

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
DECEMBER 8, 2020 – 2:00 P.M.  
LAWTON CITY HALL  
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:  
Michael Cleghorn, City Manager  
Tim Wilson, Interim City Attorney  
Traci Hushbeck, City Clerk  
COL Rhett A. Taylor, Fort Sill Liaison

Mayor Booker called the meeting to order at 2:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Don Barnes, Lawton First Assembly, 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

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO AUSTIN AND MARY SOLENBERG

Mayor Booker presented a Certificate of Commendation from the Mayor's Office to Austin and Mary Solenberg.

Mayor Booker stated they will now address the addendum.

ADDENDUM:

PROCLAMATION FOR HEALTHCARE HEROES DAY

The proclamation honors our healthcare community heroes. The proclamation was signed by business, industry, faith, educational and Fort Sill leaders.

BUSINESS ITEMS:

1. Consider an Ordinance amending Section 16-5-1-546, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code 2015 by requiring businesses and commercial entities and/or operators of other buildings or structures open to the public who accept visitors, customers to require employees to wear face coverings and to deny service and benefits normally provided by said business or entity to customers, users and visitors who are not wearing face coverings as required by this ordinance, providing for exceptions, establishing risk phase levels, modifying the penalty, providing for the suspension of certain provisions of this ordinance upon the occurrence of certain conditions, amending the sunset provision, providing for severability and declaring an emergency. Exhibits: Ordinance 20-\_\_.

Mayor Booker discussed the positive impacts since passing the mask ordinance in July.

Bart Hadley, Deputy City Manager, stated on November 24th the council gave direction to staff to bring back some recommended changes to that ordinance. He stated we need to get better with compliance in the community. He presented the council a brief overview of the changes.

Richard Rogalski, Deputy City Manager presented the various risk levels and enforcement levels.

Mayor Booker stated this is a well-structured ordinance, but he is uncomfortable with the requirement to call the police. He suggested the council consider the ordinance without items C2 and C3.

Fortenbaugh stated there is a lot in this that is troubling. As a business owner he has no authority over any citizen. He can refuse service, but he has had no issues. The police do not have the resources to go chasing masks all over the place. He is also concerned about the fines. They cannot take away the officers' discretion.

Mayor Booker stated it does give the officer discretion.

Fortenbaugh stated the real issue is that we have a mask mandate, and the rest of the county does not.

Warren stated he feels better having an end date and he would agree with removing C2 and C3.

Burk stated he has an issue with putting this on businesses. He would like to go back to the initial fines. He stated the police have given zero tickets for the masks. He feels the levels should be included as a sunset clause.

Mayor Booker stated only in elevated levels and with repeat violations would be fines be over \$100. He questioned what the enforcement looks like. What must happen for someone to get to the level over \$100.

Police Chief James Smith stated they have received some complaints and officers have been sent out to ask businesses or customers to comply. They have written no citations because everyone has complied. Officers have discretion on this issue. Their goal is to keep everyone safe.

Johnson questioned if there are specific stores that are getting reported for these violations.

Cleghorn stated yes. They usually do not go out unless they receive several complaints.

Hampton stated there is a balance between enforcement and courtesy. He suggested they do spot courtesy checks. Most citizens are doing a good job.

Chapman questioned if businesses would have the right to refuse service.

Mayor Booker stated they have the right to refuse service but not the obligation to refuse service. They have the right to call the police but not the obligation to call the police.

MOVED by Warren to approve the ordinance striking #2 and #3 from Section C and declaring an emergency. MOTION DIED DUE TO LACK OF A SECOND.

Paul Greene, 806 NE 52<sup>nd</sup> Street, stated it is very difficult for a front line person to de-escalate a situation and businesses do not have that functionality. That business owner cannot facilitate that for the City. He feels they should leave everything as they are because the numbers are doing well. He feels they need to table all the changes that have been made.

Mayor Booker stated they can have no motion, and everything stays the way it is, or they can have a motion to accept it as is or accept it with some changes.

Burk stated he would like to see the levels implemented on when they can see the mask mandate lifted. They asked for these levels months ago and he would like to see that implemented.

Wilson suggested that if they are not going to approve the full ordinance that someone make a motion to direct staff to bring back an ordinance next week.

MOVED by Burk SECOND by Fortenbaugh to direct staff to bring back an ordinance on December 15. AYE: Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins, Jackson. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL - None

AUDIENCE PARTICIPATION:

Paul Greene, 806 NE 52<sup>nd</sup> Street, quoted Thomas Jefferson from the Declaration of Independence.

CONSENT AGENDA:

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

1. Consider the following damage claims recommended for approval: Southwestern Bell Telephone, dba as AT&T Oklahoma in the amount of \$1,961.14 (**Res. 20-135**), and Tractor Supply Company in the amount of \$960.45 (**Res. 20-136**). Exhibits: Legal Opinions/Recommendations.
2. Consider the following damage claim recommended for denial: Anna Brown in the amount of \$796.00. Exhibits: Legal Opinion/Recommendation.
3. Consider extending the Professional Services Contract for Consultant Brokerage services concerning employee benefits to Higginbotham Insurance Agency. Exhibits: Proposed Employee Benefits Agreement Amendment 1.
4. Consider approving professional services contract to MA+ Architecture, LLC for the purpose of providing full architectural/engineering services for the City Hall Renovation Project No. 2020-04A. Exhibits: Agreement for Professional Engineering Services.
5. Consider approving the Amendment to the Annual Action Plan for FFY 2020 and authorizing the Mayor and City Clerk to execute the revised SF 424's and Grant Funding Agreements for CDBG and HOME along with any other documents necessary to implement the plan amendment. Exhibits: Revised 2020 Project/Activity List with Allocation Amounts.
6. Consider approving a request to enter into a memorandum of understanding with the Duncan Police Department 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.
7. Consider approving a request to enter into an agreement between the United States Department of Justice, Drug Enforcement Administration (hereinafter "DEA"), and the Lawton Police Department, ORI# OK0160100 (hereinafter "Lawton PD"). The DEA is authorized to enter into this cooperative agreement concerning the use and abuse of controlled substances under the provisions of 21 U.S.C. 873. Exhibits: Copy of the Agreement.
8. Consider approving and authorizing execution of a temporary easement for a test well from Darrel W. and Connie J. Jones and water rights and a permanent easement if a production well is established at the test well site. Exhibits: The Consultant Recommendation Letter, Well Site Agreement, Legal Description/Parcel Map, and Exhibits A, B, and C are on file in the City Clerk's office.

9. Consider approving and authorizing execution of a temporary easement for a test well from First Baptist Church East, Inc and water rights and a permanent easement if a production well is established at the test well site. Exhibits: The Consultant Recommendation Letter, Well Site Agreement, Legal Description/Parcel Map, and Exhibits A, B, and C are on file in the City Clerk's office.
10. Consider approving and authorizing execution of temporary easements for two test wells from The Herring Family Revocable Living Trust and water rights and permanent easements if a production well or wells are established at one or more test well sites. Exhibits: The Consultant Recommendation Letter, Well Site Agreement, Legal Description/Parcel Map, and Exhibits A, B, and C are on file in the City Clerk's office.
11. Consider approving appointments to boards and commissions. Exhibits: None.

NEW BUSINESS:

12. Consider accepting the annual performer report of the City of Lawton for the year ending June 30, 2019 and in addition, Crawford and Associates will discuss internal auditing and what services or tasks will be provided as an internal auditor. Exhibits: None.

Frank Crawford, Crawford and Associates, presented the performer report and the internal audit. (On file in the City Clerk's office)

MOVED by Warren SECOND by Hankins to accept the annual performer report for the year ended June 30, 2019. AYE: Hampton, Fortenbaugh, Johnson, Warren, Hankins, Jackson, Chapman. NAY: None. ABSENT: Burk MOTION CARRIED.

13. Consider enacting an Ordinance pertaining to Administration, amending and renaming Section 2-3-14-387, amending and renaming Division 2-3-14, Article 2-3, Chapter 2, Lawton City Code, 2015, by creating a Citizens' Police Advisory Committee, providing for severability, and declaring an effective date. Exhibits: Ordinance 20-\_\_.

Wilson stated items #13 and #14 are companion items. On July 28, 2020, the Council authorized staff to create a policy establishing a Citizen's Advisory Board for the purpose of facilitating interaction between citizens and Lawton Police. As a result, it was determined to create the committee through an ordinance and further provide for its duties via a council policy. The proposed ordinance will create the Citizens Police Advisory Committee ("CPAC"). The role of the CPAC will be to enhance and encourage the flow of communication by being a resource for the Police Department in building better communication with the community it serves and protects. The CPAC will facilitate interaction between the Police Department and citizen representatives of the various ethnic and cultural groups within our community.

Johnson stated Bishop Dunaway has been working on this for years. She is glad that this is coming to fruition because this is the citizens representation of concerns with the police department. She thanked the Chief for all his work.

Bishop John Dunaway, 802 NW 53<sup>rd</sup> Street, stated he views this as an opportunity to put something in place for our citizens and our department and be proactive until waiting for something is mandated. This can look the way they want it to look.

MOVED by Johnson SECOND by Warren to adopt **Ordinance 20-29**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days after passage. AYE: Fortenbaugh, Johnson, Warren, Hankins, Jackson, Chapman, Burk, Hampton. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 20-29

AN ORDINANCE PERTAINING TO ADMINISTRATION, AMENDING AND RENAMING SECTION 2-3-14-387, AMENDING AND RENAMING DIVISION 2-3-14, ARTICLE 2-3, CHAPTER 2, LAWTON CITY CODE, 2015, BY CREATING A CITIZENS' POLICE ADVISORY COMMITTEE, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

14. Consider enacting Council Policy 11-3 pertaining to the operation of the Citizens Police Advisory Committee. Exhibits: Council Policy 11-3.

Wilson stated this policy sets forth in more detail the duties and responsibilities of the committee as well as the selection process, voting and terms.

MOVED by Burk SECOND by Warren to adopt Council Policy 11-3 pertaining to the operation of the Citizens Police Advisory Committee. AYE: Johnson, Warren, Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh. NAY: None. MOTION CARRIED.

15. Consider ratifying the City Manager's approval of Amendment #4 to the 2017 Ad Valorem Street and Roads Program (Residential), Phase I – Project #2017-07 with Freese and Nichols, Inc. for engineering services to prepare easement documents for the City's use in right-of-way/right-of-entry negotiations for the Phase II project. Exhibits: Amendment #4 to the Agreement between City of Lawton and Freese and Nichols, Inc. for Professional Services – 2017 Ad Valorem Street and Roads Program (Residential), Phase II, Project #2017-07) and Attachment 'A' – Lump Sum Fees and Services.

Joe Painter, Engineering Director, stated they have asked our consultant to prepare easement documents.

MOVED by Burk SECOND by Warren to ratify City Manager's action in approving Amendment #4 in the amount of \$32,650 to the 2017 Ad Valorem Street and Roads Program (Residential), Phase II – Project #2017-07 with Freese and Nichols, Inc. for engineering services to prepare easement documents for the City's use in right-of-way/right-of-entry negotiations for the Phase II project. AYE: Warren, Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

16. Discuss and provide clarification concerning the authority delegated to the city manager to execute contracts in certain circumstances, and if appropriate, provide direction to staff. Exhibits: None.

Wilson stated on December 17, 2019 the city council approved Ordinance No. 19-35, which granted the city manager the authority to execute contracts for “budgeted supplies, materials, equipment, or any personal property, valued singularly or totally during any budget year up to \$75,000.00.” On April 28, 2020, the council approved Ordinance No. 20-09, which granted the city manager authority to approve public construction contract change orders up to \$40,000.00 or 10% of the contract, whichever is less. In reviewing the previously discussed Amendment #4 to the Freese & Nichols Professional Services Agreement, it was noted that Amendment #4 is not a public construction contract. While Amendment 4 is for less than \$75,000.00, it is an amendment of a previously council approved contract totally \$1,203,123.00 after Amendment #3. He questioned if it is council’s intent to delegate to the city manager the authority to approve amendments to council approved non-public construction contracts where the original contract amount is in excess of \$75,000.00, or does the council wish to retain authority over those contracts?

Mayor Booker stated he has no problem with the decision that was made and that council ratified that decision, he feels it is important that it comes back to council when it is concerning a professional services contract when you are expanding the scope of the service. He feels there is a difference between a change order on a construction contract and a change of scope on a professional services contract.

Burk stated he feels that this bogs us down. We could be waiting on a professional services contract for a month. The city manager knows that he should bring a substantial change to the council and the approval has to come to council after the fact.

Fortenbaugh stated this was a routine thing that had to be done and there was no reason to delay it.

Hampton stated he just wants this to always come back to council so they can stay abreast of the progress.

Cleghorn stated he will treat it in the same manner he would treat a change order for a public construction contract. The reporting will take place at the next council meeting.

Mayor Booker questioned if the council needs to take any action.

Wilson stated no, council has given him good direction.

17. Consider approving a recommendation by the City Council Committee previously appointed for the purpose of reviewing name options for the new public safety facility, and therefore to officially name this facility the Lawton Public Safety Center. Exhibits: None.

Warren stated the council committee is recommending that the Lawton Public Safety Center be the name of the facility.

MOVED by Warren SECOND by Burk to officially name the public safety facility the Lawton Public Safety Center. AYE: Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins. NAY: None. MOTION CARRIED.

18. Consider an ordinance pertaining to Personnel Policies and Procedures amending Section 17-1-5-152, Division 17-1-5, Article 17-1, Chapter 17, Lawton City Code, 2015 by increasing non-exempt employee compensatory accruals to two hundred forty (240) hours, providing for severability, and establishing an effective date. Exhibits: Ordinance 20-\_\_.

Dewayne Burk, Human Resources Director, stated this change was recommended by the Employee Advisory Committee and staff felt this was a fair request.

MOVED by Burk SECOND by Warren to adopt **Ordinance 20-30**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days after passage AYE: Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren, Hankins, Jackson. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 20-30

AN ORDINANCE AMENDING PERSONNEL POLICIES AND PROCEDURES SECTION 17-1-5-152, CHAPTER 17, LAWTON CITY CODE 2015, BY INCREASING NON-EXEMPT EMPLOYEE COMPENSATORY ACCRUALS TO TWO HUNDRED FORTY (240) HOURS; PROVIDING FOR SEVERABILITY AND DECLARING AN EFFECTIVE DATE.

#### STAFF REPORTS

Cleghorn recognized the public works department for the storm debris collection effort.

Cleghorn recognized IT department for all of the software implementation.

Cleghorn introduced Jeff Temple, the new Parks and Recreation Director.

There being no further business to consider, the meeting adjourned at 3:57 p.m. upon motion, Second and roll call vote.

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STAN BOOKER, MAYOR

ATTEST:

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TRACI HUSHBECK, CITY CLERK