

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 23, 2013 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Mayor Fred L. Fitch
Presiding

Also Present:
Bryan Long, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Fitch 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 Pastor Shane Hall, First Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
George Moses, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

None

PRESENTATION TO OKLAHOMA RECREATION & PARK SOCIETY POSTER CONTEST WINNERS

Mayor Fitch and Kim Shahan, Parks and Recreation Director, presented certificates to Jasmine Ignacio and Kayla Hughes. They acknowledged Sierra Gates who was not in attendance. The students attend Ridgecrest Elementary School.

EMPLOYEE SPOTLIGHT PRESENTATION

Mayor Fitch and Bart Hadley, Director of Municipal Court, recognized Gina Vanover, Municipal Court employee. They also recognized Municipal Court staff.

PROCLAMATION FOR AIR QUALITY AWARENESS WEEK

Mayor Fitch proclaimed April 29 – May 3, 2013 as Air Quality Awareness Week. He presented the proclamation to planning staff.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR
MEETING OF MARCH 26, 2013.

MOVED by Burk SECOND by Jackson to approve the minutes of Lawton City Council regular meeting of March 26, 2013. AYE: Morford, Jackson, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Jackson requested item #10 be considered separately.

MOVED by Burk SECOND by Morford to approve the consent agenda with the exception of item #10. AYE: Morford, Jackson, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider approving an Agreement for Acquisition of Easement with Priscilla Fern Smart and Jewel Troy Smart III, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement for Acquisition of Easement.
2. Consider approving an Outside Water Sales Contract with Jewel Troy Smart III, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map Contract is on file in the City Clerk's Office.
3. Consider approving a professional services agreement with Creative Design Resolutions, Inc. (CDR) to provide aesthetic bridge design liners that can be incorporated with Oklahoma Department of Transportation (ODOT) construction improvements to bridges along the I-44 corridor within the City of Lawton and future city bridge projects, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Agreement is on file in the City Clerk's Office.
4. Consider extending the City of Lawton Workers' Compensation Administration Services contract with United Safety and Claims Inc. of Tulsa, OK. Exhibits: Contract Extension Form.
5. Consider approving the agreement between Keith Coast and the City of Lawton for a Summer Reading Program presented by Keith Coast, professional magician, on June 5, 2013 at 11 am and 1:30 pm. Exhibits: Keith Coast agreement.
6. Consider accepting a grant of \$1,000 from the Oklahoma Humanities Council to support the 2013 Let's Talk About it, Oklahoma Book Discussion. Exhibits: None.
7. Consider approving the agreement between Monty Harper Productions and the City of Lawton for a Summer Reading Program presented by Monty Harper, professional children's songwriter and musician, on July 10, 2013 at 11 am and 1:30 pm. Exhibits: Monty Harper agreement.

8. Consider approving the agreement with Library Ideas, LLC and authorizing \$4,650.00 for an electronic book resource. Exhibits: Freeding E-Book Token/Download Purchase Agreement from Library Ideas, LLC
9. Consider approving the waiving of special assistance and property usage fees in the amount of \$4,275.00 as set out in accordance with Chapter 7-31-3101 -3112 of the Lawton City Code and Council Policy 9-2 Parade and Assembly Policy for support of the Black Beaver District Cub Scout Day Camp to be held June 3 through June 7, 2013 at Elmer Thomas Park. Exhibits: City Assistance and Property Requested Attachment.
10. Consider waiving building permit, inspection, impact, and other fees associated with the rehabilitation of the Sanders Heights Apartments, located in the Lawton View Area at 2403 SW Jesse L. Davenport Street, up to a maximum amount of \$14,005. Exhibits: None.

Jackson stated this apartment complex is a for profit business and he does not understand why we would want to waive these fees.

Mayor Fitch stated they were applying for tax credits with support from the City and this is how we have given support in the past.

Jackson stated these tax credits benefit their business.

Mayor Fitch stated they cannot get the tax credits from the state without the support and involvement of the community.

Jackson stated the business is the only one who benefits.

Mayor Fitch stated the credit would go into the project and that could mean a reduction in rent to some degree.

Haywood stated that every city does this.

Richard Rogalski, Community Services Director, this is a critical element of that application. It was the only project that was selected. He stated they just wanted to clarify which fees would be waived up to the maximum of \$14,005. The fees they have will just barely reach that.

MOVED by Haywood SECOND by Wells to waive the building permit, inspection, impact, and other fees associated with the rehabilitation of the Sanders Heights Apartments, located in the Lawton View Area at 2403 SW Jesse L. Davenport Street, up to a maximum amount of \$14,005. AYE: Morford, Jackson, Bellino-Hall, Moses, Zarle, Haywood, Wells. NAY: None. ABSTAIN: Burk. MOTION CARRIED.

11. Consider adopting a resolution authorizing the Mayor and City Clerk to execute a project agreement for maintenance, financing, and right-of-way with the Oklahoma Department of Transportation (ODOT) for construction of Federal-Aid Project No. J3 -0274 (004)

UR, JP No. 30274(04) the western mile of NE Rogers Lane from I-44 east to Garden Village Drive. Exhibits: **Resolution 13-29**, Project Agreement is on file in the City Clerk's office.

12. Consider approving a project agreement for maintenance, financing, and right-of-way with the Oklahoma Department of Transportation (ODOT) for construction of Federal-Aid Project No. J3 -0274 (004) UR, JP No. 30274(04) the western mile of NE Rogers Lane from I-44 east to Garden Village Drive. Exhibits: Project Agreement is on file in the City Clerk's office.
13. Consider approving Change Order No. 1 for Carwash Facility Project #2012-1. Exhibits: None.
14. Consider approving appointments to boards and commissions. Exhibits: None.

Board of Adjustment

James Oates, III
303 NE 51st St
Lawton, Oklahoma 73501
05/25/16

Tony Layton
15 SW B Avenue
Lawton Oklahoma 73501
05/25/16

Citizens' Committee On Capital Improvement Program (CIP)

Albert Johnson
118 NE Bell Drive
Lawton, Oklahoma 73507
04/28/16

Economic Development Authority

David Madigan
4330 NW Cache Road
Lawton, Oklahoma 73505
04/25/19

Housing Authority

Mollie Burton
2016 West Gore Blvd. Suite 4
Lawton Oklahoma 73507
05/25/16

Library Board

Patty Neuwirth
715 Heinzwood Circle
Lawton Oklahoma 73505
05/31/15

Susanna Fenname
7311 NW Crestwood
Lawton Oklahoma 73507
05/31/15

Susan M. Kremmer
201 NW Mockingbird Rd
Lawton, OK 73507-1608
05/31/15

15. Consider approval of payroll for the period of April 1-14, 2013.

NEW BUSINESS ITEMS:

16. Hold a public hearing, receive input from citizens, approve the FFY 2013 Consolidated One-Year Action Plan, pass Resolution 13-__ authorizing the execution of the plan, and authorize the Mayor and City Clerk to execute the implementing documents necessary to implement the Consolidated One-Year Action Plan for FFY 2013. Exhibits: A copy of the Consolidated One-Year Action Plan for FFY 2013 (Draft) is on file at the City Clerk's Office. A copy of the resolution is attached.

Tim Libby, Assistant Director of Housing and Community Development, stated it is that time of the year to send our one year request for funding to HUD for the Community Development Block Grant and the HOME Investment Partnerships Program. He stated they are somewhat up in the air about the amounts we are going to get. The budget was passed but we are still awaiting the final determination from HUD once they add in the 5% loss of the sequester and they gave them a small boost in the overall CDBG funding and there is actually a risk that we might be cut substantially in the HOME program. He used the same grading system as last year. They are limiting everyone to \$25,000 regardless of their request.

Libby presented a series of slides on the Consolidated One Year Action for FFY 2013 and the HOME Program.

Moses questioned where the estimated banked match comes from.

Libby stated that comes from primarily Habitat for Humanity. Every time they do a home we get to charge all of those volunteer hours at a rate of anywhere from \$10 to \$30 an hour. We bank that amount as a match.

Moses clarified that is in kind contribution.

Libby stated yes. It is not a cash match.

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

MOVED by Haywood SECOND by Wells to approve **Resolution 13-30** authorizing the execution of the plan, and authorizing the Mayor and City Clerk to execute the implementing documents necessary to implement the Consolidated One-Year Action Plan for FFY 2013. AYE: Morford, Jackson, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

17. Consider accepting the annual audit report of the City of Lawton for the year ending June 30, 2012. Exhibits: Fiscal Year 2011-2012 Audit will be distributed separately.

