

Osawatomie, Kansas. **January 23, 2014.** The Council meeting was held in Memorial Hall. Mayor Govea called the meeting to order at 6:30 p.m. Council members present were Dickinson, Hampson, Hunter, LaDuex, Maichel, Martin, and Walmann. Absent was: Farley. Also present were City Manager Cawby, City Attorney Wetzler and City Clerk Elmquist. Visitors were Philip Dudley, Jamie & Kimi Wilson, Kirk & Shelagh Wright, Janine Sullivan, Jim Mitzner, Mike Moon, Ben Kennedy and Coleen Truelson.

INVOCATION. Pastor Marti McDougal of the Osawatomie First United Methodist Church delivered the invocation.

CONSENT AGENDA. Approval of the January 23 Agenda and approval of Appropriation Ordinances 2013-12 and 2013-12.1. Motion made by LaDuex, seconded by Hunter to approve the January 23 Agenda and approve Appropriation Ordinance 2013-12 and 2013-12.1. Yeas: All.

Presentations, Comments from the Public:

Pastor Marti McDougal said the church has started a children's ministry and has an after-school program. Serves monthly communion at Life Care Center. Very involved with the Community Food Pantry and is president of the Ministerial Alliance. Hoping this summer for the church to build back some of the church's summer outreach and ministry to children in the community. Her goal is to work with the school, other churches, and the City to try to see what can be done to reach children in the summer who need food, something constructive to do, and just be involved. The Ministerial Alliance is running above normal. They run the commodities program and the over 60 box program and the number of volunteers continues to grow. The pantry averages taking care of about 170 families per month, totaling over 500 individuals. The cost of free and reduced food lunches has increased.

Mike Moon, 111 Rohrer Heights, attended the Town Hall meeting the night before as did Phil Dudley and County Commissioner George Pretz. Recapped the communication and feedback at the meeting called by Martin. Moon was unhappy the way Martin presented the Town Hall meeting. First, the Mayor represents the City at Town Hall meetings. Told Martin she was his representative and there is a certain way he wants her to do it. Secondly, she alienated her fellow Council members. She had no right or ability to represent what they think. He saw the conversations back and forth on Facebook and really made people unhappy. Martin created a Facebook page for the Town Hall meeting where there was discussion. Moon told Martin she is one member and that she cannot represent the Council. A consensus needs to be built. There are ways he expects his council member to act. She has been disrespectful.

Phil Dudley, 1536 Pacific, attended the Town Hall meeting. He was on the City's Governing Body for 12 years. Everybody is human and they learn from their mistakes. He does watch what the Council does. There needs to be continuity of management which is currently good. The City Manager is who runs the City. The Council is to help him do his job better, but leave him alone. Appreciates City Manager Cawby's professionalism.

Farley arrived at 6:53 p.m.

Ben Kennedy, 418 Lincoln, has been trying for 30 years to get the ditch fixed along his property. For two years he's been trying to get the trash on the property across the street cleaned up. Complained that the City says they never have any money but spent \$100,000 after the microburst at the Golf Course. He doesn't know why it cost that much.

Public Hearings: none

Unfinished Business:

POLICE STATION GARAGE CONSTRUCTION BID. On December 19, the City Council approved the selection of American Buildings to build the garage for the new police station. After the Council approved the bid from American Buildings When ready to sign the agreement, the City was

notified that freight was not included in their bid. With freight, the bid would still be the low bid. City Manager Cawby became uncomfortable with the number of changes that needed to be made to the building. In talking with American Buildings, who had originally worked with the City to develop specs, learned that probably some other changes also needed to be made. The table below outlines those changes.

	<u>Original Bid</u>	<u>New Bid</u>	<u>Difference</u>	<u>Notes</u>
Total Materials	21,982	24,138	2,156	Additional Sheeting, 3:1 slope
Total Labor and Unload	7,932	7,932	-	
Concrete piers, slab & steps	19,555	22,409	2,854	Brick Ledge, sub changes
Breezeway	2,114	2,114	-	
KS Stamped Foundation Plan	650	650	-	
20' x 40' concrete apron		4,080	4,080	Optional Add on
Freight	<u>not included</u>	<u>2,375</u>	<u>2,375</u>	Not included originally
Total	\$ 52,233	\$ 63,698	\$ 11,465	

For reference purposes, the bids received were:

American Buildings, Inc.	\$52,233
Armstrong Steel Building – Custom Siding & Window Solutions	\$58,750
Chief Buildings – W.R. Barcus Construction	\$56,000
Legacy Contractors	\$98,798

There are two options: 1) accept the revised bid, a little over \$5,000 higher for the same work bid. All other increases would be based upon changes the City directed or 2) reject the bid and do an RFP for the project. Motion made by LaDuex, seconded by Maichel to reject all bids and put out an RFP. Yeas: All.

New Business:

APPOINTMENTS:

Historic Preservation	Brian King & Amanda Perry	2-year term (2015)
	Lewis Case & Phyllis Sharp	3-year term (2016)

Motion made by LaDuex, seconded by Maichel to approve the appointments and the terms. Yeas: All.

Parks & Recreation Committee	Lisa Farley	Jim Mitzner
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Motion made by LaDuex, seconded by Hampson to reappoint Farley and appoint Mitzner to fill Dave French's position. Yeas: Dickinson, Hampson, Hunter, LaDuex, Maichel, Martin, and Walmann. Farley abstained.

Planning Commission	Blake Madden
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Motion made by LaDuex, seconded by Hampson to approve the appointment. Yeas: All.

Tourism Committee	Brian King	2015
	Ben Maimer	2015
	Amanda Perry	2015

Motion made by LaDuex, seconded by Martin to approve the appointments. Yeas: All.

CONSIDERATION OF GENERATOR BIDS. Attached are 4 bids for a backup generator for the Police Station project. The Kohler bids from CK Power include one residential/commercial model and one industrial model. The Cummins models are both industrial, but one model is their ultra-quiet mode. All Electric Current's bids were for Cummins models with both bids around \$19,000. Based upon CK Power's bid for Kohlers models being less and the experience the City has had with CK Power, recommendation was to select one of the Kohler models.

	<u>Kohler 38RCL</u>	<u>Kohler 40REGZ</u>
Model Type	Res/Comm	Industrial
Type of Use	short term use	long term & heavy load spikes
Fan Motor	intermittently, like a car	constant
Noise	Quieter than 40	louder than 38
Warranty	2 years	1 year
Capacity	38kw	40kw
Price	\$15,185	\$16,590

Based on the recommendation of Terry Upshaw and Chief Mike Stiles, the recommendation was to purchase the 38kw Kohler from CK Power for \$15,185. Motion made by LaDuex, seconded by Walmann to approve purchase of the Kohler REGZ for \$16,590. Yeas: All

PROPOSED EASEMENT FOR 501 E. 1ST STREET. Walmann recused himself. When 105 E Main and at 505 1st Street were purchased, staff was aware that there were utilities for 501 1st street, owned by Councilman Jeff Walmann, across the new property. The utilities were a result of an easement that was granted in contract by the previous owner, but never filed with the register of deeds. The City has worked with Walmann to come to an agreement on making those easements permanent and have drafted an agreement that is agreeable to both parties. This easement would allow 501 1st Street to keep an easement of 6' across the backside of the new police station building, 105 E. Main, for the sewer and electric. The old easement was 9' but there is not enough room between the property line and the building. The breezeway for the sally port will be built over the top of the easements and language has been included to that effect. The City owned parking lot to be built at 509 1st Street will be available for use by the 105 E Main building. Motion made by LaDuex, seconded by Hunter to authorize the City Manager to sign the Parking, Access and Utility Easement as presented. Yeas: All.

EXECUTIVE SESSION – Personnel matter of nonelected personnel *coinciding with Consultation with City Attorney which would be deemed privileged in the attorney-client relationship.* At 7:54 p.m. motion was made by Martin, seconded by Farley to recess into executive session for the purpose of personnel matter of nonelected personnel *coinciding with Consultation with City Attorney which would be deemed privileged in the attorney-client relationship*, with City Manager Cawby and City Attorney Wetzler to be present, with the ability to ask the City Manager to step out; and that the Council would reconvene the open meeting in this room at 8:54 p.m. Yeas: All. Meeting reconvened at 8:54 p.m. No action taken.

