

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
DECEMBER 18, 2018 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor

Also Present:
Jerry Ihler, City Manager
Frank Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Don A. King, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:06 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: Bob Morford, Ward One
Caleb Davis, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven
Randy Warren, Ward Eight

ABSENT: Keith Jackson, Ward Two

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO KENNY WING

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Kenny Wing.

AUDIENCE PARTICIPATION:

Ted Symuleski, 2509 SW Cornell, stated at the corner of Sheridan Road and Gore at the Murphy's Station, there is a sign for no left turn. He has seen numerous cars try and make that left turn into Murphy's parking lot. He suggested the city put up barriers where people cannot turn in.

Davis stated he has turned this in to staff and it will go to the Traffic Commission in January. The police have tried to monitor this problem.

CONSENT AGENDA

MOVED by Burk SECOND by Morford to approve the consent agenda. AYE: Morford, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider approving the record plat for McDonald's Commercial Development, subject to conditions. Exhibits: Plat Map.
2. Consider granting a revocable permit for parking and maneuvering in the public right-of-way along NW 3rd Street and NW Euclid Avenue for a parking lot to serve Southstar Dance Academy located at 216 NW Ferris Avenue. Exhibits: Revocable Permit (on file in City Clerk's Office), Application and Site Plan.
3. Consider accepting a grant in the amount of \$ 551,995.50 through the Hazard Mitigation Grant Program (HMGP) for hydraulic damage frequency assessment, Beneficial Cost Analysis (BCA) preparation, geotechnical field investigation, and completion of final design drawings and specifications for the Ellsworth Spillway retrofit Project and authorize the Mayor to execute necessary documents. Exhibits: The Hazard Mitigation Assistance Grant Agreement, Letter from FEMA approving grant application and Notification Letter from Oklahoma Emergency Management of grant approval.
4. Consider awarding contract (CL19-012) Pest Control Services (Basic Service) to Texoma Pest Management of Wichita Falls, TX, and Additional Items #1 & #2 to Environmental Pest Control of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
5. Consider approving appointments to boards and commissions. Exhibits: None.

Airport Authority

Jennifer Ellis
Existing Member
12/31/21

Johnny Owens
Existing Member
12/31/21

Rob Kern
Existing Member
12/31/21

David Madigan
New Member
12/31/20

City Planning Commission (CPC)

Pat Henry
Existing Member
12/14/21

Lawton Enhancement Trust Authority

Ted Symuleski
New Member
Ward 3
02/27/2021

6. Consider approval of payroll for the periods of December 3 – 16, 2018.

NEW BUSINESS ITEMS:

7. Hold a public hearing and consider an ordinance placing Planned Unit Development Overlay District for detached single-family residential on property zoned R-1 Single-Family Dwelling District zoning classification located in the 3700 block of NE Cache Road. Exhibits: Ordinance No. 18-__ with Site Plan and Location Map.

Richard Rogalski, Community Services Director, stated this request is for Block 9, Eastlake Addition, Part 2, containing 3.598 acres. These lots were originally platted for townhouse development in 2014, but now the developer desires to replat for detached, single-family homes on reduced lot sizes. The initial plat included 10 lots in Block 9, and the proposed replat will decrease the number of lots to 7. These lots were originally platted as townhouse lots, and the developer has opted to request a Planned Unit Development Overlay District to provide the flexibility in land development required for the proposal. Section 18-4-2-422 of the City Code provides that no setbacks or coverage requirement for residences shall be required except there is a requirement for setbacks from streets within the PUD and from the outermost boundary of the PUD. The site plan indicates the lots to be 25 feet from NE Cache Road, which is adjacent to the PUD. Within the PUD there is a drive that provides access to the lots. The minimum setback from the drive shown on the site plan is 3 feet 10 inches. The Code requires setbacks from the outermost boundary of the PUD shall be equal to the height of the building. The sample building plans provided by the developer indicate the residences will be one-story houses. The site plan indicates proposed buildings are a minimum of 25 feet from the outermost boundaries of the PUD. For cluster developments, the number of dwellings shall not exceed 7 units per gross acre. This request meets that requirement with less than 2 units per gross acre. The lot size for each dwelling unit is established by the developer, and the minimum lot size in this request is 5,220 square feet. A standard single-family residential lot would be required to have 6,000 square feet. Land not platted as a lot shall be open space. Section 18-4-2-431 of the City Code provides the CPC may waive the requirement for sidewalks along the street if an interior network of walkways provides the equivalent access as though they were placed along the street. The area adjacent to NE Cache Road, which is a public street, is common area. The developer has requested the requirement for sidewalk be waived. Staff recommends the requirement to install a sidewalk along NE Cache Road be waived. Staff recommends approval of the PUD overlay with the minimum lot size of 5,220 square feet, minimum setback of 25 feet from the boundary, and that the requirement for a sidewalk along NE Cache Road be waived.

