



LAUBER MUNICIPAL LAW, LLC

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December 20, 2019

Via Email – General@ag.ks.gov

Lisa A. Mendoza, Assistant Attorney General
Open Government Enforcement Unit
Office of the Attorney General of the State of Kansas
120 SW 10th Ave, 2nd. Floor
Topeka, Kansas 66612-6296

**Re: KOMA Complaint – Fort Scott City Commission
File Number CV-19-001902**

Ms. Mendoza:

I received your letter of December 11, 2019, forwarded by Burton Harding, the preceding City Attorney to whom it was addressed. I took over as the City Attorney for Fort Scott at the December 3, 2019 meeting. While I was not with the City during the time frame described in Mr. Hoyt's complaint, I have investigated the matter thoroughly and offer this response on behalf of the City Commission.

As I understand your letter and its attachments, Mr. Hoyt alleges that:

[A] 'notice of objection' on or about August 23, 2019, was formulated and signed by each member of the Fort Scott City Commission acting as a governmental body, policy and decision maker for the citizens of Fort Scott, together or as an outcome of serial communications, in violation of the Kansas Open Meetings Act. (*KOMA violation form* dated 10-10-2019, signed by Mr. Hoyt)

Mr. Hoyt thus alleges that the August 23, 2019 letter calling onto question Kevin Allen's residency and candidacy (hereinafter, the "August Letter") was an official and binding act of the City Commission such that its drafting and/or signing was or required a "meeting" under the Kansas Open Meetings Act (hereinafter "KOMA"), K.S.A. §75-4319 *et seq.* For the reasons set out below, this allegation is baseless in that 1) the Commission, as the governing body, lacked the legal power and/or standing to contest Mr. Allen's candidacy; 2) the August Letter was

executed by 5 individuals, qualified under law as registered voters to lodge the contest, and not as an action of the governmental body; and 3) the provisions of KOMA did not attach to the actions of the Commissioners acting on power granted to them individually by law and not in their official capacity. For these reasons there was no KOMA violation.

Facts

The fall 2019 municipal elections in Fort Scott were hotly contested. The commission seats held by Commissioners Cheryl Adamson, Cindy Bartelsmeyer, and Mayor Jean Parker were up for election, for which 14 candidates filed. The primary narrowed the field to 6 candidates who moved on to the ballot for the general election, including Kevin “Skitch” Allen and incumbent Cindy Bartelsmeyer. During the course of the election cycle, rumors and allegations swirled about Mr. Allen alleging that his primary residence was his home on Brown Street, which is adjacent to but outside the corporate boundary of the City of Fort Scott, despite his use in his candidate filing of the address of Skitch’s Hauling & Excavating, Inc. on East 20th Street as his residence. City Ordinance and State Law require candidates for City office to reside in the corporate boundaries of the City where they will hold office. See, e.g., *Kansas Constitution*, Article 5 §1 and K.S.A. §25-215; Op. Att’y Gen. 146 (1986) (holding that the election to a city position when the candidate lacked city residency was void.) The allegation that Mr. Allen lacked the residence to hold office in Fort Scott was generally known to the electorate, including the individual Commission members.

As set out below, Cheryl Adamson authored the August Letter, as an individual contest of Mr. Allen’s residency to hold office, to which Cindy Bartelsmeyer, JoLynne Mitchell, Randy Nichols, and Jean Parker joined. The letter, authored after the primary election and before the general election, could only have been brought by individual registered voters under State Law and not by the Commission acting in its official capacity.

The August Letter was accepted by the County Election Officer and a board convened to process the candidacy contest. After a full hearing on the matter the Board determined that despite the several conflicting addresses in and out of the boundaries of Fort Scott, Mr. Allen’s claim of legal residence at the East 20th Street business address was sufficient to support candidacy and the election continued.

Response

Your letter included 8 numbered inquiries. The responses to each are below, by corresponding number. The responses are given below in the order in which the letter presented them; with the exception that the response to question 7 is placed after the response to question 3 as the answers to questions 4, 5, and 6 depend on the analysis in response to question 7.

