

**CITY OF FORT SCOTT  
CITY COMMISSION MEETING**

**Minutes of September 21, 2021**

**Regular Meeting #18**

The regular meeting of the Fort Scott City Commission was held September 21<sup>st</sup>, 2021 at 6:00 p.m. in the City Commission Meeting Room at City Hall, 123 S. Main Street, Fort Scott, Kansas.

**ROLL CALL:**

Commissioners K. Allen, P. Allen, and R. Nichols were present with Mayor J. Jones presiding. Commissioner L. Watts was absent.

**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, Susan Bancroft, Tim Van Hoecke, Brad Matkin, Jesse Pohlmann, Jody Hoener, John Lehee, John Castalot, Jerry Morgan, Rachel Thompson, John Robb, Carole Robb, Kirk Sharp, Pete Owenby, Doug Miller, Jackson Tough, Jason Dickman, and Michael Hoyt.

**ADDITIONS TO AGENDA:** None

**PROCLAMATIONS/RECOGNITIONS:** None

**CONSENT AGENDA:**

- a. Approval of minutes of the regular meeting of September 7<sup>th</sup>, 2021, and special meeting of September 13<sup>th</sup>, 2021.
- b. Approval of Appropriation Ordinance 1296-A totaling \$344,867.81.
- c. Request to Pay – HDR Engineering, Inc. - \$2,895.01 – River Intake Project Engineering
- d. Request to Pay – Allgeier Martin & Associates - \$2,805.46 – Clarifier Painting engineering fees
- e. Request to Pay – Nuss & Farmer, P.A. - \$2,978.50 – August legal fees
- f. Parade Permit – Pioneer Harvest Fiesta – September 30<sup>th</sup>, 2021
- g. Request to Pay – SE Kansas Regional Planning Commission - \$3,000 – Administrative fees for Ladder Truck Grant
- h. August financials

R. Nichols moved to approve the Consent Agenda. K. Allen seconded. K. Allen, R. Nichols, and J. Jones voted aye. P. Allen voted no. Motion carried 3-1.

**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)

Tim Van Hoecke – Tim Van Hoecke, said that lives at 802 S. Hill Street. He asked that first the Commission remember the Lancaster family at this time. She was loved and gave of herself to the community and was a true, local icon.

He said that he would review the 3<sup>rd</sup> Street Manhole project with the Commission. He attended part of the September 7<sup>th</sup> meeting regarding an invoice for an emergency backfill expenditure that took place during the completion of that project. He stated that he agreed with Commissioner Nichols and his comments that the City's policies and procedures were not followed. He referred to a City Commissioner stopping the project due to the incorrect backfill that was going to be used.

He said that for clarification on what constitutes an emergency, he referred to the City's financial policy and read the definition. He stated that he did not ever hear where the City engineer told Jeremy, the previous City Manager, that he was recommending that an emergency be declared to get the proper backfill material. Mayor Jones said that Jeremy had gotten three bids for the work and that Jeremy had declared the backfill an emergency. Twice it was brought to the attention of Mayor Jones that there was free backfill clay available from the County during this meeting by Commissioners Watts and Nichols. They had also been told this by the previous Community Development Director. At the 9/7 meeting, Mayor Jones stated that Watts and Nichols were nitpicking the clay purchase and comparing it to the Radell bid and the invoice. There were two commissioners that were excluded from this process and the decision. He stated that he found it odd that Commissioner Pete Allen was quiet during this entire discussion. Commissioner Nichols was the only one to dissent and vote no on approval to pay the Skitch's Hauling invoice. He stated that he reviewed the purchasing policy and believes this violates it as well as K.S.A. 75-4303. He filled out an Open Records Request and found that the original purchase order was dated May 10, 2021 and signed by Susan Bancroft on May 21, 2021. The invoices from J.R. Radell and Skitch's Hauling are from work from 6/28 to 7/29 for Radell and 7/21 to 7/23 for Skitch's Hauling. He said he had a copy of the purchase order to Skitch's Hauling dated 7/21 and signed by Jeremy Frazier and no where on it is the word emergency. What he could not get from his KORA request is a copy of the three bids that Jeremy solicited and received. He does not believe that this project was an emergency since it was 2 ½ months later than the original invoice.

He said that there were multiple Commission meetings and special meetings held and this could have been placed on one of those agenda. He asked if a City Commissioner can stop a project due to something as non-emergency as backfill, why can't a City Manager, Mayor, or another Commissioner question and stop a purchase order that is to the benefit of another Commissioner, especially to save the taxpayers money and get free clay from the County to properly complete the backfill? City of Fort Scott trucks and fuel were used to haul this clay. The outcome could have been different if two Commissioners were not excluded from this project.

He urged the City Manager to contact Jeremy Frazier to provide the information on the three solicited dated bids that we are told does not exist. According to his severance

package, he has up to 90 days to provide the City with any needed information and we are within that time frame. He would like to know why this was declared an emergency by him also and why two City Commissioners were not contacted.

He stated that the citizens of Fort Scott want to know what happened and receive full transparent accountability of why City guidelines were not followed, why the City Manager declared an emergency for backfill, and why no one challenged the decision. There is an appearance of too many questionable decision and possible conflicts of interest that took place during this time frame. If the City Commission cannot satisfactorily provide and remedy what is in the best interest of our citizens and show they took every possible step for transparency, accountability, communication, ethics, savings and met the requirements per the City and State statutes, then those involved should do what is best for our City and seriously consider whether or not they should be representing our City and whether or not they should continue to remain as members of this Commission.

Jody Hoener – Jody Hoener, Healthy Bourbon County Action Team, said that she is asking all Bourbon County residents to take part in the community health assessment survey that is being sponsored by the Bourbon County Action Team. The survey takes about 20 minutes to complete and can be downloaded by scanning a Q code to your phone. The last survey was completed in 2016. They want to get 60% of residents to complete this online assessment.

She also shared that the Healthy Bourbon County Action Team has a tobacco cessation program for youth that she has shared with Michael Trim, School Resource Officer, to get this into the schools.

Michael Hoyt – Mr. Hoyt asked about the tree project on Highway 69 by 12<sup>th</sup> Street and when it would be complete.

City Manager said that K.D.O.T. is responsible for some of the trimming of the trees.

Mr. Hoyt also asked about the flashing lights on the highway.

City Manager said that we are waiting on CDL Electric to come and work on them.

Mr. Hoyt said that his final topic is the 2022 budget. He said that the budget was not transparent to him as he was not given a copy of it. He said he believes the City's budget is faulty and read Kansas State Statute 12-825d which prohibits transfers of monies.

Susan Bancroft said that she would get a legal opinion on this issue.

**Engineering Firm Update:** Jason Dickman, Earles Engineering, Inc., updated the Commission on the following projects:

6<sup>th</sup> to 8<sup>th</sup> on Horton – Jason is working with Susan Bancroft on the submission of this grant that is due this week. This is the K.D.O.T. Cost Share Grant.

National Avenue – Jason said they are scheduled to start on Saturday this week.

Union Block Alley is out for bid and bids are due on 9/30/2021.

The CIPP bid is now due on 10/14/2021.

The Below Grade project is complete. The Above Grade project will be due and quotes will be taken until 10/14/2021.

Discussion was held regarding the Kansas State Historical Society Association and notifying them of changes. It is important that S.H.P.O. is aware of the changes that are made and to be sure and include Susan and Rob Harrington on this project.

**Public Hearings:** None

**Old Business:**

- a. Consideration of allocation to Bourbon County C.A.S.A. of the 6<sup>th</sup> Judicial District – Josh asked if any of the Special Alcohol and Drug funds have been used for drug programs for school kids.

Chief Shelton said that the DARE program is no longer active in the community. He is not aware of any programs.

Josh asked about the School Resource Officer and his use of funds for the school children.

Jody Hoener brought up the issue of vaping and school children.

Josh asked about giving \$5,000 to Bourbon County C.A.S.A. and holding the other \$5,000 in case another entity has need of it.

J. Jones made a motion to approve the allocation to C.A.S.A. in the amount of \$5,000.00. K. Allen seconded. All voted aye.

