

**CITY OF FORT SCOTT
CITY COMMISSION MEETING**

Minutes of April 7, 2020

Regular Meeting #7

The regular meeting of the Fort Scott City Commission was held April 7th, 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: There was no invocation given.

AUDIENCE IN ATTENDANCE: There was no audience in attendance other than a very few City staff.

PROCLAMATIONS/RECOGNITIONS:

Fair Housing Month Proclamation - April

National Safe Digging Month Proclamation - April

National Service Recognition Day Proclamation – April 7, 2020

National Library Week Proclamation – April 19-25, 2020

National Library Workers Day Proclamation – April 21st, 2020

National Public Health Week Proclamation – April 6-12, 2020

Mayor Mitchell read the Proclamations and proclaimed each one separately. The National Public Health Week Proclamation was added to the agenda.

Mayor Mitchell thanked all the public health officials and health care workers that keep us save.

APPROVAL OF MINUTES AND APPROPRIATIONS/CONSENT AGENDA:

- A. Approval of minutes of the regular meeting of March 31st, 2020.
- B. Approval of Appropriation Ordinance 1260-A totaling \$736,063.92.
- C. Quit Claim Deed – City of Fort Scott to Margaret P. Cummings-3 ½” of alley (Amended legal description)

Nichols moved to approve the Consent Agenda. 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.

APPEARANCE/COMMENTS/PUBLIC HEARING:

A. APPEARANCE: None

B. CITIZEN COMMENTS (Concerning Items Not on Agenda – 5 minute limit per citizen) - Comments will not be taken during this meeting. If you have a topic to discuss not listed on the agenda, please contact a City Commissioner or send a written request to dclay@fscity.org.

C. PUBLIC HEARINGS: None

CONSIDERATION:

1. Donation of Lunette Blair Blockhouse to the National Parks Service – Robert Uhler, Community Development Director, informed the Commission that this process started back in August of 2014. In March of 2019, Federal legislation was passed modifying the boundaries of the Fort Scott Historic Site to include the Lunette Blair Civil War Blockhouse. The National Parks Service has asked the City of Fort Scott to donate the Lunette Blair Blockhouse to the National Parks Service and the contents of the block house.

Mitchell moved to donate the Lunette Blair Blockhouse to the National Parks Service. Watts seconded. All voted aye.

APPROVED TO DONATE THE LUNETTE BLAIR BLOCKHOUSE TO THE NATIONAL PARKS SERVICE.

2. Consideration of painting/resurfacing Aquatic Center bids – Dave Bruner, Fire Chief, informed the Commission that bids were taken for the painting and resurfacing of the Aquatic Center. Due to COVID-19 and budget restraints, he is recommending that we hold this project off until next year. It is unknown if the pool will even open this year.

Watts moved to reject all the bids for the painting and resurfacing of the Aquatic Center due to COVID-19 and budget restraints. Mitchell seconded. All voted aye.

APPROVED TO REJECT ALL BIDS FOR THE REPAINTING AND RESURFACING OF THE AQUATIC CENTER DUE TO COVID-19 AND BUDGET RESTRAINTS.

3. Consideration of Resolution No. 9-2020 declaring a local State of Emergency and temporarily expanding the authority of the City Manager – Susan Bancroft, Director of Finance, informed the Commission that in order to receive any grant funding, a local state of emergency needs to be declared. There has been language changed since the previous meeting. This resolution allows for a special meeting with the Commission to happen with no less than a thirty-

minute notice to the public in response to the COVID-19 pandemic. This resolution will be in effect immediately if approved until the State of Disaster Emergency has been lifted by the Bourbon County Commission or the Governor. Susan read the resolution to the City Commission.

P. Allen moved to approved Resolution 9-2020 declaring a local state of emergency due to COVID-19. L. Watts seconded. All voted aye.

APPROVED RESOLUTION 9-2020 OF THE CITY OF FORT SCOTT, KANSAS DECLARING A LOCAL STATE OF EMERGENCY; TEMPORARILY EXPANDING THE AUTHORITY OF THE CITY MANAGER TO ACT ON BEHALF OF THE CITY; AND RATIFYING PREVIOUS DECISIONS REGARDING THE COVID-19 EMERGENCY.

4. Consideration of Ordinance No. 3559 – Ordinance appropriating the amounts for each fund in the budget until the Governor rescinds her Executive Order - Susan Bancroft, Director of Finance, informed the Commission that this ordinance allows in case any of the Commissioners would get ill and not be able to meet as a governing body, give authority for the City Manager and the Director of Finance approval to continue to pay bills for the City. This would be in effect until the Governor rescinds her Executive Order. The information for all bills paid would be brought to the Commission at their next scheduled meeting. These payments would follow all statutory guidelines. Only essential spending is being approved currently.

Nichols said that there is checks and balances in effect with both the City Manager and the Director of Finance looking and approving invoices.

Discussion was held why this ordinance was needed.

Susan said that the League of Kansas Municipalities has recommended that this ordinance be passed by cities in Kansas so bills can continue to be paid in case of illness with the governing body. The City has bi-weekly calls into the League who gives recommendations to cities.

Jeff Deane, City Attorney, said that this ordinance put out by the League will still allow bills and salaries to be paid by cities. Every municipality in the Kansas City area has passed this ordinance. He said that the language could be tightened up if needed. This is only in the instance a quorum cannot be gathered.

K. Allen asked if the previous resolution and this ordinance contradicted each other.

Jeff Deane said that there needs to be a means to allow bills and salaries to be paid.

Susan said that this ordinance and the previous resolution both came off the League's website.

R. Nichols made a motion to approve the ordinance as written. J. Mitchell seconded. K. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. P. Allen voted no. Motion carried 4-1.

APPROVED ORDINANCE NO. 3559 APPROPRIATING THE AMOUNTS SET UP IN EACH FUND IN THE BUDGET UNTIL THE GOVERNOR RESCINDS HER EXECUTIVE ORDER, PROVIDING FOR THE PAYMENT OF ALL CLAIMS AND CHARGES AGAINST THE ACCOUNTS PROVIDED FOR THEREIN.

5. Consideration of Request for Qualifications for a City Engineering firm - Susan Bancroft, Director of Finance, informed the Commission that there are many grant opportunities for the City to apply for. As with many grants, they require preliminary engineering on projects, so they are shovel ready at the time of application. In order to be more efficient with time, City staff feels like it is necessary to hire a firm to conduct these services rather than going through the Request for Qualifications process for each project. When engineering firms are selected, a committee is selected with internal individuals and a City Commissioner(s). A selection criteria form is developed, and firms are called in to interview. Then the panel recommends to the City Commission their selection for engineer.

Pete Allen said that we needed a civil engineer. He has talked to the County and they need an engineer also and we could share it with them. An engineering technician could also be hired to work with the civil engineer.

City Manager said that a lot of the K.D.O.T. grants require a shovel ready project. Years ago, the City had P.E.C. as their engineer. They had a specific rate for different items they would engineer.

Susan said she would need to research other cities that have City engineers and see what their salaries are. She could bring this information back to them. She said she would look at costs for having an engineer on staff before RFQ's are taken and bring this information back to them.

L. Watts made a motion to accept Request for Qualifications for a City engineering firm, research the costs of having a City engineer on staff with the City, and talk to Justin Meeks about the County needing an engineer. R. Nichols seconded. K. Allen, R. Nichols, L. Watts, and J. Mitchell voted aye. P. Allen abstained. Motion carried 4-1.

ACCEPT REQUESTS FOR QUALIFICATIONS FOR A CITY ENGINEERING FIRM, RESEARCH THE COSTS OF HAVING A CITY ENGINEER ON STAFF WITH THE CITY, AND TALK TO JUSTIN MEEKS ABOUT THE COUNTY NEEDING AN ENGINEER.

6. Consideration of Charter Ordinance relating to the filling of vacancies in elected public offices – Jeff Deane, City Attorney, informed the Commission that this is the ordinance that Commissioner Kevin Allen asked him to draft. This would allow us to fill the vacancy using the person who got the most votes, but the first person not elected. Section 2 of the proposed charter ordinance reads: “In the event of a vacancy in the City Commission, such vacancy will be filled by the candidate in the last election for that office who had the highest number of votes but had not been successfully elected. If that person is no longer eligible, or declines in writing to serve, the vacancy will be filled by appointment by agreement of the majority of the remaining Commissioners. Should no majority of the sitting Commissioners be found after two votes on the subject, the appointment to fill the vacancy will be made by the Bourbon County Commission. In either case, the appointed Commissioner will serve until the first January meeting following the regular fall election immediately after the appointment. In no case will the term of the appointed Commissioner be more than that remaining term of the Commissioner who vacated, or two years, whichever is shorter”.

Kevin Allen said that in reference to this part of the ordinance “In the event of a vacancy in the City Commission such vacancy will be filled by the candidate in the last election for that office who had the highest number of votes but had not been successfully elected. If that person is no longer eligible, or declines in writing to serve, the vacancy will be filled by appointment by agreement of the majority of the remaining Commissioners”, why wouldn’t this go to the next person in line like #5, #6 and so forth? This looks like if the 4th person turns it down, it will go to the Commission.

Jeff Deane said that in the League’s opinion this has been a problem for other cities that attempted this. Their consensus also is for the Bourbon County Commission to break a tie, is unconstitutional as it is written, and he agrees with them. There needs to be a different means to break a tie.

Kevin asked what other options there are to break a tie.

Discussion was held if it could go to a special election of the people.

Jeff said that he will change it to read that it will go to the next 4th, 5th, and 6th person and so on, and if an opening still, the remaining Commissioners will try to fill it and if still an opening, then it would go to a special election. He will make the changes and submit it to Kevin or Lindsey before it is brought before them at the next meeting for a vote.

Randy Nichols said that he will never vote for this sequence of events. We already have an ordinance in place to fill this position. This was

presented in the idea for us to represent the citizens of Fort Scott. In truth, the City Commissioners aren't responsible for the people who ran. At some point, a Commission down the road will get tied to someone who got 25 points who wasn't elected. This is really flawed just picking the next person in line. Anyone in the community could submit a letter of interest which the City Commission could review and choose a person. The second part is why we would have the County Commissioners or Commissioner vote. They adjudicate our elections. They aren't elected to govern our City. Why would we let them choose to sit on our City board? He would think the City Attorney could be responsible. He could take the letters of interest and talk to all the Commissioners and then decide and vote.

Jeff Deane said that this had to be a charter ordinance due to K.S.A.25-2117. He will do whatever the Commission desires to do.

Discussion was held regarding amending our current ordinance, how close the last election was, and how changing this ordinance would affect oncoming Commissions.

Pete said that the obvious decision to make is to offer it to the next person in line.

Lindsey said that she felt strongly about this at first but has wavered after talking to many people both ways. She still says she ran on community/city relations between City government and City Hall. She wants it to be the people's decision. She questioned if a certain percentage of voters should vote for that person to be eligible. She is 50/50 on one way or the other.

Randy said that Jeff can rewrite it and then move forward. He wanted it stated clearly where he stood.

Kevin said that he would rewrite it to save the City money.

Jeff said that he won't charge any extra to rewrite this ordinance. He will send this out to the Commissioners before the next meeting and have it scheduled for that meeting.

COMMISSION/STAFF:

A. Director Updates: None

B. City Commission:

Kevin Allen – Kevin said that he had two items tonight. The first item is the road behind Ward-Kraft from 23rd Street out to the Industrial Park. There is a 20-mph speed limit sign but no other sign after you get behind Ward-Kraft. He asked if the speed limit could be marked.

His second item is there is a grassy area behind the Empress building. He was approached by Bill Michaud. He asked if this grassy area was going to be graveled, mowed or what was going to happen to it.

City Manager will check into both of these issues.

Randy Nichols – He thanked all the people who are keeping us safe. He thanked the grocery people, and just all the people keeping us safe.

Pete Allen – He had an ordinance in his packet. City Clerk told him this had been removed from the agenda but was inadvertently left in his packet. It will come up at a later meeting.

He said that the past week he had emailed the Commissioners and he received no response from any of them. He asked their opinion on the water line project.

Mayor Mitchell said she was still digesting his email.

Randy said that he has some questions. If we've set standards, we should hold ourselves to the standards we've set. He asked if there was a way within the standards to let decisions be made that won't lessen the quality of the standards. He said that he mentioned A.W.W.A standards and if he would have had the same concerns about the work if these standards had been approved.

Pete said that the A.W.W.A. standards are minimum standards in America. We adopted a set of standards two years ago that are above and beyond the minimal standards. We have to follow these standards.

Lindsey said that she read his email. She thought it was an informative email. She feels strongly that the directors at City Hall will agree that things could have been done better. Nothing was done maliciously. They made decisions that they thought were best at the time. There's a certain level that is overstepping our bounds. If something is brought to our attention regarding non-elected personnel, it should be taken to Dave, the City Manager. She asked the City Attorney to clarify that.

City Manager said that he met with Chad and Michael this week. Those specifications that were adopted were mainly for when we go out to bid. He always refers back to a director when he is given questions. He can have Chad and Michael here at the next meeting and give their perspective. They are qualified and try to do the right things.

Pete asked the City Attorney if any City official or staff or City Manager have the right to blatantly do something that is controlled by a City ordinance or a standards or specifications that was adopted by the City Commission without following those specifications.

Jeff Deane said that he has read through the specifications. He hears the words specifications and field modifications. His understanding is

that a director of a department may have the authority to waive or modify standards to meet the reality of things. That doesn't mean they have free rein to do anything. His advice is to handle it in a way to get things fixed to everyone's satisfaction.

Discussion was held extensively between the Commissioners, the City Attorney, and the City Manager about the project in the 500 block of Andrick. There was a 4" pipe laid where specifications called for a 6" pipe to be laid and improper fill used.

Pete Allen made a motion to instruct City staff to remove the 4" pipe and put it back with a 6" pipe and the proper compaction fill per the specifications adopted by the previous Commission.

Kevin Allen gave his comments and supported Pete's views on the pipe and compaction on this project.

More discussion was held regarding removing the pipe and compaction on this project and if it needed to be completely redone. Discussion was held regarding the costs to redo this project.

City Manager said if they want it removed and replaced properly, they will do it. He doesn't need a motion from the Commission. If there is deviation from the specifications, he will come back before them. He will have Michael and Chad come to the next meeting and see what they need from him.

Kevin said that they can come to him at any time.

Lindsey Watts – Remarked that she feels that we, as a Commission, are possibly more on the same page. This last conversation has gone well. We tend to get caught up on the problems rather than the solutions. We need to be a cohesive voice as to how we feel we should be handling business. We are getting better at it but still need to work on it. She believes we need to be respectful to all people in their positions.

JoLynne Mitchell – Thanked all the health care workers, truck drivers, railroad people, grocery store workers...it takes a village to overcome this coronavirus. She hopes our numbers stay the same on the pandemic.

C. City Manager: Remarked that Susan Bancroft is working on the budget diligently.

ADJOURNMENT:

Nichols moved to adjourn the meeting at 8:20 p.m. Watts seconded. All voted aye.

ADJOURNED MEETING AT 8:20 P.M.

CITY OF FORT SCOTT
CITY COMMISSION MEETING

Minutes of April 7, 2020

Regular Meeting #7

The next regularly scheduled meeting is to be held on April 21st, 2020 at 6:00 p.m.

RECORDED BY:

**DIANE K. CLAY
CITY CLERK**