- 1. Have any of the individual commissioners or the commission as a whole ever been found in violation of the KOMA? If so, please describe the circumstances under which the violation was found to have occurred. How was the violation resolved? Provide a copy of any resolution.***

Each of the Commissioners has advised that they have had no individual KOMA violations. A review of the City's files found no record of collective violation(s) by the Commission.

- 2. Have any of the Commissioners attended training about the KOMA? If so, when was the training conducted and by whom? Please provide a copy of any handouts or training material provided during the training.***

Each of the Commissioners received a copy of and has reviewed the *Governing Body Handbook* published by the League of Kansas Municipalities (hereinafter "LKM").

Commissioners Adamson, Mitchell, and Nichols advised that they do not recall any formal training on KOMA, aside from the aforementioned LKM handbook.

Mayor Parker and Commissioner Bartelsmeyer both recall having attended training, which may have been provided by LKM, but neither can recall the exact date nor has retained any materials aside from the LKM Handbook.

Elected Officials Training, including modules on KOMA and KORA, is on the agenda for the spring after the new Commission is seated.

3. ***To your or the Commission's knowledge, have there been any formal or informal complaints or concerns regarding binding action taken outside of an open meeting against the commission within the past three years? If so, how was the complaint(s) or concern(s) resolved?***

Other than the current allegation, the Commission and City files show no record of a complaint filed with the City.

[Note that the response to question 7 is included here, out of original order, as it provides the analysis upon which the issues of substance turn and the answer to questions 4, 5, and 6 rely upon it for their analysis.]

7. ***Was a public vote by the commission required to give final approval to the drafting, signing and sending of any official correspondence from the commission concerning Mr. Allen's candidacy? If not, explain why, with reference to any available legal support.***

Mr. Hoyt's allegation is that the August Letter, because it was signed by the 5 sitting Commission members, was an expression of the Commission's official power, "acting as a governmental body, policy and decision maker" and, as a result, the KOMA applied requiring a meeting and vote on the issue. *KOMA violation form* dated 10-10-2019, signed by Mr. Hoyt. Mr. Hoyt's assumption is unsupported in the law and unsound on several levels. The letter's challenge to Mr. Allen's candidacy is a power that is reserved to the people individually and withheld from a government body such as the City Commission. Not only was no Commission meeting on the subject required, but a meeting and binding Commission action was impossible as only registered voters are empowered by State Law to contest candidacy. The Commissioners did not forfeit their individual standing under Kansas law to lodge an election contest; exercising their individual right and power, even in concert, could not create a power in the Commission which it had not been granted by law.

Public votes are required for binding action by the Commission as the governing body. However, the Commission can only take binding action on matters where it has the legal standing and legal power to do so under Kansas Law. Such power must be found under the Kansas Constitution or, failing that, the Kansas Statutes. Under the Home Rule Amendment (*Kansas Constitution*, Art. 12, §5) cities are generally empowered to govern their own affairs. So, aside

from other Constitutional provisions, the first place to look for Fort Scott's power is where it expresses its power of Home Rule self-governance—Charter Home Rule Ordinances. Unfortunately, Fort Scott has no Charter Home Rule Ordinance granting it authority to challenge candidacy or election, so we must look elsewhere for a grant or restriction on its power.

The next source of power is the Kansas Statutes. Statutes of general statewide application on a subject define the power of local government in the absence of Home Rule power. Candidacy in elections and objections thereto are governed by Chapter 25 of the Kansas Statutes Annotated. The grounds and procedure for election contests under K.S.A. §25-1434 *et seq.* have been adopted for election candidacy by K.S.A. §25-308 and extended to both general and primary elections by K.S.A. §25-214.

The statute gives to “**any registered voter**” the power to contest the candidacy of candidates or results in any race in which such voter “had the right to vote.” K.S.A. §25-1435 (emphasis added). Thus only individual registered voters, by law, are empowered to contest candidacy at the primary or general election. Governing bodies are not granted the power to lodge an election contest such as that set out in the letter of August 23, 2019. See also, *Sawyer v. Chapman*, 240 Kan. 409 729 P.2d 1220 (1986) (holding that an elector under *Kansas Constitution*, Art. 5, §1, had standing to contest an election.)