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

MOVED by Burk SECOND by Morford to adopt **Ordinance 18-39**, waive the reading of the ordinance, read the title only. AYE: Morford, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 18-39

An ordinance adding a Planned Unit Development Overlay District on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

8. Hold a public hearing and consider an ordinance placing Planned Unit Development Overlay District for detached single-family residential on property zoned R-3 Multiple-Family Dwelling District zoning classification located at 3907 – 4005 NE Water Edge Drive. Exhibits: Ordinance No. 18-__ with Site Plan and Location Map.

Rogalski stated this request is for Block 18, less and except Lots 5 and 6, Eastlake Addition, Part 3A, containing 3.56 acres. These lots were originally platted for townhouse development in 2012, but now the developer desires to replat for detached, single-family homes on reduced lot sizes. The initial plat included 20 lots in Block 18. Lots 5 and 6 have already been developed, and therefore are not included in this request. The proposed replat will decrease the number of lots to 16 (including Lots 5 and 6). These lots were originally platted as townhouse lots, and the developer has opted to request a Planned Unit Development Overlay District to provide the flexibility in land development required for the proposal. The site plan indicates proposed buildings on Lots 1R – 4R are a minimum of 30 feet, proposed buildings on Lots 7R – 10R are 25 feet, and proposed buildings on Lots 11R – 16R are 10 feet from the outermost boundaries of the PUD. The land to the rear of Lots 11R – 16R is common area (lake). Section 18-4-2-431 of the City Code provides the CPC may waive the requirement for sidewalks along the street if an interior network of walkways provides the equivalent access as though they were placed along the street. The area adjacent to Water Edge Drive, which is a public street, is common area. The developer has requested the requirement for sidewalk be waived. Staff recommends the developer be required to install a 4-foot wide sidewalk along Water Edge Drive to connect the existing sidewalks constructed with the single-family residential lots to the east and south of the proposed PUD.

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

MOVED by Burk SECOND by Morford to adopt **Ordinance 18-40** to include the sidewalk requirement, waive the reading of the ordinance, read the title only. AYE: Morford, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 18-40

An ordinance adding a planned unit development overlay district on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

9. Consider adopting a resolution approving Amendment No. 1 to the Civic Center Urban Renewal Plan adding medical marijuana dispensary and medical marijuana research facilities as permitted uses in the Mixed Use District and excluding medical marijuana growing and medical marijuana processing facilities as permitted uses within the Civic Center Urban Renewal Plan. Exhibits: Resolution No. 18-__, Draft LURA Minutes and Draft CPC Minutes.

Rogalski stated the City Council recently adopted Ordinance No. 18-30 which set out the appropriate zoning districts for medical marijuana dispensing, research, growing, and processing facilities within our municipal limits. In preparing this ordinance, the Planning Division and the City Attorney's office took special care to be in accordance with State Question 788, which was passed on June 26, 2018, legalizing the licensed use, sale, and growing of marijuana for medicinal purposes. The downtown area is covered by three Urban Renewal Plans; the Downtown I, Civic Center, and D-6, and all permitted uses must be listed in these plans. Regardless of what the zoning is on top of these urban renewal plans, the uses in these plans are what holds. They took that question to the Lawton Urban Renewal Authority (LURA) and questioned where it would be appropriate to have the medical marijuana facilities. We have the dispensaries, research laboratories, growing and processing.

(Rogalski presented a series of slides which are on file in the City Clerk's office)

Rogalski stated on October 16, 2018, LURA adopted Resolution No. 18-15 amending the Civic Center Urban Renewal Plan to add medical marijuana dispensary facilities as permitted uses in the Mixed Use District under Convenience Sales and Personal Services and medical marijuana research facilities as permitted uses in the Mixed Use District under Research Service, Restricted. That would be the only medical marijuana associated uses that would be allowed in this particular urban renewal plan or the mixed use district. On November 29, 2018, the City Planning Commission adopted a resolution finding Amendment No. 1 to the Civic Center Urban Renewal Plan to be in conformance with the 2030 Land Use Plan and recommending approval to the City Council.

Burk questioned what was considered mixed use.