CITY MANAGER'S CONTRACT. Motion made by LaDuex, seconded by Maichel to approve the contract as presented. Yeas: All. At the next meeting the Council will decide on salary, severance package and maybe a few other monetary items.

ARCHEOLOGY FIELD SCHOOL. The Kansas Historical Society is planning to conduct their 2014 Archeology Field School at 1926 Parker, the original site of the John Brown Cabin. The school will be held from May 29 to June 14, 2014. Cabin Curator Grady Atwater is coordinating the dig with the Historical Society and is in the process of negotiating with the school district to use Trojan Elementary for the staging and sleeping area for individuals that will be here the entire time. There will be a couple hundred people coming to town to participate in the dig for a day or two at a time. Because the site is owned by the City, the City needs to approve the agreement granting permission for the Archeology Field School to be held at 1926 Parker. Motion by Hunter, seconded by Farley to authorize the City Manager to sign the agreement. Yeas: All.

LaDuex read a statement of misconduct to the Council.

Over the past few months, it came to the attention of the Mayor, the Council President and the Council Vice-President that there had been certain irregularities with regard to the actions of a Council member. Mayor Govea along with Council President Hunter and Vice-President LaDuex met several times and, on one occasion, apprised the member of their concerns and attempted to counsel this member. The Council needed to be aware of the events. In an effort to be accurate and to assure that each Council member received exactly the same information, her statement was a direct result of those meetings.

Ms. Martin was elected to be a voting delegate at the League of Kansas Municipalities' annual conference. Staff was directed to make arrangements for her fees and room. Additionally, she chose to enroll in an LKM leadership course in conjunction with the conference; course tuition was also paid by the City. The expenses totaled \$598.66. Ms. Martin failed to attend the conference and the leadership academy course. She told no one she was unable to attend. She did not provide any notice to staff so her room could be sold to another community or so the City could attempt to cancel her registration for the conference or for the leadership course. Ms. Martin made no effort to reimburse the City for these expenses. Instead of attending the conference Ms. Martin attended the Osawatomi Fire Department's annual open house where she engaged in a verbal altercation with the spouse of a member of the fire department.

At two Council meetings Ms. Martin stated that in the name of the City of Osawatomi she had purchased a table at the annual Chamber of Commerce dinner on her own. She planned to decorate the table preceding the event and invited other Council members to help. That evening Council members were informed that the table had neither been decorated nor paid for. At the last moment, after failing in attempts to reach Ms. Martin, the Chamber Director used makeshift decorations to make the table presentable. A Council member paid the \$25 for the table. Ms. Martin did not attend; she offered neither an explanation nor an apology, did not offer to make reimbursement for the table fee and had not paid the Chamber the \$36 for two meal reservations.

It was reported by a member of the public that Ms. Martin had on several occasions been seen entering the City Auditorium in the late evening and leaving in the early morning without permission. The Auditorium is closed to the general public during these hours.

Ms. Martin used her Facebook account to invite members of the community to attend a "town hall meeting." By using her title of Councilwoman along with her name in the invitation, Ms. Martin implied both that the meeting was sanctioned by the City Council and that it was an official City function. Ms. Martin neither informed nor asked the approval of the Council in regard to this meeting. While all Council members were asked to attend, none was asked to plan the meeting or to participate in it. In inviting all Council members Ms. Martin displayed her true intentions which did **not** include having a discussion with the full Council. She knew full well that holding the meeting in such a way would prohibit attendance by a majority of the Council, because to do so would be a violation of the Kansas Open Meetings Act.

Additionally, Ms. Martin's Facebook page stated that she worked at the City of Osawatomi. LaDuex reminded her that she serves in an elected position and by no means would she be considered an employee. Creditors have called the City to verify her "employment" and revealed some inconsistencies in regard to information she provided them.

Most importantly, Ms. Martin had taken it upon herself to meet with members of the Rural Fire Board of Directors and had discussed their fire department roster, potential sale of a certain piece of their equipment to the City, and the time and manner in which their fire reports are made. Ms. Martin went so far as to discuss with the RFD Board the City's contract with the Rural Fire Department. She had given her unsolicited advice about these matters to the City Manager and had expressed in no uncertain terms her displeasure with Mr. Cawby's handling of the City's interactions with the Rural Fire Department. Ms. Martin had not broached this subject with the City Council. The City Council has no liaison with the RFD Board of Directors; Ms. Martin was not directed to assume that role.

The actions mentioned in the statement had been a source of repeated distraction and a hindrance to the serious work of running a City. At worst, those actions--along with others that went beyond the pale of what can appropriately be discussed in an open meeting--have necessitated the assistance of the City Attorney, resulting in hours of legal fees. It appeared that Ms. Martin either had no knowledge of the Code of Ethics, Section 1-212 of the Code of the City of Osawatomi or felt no necessity to abide by its provisions. Her actions revealed a blatant disregard for the both the letter and the spirit of the Code.

With one possible exception, any of these incidents could be overlooked. However, the serial nature of the offenses and their aggregate impact made the totality of the offenses impossible to ignore. In some cases, Ms. Martin had simply embarrassed the Council by failing to complete tasks. In others, Ms. Martin had engaged in activity that is unbecoming to a member of the Council. On other occasions, Ms. Martin took advantage of her position to put the City and the Council at risk. Her behavior incurred expenses for the City, interfered with the daily operations of the City and took time away from other endeavors. Attempts to counsel this member had been unsuccessful. She seemed to feel no compunction with regard to her actions and has failed to apologize for her behavior, to reimburse any of the costs, or to cease in her efforts to embarrass herself, this Council and the City of Osawatomi. Ms. Martin betrayed the trust of her constituents and failed to comport herself in her duties as those voters in Ward 2 and her fellow Council members might have expected.

Maichel read her Council Report.

What she was going to say was never something she enjoyed reporting to the public. To her it was an embarrassment to the community and the Governing Body; however, the public had a right to know what was going on.

She has strong beliefs about how to conduct themselves in a meeting. One of them is making sure City employees are protected from scrutiny in a public forum. She expressed herself several times on why she cut into or off a conversation leading into those waters. She found this kind of conduct very unprofessional and distasteful.

The Governing Body has an opportunity to go to a conference every year called the League of Kansas Municipalities. It is a remarkable opportunity to help them understand and be taught how they can help communities grow and prosper. Each city in the State of Kansas sends representatives to be voting delegates for State issues. Amanda Martin and her were voted by the Governing Body to be Osawatomie's representatives. In her council report right before the conference she announced it was the coming weekend. In Amanda Martin's council report she announced the fire department was having their open house the coming Saturday. Prior to going to the conference the City paid for classes they both had signed up for on Saturday. She noticed Amanda Martin did not show up. She thought maybe she was detained, but in fact she didn't show up for the whole conference. She also didn't show up to represent the City on a state level. It cost the City somewhere around \$500.00. It was such a waste of City money.

In several of Amanda's council reports she stated she was going to sponsor a table on behalf of the City Council for a Chamber of Commerce event. She stated at least one time that she had already paid the Chamber. When arriving at the event, the Chamber Director was disappointed that Amanda did not show up to decorate. It was mentioned by the Director that she had had several calls from Amanda telling her she was coming, and Amanda did not pay for the sponsor/decoration privilege. The City was mentioned in the Chamber brochure as sponsoring a table, and it was announced at the event. She went to Council Lady Karen LaDuex to let her know what was going on. Council Lady LaDuex gave her \$25 to give to the Director. Later she gave Council Lady Karen \$10 back for her part.

At that point she wanted to go public, but agreed to allow the Mayor, Council President Ted Hunter and Vice-President Karen LaDuex to talk with Amanda. Tamara told them if Amanda did anything like that again, she would go public. Shortly after the meeting – Tamara was FALSELY accused of a crime. She was accused of making an anonymously recorded phone call threatening an employee's job late at night. She freely submitted her phone records to show her innocence, but it was mentioned a burner phone could have been used. She asked what else she could do, and it was mentioned she could take a lie detector test. She said that she would. It was also brought up that she may need to obtain a lawyer. In the 7 years she has been on the City Council, it was painful and hurtful to her, and that people would believe she was capable of doing something like that. Amanda Martin was freely telling people what she supposedly had done. She could not begin to say how much pressure she was going through. It happened when she was finishing up the drive-in fundraiser. Tamara felt like someone punched her in the stomach. After consulting with her attorney, they waited to see how things progressed and was told lawsuits could be filed. The issue was dropped by the City Attorney.

It is the City employee's God given right to be free from threats and harassment of any kind. It was Amanda Martin harassing City employees and family members which she found inconceivable. The drama and inappropriate behavior was something that would not be tolerated.

She had several calls in regards to a Town Hall Meeting. She was never invited, nor had anything been discussed at the Council meetings. The Town Hall was set up before the last Council meeting and it could have been discussed. It wasn't, so it was not an official City meeting. Several things happened that went against her beliefs:

1. The Governing Body (City Council members) was not included.
2. One person cannot act as a Governing Body.
3. By leaving the rest of the Council members in the dark, they had no information to give to their constituents. Also, it disregarded their ability to represent their Ward the way they (their constituents) deserve to be represented.
4. Never try to manipulate the public for your own personal gain, and NEVER, NEVER lie to the public.

After last year's election someone complained about possibly having to lose their pit-bull. The person talked with her and Amanda Martin. When she was working on the pit-bull ban and setting up the panel of professionals to educate the Governing Body, she was notified by Amanda that she was more than happy to help her, if she wanted. Amanda was relentless that Tamara was going to do things her way. After several emails, she stopped reading them because it was very disruptive.

She found the behavior was still being conducted with City staff but it was more disruptive than ever. The demands Amanda Martin demonstrated were an abuse of power, and really needed to stop.

Just when she thought her council report was over, the day before it was brought to her attention that Amanda Martin appointed herself liaison between the Miami County Fire Board and Osawatomie. A little permission to inquire on an issue by the Mayor became something so much different. The Governing Body did not give Amanda Martin permission to act on the Governing Body's behalf. She believed Amanda was getting ready to insight fear to the public in regards to their safety.

After reading an email from Amanda, she thought the letter was brass. It had no diplomacy and tack. It was full of unfounded accusations, drama, and unsettling remarks. What she did not understand was why the infiltration was needed, and along the way causing chaos.

She believes there is always room for improvement, and the Governing Body strives for progress rather than perfection.

She talked with Miami County Commissioner George Pretz that day, and he believed the County has a wonderful relationship with Osawatomie. He felt that the partnership between both the County and Osawatomie was essential. Working together ensures that the public safety is first and foremost important. It seemed to her that the fire department had become an obsession, but there were other departments that needed attention as well.

ENOUGH IS ENOUGH.

Council Reports:

Dickinson: Attended Governor Brownback's press conference today at the Osawatomie State Hospital along with Mayor Govea, John Farley, and Maichel. It's a good thing the hospital will be getting more positions. Economics is moving along in the state and is glad Osawatomie is a part of it.

Hunter: The Economic & Community Development Committee met with Dawn Fiber and the Reflective Group. Looking forward to that project being fulfilled. A company is very interested in looking at some Northland property. The Committee studied some of the vacant properties around town that could be used be a company.

LaDuex: Kansas Day will be celebrated this Saturday at Osawatomie High School.

Martin: Will be preparing a public statement that will be released. No report.

Mayor's Report: Received an invitation in the mail on a symposium on preventing the ghost town. Didn't know if the Council members had received it. He will be attending.

City Manager's Report: none

Motion made by Hampson, seconded by Dickinson to adjourn. Yeas: All.

/s/ Ann Elmquist
Ann Elmquist, City Clerk