The KOMA defines a meeting as a “gathering or assembly...for the purpose of discussing the business or affairs of the public body or agency.” K.S.A. §75-4317a (Emphasis added.) Meetings are only required by the governing body when transacting the business or affairs of government within the powers the Commission possesses. The KOMA cannot apply in this case—and there can be no violation—as the August Letter could not, by law, be the official business of the Commission. Rather, the individuals whose names appear on the letter approved in their individual capacity, as qualified, registered voters and lacked the capacity to act as Commissioners of the City of Fort Scott in the execution of the letter.

The Commission can only act in its official capacity as a collective group and within the powers it has under law. The Commission, sitting as a body, had no legal authority to challenge Mr. Allen's candidacy; thus, the letter, its drafting, and signing could not have been and was not

the official business of or an affair of the City. As such, the August Letter could not be and was not an official and/or binding action by the Commission, open meetings on the issue were not required, and there was no KOMA violation.

Mr. Hoyt seizes on the wording of the August Letter and the notation of the signers as the Mayor and Commissioners. While this is understandable when viewed through the lens of a layman's eyes, when viewed through the lens of the law, the power expressed in the August Letter solely stems from an individual empowerment. Even though each signature on the letter notes that the signer is a Commission member, this cannot make the letter an expression of the power of the Commission because the power to contest solely resides with the individuals and is denied to the governing body.

4 When and where did the commission discuss drafting, signing and sending the letter concerning the candidacy of Mr. Allen? Did this occur during an open meeting? If so, provide a copy of the agenda and meeting minutes for each regular or special meeting where this occurred.

The August Letter contesting Mr. Allen's candidacy on the grounds of residency was individually drafted by Commissioner Cheryl Adamson. Ms. Adamson (and the other individual signers) had standing under K.S.A. §25-1435, as an individual registered voter, to contest candidacy; the Commission, as a collective, governing body, had neither legal standing nor legal power to contest Mr. Allen's candidacy through any action, binding or otherwise. (See analysis in #7, *supra*). The subject was not discussed during any meeting of the Commission, nor a vote taken, as the governing body could not act to bind the City under the law.

5. If the discussion about drafting, signing and sending the letter concerning Mr. Allen's candidacy did not occur in an open meeting, describe in detail when and where this discussion occurred. How long did the discussion last? Did the discussion take place in person, by telephone, via email or by some other means? Did the commission receive or review a draft copy of the letter before it was approved? Provide a copy of any emails or other correspondence sent or received by each commissioner that discussed the letter the commissioners signed concerning Mr. Allen's candidacy.

As an individual registered voter Cheryl Adamson spoke with Randy Nichols and Jean Parker in person, although at different times and places. She learned that they were each also registered voters, were aware as members of the voting public of the issue of Mr. Allen's

residency, and shared her concerns regarding Mr. Allen's legal qualification for candidacy. Ms. Adamson also spoke with JoLynne Mitchell, a registered voter, by phone concerning the same issue. After these discussions Ms. Adamson drafted the August 23, 2019 letter as an individual with standing under K.S.A. §25-1435. Ms. Adamson did not discuss the August Letter with Cindy Bartelsmeyer prior to drafting or execution.

The Commissioners, being powerless collectively to take any binding action, did not engage in discussion of the issue in an official capacity, did not meet as a group on the issue, and created no records related to the August Letter.

- 6. *When signing the letter concerning Mr. Allen's candidacy, was each commissioner able to see who else had signed the letter? Were the commissioners all present in the same place at the same time when signing the letter? If, not, describe the process followed by each commissioner for signing the letter concerning Mr. Allen's candidacy.***

Ms. Adamson placed a copy of her letter, bearing her signature, at the City Clerk's office, a common area to which the signatories had open access. Ms. Bartelsmeyer, Ms. Mitchell, Mr. Nichols, and Ms. Parker reviewed the letter while it was at the Clerk's office. The signatures of those who had standing to contest the candidacy and individually agreed were affixed to the document. No two signatories were present at the same time, but each could see the signatures of anyone that had already been affixed to the document. No edits or changes were made to the letter once it was placed at the Clerk's office and it was signed 'as drafted' by Ms. Adamson. Ms. Adamson collected the executed letter and filed it on behalf of the 5 individuals, each of whom had standing under K.S.A. §25-1435 to make the contest.