Rogalski stated there are actually about 38 uses in mixed use. It allows residential, some light industrial and lots of commercial. It is designed to be that live, work, play kind of environment. A lot of the urban renewal plan area is this mixed district because it is a very flexible district.

Burk questioned why we would want to exclude medical marijuana growing and processing facilities in this area.

Rogalski stated LURA did not feel it was appropriate in those areas and did not feel it was a good use for the downtown in that area.

Burk stated if someone buys the mall and wants to make it into a medical marijuana facility and grow marijuana, that cannot happen.

Rogalski stated that could not happen currently and it would not happen based on the recommendation that is in front of the council now.

Burk stated he cannot support this. We have opened it up to other commercial buildings. He questioned how many people have asked for permits to open up dispensaries.

Rogalski stated there are thousands that have applied for licenses. There are a lot of folks looking into this business.

Burk stated what you are seeing are a lot of empty buildings becoming occupied. He cannot support excluding medical marijuana growing because he does not see that as a hazardous issue. With the processing, he questioned if there were rules and there are not. We want to make it safe for our community. He called other communities and asked about requirements and he was told they did not have any. There are some areas where processing might need to be looked at on a case by case basis, but he does not understand going into a downtown area that is trying to redevelop and saying that we will limit what can go in that area. The ones that you see in the Tulsa and Oklahoma City area just look like normal businesses. It does not make sense that we would try to limit where people can do business in our city. He does not see that we are doing anything to help our community and to help those people rent or sell their properties.

Tanner questioned if they could make an amendment on the floor or would this have to go back to LURA for approval.

Rogalski stated if council feels this is a minor amendment, they can make a change.

Burk state the change he would like to recommend is to say “including” instead of “excluding”.

Rogalski questioned if this would be including processing and growing.

Burk stated yes.

Rogalski state in Exhibit 1 under the item Limited Industrial it says specifically excluded as permitted uses and they could change that to say they are included as permitted uses. It would be a fairly simple change.

Burk questioned if there was anything he is not understanding about this before he makes this change.

Rogalski stated this is a commercial area, in zoning code the council added it in conjunction with a dispensary, so therefore it maintained that commercial business. In mixed use and commercial central, he thought the council may want to keep that tie to the dispensary.

Burk stated they would make sure they had a dispensary in front of a grow facility like they did in C-5.

Rogalski stated you would add “included as permitted uses when associated with a dispensary”.

MOVED by Burk SECOND by Tanner to adopt **Resolution 18-91** and removing the word “excluding” and making it “including medical marijuana growing facilities and medical marijuana processing facilities associated with a dispensary in the same location”.

Davis questioned if this would mirror C-5 zoning.

Rogalski stated in C-5 the council did add the processing. In industrial uses they can have just the processing facility, just the growing facility and the dispensary. But in C-5, they said that if you are going to have a growing and processing facility it must be associated with that commercial facility also. If you had an area in C-5 and you wanted to do growing and processing you would also have to sell there, you keep it associated with a commercial use in C-5 areas. His recommendation would be to keep this area in concert with that.

Morford stated he thought in C-5 it was a use permitted on review.

Rogalski stated he thought the processing was a use permitted on review in that area because C-5 is so spread out. Unfortunately with the urban renewal plan there is no process to do a use permitted on review.

Burk questioned if there were any rules on how many plants they have to grow. They could have one and become a grow facility. It just means that every business owner in this town has to decide whether or not they want a facility put into their buildings and they are going to lease it or sell it to that person. He just wants it to mimic what they did in C-5, so it is equal in commercial type areas.

Rogalski stated in C-5 a dispensary was a permitted use and the growing facility associated with that was a use permitted on review. This is a much more defined area and he does not think you can do a use permitted on review and he feels it really is not necessary.

Mayor Fitch stated the planning staff has done a tremendous job in putting this together and covering the whole city. He feels they have done enough to open up this city to where it can be utilized to grow, dispense, research and process. He feels that staff has done an excellent job of putting these amendments and ordinances together so that it is possible to grow, process, dispense and research just about anywhere in town. He feels this should not include the civic area and they need to leave this agenda item as it is written.

Davis stated this is medical marijuana and sometimes they fall into the trap of looking at this like it is some type of drug facility or illegitimate business. This is no different than a pharmacy and we don't think twice about allowing a pharmacy to go into these places. This issue passed overwhelmingly by the state and it is a legitimate business. He feels they need to allow businesses to deregulate as much as practical and he feels there is no need to place these requirements and regulations on these businesses. There is nothing illegitimate about these types of facilities.

Mayor Fitch questioned what they will do when the state allows recreational marijuana and then they allow it to be processed and grown in the same facility as medical. He feels staff has done a good job of giving people the opportunity to rent or buy buildings anywhere in the city of

Lawton and he feels it is a tarnish on the city to allow growing and processing to be done right down in the civic area. He would request a substitute motion.

Burk stated there is actually an empty mall in Oklahoma City that is becoming a medical marijuana facility. We see the number of people moving out of our mall today because businesses are struggling. The entire state voted to do this and they will have to deal with it if they approve recreational marijuana. No one has to rent to somebody if they don't want to.

Morford stated we don't allow pharmaceutical manufacturing downtown. He stated the dispensary would be a legitimate deal, but growing or researching would not.

Tanner stated if a dispensary decided to grow it, they would grow it inside. You will not even know they are growing it. He likes the idea that if you want to grow, you would have to have a dispensary. This is a user friendly motion and he feels it would be beneficial for the vacant property we have downtown.

Rogalski clarified the motion. He stated under item #30 under the mixed use district the current text states that medical marijuana growing and medical marijuana processing facilities are specifically excluded as permitted uses. The text would be modified to say that medical marijuana growing and medical marijuana processing facilities are included as permitted uses when associated with an on site dispensary.

VOTE ON MOTION: AYE: Davis, Burk, Tanner, Fortenbaugh, Johnson. NAY: Morford.
ABSTAIN: Warren. MOTION CARRIED.

10. Consider adopting a resolution approving Amendment No. 2 to the Downtown I Urban Renewal Plan adding medical marijuana dispensary facilities as permitted uses in the Mixed Use, Commercial Central, and Commercial-Light Industrial Districts; adding medical marijuana research facilities as permitted uses in the Mixed Use and Commercial-Light Industrial Districts; adding medical marijuana growing and medical marijuana processing facilities as permitted uses in the Commercial-Light Industrial District; and excluding medical marijuana dispensary facilities from the Hotel-Motel District, medical marijuana research facilities from the Office and Banking District, and medical marijuana growing and medical marijuana processing facilities from the Mixed Use and Commercial Central Districts. Exhibits: Resolution No. 18-__, Draft LURA Minutes and Draft CPC Minutes.

Rogalski stated this urban renewal plan has been around for quite some time and in 2005 there was a major update, but that was north of the mall. Commercial central is a very restricted use and was originally designed for the mall. You also have other categories such as office and banking which is just City National Bank and then you have the Lawtonian under hotel district. In this case LURA had the same recommendation in mixed use. They said only a dispensary in commercial central, commercial light industrial they said everything which is similar to I-3, hotel-motel has no medical marijuana dispensaries, none in office and banking and none in public.

Burk questioned why this should be any different than the previous item.

Rogalski stated is it an appropriate use for the mall, which is commercial central. It is going to be the same as the area north of the mall and all the way up through the 2nd street project. He understands that malls are transitioning. They also added participant recreation and indoor uses which are bowling alleys, billiard parlors, etc. It was originally very restrictive so they are trying to add some additional uses. This is really one of those things that is purely a policy decision. If they feel that the mall is transitioning towards the medical marijuana industry, then so be it.

Burk stated he would like to make the same inclusions as they did in item #9.

Rogalski stated there is an additional floor amendment, so he is assuming Councilmember Burk wants the same floor amendment as in the mixed use district, exactly word for word, however, commercial central has a different category that says “medical marijuana dispensary licensed by the State of Oklahoma” and you would add “and a growing and processing facility when associated with a dispensary facility at the same location”.

Mayor Fitch questioned who Councilmember Burk talked to in Oklahoma City and what was the name and location of that abandoned mall.

Burk stated he spoke to several people about this mall that has law offices, banking services and they are taking part of this location for a growing facility. Less than a block away from the hospital downtown there is a grow facility. These are not facilities that are dangerous. Most of the doctors and people that are getting into this have to get a narcotics license to be able to do what they are doing. If we restrict it there, then we need to restrict it everywhere. He does not see why we should restrict it to just a C-5 area. There is so much downtown that is empty and anyone should have the opportunity to rent out their buildings. It is not a city decision to decide where you can and cannot operate your business out of as long as it is not hurting anyone.

MOVED by Burk SECOND by Davis to adopt **Resolution 18-92** and removing the word “excluding” and making it “including medical marijuana growing facilities and medical marijuana processing facilities associated with a dispensary in the same location”. AYE: Davis, Burk, Tanner, Fortenbaugh, Johnson. NAY: Morford. ABSTAIN: Warren. MOTION CARRIED.

11. Consider adopting a resolution approving Amendment No. 3 to the D-6 Urban Renewal Plan adding medical marijuana dispensary facilities as permitted uses in the Mixed Use and Commercial Central Districts, adding medical marijuana research facilities as permitted uses in the Mixed Use District, and excluding medical marijuana growing and medical marijuana processing facilities as permitted uses within the D6 Urban Renewal Plan. Exhibits: Resolution No. 18-__, Draft LURA Minutes and Draft CPC Minutes.

Rogalski stated this is the D-6 area which is a little different from the other locations because you have large areas that are residential with people living there. This is designed to be a transition between the mixed use, which is live work play and then it transitions to the neighborhood. The two uses where LURA recommended medical marijuana were mixed use

district and commercial central, it is fairly obvious that it should not be in medium intensity residential. There is no commercial in medium intensity residential or in public. Commercial central is much more limited than mixed use and they do have a request of a property owner to change that to mixed use. He will probably bring back a request from LURA to change all of that to mixed use.

Burk stated he would like to make a motion to match the previous two items.

Rogalski stated under the mixed use district in the limited industrial the medical marijuana growing facilities and medical marijuana processing facilities are included when associated with a dispensary on site. Under commercial central it would say medical marijuana dispensary licensed by the State of Oklahoma and medical marijuana growing and processing facilities when associate with a dispensary at the same location.

MOVED by Burk SECOND by Davis to adopt **Resolution 18-93** and removing the word “excluding” and making it “including medical marijuana growing facilities and medical marijuana processing facilities associated with a dispensary in the same location”.

Johnson stated in the mixed use area there is more residential. She requested clarification on the mixed use area.

Rogalski stated the medical marijuana dispensary, growing and processing facility associated with a dispensary would be allowed in that area. That is what the motion says.

VOTE ON THE MOTION: AYE: Davis, Burk, Tanner, Fortenbaugh. NAY: Morford, Johnson. ABSTAIN: Warren. MOTION FAILED.

Mayor Fitch stated that floor amendment did not pass so they will go back to that item and ask for a motion and a second to approve as written.

Davis questioned why Councilmember Johnson did not vote to approve the change in the mixed use area.

Johnson stated this is in her ward and the residents do not want this and that is why she voted no.

Davis requested Rogalski show the map of that area.

Rogalski stated there are existing residences there. He stated the LURA plans shows this changing over time to some other use. He stated if they wanted to protect the neighborhood the council could direct staff to take it back to LURA and put medium intensity residential on some of these neighborhoods then they would be protected as neighborhoods. Currently there are lots of uses already in the mixed use district that you could put in some of those areas that would not enhance the neighborhood.

Davis stated it is a great suggestion that Rogalski take this back to LURA.

Jensen stated no motion is needed for that.

12. Hold a public hearing and consider an ordinance amending Sections 18-12-2-1232 and 18-12-3-1243, Chapter 18, Lawton City Code, adding medical marijuana dispensary facilities as permitted uses within the Mixed Use and Commercial Central Districts and adding medical marijuana research facilities as permitted uses within the Mixed Use District of the Downtown Lawton Overlay District. Exhibits: Ordinance No. 18-__ and Draft CPC Minutes.

Rogalski stated the overlay district does not incorporate all of the urban renewal plans, it is a smaller area that provides higher building standards and it also lists to uses to mirror the urban renewal plan. This makes it simple so that this zoning has the same uses as the urban renewal plan. What is approved already in the urban renewal plan is in effect tomorrow, so this is just to make it look better. He suggested they wait on this until they have the other urban renewal plan resolved.

MOVED by Burk SECOND by Davis to table. AYE: Morford, Davis, Burk, Tanner, Fortenbaugh, Johnson. NAY: None. ABSTAIN: Warren. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Davis reported there will be an informational meeting held tomorrow at 5:30 p.m. at City Hall to discuss the January 8th election.

Diane Branstetter, Finance Director, presented revenue and expenditure highlights for the period ending November 30, 2018. (On file in the City Clerk's office).

The Mayor and Council convened in executive session at 7:13 p.m. and reconvened in regular, open session at 8:14 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

13. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action regarding the City's contract with Ceridian Dayforce Human Capital Management and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #13. No action was taken.

ADDENDUM:

1. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2018-2019 between the International Union of Police Associations (IUPA), Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

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

There being no further business to consider, the meeting adjourned at 8:15 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK