

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 27, 2020 – 2:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Jay Burk, Mayor Pro Tem

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

Mayor Pro Tem Burk called the meeting to order at 2:03 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Bob Weger, Bible Baptist Church, followed by the Pledge of Allegiance

ROLL CALL

PRESENT: Mary Ann Hankins, Ward One
Keith Jackson, Ward Two
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: None

PROCLAMATION FOR 2020 EXTRA MILE DAY

Mayor Pro Tem Burk proclaimed November 1, 2020 to be 2020 Extra Mile Day. He recognized Frank Myers, Jacobi Crawley and Yvonne Landmark for their community leadership.

PROCLAMATION FOR RED RIBBON WEEK

Mayor Pro Tem Burk proclaimed October 23-31, 2020 as Red Ribbon Week. He presented the proclamation to Council Member Onreka Johnson.

PRESENTATION TO THE DEPARTMENT OF PUBLIC UTILITIES BY LAWTON
ENHANCEMENT TRUST AUTHORITY

Mayor Pro Tem Burk, on behalf of Lawton Enhancement Trust Authority, recognized the crews from the Public Utilities Department for their efforts to enhance and beautify the Lawton community.

EMPLOYEE SPOTLIGHT PRESENTATION TO KAYLEE LAMBERT – EMERGENCY
COMMUNICATIONS DEPARTMENT

The City Manager recognized Kaylee Lambert for her outstanding performance.

REPORTS: MAYOR/CITY COUNCIL

Johnson thanked everyone who submitted an application for the Race Relations Committee. They have made the initial selections and those who were not selected will be invited to participate in the sub committees.

Mayor Pro Tem Burk presented a video of Senator James Inhofe speaking about the National Defense Authorization Act.

AUDIENCE PARTICIPATION:

Paul Greene, 806 NW 52nd Street, stated he requested, through his council person, to place an item on the agenda and he was told no because the agenda had been published and nothing could be added, which is not 100% correct. The agenda can be amended after it has been published. He brought forth a state law violation regarding a particular city council person and brought it directly to the council in public session. He evidently was supposed to submit a complaint through a complaint process through the City. After he brought forth this violation the Mayor should have directed him to the proper city department and that was never done. He finds it inappropriate and unprofessional to be told he has to follow procedure, but the city council can just make their procedures as they deem necessary. He stated the last two city council meetings he has attended he has requested to speak on three separate agenda items, but he was only called to speak on one. It seems inappropriate and unprofessional to follow procedure, but the city council can just make their procedures as they deem necessary. According to Roberts Rules of Order, a point of order may be raised if the rules appear to have been broken. This may interrupt a speaker during debate. He stood before the council and was told he could not raise a point of order. Roberts Rules of Order is used by this council so he finds it inappropriate and unprofessional to be told he has to follow procedure, but the city council can just make their procedures up as they deem necessary.

Nicholas Sasseen updated the council on the Patriot Pavilion Project in Elmer Thomas Park. He invited the council to the dedication ceremony which will be held on November 7th at 2 p.m.

CONSENT AGENDA

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

1. Consider the following damage claims recommended for approval: Daremy Gleaves in the amount of \$5,000.00 (**Res. 20-124**), and Fabian and Wendy Montanez in the amount of \$1,826.00 (**Res. 20-125**). Exhibits: Legal Opinion/Recommendation, Resolution 20-____, Resolution 20-____.
2. Consider adopting a resolution approving the joint petition settlement and making payment in the workers' compensation claim of Jacob Cooper. Exhibits: **Resolution 20-126**.
3. Consider adopting a resolution approving the joint petition settlement and making payment in the workers' compensation claim of Phillip Davis. Exhibits: **Resolution 20-127**.
4. Accept the Annual ADA Report that outlines completed ADA accessibility projects, and work done towards compliance, and the money expended on each project required by the settlement agreement between the City and Joseph Harper and Vivian Wheeler dated 9 December, 2013. Exhibits: 2019-2020 ADA Compliance Report and ADA Executive Summary.
5. Consider extending the current contracts with BlueCross BlueShield of Oklahoma (BCBS) for the purpose of providing health care insurance coverage for City of Lawton Retirees over the age of 65 for an additional year, as authorized by the contract. Exhibits: Contracts are on File in the City Clerk's Office.
6. Consider adopting a resolution amending the Downtown I Urban Renewal Plan adding institutional, limited industrial, medical services, and research services as permitted uses within the Commercial Central District. Exhibits: **Resolution No. 20-128** (Downtown I Urban Renewal Plan), Draft LURA Minutes and Draft CPC Minutes.
7. Consider re-approving the record plat for the Replat of Block 18, Less and Except Lots 5 and 6, of Eastlake Addition, Part 3A. Exhibits: Plat Map.
8. Consider accepting a temporary easement from Robert D. Barragan Jr. & Robin D. Barragan, husband & wife, for right of way needed for the 2017 Ad Valorem Streets Phase 1, Project #2017-07 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 Mikel D. & Hannah R. Lee, husband & wife, for right of way needed for the 2017 Ad Valorem Streets Phase 1, Project #2017-07 and authorize the Mayor and City Clerk to execute the document. Exhibits: Document is on file in the City Clerk's office.
10. Consider accepting a temporary easement from Vanessa M. Rivera, a single person, for right of way needed for the 2017 Ad Valorem Streets Phase 1, Project #2017-07 and authorize the Mayor and City Clerk to execute the document. Exhibits: Document is on file in the City Clerk's office.

11. Consider extending contract (CL20-002) Manhole Coating Product to Corgill Construction, Inc. of Greenwood, AR. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

OLD BUSINESS ITEM:

12. Consider the following damage claim recommended for approval: Robert Fogel and Naomi Donnelly in the reduced amount of \$100.00. Exhibits: Legal Opinion/Recommendation.

Kelea Fisher, Deputy City Attorney, stated this claim was on the council agenda for September 22nd and Mr. Fogel was requesting \$7,900 to repair his bathroom due to a sewer backup in 2019. Mr. Fogel failed to allow staff to take photos in 2019 so staff was unable to substantiate damages to his bathroom. Even though Mr. Fogel requested \$7,900 he stated that he didn't want \$7,900 so Council Member Burk invited Mr. Fogel to look over his estimate and come back with the number he was requesting. She stated Mr. Fogel did amend his estimate to \$3,973.58. After the meeting staff called Mr. Fogel to see if he would allow an independent contractor to come to his house to make a determination of what damages were related to this back up, but Mr. Fogel declined. Her recommendation to approve this claim in the amount of \$100 stays the same. She stated Mr. Fogel has the right to file a lawsuit.

Robert Fogel, 2916 NW Templeton Terrace, stated he did allow someone to come in and take pictures twice. After the last council meeting, he went over the estimate and reduced it to the correct amount. He stated he did deny the request for someone to come out and take pictures because he just wants this done and over with. The reduced amount is to fix what is damaged.

MOVED by Warren SECOND by Hankins to approve the damage claim of Robert Fogel and Naomi Donnelly in the reduced amount of \$100.00. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

NEW BUSINESS ITEMS:

13. Hold a public hearing and consider an ordinance creating Sections 18-4-3-450 through 18-4-3-458, Lawton City Code, 2015, by creating the Simple Planned Unit Development over zoning district and creating the regulations for said district. Exhibits: Ordinance No. 20-__.

Richard Rogalski, Deputy City Manager, stated the Planning Division has been approached by the Lawton Housing Authority to amend the City Code to allow smaller lots for affordable housing. They have recently received several lots from the Lawton Urban Renewal Authority located in the Lawton View neighborhood. The Lawton Housing Authority plans to replat the lots in order to build smaller homes on them. Current City Code does not allow for any lots smaller than 6,000 square feet for single-family dwellings. This proposed ordinance will allow an overlay to be put on a development less than 5 acres in size very similar to the existing Planned Unit Development (PUD) regulations by creating the Simple Planned Unit Development (SPUD). The SPUD would be an overlay zoning district that provides an alternative approach to

conventional land use controls and to a traditional PUD to maximize the unique physical features of a site and produce unique, creative, progressive and/or quality land developments. The SPUD would require a narrative and development plan map which would be adopted as part of the ordinance approving the SPUD overlay. General design and development guidelines include amenities, land area, off-street parking, relationship to abutting uses and common access. The public hearing process for approval of a SPUD will follow the same process of a rezoning.

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

MOVED by Warren SECOND by Johnson to adopt **Ordinance 20-18**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days after passage AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 20-18

An ordinance pertaining to planning and zoning creating Sections 18-4-3-450 through 18-4-3-458, Chapter 18, Lawton City Code, 2015, by creating a simple planned unit development overlay zoning district; the regulations for said district; providing for severability; and establishing an effective date of thirty days after passage.

14. Consider approving an ordinance that shall be known and cited as the “City of Lawton Hotel/Transient Guest Tax Ordinance”, levying and assessing a continuation of the hotel occupancy tax at the increased rate of seven percent (7%) from the existing rate of five and one half percent (5.5%) on the rents received from the occupancy of hotel/motel rooms for an additional ten (10) year period commencing on May 1, 2021 and ending on April 30, 2031, for the purposes of encouraging, promoting and fostering conventions, tourism, industrial development and economic development in the City of Lawton; providing for an effective date; providing for codification; and providing that a copy of this ordinance be published in a newspaper of general circulation within the City of Lawton, Oklahoma. Exhibits: Ordinance No. 20-__.

Cleghorn stated that this ordinance does not pertain to Lawton residents who have a Lawton address. It also does not pertain to military personnel on official orders. It will only affect visitors from out of town.

Krista Ratliff, President of Lawton Fort Sill Chamber of Commerce, stated this tax is a huge benefit to Lawton and it supports multiple areas in the community that bring tourism into the area. She stated Wichita Falls has the same tax at a rate of 9%.

Mayor Pro Tem Burk stated there was a lot of discussion with hotel representatives and they felt this was in line with what should be done. This tax helps so many organizations in our community.

Paul Greene, 806 NW 52nd Street, stated we can promote that we have a lower tax rate than other cities and he appreciates that all this money goes to support the arts. It is a tax burden among

citizens because many have family members who visit and must stay in hotels. It is under their name and when he pays it is a burden to him and he does not get the benefit of being a citizen. He is questioning why they have to raise this tax, they should just tighten the budget and make it work.

Cleghorn stated the hoteliers are in support of this initiative and this tax will expire April 30, 2021 and if this is not approved we will have no hotel/motel tax at that time.

MOVED by Hankins SECOND by Warren to adopt **Ordinance 20-19**, waive the reading of the ordinance, read the title only and establishing an effective date of May 1, 2021. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 20-19

An ordinance that shall be known and cited as the “City of Lawton Hotel/Transient Guest Tax Ordinance” levying and assessing a tax of seven percent (7%) for a period of ten (10) years on rents received from the occupancy of hotel rooms; providing for a time limit on said tax and extension by vote; providing exemptions from the tax; placing responsibility of collecting the tax upon the operator; requiring records to be kept and for the filing of returns; providing for the payment of tax; providing circumstances when taxes are delinquent and for interest on delinquent taxes; providing for assessment and determination of the tax; providing for refunds and remedies; providing for general powers of the finance director; providing the purposes for use of the funds; authorizing the city council to make administrative and technical changes and additions except to the tax rate and term of the tax; making the tax cumulative; defining terms; providing penalties for fraudulent returns; making records confidential; providing other provisions relating to assessment, collection and enforcement of the tax; requiring approval of the ordinance by a majority of registered voters voting at an election held for such purpose as provided by law; providing for an effective date of May 1, 2021; providing for codification; and providing that a copy of this ordinance be published in a newspaper of general circulation within the city of Lawton, Oklahoma.

15. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, to be held on the 9th day of February, 2021, regarding the approval or rejection of Ordinance No. 20-19, which shall be known and cited as the “City of Lawton Hotel/Transient Guest Tax Ordinance”, levying and assessing a continuation of a hotel occupancy tax at the increased rate of seven percent (7%) from the existing rate of five and one half percent (5.5%) on the rents received from the occupancy of hotel/motel rooms within the City of Lawton for an additional ten (10) year period commencing on May 1, 2021 and ending on April 30, 2031, for the purposes of encouraging, promoting and fostering conventions, tourism, industrial development and economic development in the City of Lawton; directing that a copy of said resolution be forwarded to the secretary of the Comanche County Election Board as required by state law; directing that said resolution be published in full in a newspaper of general circulation within the City of Lawton, Oklahoma; and authorizing the Mayor to issue an election proclamation. Exhibits: Resolution No. 20-___ and Election Proclamation.

MOVED by Warren SECOND by Fortenbaugh to approve **Resolution No. 20-129**. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

16. Consider approving a Memorandum of Understanding with the Friends of the Lawton Public Library, Inc. regarding the application of a mural on the west side of the Lawton Public Library storage building located at 110 SW 4th Street. Exhibits: Memorandum of Understanding and Mockup of proposed mural.

Mayor Pro Tem Burk stated this building was built by the McMahon Foundation years ago and there has been some conversation with Lawton Enhancement Trust Authority and they feel that it would be best to go back to the McMahon Foundation board and ask them for their preference and how they would like to move forward. He stated they also need to have some clarification from legal staff about copyrights.

Patty Neuwirth, Friends of the Library, stated she has shown the proposed mural to some of the McMahon board members and have received positive responses. She stated they would be happy to make a presentation to the board. She stated it was suggested they build a wall for the mural, but that would double the budget and reduce the life of the mural. They want to enhance that area because that will be an entertainment area for the future.

Mayor Pro Tem Burk suggested they table this item to the second meeting in November.

MOVED by Warren SECOND by Hankins to table to November 24, 2020 meeting. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

17. Consider Change Order #19 to the contract between Flintco, LLC and the City of Lawton for construction of the Public Safety Facility. Exhibits: Change Order #19 - Public Safety Facility.

Joe Painter, Engineering Director, stated these items are corrections on mistakes that were found. He briefed the council on the items on Change Order #19.

Mayor Pro Tem Burk stated they all know there is an issue with the architect, not with Flintco. Council has made it clear that when this is all over with they will look at all these charges. He stated he wants a public statement on the issue of days.

Painter stated he has told Flintco that we will not be giving them any more days for weather or any more delays. They have to be completed by the end of December.

Warren stated if we pass this we will be done with days.

MOVED by Warren SECOND by Jackson to approve Change Order #19. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

ADDENDUM:

1. Consider authorizing the City Manager to use up to \$50,000 of Industrial Development Sales Tax funding as necessary to accomplish the tasks related to the Due Diligence Period associated with purchase of the Central Mall. Exhibits: None.

Mayor Pro Tem Burk stated the FISTA authority, at this point has \$10 and they need to do some things related to the due diligence and they have a very short amount of time to get those things done.

MOVED by Warren SECOND by Jackson to authorize the City Manager to use up to \$50,000 of Industrial Development Sales Tax funding as necessary to accomplish the tasks related to the Due Diligence Period associated with purchase of the Central Mall. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

2. Consider approving an advance of \$240,000 to the Fires Innovation Science and Technology Accelerator Development Trust Authority to provide funding included in the Agreement for Funding and Limited Support approved by the City Council on October 16, 2020. Exhibits: FISTA Development Trust Authority 2020/2021 Approved Budget.

Mayor Pro Tem Burk stated this is a portion of the budget that they need to get some things started inside the Sears building.

Warren stated this is money that will be required whether we purchase the mall or lease the Sears building.

MOVED by Chapman SECOND by Warren to approve an advance of \$240,000 to the Fires Innovation Science and Technology Accelerator Development Trust Authority to provide funding included in the Agreement for Funding and Limited Support approved by the City Council on October 16, 2020. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

STAFF REPORTS

Kara Haynes, Finance Director, presented revenue and expenditure highlights for the period ending September 30, 2020. (On file in the City Clerk's office).

The Mayor and Council convened in executive session at 3:03 p.m. and reconvened in regular, open session at 3:55 p.m. Roll call reflected all members present.

EXECUTIVE SESSION:

18. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Jonathan Crouse, Kelly Crouse, K.D.C, M.G.C, P.A.C., v. City of Lawton, CJ-2017-695, and if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title of item #18. No action was taken.

19. Pursuant to Section 307 B1 and B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending investigation under Council Policy 3-3 and the possible discipline of Councilperson Fortenbaugh in relation thereto, and, if necessary, take action in open session. Exhibits: None.

Wilson read the title of item #19.

MOVED by Warren SECOND by Jackson to find that there has been no violation of council policy 3-3 due to the investigators finding 1) no evidence that Councilman Fortenbaugh used specific language towards a member of city staff while in a meeting with three members of city staff which would prove beyond a doubt that council person Fortenbaugh's behavior was driven by the complainants color, religious beliefs, sex, age, race, national origin, disability, sexual orientation or other prohibitive criteria and 2) that there was no physical evidence to support a finding otherwise. As a result of the investigators findings, I further move that this matter be formally closed and that all council members be cautioned that when interacting with city staff, we do so in a professional manner being mindful not to raise our voice or otherwise act in a manner that could be perceived as unprofessional. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 3:59 p.m. upon motion, Second and roll call vote.

JAY BURK, MAYOR PRO TEM

ATTEST:

TRACI HUSHBECK, CITY CLERK