- 8. *Who has requested notice [See K.S.A. 75-4319(b)][sic] of the commission's meetings? Provide a copy of the notice the clerk or other designee has sent to each individual requesting notice for each commission meeting held from January 1, 2019, through the date of this letter.***

Notice of regular and/or special meetings is required to be provided to those requesting it under K.S.A. §75-4318(b). Notice consists of the date, time, and place of the meeting. The City Clerk maintains the list of those who have requested notice of meetings. The City Clerk sends notice by email to the Fort Scott Tribune and the following 5 persons who have requested it. The list has not changed during the relevant time period.

Name	Email
Janet Braun	jbrown@classicnet.net
Jim Shoemaker	jim@WONKL.com
Nate Lyons	nate@lyonstwinmansions.com
Bill Martin	wkmartin@bourboncountyks.org
Tim Hawkins	timjr02@hotmail.com

The City website also has the notice, agenda, and minutes available for anyone to download at <https://www.fscity.org/AgendaCenter>. The complete meeting packets, typically over 100 pages and over 10MB, are posted online and emailed to the Tribune in advance of meetings. This file is unwieldy for unprepared email services. So, the individual requestors receive the upcoming meeting agenda and the minutes of that last meeting by email, which are usually less than 10 pages and well within the typical data allowance of email clients. The first entry of each meeting agenda is the notice of the date, time, and place of the meeting. This is followed by the agenda and prior meeting minutes, which, while not required by the statute to accompany the notice, are potentially useful.

Attachment 1 to this letter is the notice packet that the 5 requestors received for the January 15, 2019 meeting. The Tribune received the full length packet for the January 15, 2019 meeting which was 120 pages long. The packets for each additional meeting within the time frame are available for download at the City's website. If you require, we can produce a copy, duplicative of the material available for download on the website. We anticipate that will run over 1000 pages and take some time to download and print. Please let us know if that is necessary.

Conclusion

Mr. Hoyt's allegations stem from a flawed reading of the laws that govern this issue. The KOMA requires meetings when the governing body is transacting the business or affairs of government. As the analysis sets out above, the power and standing to raise an election contest is a personal right reserved and granted only to registered voters. A governmental subdivision such as the City, even though its duly elected governing body, lacks the legal power to lodge a contest. As a result, the August Letter, even though signed by the 5 individuals that are also Commissioners, could only be the expression of the individual's power and standing to contest

an election and not a part of the business or affairs of the Commission. As such, KOMA does not apply to the August Letter or its subject matter and there can be no KOMA violation.

Thank you for your attention to this matter. If you have any questions please let me know.

Sincerely,



Electronically Signed

Jeffrey W. Deane, J.D.
(816) 607-4651 (direct)
Jdeane@laubermunicipal.com


encl. - Attachment 1

Approval and Attestation

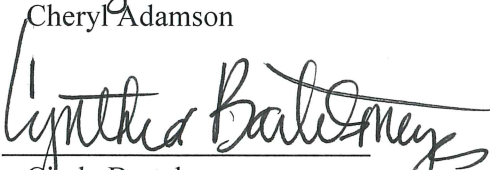
We, the undersigned, have reviewed this response, attesting it to be a true and correct statement of facts, and approve this response, this 30th day of December, 2019.



Cheryl Adamson



Randy Nichols



Cindy Bartelsmeyer



Jean E. Parker



JoLynne Mitchell



AGENDA
FORT SCOTT CITY COMMISSION
FORT SCOTT CITY HALL
COMMISSION ROOM
123 SOUTH MAIN
JANUARY 15, 2019
6:00 P.M.

I. ROLL CALL:

ADAMSON BARTELSMEYER NICHOLS PARKER MITCHELL

II. FLAG SALUTE:

III. INVOCATION: Pastor Norman Tillotson, First Baptist Church

IV. PROCLAMATIONS/RECOGNITIONS: Recognition of Alpha Money and Randy Ballweber – Codes Certification

V. CONSENT AGENDA:

- A. Approval of minutes of the regular meeting of December 18th, 2018.
- B. Approval of Appropriation Ordinance 1230-A totaling \$581,238.41.
- C. Resolution 1-2019 designating the official City newspaper.
- D. Resolution 2-2019 designating the official City depositories for public funds
- E. Certificate of Appropriateness – 7 South National Avenue and 6 East Wall
- F. Certificate of Appropriateness – 10-12 East Wall Street
- G. Certificate of Appropriateness – 124 E. Wall Street
- H. Resolution 3-2019 – Notice of Hearing with Reference to Alleged Unsafe and Dangerous Structure located at 1612 E. Oak – Public Hearing Date – 3/5/2019 at 6:15 p.m.

VI. REORGANIZATION OF CITY COMMISSION AND ELECTION OF MAYOR, COMMISSION PRESIDENT, B.C.E.D.C.I. REPRESENTATIVE, AND FORT SCOTT HOUSING AUTHORITY DELEGATE

- a. Election of Mayor – Swearing in of new Mayor
- b. Election of Commission President
- c. Election of Bourbon County Economic Development Council Inc. Representative
- d. Election of Fort Scott Housing Authority Delegate

AGENDA
FORT SCOTT CITY COMMISSION
FORT SCOTT CITY HALL
COMMISSION ROOM
123 SOUTH MAIN
JANUARY 15, 2019
6:00 P.M.

VII. APPEARANCE/COMMENTS/PUBLIC HEARING:

A. APPEARANCE: Mark McCoy – Discussion on Visioning Committee

B. CITIZEN COMMENTS (Concerning Items Not on Agenda – 3 minute limit per citizen)

C. PUBLIC HEARINGS/COMMENTS: None

VIII. CONSIDERATION:

1. Airport Electric Vault Upgrade – Rachel and Seth
2. Consideration to Solicit Bids – Self Contained Breathing Apparatus (16) – Dave Bruner

IV. COMMENTS:

A. Director Updates: Deb Needleman - KCAMP
Rachel Pruitt - Price Chopper Incentives

B. Commission:

C. City Attorney:

D. City Manager:

1. Health Care Update

EXECUTIVE SESSION:

I MOVE THAT THE CITY COMMISSION RECESS INTO EXECUTIVE

SESSION FOR _____ IN ORDER TO
(see below justification)
DISCUSS _____. THE

EXECUTIVE SESSION WILL BE _____ MINUTES AND THE OPEN
MEETING TO RESUME AT _____.

Justifications for Executive Sessions:

- Personnel matters of non-elected personnel
- Consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship
- Matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency
- Confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts and individual proprietorships

AGENDA
FORT SCOTT CITY COMMISSION
FORT SCOTT CITY HALL
COMMISSION ROOM
123 SOUTH MAIN
JANUARY 15, 2019
6:00 P.M.

- Preliminary discussions relating to the acquisition of real property

IV. MOTION FOR ADJOURNMENT: *ROLL CALL*

**CITY OF FORT SCOTT
CITY COMMISSION MEETING**

Minutes of December 18, 2018

Regular Meeting #24

The regular meeting of the Fort Scott City Commission was held December 18th, 2018 at 6:00 p.m. in the City Commission Room, 123 S. Main, Fort Scott, Kansas.

ROLL CALL:

Commissioners Adamson, Bartelsmeyer, Nichols, and Parker were present with Mayor Mitchell presiding.

INVOCATION: Michael Mix, Public Utilities Director, said a prayer asking God for guidance for the City, our Government and City officials.

AUDIENCE IN ATTENDANCE: Janet Braun, Travis Shelton, Rhonda Dunn, Darrell Parker, Larry Gazaway, Deb Needleman, Michael Mix, Rachel Pruitt, Chad Brown, Robert Uhler, Jackie Sellers, Kevin Wagner, Rachel Wagner, Cole Wagner, Dave Elliott, Maggie Brenner, Carl Brenner, Clayton Miller, and representing the press, Jason Silvers, Fort Scott Tribune.

PROCLAMATIONS/RECOGNITIONS: Kevin Wagner, Wreaths Across America – City Manager recognized Kevin Wagner, organizer for the Wreaths Across America annual event for the National Cemetery #1. This year there were 5,960 wreaths placed at the cemetery – one on every grave. He thanked him for his tireless efforts in fundraising for the wreaths. He also thanked all the volunteers who helped place the wreaths. What a wonderful memorial for the Veterans.

