

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MARCH 24, 2020 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
Tim Wilson, Deputy City Attorney
Traci Hushbeck, City Clerk

Mayor Booker called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Charles Barnett, followed by the Pledge of Allegiance

ROLL CALL

PRESENT:

Mary Ann Hankins, Ward One
Keith Jackson, Ward Two (left @ 8:07 p.m.)
Linda Chapman, Ward Three
Jay Burk, Ward Four
Allan Hampton, Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven (arrived @ 6:15 p.m.)
Randy Warren, Ward Eight

ABSENT: None

Mayor Booker requested the council address item #15 because he has asked some guests to attend the meeting.

15. Discuss the status of the COVID-19 Pandemic as it relates to the City of Lawton, including the proclamation of civil emergency issued by the Mayor, and take appropriate action as necessary. Exhibits: None.

Brandie Combs, Regional Director with the Comanche County Health Department and Dr. Scott Michener, Chief Medical Officer for Comanche County Memorial Hospital briefed the council on the COVID-19 Pandemic as it relates to the City of Lawton.

Mayor Booker stated the following morning he will issue an amendment to the proclamation that mirrors the Governor's proclamation for the counties that have active cases, believing that we absolutely have some of this in our county.

The council took the following action after the briefing:

MOVED by Burk SECOND by Warren to support the amendment to the Civil Emergency Proclamation. AYE: Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins, Jackson. NAY: None. MOTION CARRIED.

MOVED by Warren SECOND by Burk to amend Council Policy 1-6 to temporarily suspend the audience participation portion of the council meeting until further notice. Public comments during public hearings will continue to be allowed as required by law. AYE: Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins, Jackson, Chapman. NAY: None. MOTION CARRIED.

Warren suggested they hold an after action meeting when this is all done. They need to look at the future with regards to preparing for something like this.

REPORTS: MAYOR/CITY COUNCIL:

Johnson stated she will be working with Ms. Combs to get food to the children who are unable to get to the LPS feeding sites.

Mayor Booker stated it is necessary to suspend the audience participation because we are about to change the way we hold meetings and go to on line meetings, which would make audience participation difficult. We are not taking away the citizens voice, we will set up an email where citizens can continue to send in their comments and the staff will compile those comments and distribute to the council. He stated the public hearings will continue to be done in the council chambers.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF FEBRUARY 11 AND MARCH 10, 2020 AND THE SPECIAL MEETING OF MARCH 5, 2020.

MOVED by Warren SECOND by Hankins to approve the minutes of February 11, March 10 and March 5, 2020. AYE: Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Mayor Booker stated he has a request to pull item #2 but it has two separate claims. He questioned if the Ivins claim was to be denied or it is to be pulled.

Fortenbaugh stated he only wanted to discuss the Johari claim.

Wilson stated Ms. Ivins requested to speak, but at staff meeting he was told there would be a good probability that she would not be allowed to speak because it would be at council's discretion. At that time his office contacted Ms. Ivins and told her the claim would be rescheduled at a later date.

Burk questioned why we would tell someone they would not be allowed to speak.

Wilson stated it was his understanding at directors meeting that the audience participation would be suspended and they would practice social distancing. They certainly don't want to deny someone the opportunity to speak but they do want to be cautious and practice social distancing.

Mayor Booker stated they will just pull item #2.

Burk requested item #11 be considered separately.

MOVED by Warren SECOND by Burk to approve the consent agenda with the exception of items #2 and #11. AYE: Hampton, Fortenbaugh, Johnson, Warren, Hankins, Jackson, Chapman, Burk. NAY: None. MOTION CARRIED.

(Jackson left the meeting @ 8:07 p.m.)

1. Consider the following damage claims recommended for approval: William Schemonia in the reduced amount of \$308.87, Matthew Wilke in the reduced amount of \$1,123.41 (**Res. 20-19**), Friendship Baptist Church in the amount of \$245.29, and Randy Stillwell in the reduced amount of \$3,377.95 (**Res. 20-20**). Exhibits: Legal Opinions/Recommendations, Resolution No. 20-___ and Resolution No. 20-___.
2. Consider the following damage claims recommended for denial: Behanz and Abbas Johari in the amount of \$9,995.31, and Marcella Ivins in the amount of \$3,500.00. Exhibits: Legal Opinions/Recommendations.