**APPROVED THE ALLOCATION OF \$5,000 TO C.A.S.A. FROM THE SPECIAL ALCOHOL AND DRUG FUND.**

**APPEARANCES:**

Jody Hoener – Prairie Pathways – Ms. Hoener appeared before the Commission on the Prairie Pathways grant. This was previously known as the A.B.C. (Allen, Bourbon, and Crawford counties) grant. She introduced John Robb from Crawford County who represented the health and cycling community for the City of Pittsburg. She also introduced John Lehee and John Castalot from Allen County who are with Thrive

Allen County. This grant was funded by the Sunflower Grant. This is a cycling/walking grant between the three counties. There will be 24 signs placed in Bourbon County. She asked for permission to place a sign across from the River Room and two signs at Riverfront Park.

K. Allen moved to approve to place a sign across from the River Room on North National and two signs at Riverfront Park to promote the walking trails for the three counties. R. Nichols seconded. All voted aye.

**APPROVED TO PLACE A SIGN ACROSS FROM THE RIVER ROOM ON NORTH NATIONAL AND TWO SIGNS AT RIVERFRONT PARK TO PROMOTE THE WALKING TRAILS FOR THE THREE COUNTIES.**

Kirk Sharp – Gordon Parks Celebration – October 7<sup>th</sup> to 9<sup>th</sup>, 2021 – Kirk Sharp, Director, Gordon Parks Center, informed the Commission that the Gordon Parks Celebration event is coming right up. He went over the schedule of events with the Commission. He asked for approval to block off the parking area to the east of the River Room where their Friday night event will be held. He also asked that the parking on North National be blocked off and the area around Old Fort Boulevard. They have a lot of visitors coming in for this event and they want to offer special parking for their visitors.

R. Nichols moved to approve the parking lot closure for Old Fort Boulevard to the east of the River Room and North National in that area for the Gordon Parks Celebration event to be held at the River Room on Friday, October 8<sup>th</sup>, 2021. K. Allen seconded. All voted aye.

**APPROVED THE PARKING LOT CLOSURE FOR OLD FORT BOULEVARD TO THE EAST OF THE RIVER ROOM AND NORTH NATIONAL IN THAT AREA FOR THE GORDON PARKS CELEBRATION EVENT TO BE HELD AT THE RIVER ROOM ON FRIDAY, OCTOBER 8<sup>TH</sup>, 2021.**

**Finance Director Update:** None

**Interim City Manager Report and Comments:** Mark McCoy, Interim City Manager, informed the Commission he has been working with Public Works and helping fill potholes with gravel. He has also swept streets and moved debris. He has worked with the Codes Department and the Parks Department. He is going to create a daily activity sheet for the Directors to show what they are doing daily. He said that he is working hard for the City and the community.

**New Business:**

- a. Consideration of Change Order for Below-Grade Project – Owenby Construction and Pay Request #2 - \$19,425.00 – Jason Dickman, Earles Engineering, informed the Commission that he has Change Order for the Below Grade project in the

amount of \$1,500. Approval was recommended as this was additional expenses the contractor incurred.

R. Nichols moved to approve Change Order #1 in the amount of \$1,500 for Owenby Construction for the Below Grade Project. K. Allen seconded. All voted aye.

**APPROVED CHANGE ORDER #1 IN THE AMOUNT OF \$1,500 FOR OWENBY CONSTRUCTION FOR THE BELOW GRADE PROJECT.**

Jason said that the next item is to approve the pay request in the amount of \$19,425.00. There is no retainage.

K. Allen moved to approve the pay request for \$19,425.00. R. Nichols seconded. All voted aye.

**APPROVED THE PAY REQUEST FOR \$19,425.00 FOR THE BELOW GRADE PROJECT ON NORTH NATIONAL.**

- b. Discussion of definition of Emergency Purchase in the City's purchase policy – Mark McCoy, Interim City Manager, informed the Commission that this is on the agenda from the last meeting to discuss the definition of an emergency purchase.

Josh said that we need to tighten up the policy and the definition of immediate. Josh referred to a few other city's policies that he had referred.

Discussion was held to discuss the definition of the word immediate with the City Attorney. Discussion was also held regarding bringing items to the Commission that are in excess of the City Manager's authority limit of \$10,000.

Susan said that she will clarify the word immediate and emergency with the City Attorney.

J. Jones moved to send this definition to the City Attorney to review and to change the policy to bring items to the Commission that are approved in excess of the City Manager's authority limit. R. Nichols seconded. All voted aye.

**APPROVED TO SEND THIS DEFINITION TO THE CITY ATTORNEY TO REVIEW AND TO CHANGE THE POLICY TO BRING ITEMS TO THE COMMISSION THAT ARE APPROVED IN EXCESS OF THE CITY MANAGER'S AUTHORITY LIMIT.**

- c. Discussion of Codes in reference to having a bathroom and kitchen in a residence – Mark McCoy, Interim City Manager, informed the Commission that they had requested this be placed on the agenda. This was given to them out of the Codes book.
- d. Discussion of Buck Run Community Center safety fire lane – Dave Bruner, Fire Chief, informed the Commission that he thought this was a fire lane, but the strip

of pavement is not big enough to qualify for a fire lane. It is only 13' strip lane and did not meet specifications of a fire lane.

The Commission asked the City Manager to get costs for gravel, asphalt, and concrete for this area since it is still a vehicle access area.

- e. Discussion of additional mowing contractor – Mark McCoy, Interim City Manager, informed the Commission that he has been in conversations with Bill Downey, Codes Supervisor regarding the un-mowed lots throughout the City. There are still 79 lots that have not been mowed. There were 200 requested to be mowed, but nothing has been mowed since July 31<sup>st</sup>. He has phoned, left text messages, and emailed and no reply from the current contractor. He would like to see these yards mowed before winter sets in. Bill said that there are 26 lots on the east side of town and 53 lots on the west side of town. Mark asked that the next lowest bid, Doug Miller Mowing, be given one section of the city to mow.

Discussion was held that legal counsel should be consulted on this.

City Manager will check with the City Attorney.

- f. Discussion of Employee Benefits Program – Brad Matkin, Human Resource Director, informed the Commission that he would like to propose that the City create an Employee Benefit Program to allow our employees to enjoy the City's amenities without the cost. The employee would be responsible for paying "fringe benefit" taxes on the amenities they participate in at the end of the year. The program would include the following amenities and program savings: Free yearly Aquatic family pass (Family-\$150; Single-\$65); Free yearly Golf membership (Family-\$625; Single \$465); or free day golfing at Woodland Hills Golf Course Single Day Golf (Weekdays-\$14; Weekend-\$16) (employee must still pay for cart rental); Free camping at Gunn Park (\$10 per day) and Lake Fort Scott (\$10 per day); Free Buck Run Fitness Center family pass (Family-\$130; Single \$80); and Free Gunn Park shelter rental (\$15 to \$25 per visit).

Discussion was held regarding the shelter house and if it should be limited to one shelter rental a year.

Susan asked that if this is approved it not begin until January 1<sup>st</sup>, 2022.

J. Jones moved to approve to start the Employee Benefits Program for City employees with the limitation of one shelter house rental per year. The employee will also pay fringe benefits on the amenities used. K. Allen seconded. All voted aye.

**APPROVED TO START THE EMPLOYEE BENEFITS PROGRAM FOR CITY EMPLOYEES WITH THE LIMITATION OF ONE SHELTER HOUSE RENTAL PER YEAR. THE EMPLOYEE WILL ALSO PAY FRINGE BENEFITS ON THE AMENITIES USED.**

- g. Discussion of Infrastructure Program – Susan Bancroft, Director of Finance, informed the Commission that Commissioner Nichols asked that she put together several projects that could be bonded together. She put together stormwater, streets, and water projects. Susan said that the streets have to be classified as a main trafficway and we need to get the projects defined. Susan recommended holding a work session on this and she will get some estimates from the engineering firm.
- h. Discussion of sale of Lake properties - Mark McCoy, Interim City Manager, informed the Commission that last week he tried to go forward with the sale of the Lake properties. There were seven properties on the north end and two properties on the south end. The seven properties are staked out and the two properties have not been surveyed but staked out. A meeting was held with the realtors on the four lots. Mark said that a Commissioner called him with concerns about the lots and how they are staked and divided.

Josh said that we need to continue with the two lots on the south and the two lots on the north.

Susan recommended re-drawing of the lots with the realtors.

City Manager will set up a meeting with the realtors and the City will redraw the lots.

- i. Consideration of bid for French drain and sump pump on North National project - Mark McCoy, Interim City Manager, informed the Commission that he personally called five local plumbers. He only had two responses. He received a quote from Stoughton Plumbing and French's Plumbing. Stoughton Plumbing bid was in the amount of \$11,814.97 and French's bid was in the amount of \$18,161.83. Stoughton's bid include gravel from Kevin Allen in the amount of \$900.00 but the City can haul this rock so that section will not be needed.

J. Jones moved to approve the bid from Stoughton Plumbing with the removal of the \$900.00 gravel from Kevin Allen, since the City will provide the gravel. K. Allen seconded. K. Allen, R. Nichols, and J. Jones voted aye. P. Allen voted no.

**APPROVED THE BID FROM STOUGHTON PLUMBING WITH THE REMOVAL OF THE \$900.00 GRAVEL FROM KEVIN ALLEN, SINCE THE CITY WILL PROVIDE THE GRAVEL.**

### **Reports and Comments:**

#### **Commissioner Reports and Comments:**

L. Watts – Not present.

R. Nichols – Randy recognized Marsha Lancaster for the icon she was in our community. She will be missed. He gave his condolences to her family.



P. Allen – Pete asked for a report from Codes about the Chop house building.

City Manager said that it had been inspected by the Fire Chief and Deputy Fire Chief and there is no imminent danger to the downtown area or the building. It is in satisfactory condition.

City Manager asked about putting a tarp over the roof and will have the Codes Supervisor contact the property owner.

K. Allen – Kevin also said that Marsha Lancaster was a friend to all who knew her. She fed multitudes of school children going to and from sports events. He hopes they can continue to keep the deli going.

Kevin said that he talked with Bob Reed and Sheriff Martin about the inmate program. The County is checking with their attorney and their liability insurance carrier about this program. He said he would also like to use retired law enforcement officers to assist in guarding of the prisoners.

J. Jones – Asked the Clerk to put on the next agenda and he can get a report at that time on the following items:

- Lake Valve – Is it fixed? Has the 2<sup>nd</sup> one been ordered?
- Memorial Hall Step Repair – He met with a contractor who has an idea for handicapped steps
- City Manager authority – He asked about the authority for the City Manager to give fuel allowances and expanded vacation leave. He asked that a policy be created.
- Asked about the point-of-sale system at Buck Run, the pool, and the golf course.  
Susan said that the City is looking to replace.
- Asked about graffiti at the skatepark and the possibility of painting a mural there.  
City Manager said that he would have mural paperwork given to them to fill out.

Mayor Jones asked the Chief of Police to give an update on the new Police drug dog.

Chief Shelton said that they talked to several Police departments about their drug dogs. He got a call from Olathe Police Department who had a young dog that had already been through training and they gave the dog to the Fort Scott Police Department. It is a two year old dog named Phoenix. The handler is in training this week and is excited about the new dog.

### **City Attorney Report and Comments:**

#### **Executive Session:**

J. Jones moved that the City Commission recess into Executive Session for the purpose of discussing the financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships exception in K.S.A. 75-4319(b)(4).

The open meeting will resume in the Commission meeting room at City Hall at 9:10 p.m. R. Nichols seconded. All voted aye. This included the City Commission and City Manager.

J. Jones moved that the City Commission come out of Executive Session at 9:10 p.m. R. Nichols seconded. All voted aye.

**Executive Session:**

J. Jones moved that the City Commission recess into Executive Session for the purpose of discussing non-elected personnel in K.S.A. 75-4319(b)(1). The open meeting will resume in the Commission meeting room at City Hall at 9:17 p.m. R. Nichols seconded. All voted aye. This included the City Commission and City Manager.

J. Jones moved that the City Commission come out of Executive Session at 9:17 p.m. K. Allen seconded. All voted aye.

**Adjournment:**

J. Jones moved to adjourn the meeting at 9:17 p.m. R. Nichols seconded. All voted aye.

**ADJOURNED MEETING AT 9:17 P.M.**

Respectfully submitted,

Diane K. Clay, M.M.C.  
City Clerk