Kevin Wagner said that there are many, many people who assist with this event. He named several other local cities who assisted with fundraising this year. He also thanked C.F.I. who trucked the wreaths to Fort Scott.

APPROVAL OF MINUTES AND APPROPRIATIONS/CONSENT AGENDA:

- A. Approval of minutes of the regular meeting of December 4th, 2018.
- B. Approval of Appropriation Ordinance 1229-A totaling \$337,877.49.
- C. 2019 Cereal Malt Beverage/Public Dance Licenses: (originals in Clerk's office)

Package Sales:

Pete's of Erie, Inc. #20 – 998 N. National
Pete's of Erie, Inc. #27 – 605 S. National
Pete's of Erie, Inc. #14 – 1902 S. Main
Pete's of Erie, Inc. #28 – 1138 E. Wall
Hill's Service, Inc. – 308 N. National
Wal-Mart Stores, Inc. #39 – 2500 S. Main

Walgreen Company – 2229 S. Main
Casey's General Store #3399 – 2216 S. Main
Queen's Price Chopper – 2322 S. Main

Consumption on the Premises:

Debra Cagle DBA Fifthwheel Tavern – 206 Humboldt
NPC International, Inc. DBA Pizza Hut #2423 – 1810 S. Main
Woodland Hills Golf Course – 2414 S. Horton

Public Dance License:

Elks Lodge #579 – 111 W. 19th
Sharky's Pub & Grub – 16 N. National
Liberty Theatre – 113 S. Main
Holmtown Pub – 206 N. National
Buck Run Community Center – 735 Scott
River Room Event Center – 3 West Oak
Memorial Auditorium – 1 E. Third Street

Parker moved the Consent Agenda. Adamson seconded. All voted aye.

APPROVED CONSENT AGENDA.

APPEARANCE/COMMENTS/PUBLIC HEARING:

A. APPEARANCE: None

B. CITIZEN COMMENTS (Concerning Items Not on Agenda – 3 minute limit per citizen) - None

C. PUBLIC HEARINGS:

6:00 p.m. – Budget Amendment Hearing (Need to cancel) – Rhonda Dunn, Director of Finance, informed the Commission that this public hearing needs to be cancelled. It will be conducted in 2019. She does not believe that an amendment needs to be held on the 2018 budget.

Mitchell moved to cancel the budget amendment hearing that was scheduled for 6:00 p.m. Bartelsmeyer seconded. All voted aye.

**APPROVED TO CANCEL BUDGET AMENDMENT HEARING
SCHEDULED FOR 6:00 P.M.**

CONSIDERATION:

1. Change of January 1st, 2019 meeting date – City Manager informed the Commission that the next regularly scheduled City Commission meeting would be January 1st, 2019 which is a holiday. He met with Staff who recommended canceling the first meeting in January and just having one meeting on January 15th, 2019.

Bartelsmeyer moved to approve to cancel the meeting on January 1st, 2019 and just have one meeting in January on January 15th, 2019. Nichols seconded. All voted aye.

APPROVED TO CANCEL THE MEETING ON JANUARY 1ST, 2019 AND JUST HAVE ONE MEETING IN JANUARY ON JANUARY 15TH, 2019.

2. Consideration of Water Treatment Plant selection of engineering firm and proposal for evaluation of City's drinking water – Michael Mix, Public Utilities Director, informed the Commission that he came before them a couple of meetings ago to request permission to seek Request for Qualifications to evaluate the City's drinking water from engineering firms. There were four RFQ's submitted and an evaluation team consisting of Dr. Randy Nichols, Scott Flater, and himself who reviewed the engineering firms. A scoring system was created and Burns & McDonnell Engineering Firm received the highest score. He recommended the approval of Burns & McDonnell to evaluate the City's drinking water and enter into a contract with them. The contract proposal is for \$50,000 for 2018 and \$100,000 for 2019 which is budgeted.

Nichols moved to approve the engineering firm of Burns & McDonnell and approve the contract of \$150,000 to evaluate the City's drinking water. Parker seconded. All voted aye.

APPROVED THE ENGINEERING FIRM OF BURNS AND MCDONNELL TO EVALUATE THE CITY'S DRINKING WATER AND THE CONTRACT OF \$150,000 FOR SERVICES.

3. Consideration of updated Standards and Specifications regarding Water, Wastewater and Storm Water infrastructure - Michael Mix, Public Utilities Director, informed the Commission that the City was in need of updating their Standards and Specifications for our City owned utilities. When developers are building, standards are needed to ensure that these buildings are built to our standards. K.D.H.E. informed the City that the last standards they had on record were from 1985. Allgeier Martin & Associates created an updated Standards and Specifications for the City of Fort Scott. He asked the Commission to approve and adopt these new standards.

Parker moved to approve and adopt the Standards and Specifications for the City of Fort Scott. Bartelsmeyer seconded. All voted aye.

APPROVED AND ADOPTED THE STANDARDS AND SPECIFICATIONS FOR THE CITY OF FORT SCOTT.

4. Discussion of Old Fort Transportation/Pitt Taxi Transition – Deb Needleman, Human Resource Director, informed the Commission

that she was representing the Bourbon County Senior Citizens as she is the Treasurer for this Board. They have been instrumental in providing transportation in this community for years. Pitt Taxi came here a few years ago and were a huge asset for our community. The owners of Pitt Taxi have decided to retire at the end of 2018. They have offered to transfer the three vehicles, computer and phones to Old Fort Transportation for \$5,000. The owners of Fort Scott Transportation is Jackie and James Sellers. She asked the Commission for \$5,000 for Old Fort Transportation to subsidize the costs of taking over this transportation service. There are currently about 300 to 350 riders which distribute people to 25 different places of employment throughout the City.

Dave Elliott, Peerless Products, was present and informed the Commission that this transportation service helps bring many of their employees to work every morning.

Mitchell moved to approve to allocate \$5,000 towards Old Fort Transportation to subsidize the transportation program in our community. Bartelsmeyer seconded. All voted aye.

APPROVED TO ALLOCATE \$5,000 TOWARDS OLD FORT TRANSPORTATION TO SUBSIDIZE THE TRANSPORTATION PROGRAM IN OUR COMMUNITY.

5. Consideration of Water Rate Increase – Ordinance No. 3545 - Rhonda Dunn, Director of Finance, informed the Commission that the water rate increase is before them. This is for a 5% increase which is less than the budgeted 8% increase. The increase was for the payments for the debt on the river intake structure. The project is not as far along so financing costs will be less than projected in the budget. Approval for the 5% increase is recommended.

Bartelsmeyer moved to approve Ordinance No. 3545 increasing the water rates by 5% for 2019. Nichols seconded. All voted aye.

APPROVED ORDINANCE NO. 3545 SETTING NEW WATER RATES AND REPEALING ORDINANCE NO. 3525 FOR THE CITY OF FORT SCOTT, BOURBON COUNTY, KANSAS, PURSUANT TO THE FORT SCOTT MUNICIPAL CODE, CHAPTER 13.04.030.

6. Consideration of Wastewater Rate Increase – Ordinance No. 3546 - Rhonda Dunn, Director of Finance, informed the Commission that this Ordinance increases the sewer rate by 3%.

Parker moved to approve Ordinance No. 3546 increasing the sewer rates by 3% for 2019. Adamson seconded. All voted aye.

APPROVED ORDINANCE NO. 3546 INCREASING THE BASIC MONTHLY CHARGE FOR SANITARY SEWER RATES IN THE

CITY OF FORT SCOTT BY AMENDING CHAPTER 13.24.110 OF THE FORT SCOTT MUNICIPAL CODE AND REPEALING ORDINANCE NO. 3526.

7. Consideration of Storm Water Rate Increase – Ordinance No. 3547 - Rhonda Dunn, Director of Finance, informed the Commission that this Ordinance increases the storm water rate by 3% for 2019.

Parker moved to approve Ordinance No. 3547 increasing the storm water rate by 3% for 2019. Bartelsmeyer seconded. All voted aye.

APPROVED ORDINANCE NO. 3547 AMENDING THE FORT SCOTT STORMWATER USER CHARGE AND REPEALING ORDINANCE NO. 3527 FOR THE CITY OF FORT SCOTT, BOURBON COUNTY, KANSAS, PURSUANT TO THE FORT SCOTT MUNICIPAL CODE, CHAPTER 13.24.121.

COMMISSION/STAFF:

- A. Director Updates:** Rachel Pruitt – Rachel informed the Commission that in October a contest was held for “If I Was Mayor”. This was open for 7th graders throughout the State of Kansas. This is sponsored by the League of Kansas Municipalities. If selected, the student and the teacher would go to Topeka to be recognized. She would like to see the student be recognized on a local level also. She is getting packets ready for the City Commission to review and select a winner who will have “Lunch with the Mayor”.

Health Care Update – Robert Uhler – Robert reminded the Commission of the three main priorities: EMS, Primary Care, and Emergency Room. At the December 4th meeting, you heard from Dave Bruner regarding the EMS/Ambulance partnership between the City and the County. Both entities have signed contracts with one final step for the County to complete with Mercy which was completed this week with the donation of the assets to the County. He thanked Dave Martin for stepping up in this sensitive time. He also thanked Christi Keating for her direction. He also thanked the County, Mercy and the group from the City that worked together. We are one community with one goal – to have the best healthcare in our community. Our community will have convenient care and primary care provided by CHCSEK. What an impressive organization to have serve us in Fort Scott and Bourbon County. The final priority of our task force is to secure Emergency Room services. We continue to anxiously await a decision by Via Christi but remain optimistic about the future. He thanked the City Commission for their support as we continue on this journey.

B. City Commission:

Nichols – Wished all a Merry Christmas!

Adamson – Nothing to report.

Parker – Nothing to report.

Bartelsmeyer – Nothing to report.

Mitchell – Nothing to report.

C. City Attorney: Bob Farmer, City Attorney, informed the Commission he was contacted by Kevin Mitchelson, attorney for Ward-Kraft, regarding some old IRB's the City had with Ward-Kraft back in 1985, 1989 and 1992. These bond issues have all been closed but the City still had their name on the title of their property. He asked the Commission to approve the Quit Claim Deed, a Bill of Sale, and a Release of Lease with the adoption of Resolution No. 48-2018.

Mitchell moved to approve Resolution No. 48-2018 releasing the bonds on the Ward-Kraft property. Bartelsmeyer seconded. All voted aye.

APPROVED RESOLUTION NO. 48-2018 OF THE GOVERNING BODY OF THE CITY OF FORT SCOTT, KANSAS AUTHORIZING THE SALE AND CONVEYANCE OF CERTAIN PROPERTY TO WARD-KRAFT, INC. – APPROVED QUIT CLAIM DEED, BILL OF SALE, AND RELEASE OF LEASE.

D. City Manager:

1. 120 N. National – City Manager said that he was approached by a business owner to purchase the City lot at 120 N. National. The City has no reason to keep this property. He has met with the business owner and negotiated some terms of this property. This will be on the January 15th, 2019 City Commission agenda for approval.
2. Chamber Coffee – City Manager informed the Commission that the Chamber Coffee will be held at City Hall this Thursday, December 20th, 2018 at 8:00 a.m.
3. City Manager gave a 2018 highlight of all the departments of the City and their accomplishments.
4. Certified Public Manager – City Manager informed the Commission that Chad Brown and Larry Gazaway just finished their CPM class and graduated in December. Robert Uhler and Michael Mix will attend this program in 2019.
5. Health Care 2020 – City Manager said that he is very appreciative of the task force. He will be glad when an Emergency Room is here.
6. Thank you card – City Manager read a thank you card from Todd & Karin Rogers who had camped at Gunn Park recently. The card stated

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that they have traveled this country from east to west and they both agreed that the camp ground at Gunn Park was by far a wonderful experience. They thanked Norman Mackley and Diane Clay for their assistance and kindness.

Diane Clay, City Clerk, explained they had to leave their camper at Gunn Park as they had a daughter who gave birth to a baby and needed to return home. Norman took good care and watched over their camper for them until they were able to come back and get it.

ADJOURNMENT:

Parker moved to adjourn the meeting at 6:47 p.m. Mitchell seconded. All voted aye.

ADJOURNED MEETING AT 6:47 P.M.

The next regularly scheduled meeting is to be held on January 15th, 2019 at 6:00 p.m.

RECORDED BY:

DIANE K. CLAY
CITY CLERK