Kelea Fisher, Deputy City Attorney, stated the claim by Dr. Johari and his spouse claims that Mrs. Johari was driving her 2011 Toyota Camry near the intersection of 72nd and Faircloud on May 28, 2019 when the car became flooded in the roadway. They stated that there were no signs posted that would have warned Mrs. Johari or put her on notice that flooding was a possibility. The drainage channel is well maintained and did not affect the water flow. Public works staff does have a list of flood prone streets, which is used to place signage when they anticipate rain events, and this street is on that list. On this date, because it was a flash flood event, they did not have signage in the area. The claimants are requesting reimbursement in the amount of \$9,995.31 to repair their vehicle and also an estimated loss of the value in their vehicle in the amount of \$1750 and \$2,000 for anticipated future repairs. She is recommending denial of the claim. Oklahoma courts have long held that when there is a weather event or some other extreme event that is an act of God and the municipality would not be responsible, and a flash flood would be considered an act of God. Under the Governmental Tort Claims Act, an additional exemption provides that the City shall not be liable for any temporary or natural condition on any public way or public place due to weather conditions. She stated there is also an exemption that states that the City shall not be liable if a loss or claim results from the absence, condition, location or malfunction of any traffic or road sign. During flash flood events we often have citizens take a risk and drive into flooded areas.

Fortenbaugh stated he got the impression from reading the claim that she did not drive into water that she saw, she drove where it was clear and then the water came.

Fisher stated their allegation was that she drove in and it flooded while she was in the roadway. If the council was to find that it was not a flash flood event and it was flooded when she drove into that, we would still have the liability defense because she would have been driving into a known and obvious danger.

Dr. Behanz Johari, claimant, stated he told Council Member Fortenbaugh that there was not much water in the roadway. She just tried to pass by and got flooded. (He distributed photos of the intersection). He stated they are asking for \$4,000 for the engine. He stated neighbors have told him that this is happening all of the time and it is a dangerous situation and there is no sign posted by the City that would have warned her that flooding was a possibility.

Fortenbaugh questioned if the Public Works Director was in attendance.

Warren stated he is not going to be able to support paying this because one of two things happened. Either the claimant drove into high water and the car became flooded and died, which is not the fault of the City, or the claimant drove onto a road that wasn't flooded and then it became flooded by an act of God, which is not the responsibility of the City.

Fortenbaugh stated this is supposed to be a flood prone intersection, he questioned how many intersections we have like this in Lawton.

Larry Wolcott, Public Works Director, stated there are several that the traffic control division monitors during storm events and it depends on the rain. They monitor each one of these and get signs put out.

Fortenbaugh questioned if anyone went out there on this date.

Wolcott stated he would have to refer back to the investigation paperwork.

Fortenbaugh stated he would like to table this claim until the next council meeting. He has some questions on policy and what we did or did not do.

MOVED by Fortenbaugh SECOND by Warren to table both claims to the April 14, 2020 council meeting. AYE: Fortenbaugh, Johnson, Warren, Hankins, Chapman, Burk, Hampton. NAY: None. MOTION CARRIED.

3. Consider adopting a resolution approving the joint petition settlement and making payment in the workers' compensation claim of Rusty Wright. Exhibits: **Resolution No. 20-21.**
4. Consider approving a request to enter into a memorandum of understanding with City of Fletcher, Oklahoma (hereinafter "Fletcher") and the City of Lawton authorizing the utilization of the Lawton Police Department's Training Facility to train their new officers in the Council of Law Enforcement and Training's Basic Academy (CLEET) which has been authorized by formal board action. Exhibits: Copy of the Memorandum of Understanding.

5. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures at SW Rolling Hills Drive at 44th Street, SW Sheridan Road at Bishop Public School, NW Cache Road at 20th Street, NW Lawton Avenue at 80th Street and SW Cherokee Avenue at 71st Street. Exhibits: **Resolution No. 20-22**, Traffic Commission Minutes & Requests.
6. Consider approving plans and specifications for the 2017 Ad Valorem Street and Roads Program (Residential), Phase 1 -SW 7th Street - Project #2017-07 and authorizing staff to advertise for bids. Exhibits: Plans and specifications are on file in the Engineering Division Office and the City Clerk's Office.
7. Consider accepting a temporary easement from Deryn H. Cook, a single person, for right of way needed for the Ridgecrest Elementary School Sidewalk Project and authorize the Mayor and City Clerk to execute the document. Exhibits: Document is on file in the City Clerk's office.
8. Consider accepting a temporary easement from Daniel & Kimberly Eppes, husband and wife, for right of way needed for the Ridgecrest Elementary School Sidewalk Project and authorize the Mayor and City Clerk to execute the document. Exhibits: Document is on file in the City Clerk's office.
9. Consider accepting a temporary easement from Teri Lynn Smith, a single person, for right of way needed for the Ridgecrest Elementary School Sidewalk Project and authorize the Mayor and City Clerk to execute the document. Exhibits: Document is on file in the City Clerk's office.
10. Consider extending the requirement contract CL18-020 Sodium Hydroxide to Petra Chemical Company of Dallas, TX for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
11. Consider awarding contract (CL20-013) Mobile Sludge Reduction and Disposal at the WWTP to Denali Water Solutions, LLC of Russellville, AR. Exhibits: Department Recommendation, Abstract of Bids, Price Sheets.

Burk stated according to the agenda material, this bidder did not have a certificate of insurance and he questioned if that was a requirement.

Rusty Whisenhunt, Director of Field Utilities, stated this bidder, Denali, did provide all specifications and requirements of the bid packet. There were two other bidders that did not submit appropriate documents.

MOVED by Burk SECOND by Warren to award contract (CL20-013) Mobile Sludge Reduction and Disposal at the WWTP to Denali Water Solutions, LLC of Russellville, AR. AYE: Johnson, Warren, Hankins, Chapman, Burk, Hampton, Fortenbaugh. NAY: None. MOTION CARRIED.

12. Consider approving appointments to boards and commissions. Exhibits: None.

Arts and Humanities Council

Fabiola Navarro
Fort Sill Representative
New Member
Unexpired Term 06/30/2020

City Planning Commission

Ron Jarvis
Ward 1
Existing Member
12/14/23

Historical Preservation Commission

Debra Jones
Existing Member
01/27/22

Cherry Phillips
Existing Member
01/27/22

Redistrict Committee

David Denham
CPC Representative
New Member
07/01/2025

NEW BUSINESS ITEMS:

13. Hold a public hearing and adopt a resolution declaring the structures located at 2003 NW Sheridan Road, 815 SW 4th Street, 212 NW 8th Street, 4808 NE Columbia Avenue, 7904 SW Forest Avenue, 4604 NW Williams Avenue, 26 NW 40th Street, 3815 NW Lake Avenue, 3310 NW Liberty Avenue, and 415 NW Columbia Avenue to be dilapidated pursuant to Section 6-5-1 Lawton City Code, ordering the owner to abate the nuisance, authorizing summary abatement, and authorizing the City Attorney to commence legal action in District Court to abate the nuisance. Exhibits: Resolution and exhibits for each property.

Mayor Booker stated we are going to find out if the person served is present and if they are, they will conduct the meeting. If the person served is not present they will defer to a later meeting because these are due process hearings and they have been encouraging people to not come to the council meetings for safety reasons. They will go through these one at a time.

Wilson stated they have to have a public hearing on these dilapidated properties, so if the owner is not here, they would still have to inquire if there is anyone here that would like to comment on this item. Citizens would have a right to comment before the council declares something dilapidated.

Mayor Booker stated they are not going to declare anyone dilapidated today unless the person served is here. They will all be deferred to a future date.

Wilson clarified that if the person served is not here, the council will take no action on that property.

Mayor Booker stated that is correct.

Wilson stated he is comfortable with that.

2003 NW Sheridan Road

Mayor Booker questioned if the owner, Elizabeth Campbell was in the audience. (No one came forward)

Richard Rogalski, Community Services Director, stated on each one of these you would have to open the public hearing and then continue it to a future meeting. That way staff does not have to re-notice and they can deal with it at a future meeting.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Burk stated they are asking people not to come, so if they don't they are just going to keep piling up.

Wilson stated since no one is here to speak you could close the public hearing after staff presents evidence and then decide whether it is dilapidated. If you want to continue it, they will stack up.

Burk stated they don't want to take action on something when they have encouraged citizens to stay home. He would rather staff re-post the notice and send them at a later date. This could go on for two or three months.

Warren stated the theory here is that they are not going to do anymore of these after this meeting until this is over.

Burk stated they could just close it and take no action.

Mayor Booker stated they are going to have a hard time voting on these since they do not know if people are sick or scared to come out. He would support the council just delaying D&D's through this emergency order.

Chapman stated if there is someone here ready to speak about this property, they should be able to hear them first.

MOVED by Burk SECOND by Warren to take no action at this time on 2003 NW Sheridan Road. AYE: Warren, Hankins, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

815 SW 4th Street

Mayor Booker questioned if anyone was in attendance to speak on 815 SW 4th Street.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Warren SECOND by Fortenbaugh to take no action at this time on 815 SW 4th Street.

Hushbeck stated it is not necessary to take action when you are taking no action.

Wilson stated they need to go through each of these to see which ones have someone here. He stated usually when they have a public hearing and no one shows up then they take action to declare either it dilapidated or not based on the evidence. That is not what the council is wanting to do at this point because they have told people not to show up and they are not going to take any action after closing the public hearing.

Warren stated the only person in the audience to speak on one of these properties is not the property owner.

MOVED by Warren SECOND by Burk to bring all of these properties back at a future date.
AYE: Hankins, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None.
MOTION CARRIED.

Corey Bowen, Code Enforcement Officer, presented some slides of previous properties that have been abated. He stated they are making progress.

Chapman questioned who was responsible for keeping the property mowed after the structure has been torn down.

Bowen stated the owner of the lot is still responsible for keeping it mowed.

14. Consider adopting a resolution approving an Economic Development Agreement by and among the City of Lawton, the Lawton Economic Development Authority, and a new industry, for the purpose of constructing an industrial facility measuring 50,000 square feet (with potential for growth to 200,000 square feet) and creating 100 new permanent quality jobs at the 50,000 square feet facility with an average salary of \$66,000 per year per position; authorizing the Mayor and City Clerk to execute the agreement; and authorizing the Lawton Economic Development Authority to execute such documents and to take such actions as may be necessary or appropriate to implement the Economic Development Agreement, including approval of amendments, the submission of reports and other information as necessary for the Lawton Economic Development Authority to perform the terms of the Economic Development Agreement. Exhibits: Resolution 20-____. The Proposed Economic Development Agreement is on file in the Clerk's office.

Warren stated while the agreement has been reviewed by all the parties involved, it has not been signed off on by the legal representatives of those parties nor has it been filed at the City Clerk's office which is required by law.

MOVED by Warren SECOND by Burk to table this item and that this meeting not be adjourned, but continued until the afternoon of Friday, March 27, 2020 at 2 p.m. AYE: Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 8:40 p.m. and reconvened in regular, open session at 9:22 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

16. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action regarding the 2008 Chevron energy performance contract and amendments related thereto between the City and OpTerra ES (formerly Chevron ES), and now known as Engie Services U.S., and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title of item #16.

MOVED by Burk SECOND by Fortenbaugh to appoint Council Member Warren as the city council representative to attend mediation over contract issues related to this item and further more to appoint Council Member Fortenbaugh as the designated alternate to attend if necessary. AYE: Hampton, Fortenbaugh, Johnson, Warren, Hankins, Chapman, Burk. NAY: None. MOTION CARRIED.

17. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending claim with the IRS, and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title of item #17. No action was taken.

ADDENDUM:

EXECUTIVE SESSION ITEM:

1. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss reopening negotiations with International Association of Fire Fighters (IAFF), Local 1882, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title of the addendum.

MOVED by Warren SECOND by Burk pursuant to Article 12 of the parties collective bargaining agreement, move to re-open contract negotiations with IAFF Local 1882 to address issues related to the solvency of the employee group health plan. AYE: Fortenbaugh, Johnson, Warren, Hankins, Chapman, Burk, Hampton. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting is continued to Friday, March 27, 2020 at 2 p.m. in the council chambers.

The meeting reconvened on Friday, March 27, 2020 at 2 p.m. No quorum was present and the meeting was adjourned at 2:02 p.m.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK