

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 28, 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 6:07 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
Linda Chapman, Ward Three
Jay Burk, Ward Four
Allan Hampton, Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven
Randy Warren, Ward Eight

ABSENT:

Keith Jackson, Ward Two

REPORTS: MAYOR/CITY COUNCIL: None

Cleghorn reported that he has directed staff to put together a furlough program which will go to council for approval. The program will require all employees to furlough one day a month for the two remaining months of this fiscal year and if approved, it will be part of the budget for next fiscal year. He stated they will monitor the situation and may decrease or increase those days. He stated the next fiscal year will be tough. He will be recommending to council a flat budget with current spending and hiring freezes remaining in place. No new positions or reclassifications will be approved.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF MARCH 24 AND APRIL 14, 2020.

MOVED by Burk SECOND by Warren to approve the minutes of March 24 and April 14, 2020.
AYE: Johnson, Warren, Hankins, Chapman, Burk, Hampton, Fortenbaugh. NAY: None.
MOTION CARRIED.

CONSENT AGENDA

MOVED by Warren SECOND by Burk to approve the consent agenda. AYE: Warren, Hankins, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

1. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2020 primary and general municipal elections for designated City Council seats and authorizing the Mayor to issue an election proclamation. Exhibits: **Resolution No. 20-24** and Election Proclamation.
2. Consider a request for an extension of time on the performance bond for the construction of the sewerline to serve Lawton Marketplace, Part 3, located on the northwest corner of NW Cache Road and NW 82nd Street. Exhibits: Letter from Developer.
3. Consider approving Amendment #3 to the 2017 Ad Valorem Street and Roads Program (Residential), Phase 1 - Project #2017-07 with Freese and Nichols, Inc. for engineering services to prepare easement document preparation for the City's use in right-of-way/right-of-entry negotiations. Exhibits: Amendment #3 to the Agreement between City of Lawton and Freese and Nichols, Inc. for Professional Services - 2017 Ad Valorem Street and Roads Program (Residential), Phase 1, Project #2017-07, Attachment 'A' – Lump Sum Fees and Services.
4. Consider extending contract for (CL19-018) Precast Concrete Manholes to Primary Structure of Guthrie, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
5. Consider extending contract (CL19-023) Mowing & Litter Area Two to Adult & Teen Challenge of Oklahoma of Cache, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
6. Consider extending contract (CL19-024) Mowing & Litter Areas B, D, and E to Adult & Teen Challenge of Oklahoma. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
7. Consider awarding contract for (CL20-018) Mowing and Litter Areas G & H to Adult & Teen Challenge of Cache, OK (SonRise). Exhibits: Department Recommendation, Abstract of Bids, Price Sheets.
8. Consider extending contract (CL18-022) Mowing & Litter (5 Areas) - Areas 1, 3, 4 and 5 to The Lawn Wizards of Lawton, OK, and Area 2 to Adult & Teen Challenge of Oklahoma for an additional year. Exhibits: Department Recommendation, Contract Extension Forms, Price Sheets.

9. Consider awarding contract for (CL20-016) Footwear (Safety, Athletic & Walking) to Woodward's Occupational Footwear of Cyril, OK for items 1A, 1B, 1C, 1D, and 2 to Red Wing Brands of America, Inc. for items 1E, 1F and 3. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
10. Consider extending contract (RFPCL18-030) McMahon Park Concession Lease and the associated Lease and Non Exclusive Concession Operation Agreement, to LaSill Optimist Club of Lawton, OK, for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet, Executed Lease and Non Exclusive Concession Operation Agreement is on file in the City Clerk's Office.
11. Consider extending (RFPCL19-027) Concession Lease Grandview Sports Complex to LaSill Optimist Club of Lawton, OK, and authorize the City Council and Mayor to enter into a Concession Lease Agreement for same. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet, Concession Lease Agreement is on file in the City Clerk's Office.

NEW BUSINESS ITEMS:

12. Consider providing direction to the city manager to have staff review city code to determine which, if any, late fees, charges and penalties can be suspended during the ongoing civil emergency in order to provide relief to businesses. Exhibits: None.

Fortenbaugh stated there are people who cannot pay their bills on time, but we should not kick them when they are down and assess interest and penalties on them for being late.

Burk stated he agrees that they need to help people when it is needed most. As of today, we have delinquent accounts which total \$277,000. We have loss of use revenue right at \$100,000 to date. We average about \$10,000 a month in late fees and that is for business and residential. He would like to see the council do a program where they would waive the late fee one time and that could give people an opportunity to catch up. He stated currently we are not disconnecting anyone but that cannot go on forever.

Fortenbaugh questioned the time frame on that \$277,000.

Cleghorn stated that has been since the beginning of the proclamation. We have more than doubled our number of delinquent accounts in that period. Usually each month it is about \$10,000 in late fees and we are not doing disconnections. We are getting to the point where it is just becoming unsustainable.

Warren stated he agrees, but he does not think this is something we can continue doing. He does not see how we can forgive the amount owed, but he does not have a problem working with them on late fees. If this was a one-month thing he would agree to forgive the whole thing, but there is no way they can do that. He stated the other citizens of Lawton are basically going to have to pick up the slack. He does not see how we can sustain this over a period of time.

Hampton stated the City of Lawton is also a business and any relief at this point for any of us is going to be a concession and we are all trying to work together as a team. He feels we have done a good job. He feels that as people try to catch up on their bills any little bit helps. If anyone cannot pay their bill, he is sure there are other things the City can do to try to help them make payments. He understands that this agenda item is to try to bring some relief and he likes the idea of some relief. He stated a good start is to possibly give a “get out of jail free card”.

Chapman questioned if they decide to suspend a late charge or penalty, are they looking at one month or one time and when would that period of time be?

Mayor Booker stated that would be up to the council.

Bart Hadley, Deputy City Attorney, stated in our current code, we do have a forgiveness program for one time per year if they have had a good history of payments. Currently we are forgiving all late fees until the end of this emergency proclamation.

Burk clarified that there are no late fees or penalties occurring at this time.

Hadley stated that is correct. We are not turning water off during the emergency proclamation because there are so many people out of work. They are still responsible for the water, but not for any late fees or turn off or on fees.

Hampton questioned if this was for residential and commercial.

Hadley stated he believes so.

Burk stated that will solve this issue, it is already being done.

Hankins questioned if they needed to do a forgiveness for a second time.

Burk stated we are forgiving it all right now, since the beginning of this proclamation.

Hadley stated the \$277,000 is what is owed to the City, not counting late fees. That is what people owe to the City.

Mayor Booker clarified no late fees have been assessed since March 16th or 17th. That is ongoing until the end of the proclamation.

Johnson questioned if the late fees are still showing up on the bill.

Cleghorn stated they probably still are, but he would have to verify that.

Chapman stated if we are averaging \$10,000 a month that we are not collecting, how many months can we go on with not collecting this money?

Burk stated the number that bothers him is the \$277,000 from people who have not been able to pay. That number is going to grow and at some point there has to be cut offs or at least payment plans for people to start making restitution back to the City for water that we provided. At some point the money has to be paid. We are not going to have cut offs or late fees for another month and that number will grow to \$600,000. That is a huge number.

Johnson questioned if they could get a cost analysis of how this will affect the budget through May and June.

Cleghorn stated they could project what it may look like.

Fortenbaugh stated there is no action to be taken because we are already doing this while we are under this emergency.

13. Consider approving Ordinance No. 2020-____ relating to Finance and Taxation; amending Section 10-1-110, Article 10-1 (City Contract and Sales) of Chapter 10 of the Lawton City Code, 2015, by allowing change orders up to \$40,000.00 or 10% of any contract, whichever is less, to be approved by the City Manager or his/or designee; and establishing an effective date. Exhibits: Ordinance No. 20-__.

Richard Rogalski, Deputy City Manager, stated there are often times where there are projects with fairly small change orders but staff is required to stop the project in order to get the change order approved which incurs additional costs for the project. This proposed code aligns our city code with state statute, which allows the governing body to delegate approval to the city manager on change orders up to \$40,000 or 10% of the project cost, whichever is less. The details of the change order would be reported to council at the next regular scheduled meeting.

Warren clarified that this was just for construction projects.

Rogalski stated yes.

Burk stated the only one that concerns him is the public safety facility because there have been issues with that project.

MOVED by Burk SECOND by Chapman to adopt **Ordinance 20-09**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days after passage.
AYE: Hankins, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None.
MOTION CARRIED.

(Title read by City Attorney)

Ordinance 20-09

An ordinance pertaining to finance and taxation, amending Section 10-1-110, Article 10-1, Chapter 10, Lawton City Code, 2015, granting the city manager the authority to approve contract change orders up to Forty Thousand dollars (\$40,000) or ten percent (10%) of any contract, whichever is less; providing for severability; and providing an effective date.

14. Consider approving a limited-time voluntary Retirement Incentive Program for employees that are eligible for normal or early retirement as defined in Chapter 17 and grant the City Manager the authority to extend said incentive enrollment for up to ninety (90) additional days. Exhibits: None.

Dewayne Burk, Human Resources Director, stated council approved a similar program in 2016. This gives us an opportunity to offer an incentive to those employees that are eligible to retire. Normally when they retire they would be responsible for their insurance premiums, but this incentive would allow them an option to elect to retire now and the City would pay the employee only premium for a full year after retirement. This would be a voluntary staffing reduction for those employees that would probably be at the top of the pay plan which would provide some relief if we had to replace those key personnel.

MOVED by Burk SECOND by Hankins to approve a limited-time voluntary Retirement Incentive Program for employees that are eligible for normal or early retirement as defined in Chapter 17 and grant the City Manager the authority to extend said incentive enrollment for up to ninety (90) additional days. AYE: Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins. NAY: None. MOTION CARRIED.

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. Exhibits: None.

Burk reported that an emergency order was signed prior to this meeting extending the order to May 30th. He encouraged citizens to submit plans for opening sporting venues.

Fortenbaugh recommended that when this situation was over, a committee be formed to look at Chapter 8 of the City Code and make adjustments to the section dealing with emergencies to cover something like this, so that if this happens again, we are better prepared.

Burk stated he would like to see comments on what it would look like at the end of this or if we had to pull back. He stated everyone can get current information on www.lawtonok.gov.

Mayor and council continued discussion on this issue. No action was taken.

ADDENDUM:

1. Consider approving the submission of an application for federal assistance under the Coronavirus Aid, Relief, and Economic Security (CARES) Act for the Lawton-Ft. Sill Regional Airport and authorize the Mayor and City Attorney to execute the documents. Exhibits: Application

Fortenbaugh stated business is way down at the airport and there is not as much military traffic. This is an opportunity for the airport to get some money from the CARES Act. The City will not have to pay it back.

MOVED by Fortenbaugh SECOND by Hankins to approve the submission of an application for federal assistance under the Coronavirus Aid, Relief, and Economic Security (CARES) Act for the Lawton-Ft. Sill Regional Airport. AYE: Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins, Chapman. NAY: None. MOTION CARRIED.

STAFF REPORT

Kara Haynes, Finance Director, presented revenue and expenditure highlights for the period ending March 31, 2020. (On file in the City Clerk's office).

The Mayor and Council convened in executive session at 7:22 p.m. and reconvened in regular, open session at 7:57 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

16. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the hiring of a City Attorney, to include the discussing and/or evaluation of particular candidates who have submitted applications for the position, and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title of item #16. No action was taken.

17. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending tort claims of Melissa Clements, Denise Ezell, Kelea Fisher, Kristin Huntley, Megan Loftis and Julie Snodgrass, filed with the City on September 27 and November 12, 2019, and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title of item #17.

MOVED by Chapman SECOND by Fortenbaugh to appoint Councilmembers Burk and Warren as the city council's representative to attend mediation regarding the pending tort claims of Melissa Clements, Denise Ezell, Kelea Fisher, Kristin Huntly, Megan Loftis and Julie Snodgrass and further move to appoint Councilperson Hankins as the designated alternate to attend if necessary. Additionally, Mayor Stan Booker will represent the City in mediation as well. AYE: Hampton, Fortenbaugh, Johnson, Warren, Hankins, Chapman, Burk. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:00 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK