

**Searcy City Council – Special Session**  
**July 19, 2019 10:30 a.m.**  
**Minutes**

Mayor Kyle Osborne called to order a Special Session of the Searcy City Council. City Clerk/Treasurer Jerry Morris called the roll with the following Council members answering “present”: Logan Cothorn, Mary Ann Arnett, Rodger Cargile, Dale English, Dale Brewer and Mike Chalenburg. Also present was City Attorney Buck Gibson. Chris Howell and Don Raney were not present.

Item (3) was for the discussion and action regarding a notification from the Arkansas Department of Finance and Administration (DFA) of a sales and use tax issue for the City of Searcy. Mayor Osborne explained that the City of Searcy was contacted by the DFA on Thursday, July 18, 2019 about the overpayment of sales and use tax distributions to the City. As a result of this overpayment, there will be a decrease of \$504,600.00 in future monthly local tax disbursement(s). This decrease is the result of Amended Returns/Refunds/Audits/Rebates that were processed against the city’s local tax account. The DFA further stated in a letter titled ‘Decrease in Local Tax Distribution for the City of Searcy’ and marked for the attention of Mayor Kyle Osborne, that the city had the options of:

- (1) ACCEPT PAYMENT PLAN – “I am aware of the decrease mentioned above and elect to offset this amount in 5 monthly installments of \$100,920 beginning with the July 2019 disbursement. By selecting this option, I understand and agree the installment amount will be automatically withheld from future distributions for the specified number of months”.
- (2) DECLINE PAYMENT PLAN – “I am aware of the decrease mentioned above and elect to decline the payment plan. By selecting this option, I understand and agree that the distribution will be reduced by the amount mentioned above. If this decrease has resulted in a negative amount, your current distribution as well as future distributions will be withheld until the decrease has been satisfied”.

The letter further stated, “Please return to Michael Yancey by 12:00 PM on July 19, 2019”.

Mayor Osborne stated the he and City Clerk/Treasurer Morris had spoken with Mr. Yancey and was told that one of the gas and oil (energy) companies had applied for a rebate and the DFA Sales and use Tax Section had performed an audit and that the rebate was legitimate and that the company was due the rebate. Therefore the company was due the rebate and that future disbursements would be decreased to satisfy these rebates. He was told that the state, White County, and the City of Searcy would be affected regarding these rebates. In essence, the company had applied for the tax exempt status and had paid the sales tax but had not received the rebate. The Mayor also noted that he was told that it was nothing that the City of Searcy or White County had done. In the dialogue with DFA, the DFA said that they could extend the number of months, if requested, in order to satisfy the decrease. Mayor Osborne explained that in discussions with City Clerk/Treasurer Morris that he did not think it would be good to extend the decreases beyond the five installments into the next fiscal year. Mr. Gibson stated that he also had

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conversation with DFA and that they would extend the time deadline (12:00 PM) but that an answer was still needed on Friday, July 19, 2019 in order to process the July disbursement which will be released the next week on or about July 23, 2019. Mr. Gibson further noted that he was unsure if the City had any other options at this time other than to accept one of the payment plans. His frustration was the short (24 hour) notification of the issue. Mr. Gibson asked that the Council authorize a response asking for more time to gain further information regarding this issue and also agreed that the payment plan would be the better option in order to decide what actions the City would need to take to mitigate any ramifications this issue could raise for the City. Mr. Gibson explained that some kind of answer would need to be conveyed to the DFA on this day or they would decrease the July distribution in a lump sum all at once. Mayor Osborne explained that he was told by the DFA that this amount of a decrease was determined by a recent audit that typically covers a span of a prior 36-month period. Mr. Chalenburg stated that he would like to see if more information could be gained hopefully by the time for the August 2019 distribution. In doing so the five installments would still be satisfied by the end of the year 2019. Mr. Cargile also agreed that he would like to see if more time could be had for more discovery regarding this issue could be attained. A motion was made by Mr. Brewer and seconded by Mr. Cothorn to make 'repayment' in five installments (reduction in monthly distributions) with the stipulation that the distribution not be affected until the August 2019 distribution, if possible, in order for Mr. Gibson and Mayor Osborne to gather more information as to whether the City has any other options regarding this issue. Motion carried with the following voting "yes": Arnett, Cargile, English, Brewer, Chalenburg, and Cothorn. Howell and Raney were not present.

A motion was made and seconded to adjourn.

Minutes Approved: August 13, 2019

/s/ Kyle Osborne  
MAYOR OF SEARCY

ATTEST:

/s/ Jerry Morris  
CITY CLERK

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