Rick Endicott, Finance Director, thanked LaDonna Sinning, Arledge and Associates, Brenda Wright with Crawford and Associates and Financial Services staff for all their hard work on this audit. He stated the audit is being presented much earlier than it has in the past.

LaDonna Sinning, Arledge and Associates, stated the audit is a very clean report in all respects. The opinion on the financial statements is unqualified. With regards to the single audit report, their opinion on the major programs is unqualified. They had no findings on those major programs and no other findings. She stated for the past few years there has been a finding hanging out there about getting financial reports out more timely and about some actions that needed to be taken to make that happen. They did remove that finding this year. Last year she presented to the council around July 24th and that has been backed up three months. It would have been four months but they have been waiting on another party to get a report to them that was outside the control of city staff. She stated they had no audit adjustments that they required to be posted. She stated they had a couple of past audit adjustments that were not large enough to require posting. The City has made significant progress in financial reporting over the past three or four years.

Moses stated on page 65 of the audit report there is a paragraph entitled “Material Non-Compliance” which talks about appropriations exceeding the legal level of control for these three funds. He questioned if this was a serious matter.

Ms. Sinning stated from the perspective of the auditor, they did not site those. Those amounts are not significant to the City of Lawton. They don’t typically site a finding for exceeding the budgeted appropriations unless they are exceeded by a significant amount that would raise concern.

Moses questioned what the amount would be.

Ms. Sinning stated something closer to 5% to 10% of that fund.

Moses stated on page 8 there is a list of the Blended Component Units and under the Discretely Presented Component Units he does not see the Lawton Enhancement Trust Authority (LETA) listed. He questioned if they are in the same legal category as these other authorities.

Mayor Fitch stated no, they are audited separately.

Moses questioned what distinguished LETA from LEDA.

Ms. Sinning stated LEDA is in this audit and LETA was not active for the year they are presenting.

Moses questioned if there is a responsibility of this council to monitor their financials.

Ms. Sinning stated when LETA has activity it will be included.

Burk stated LETA has their own audit done by Hatch and Associates. They pay for that out of LETA funding.

Moses stated so does the Airport Authority. He stated it is not clear why it is not listed. He questioned if LEDA issues a separate financial statement. There are some huge money movements going on there.

Ms. Sinning stated LEDA financial statements are here and they have their own column and you can see them, but they don't have their own bound report. She stated you will see their financial statements on pages 33 and 34.

Wells stated on page 43 where they have restricted cash and cash equivalents it talks about series of notes and on page 52 it talks about notes payable and different series. He questioned the difference between restricted cash and notes payable.

Ms. Sinning stated restricted cash is the money set aside in reserve accounts to fund those debt payments. The notes payable was the actual loan amount that is payable.

Bellino-Hall stated that if all these authorities are incorporated under this audit, why does LETA pay for their own audit?

Endicott stated they are doing some things under our audit to look at LETA activity and he will give Scott Hatch a call.

Burk stated he has asked that question for years but it just has never gotten there.

Endicott stated that for some time there just wasn't enough activity.

Long stated under next year's audit there is a new accounting rule that will require us to evaluate all these trusts and determine how they are placed within the audit.

Endicott stated the performeter, which is a report from Crawford and Associates, will be presented at a budget workshop. He stated Crawford and Associates are our consultants and Arledge and Associates do the actual audit.

MOVED by Burk SECOND by Moses to accept the annual audit report of the City of Lawton for the year ending June 30, 2012. AYE: Morford, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. ABSENT: Jackson. MOTION CARRIED.

18. Consider approving an agreement authorizing the city of Lawton to join with the Oklahoma Municipal League to create the OML Medical Benefits Group, and authorize the mayor and city clerk to execute the agreement. Exhibits: Agreement Establishing the OML Medical Benefits Group.

Jim Russell, Acting Assistant City Manager, stated the Oklahoma Municipal League (OML) has teamed up with the Texas Municipal League to create an insurance grouping for municipalities.

They have asked Lawton and Ponca City to act as founding members to get this up and running. He stated we recently went out with an RFP for major medical and dental insurance and TML did send in a proposal in anticipation of OML coming out. He stated we do not have to be a member of their insurance group in order to be the founding members. He stated Ponca City approved this agreement last night at their council meeting.

Mayor Fitch stated basically this is an endorsement through OML to bring other sources of insurance for municipalities to the State of Oklahoma. We are one of two communities asked to endorse this. We are not obligated to be a member and have our insurance through them. This will give smaller communities the opportunity to be in an insurance group and receive better rates than they have now. He stated it may be cost saving to us down the road, but they were not able to give us a firm bid that was competitive with our current carrier.

MOVED by Wells SECOND by Zarle to approve an agreement authorizing the City of Lawton to join with the Oklahoma Municipal League to create the OML Medical Benefits Group. AYE: Morford, Jackson, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

19. Consider an ordinance pertaining to utilities amending Section 22-2-1-218, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 2005, relating to temporary or periodic restrictions on water usage, providing for severability, and declaring an emergency.
Exhibits: Ordinance 13-__.

Jerry Ihler, Public Works Director, stated at the March 26th council meeting the owner of Splash Pools came before council and asked that the council consider additional exemptions to the current ordinance that relates to water restrictions and temporary and periodic restrictions relating to outside watering. Council directed staff to meet with the owner of Splash Pools as well as the water conservation committee which is made up of four council members, to revisit the ordinance to see if they could come up with some additional exemptions that would address the concerns of commercial entities. He stated other departments have received calls from car dealerships because they wanted to be able to wash their cars prior to making a sale. The committee decided to create an exemption that if any commercial business owners needed water usage to provide the products or goods they sell and or any services of that commercial entity, they would not inhibit any commercial businesses from being able to do their day to day business. This ordinance will provide that exemption to allow commercial business owners exemption during stages two and three. He stated with the current raw water supply and the recent rain, Lake Lawtonka has come up 3.5 feet and is basically 100% full as it relates to raw water available usage. Lake Ellsworth has come up 5.35 feet in the past week and is currently at 79%. Unfortunately Waurika Lake has not changed and is basically at the same level. The overall percentage changed from being about a week away from going to stage three to now in stage one. Basically we are at 65% for the overall raw water.

MOVED by Wells, SECOND by Moses to adopt **Ordinance 13-19**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Morford, Jackson, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 13-19

An ordinance pertaining to utilities amending Section 22-2-1-218 Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 2005, relating to temporary or periodic restrictions on water usage, providing for severability, and declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Moses commended the Chamber of Commerce and the Chairman, Toney Strickland, for pulling together the response to Fort Sill at the listening session held where they solicited input from the community on this pending action on reductions. He felt it was pulled together with very short notice and it was done very professionally.

Bellino-Hall reported that Trash Off will be held on Saturday, April 27th from 8:00 a.m. to 3:00 p.m. She stated they will be taking about everything including prescription drugs. She encouraged everyone to be neighborly to the elderly and help clean up the community.

Burk stated the focus has really changed over the past few years, it used to be just trash hauled off to the dump. Now we have become a recycling center. He encouraged everyone to dress appropriately. He stated he hopes that we are not being too quick to go off of water restrictions and back to people using water. He wished we had stayed on using odd and even days and just kept an eye on the levels. Everything he has seen shows that we are not out of a drought and he is concerned that we have an empty lake at Waurika. He hopes they could look at the policy and perhaps add something where the council could override going from one stage to the next. This is a precious commodity and they need to keep an eye on it.

Wells questioned the percentage of Waurika.

Ihler stated 41% usable storage.

Wells stated they could really be in trouble again.

Burk stated you have issues when you start pumping from such a low level. He is just concerned that they are going to release those restrictions and go back to voluntary.

Mayor Fitch stated he attended the Washington D.C. trip with the chamber and they had some very good sessions with our congressional leaders. The internet sales tax will be addressed on the floor this week. He stated they estimate that Oklahoma is losing out on \$296,000,000 due to no sales tax on internet sales. He stated the listening session at Fort Sill yesterday afternoon was an opportunity for the community to come with an organized reason as to why Fort Sill should be left alone. He felt they delivered an excellent message to the Department of the Army that will be used in the evaluation of proposed cuts for the Army.

Long stated that prescription medication can also be dropped off at the Lawton Police Department throughout the year. He suggested budget workshop dates of May 15th and May

22nd. On the 15th they would discuss City of Lawton budget and on the 22nd they would discuss the hotel/motel budget. Proposed time would be 9:00 a.m. to 3:30 p.m.

Wells questioned when they would receive the preliminary budget.

Endicott stated they will try to get the budget out by Friday, May 3rd.

Burk stated they usually just meet for the afternoon.

Wells stated they have started at 1:30 p.m. until they finish.

Mayor Fitch stated they will schedule it for May 15th at 1:30 p.m. They will just block out May 22nd in case they don't get finished.

Wells stated he got a notice from OML and the House passed the anti-smoking on government property and it also includes a portion giving the cities the right to control smoking on city property. It has gone to the Governor for signature.

Mayor Fitch stated we have an ordinance still in place and we are in good shape.

The Mayor and Council convened in executive session at 7:18 p.m. and reconvened in regular, open session at 8:15 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

20. Pursuant to Sections 307B.4, Title 25, Oklahoma Statutes, consider convening in an executive session to discuss the pending actions relating to Consent Order, Case No. 12-136 received from the Oklahoma Department of Environmental Quality (ODEQ) regarding the sludge lagoons utilized at the Medicine Park Water Treatment Plant (MPWTP) located on Ft. Sill and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #20. No action was taken.

21. Pursuant to Section 307(B)(3), Title 25, Oklahoma Statutes, consider convening in executive session to discuss the proposed sale of approximately 50 ½ acres, collectively or by parcel, of City-owned real property in the vicinity of NW 67th Street and Rogers Lane, as authorized by Ordinance No. 11-07, and take appropriate action in open session. Exhibits: None.

Jensen read the title of item #21.

MOVED by Wells, SECOND by Burk to approve the sale of 29.5 acres of city property at 67th and Rogers Lane consisting of tracts one and two for \$2,500,000.00 to Anthony Properties and authorize the Mayor and City Clerk to execute the purchase agreement with the terms negotiated and finalized by the parties as directed by the City Council. AYE: Morford, Jackson, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

ADDENDUM:

1. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending EEOC complaints of Ronald Smith Sr. and Robert Puccino Jr., and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of addendum. No action was taken.

Mayor Fitch stated he has asked George Hennessee, City Engineer, to address the council regarding a letter the council received from Lon Parks regarding the bike paths.

Long stated Mr. Hennessee will give a general statement on the status of the project. It will reference some of the areas addressed by Mr. Parks.

Mayor Fitch questioned if this response will be passed back to Mr. Parks.

Long stated yes.

George Hennessee, Assistant Director of Engineering, stated the bicycle report study was prepared by Jacobs Engineering and was completed in January 2010. The plans went through several development stages. There was a conceptual design phase or the 35% design phase. They received the 60% design phase in January 2012. The 60% triggers the ODOT process to do the environmental clearance. The environmental clearance was completed on September 2012 and that will nail down the paths. They received the 90% design phase in December 2012 and they also received a cost estimate at that time. The City has prepared additional design instructions to Jacobs Engineering because they had made assumptions on right of ways that we were unable to acquire. One of those was at Sheridan and D Avenue. They had to redesign at that vicinity. They were able to access Greer Park and they have talked to LPS about access across the Central Middle School area. The next meeting with Jacobs Engineering will be on April 30th. They would not discuss the completion of the plans until after the meeting on the 30th.

Burk stated they need to make it clear to the bike enthusiasts that we haven't stopped the process. They have been working on getting access from 36th to 38th for months. He stated last summer he and Ihler went to a Friends of the Trail meeting and they were very discouraged that we weren't bidding the project to get the work done. He hopes they understand that we are not the problem. When you have to work with ODOT it takes an army of people to get all this through. This is not just painting a bicycle path on the street. He feels they need to have a meeting with Friends of the Trail as soon as they can. He feels there has been a lack of face to face time with them.

Mayor Fitch suggested staff convey all of this to Mr. Parks. He supports Council member Burk's idea about meeting with the Friends of the Trail. There are a lot of people involved and they cannot understand why things take so long.

Morford stated three or four years ago they presented this plan to put paths all over town, but there had to be a study. They did one study and then there was another. He feels they just need to bring it to the public. He stated the group would just like a report on what is happening.

There being no further business to consider, the meeting adjourned at 8:28 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK