COMMISSION MEETING. THIS SHOULD BE DONE IN THE SHORTEST TIME FRAME POSSIBLE.**

Kevin Allen said that we need a plan but need to keep on repairing the sewer lines when needed.

Lindsay Watts said she also agreed with Dr. Nichols comments.

Kevin Allen – Kevin said that he was excited to hear all this conversation tonight and the passion he has for Fort Scott.

Pete Allen said that the people spoke in November and they want change. Randy wants to go back to the old way it's always been done.

Kevin Allen said he has had some feedback about possible drag races at the Airport. They close down the airport runways and allow drag racing of cars. They want to have a meeting which will be held on Saturday, February 22<sup>nd</sup>. He is planning to go. He knows that liability issues will be a factor. He thinks other cities are doing this also.

Kevin Allen said also we need to look at how a vacancy with a City Commissioner is filled. It seems to be the way it is filled is just with general discussion between the Commissioners.

City Clerk said that there is an ordinance relating to a vacancy in office where the City take letters of interest.

Kevin Allen asked about a tie vote.

City Clerk said that the deciding vote is the City Attorney.

City Attorney agreed that is not the best situation for a tie.

Kevin Allen said that the right thing to do is go back to the last election and go back to the next highest person in the election. He made up his own charter ordinance. "If and when a Commissioner of the City of Fort Scott, either rescinds their seat or for other reasons is not able to fulfil their Commissioner duties, they are replaced by the next highest vote getter in the previous election. If there are no other persons in the previous election, then it shall move to an application process and be voted on by the current City Commissioners."

Lindsey Watts asked who is the deciding vote in that process?

Kevin said that if there is a tie the deciding factor goes to – not the City Manager – not the City Attorney.

*City Manager asked that this item be tabled, and we will research and see what other cities do in this case.*

City Clerk said that the charter ordinance needs to be looked at and see if a section of it needs updated.

Pete Allen asked about the Board of County Commissioners be the deciding vote.

Randy Nichols said that wasn't a good idea.

City Attorney said that he can assist with options on this also.

Discussion was held regarding if a person with a 2-year term could be moved up to a 4-year term.

City Manager will discuss this with the attorney and come back to them with options.

Kevin said that his other issue is looking at sectioning the City into four sections. A representative could be chosen for each one of those sections when running for City Commissioner. You could have the 5<sup>th</sup> Commissioner at large within the three-mile limit. He would like to see this discussed in the future.

Pete Allen – Pete said he wanted to address Dr. Nichols proposal. When he proposed the plan all he was met with was why we can't do this. They had all these other duties to do and it would disrupt all the City functions. His plan was to hire his own crew. He objects to Randy's comments. He proposed that a work session be held next Tuesday night at 6:00 p.m.

Commissioners reminded him that the Smart Growth meeting will be held that day.

Randy Nichols said we need more information from Staff first. He doesn't think a meeting is needed yet.

Pete withdrew his motion.

Pete made a motion to adopt the two following resolutions and asked the City Clerk to read them:

Resolution #1 – To memorialize the understanding that has been developed through the working sessions by the Commission on the subject of City sewers. Therefore, this Commission will adopt and dedicate as a priority the replacement and repair of the Fort Scott City Sanitary Sewer, Stormwater Runoff System, City Water System and City Streets. To revise Ordinance 3556 to immediately appoint 7 citizens with a goal of appointing one citizen from each ward as defined to the Street Advisory Board. To define priority the Commission will maintain a budget commitment above all other projects (except for those they may be deemed essential).

Resolution #2 – Direct the City Manager to present to the Commission a list of all potential individuals that have expressed an interest to serve on an advisory board. The Commission will consider all the persons expressing interest to serve and a selection. No City employees/Staff will fill an advisory board position.

Kevin Allen asked if he had a copy of it.

City Clerk said it was handed to her when Pete arrived for the meeting.

Kevin Allen asked if it could be addressed at the next meeting.

Pete Allen said it was talked about at the last work session. Kevin said he would second his motion.

Kevin Allen and Pete Allen voted aye. Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted no. Motion denied to approve the two resolutions 3-2.

Lindsey Watts made a motion to table this until the next meeting. Kevin Allen seconded. Kevin Allen abstained. Pete Allen, Randy Nichols, Lindsey Watts, and JoLynne Mitchell voted yes. Motion carried.

**TABLED THESE TWO RESOLUTIONS UNTIL THE NEXT MEETING.**

Lindsey Watts – Lindsey said that the perception that we can't do something is a point of contention with her. She keeps asking questions. She is interested in the City finances. She hopes they understand that. We aren't saying no – just need more information. She wants to be able to make an educated decision for the taxpayers.

JoLynne Mitchell – Nothing to report.

**D. City Manager:** Dave informed the Board that the pipe came in and open cuts will begin next Monday. Dave said he is more than willing to talk to City Commissioners with any questions or concerns.

**EXECUTIVE SESSION:**

Kevin Allen moved to recess into a 5 minute Executive Session to include the City Commission, Jeff Deane, City Attorney, Dave Martin, City Manager, and Dave Bruner, Fire Chief to discuss consultation with an attorney for the body or agency which would be deemed privileged in the attorney client relationship. There is no action anticipated. Lindsey Watts seconded. All voted aye.

**RECESSED INTO EXECUTIVE SESSION AT 9:26 P.M.**

**EXECUTIVE SESSION:**

JoLynne Mitchell moved to recess into a 5 minute Executive Session to include the City Commission, Jeff Deane, City Attorney, Dave Martin, City Manager, to discuss personnel matters of non-elected personnel. There is action anticipated. Kevin Allen seconded. All voted aye.

**RECESSED INTO EXECUTIVE SESSION AT 9:35 P.M.**

**EXECUTIVE SESSION:**

Kevin Allen moved to recess into another 5 minute Executive Session to include the City Commission, Jeff Deane, City Attorney, Dave Martin, City Manager, to discuss personnel matters of non-elected person. There is action anticipated. Lindsey Watts seconded. All voted aye.

**RECESSED INTO EXECUTIVE SESSION AT 9:43 P.M.**

**CAME OUT OF EXECUTIVE SESSION AT 9:49 P.M.**

Kevin Allen announced no action was taken from the Executive Session.

**ADJOURNMENT:**

Lindsey Watts moved to adjourn the meeting at 9:51 p.m. Randy Nichols seconded. All voted aye.

**ADJOURNED MEETING AT 9:51 P.M.**

The next regularly scheduled meeting is to be held on March 10<sup>th</sup>, 2020 at 6:00 p.m.

**RECORDED BY:**

**DIANE K. CLAY  
CITY CLERK**