

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JANUARY 14, 2020 – 6:00 P.M.  
LAWTON CITY HALL  
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:  
Michael Cleghorn, City Manager  
Bob Ross, Interim City Attorney  
Traci Hushbeck, City Clerk

Mayor Booker 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 Paul Craig, The Christian Center, 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 WALLIE BREADEN

Mayor Booker presented a Certificate of Commendation from the Mayor's Office to Wallie Braden

PROCLAMATION ON HUMAN TRAFFICKING AWARENESS MONTH

Mayor Booker proclaimed January 2020 as Human Trafficking Awareness Month. He presented the proclamation to Ahsha Morin, President of the Red Cord Program.

REPORTS: MAYOR/CITY COUNCIL

Johnson stated Teamwork Makes the Dream Work will be hosting an event on January 18th from 10:30 a.m. to 3:00 p.m.

Fortenbaugh stated the Lawton Constitution is doing a great job in explaining all the aspects of the proposed CIP. There will also be public meetings held this Thursday at 5 p.m. at Cameron University and on Tuesday, January 21<sup>st</sup> at 6 p.m. at City Hall Auditorium. He encouraged citizens to attend the meetings.

Hankins encouraged citizens to attend their neighborhood watch meetings.

Mayor Booker stated he and council members as well as staff are available to speak to any group regarding the proposed CIP election. Their goal is to educate the public on the issues.

#### AUDIENCE PARTICIPATION:

Jerry Wertz, ward three citizen, stated the ATM machines in the city buildings are frequently out of money. He stated the vendor that is responsible is letting the city down.

Bart Hadley, Deputy City Manager, stated there were some problems several years ago when the machines went in about gaging the proper amount of money or how often he needed to be here, but after some time they have not received a single complaint until today. He will check with the vendor to see what the issue is.

#### CONDUCT ELECTION OF MAYOR PRO TEM

MOVED by Johnson SECOND by Fortenbaugh to nominate Jay Burk. AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Johnson, Warren. NAY: Burk. MOTION CARRIED.

#### CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF NOVEMBER 26 AND DECEMBER 17, 2019.

MOVED by Warren SECOND by Jackson to approve the minutes of November 26 and December 17, 2019. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

Mayor Booker stated item #18 will be stricken from the agenda.

#### CONSENT AGENDA:

Mayor Booker stated the claimant has requested to speak on item #2.

MOVED by Burk SECOND by Warren to approve the consent agenda with the exception of item #2. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Danette Hall in the reduced amount of \$7,500.00 (**Res. 20-01**), Bonnie and Lonnie Flonnory in the reduced amount of \$438.19 (**Res. 20-02**), Arlandro Arrington in the reduced amount of \$260.71, and Zachary James in the amount of \$3,650.00 (**Res. 20-03**). Exhibits: Legal

Opinions/Recommendations, Resolution 20-\_\_\_\_, Resolution 20-\_\_\_\_ and Resolution 20-\_\_\_\_.

2. Consider the following damage claim recommended for denial: Herbert Derricott in the amount of \$320.88. Exhibits: Legal Opinion/Recommendation.

Kelea Fisher, Deputy City Attorney, stated the claimant alleges that on October 13, 2019, at 9:30 p.m. his wife was traveling westbound on E. Gore Boulevard in front of the public safety facility when she struck an industrial type screw causing damage to her tire. They are seeking \$320.88, the cost to repair or replace their tire. She has recommended denial of this claim for several reasons. Under the general principles of negligence the claimants would have to prove that the City caused this screw to be in the roadway and that would be impossible to prove. The Oklahoma Supreme Court has held that the standard to be applied is whether or not the City had notice of the condition of this roadway. There have been no reports to the street department of any damage to vehicles related to industrial screws being in the roadway. She stated because this happened in front of the public safety facility, the implication is that the screw came from that construction site. If the claimants could prove that the screw came from that site then the party that would be responsible is the party that is conducting the construction at that site. The City has contracted with Flintco to manage that construction site and the Oklahoma Governmental Tort Claims Act specifically provides that the City shall only be liable for its own negligence or the negligence of its employees, not for the negligence of independent contractors. For those reasons she is recommending denial.

Herbert Derricott, 6212 NW Cheyenne Drive, stated that Hibdons charged him \$320 to replace the tire. The tire only has 32,000 miles on it. He stated that he is the only one to complain so far and he feels that his taxpayer dollars are being used to pay that contractor to build that public facility. He feels that he should be able to collect \$320 back from the City and then the City can get it back from the contractor. He does not feel that he has to go talk to the contractor. He is just asking the City to treat him fairly.

Warren stated he spoke with Mr. Derricott and explained to him the reasons as to why we do not have a responsibility in this case. He would encourage Mr. Derricott to talk with Flintco, the contractor.

MOVED by Warren SECOND by Burk to deny the damage claim of Herbert Derricott in the amount of \$320.88. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: Hampton. MOTION CARRIED.

3. Consider approving an Outside Water Sales Contract with Axel and Jessica Llavet, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.
4. Consider approving a contract with the Novak Consulting Group to conduct an organizational performance and efficiency study of the City of Lawton. Exhibits: Novak Consulting Group contract is on file in the City Clerk's office.

5. Consider adopting a resolution approving the formula for determining the sales and use tax increments generated by the Republic Project Expansion to be apportioned to Increment District No. 3 and authorizing submission of an application for State matching payments pursuant to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act. Exhibits: **Resolution 20-04**.
6. Consider accepting State Aid for Libraries Grant of \$36,593.00 from the Oklahoma Department of Libraries for FY2019-2020. Exhibits: Grant is on file in City Clerk's Office.
7. Consider retiring Lawton Police Department's K-9 Ory from service. Exhibits: Letter from Dr. Robert Bower, DVM.
8. Consider approving Amendment No. 6 to the December 9, 2014 contract with Garver, LLC, which will amend the scope of service to include completing a Wastewater Treatment Plant Condition Assessment which would consist of an assessment of current equipment, conditions, and maintenance procedures as well as recommendations for capital and process improvements. Exhibits: Amendment to the Agreement and Appendix A – Scope of Services.
9. Consider extending contract (CL19-015) Large Diameter PS46 Closed Profile PVC Pipe to Ferguson Waterworks of Oklahoma City, OK for an additional year. Exhibits: Department Recommendation, Contract Extensions Forms, Price Sheets.
10. Consider awarding contract (CL20-007) Fluorosilicic Acid to Univar Solutions USA, Inc. of Kent, WA. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

NEW BUSINESS ITEMS:

11. Hold a public hearing and consider a request for a Use Permitted on Review for the operation of a medical marijuana growing facility in conjunction with the medical marijuana dispensary on property zoned C-5 General Commercial District located at 304 SW Lee Boulevard. Exhibits: Location Map, Site Plan, Application.

Richard Rogalski, Community Services Director, stated this request is for the East 35 feet of Lot 4 and all of Lot 5, Block 15, Airport Addition, which is zoned C-5 General Commercial District. The applicant is Julie Gaither, and the property owner, Chris Brown, has signed the application. Section 18-6-12-624 of the Lawton City Code provides that a medical marijuana growing and/or processing facility associated with a medical marijuana dispensary when located within the same enclosed building may be permitted as a Use Permitted on Review in the C-5 district. The applicant proposes to have a dispensary and the growing facility in the same building. The zoning of the surrounding area is C-5 to the north, east, and west, and R-3 Multiple-Family Dwelling District to the south. The land use of the surrounding area is vacant to the north, single-family residential to the south, commercial (Dive Shop) to the east, and automotive garage to the west. The current use of the property is a vacant commercial building. The site plan submitted with the application indicates there will be 3,014 square feet of the building used

for the growing operation and 523 square feet used for the dispensary. This would require four parking spaces, and the site plan shows four parking spaces would be provided. The City Planning Commission (CPC) held public hearings on November 14 and December 12, 2019. At the November 14<sup>th</sup> meeting there was concern expressed by the adjacent property owner of whether the two businesses shared a common wall and the possibility of odor migrating into his business. The CPC continued the public hearing until December 12<sup>th</sup> and requested staff to determine if the buildings were separate or if they shared a common wall. City inspectors verified that the buildings were separate buildings with a façade that gives the appearance of being connected. The CPC, by a vote of 8 – 0, recommended approval of the request.

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

MOVED by Burk SECOND by Jackson to approve a request for a Use Permitted on Review for the operation of a medical marijuana growing facility in conjunction with the medical marijuana dispensary on property zoned C-5 General Commercial District located at 304 SW Lee Boulevard. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

12. Consider accepting a donation and approving a resolution amending the City of Lawton FY19-20 budget, as amended, by appropriating the Seventy Thousand and 00/100 Dollars (\$70,000.00) donation to the City Manager's professional services account to assist with performance management audit expenses. Exhibits: Resolution 20-\_\_.

Cleghorn stated this is the companion item to item #4. He thanked the Green Family Trust and Liberty National Bank. A check presentation will be made tomorrow.

Mayor Booker stated this study will pay huge dividends to this city and he appreciates Liberty Bank stepping forward to help pay half of the cost.

MOVED by Burk SECOND by Chapman to approve **Resolution 20-05**. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

13. Consider approving a policy pertaining to employee birthday leave; creating Council Policy 3-4 Employee Birthday Leave; establishing birthday leave for all full-time and part-time General Employees, for use during their birth month and establishing an effective date. Exhibits: Council Policy 3-4 Employee Birthday Leave.

Cleghorn stated that the council has asked staff to look at incentives for general employees. He stated other places he has worked have authorized birthday leave. He stated this will increase employee morale and will show appreciation to the general employees.

Mayor Booker stated the commentary stated no funding source. He questioned if this was built into the system with no cost.

Cleghorn stated there is no direct cost. There is indirect cost because we will be paying for an employee that will not be at work, but it will not be any additional cost to the budget.

Burk stated they have tried to look at ways to incentivize people to want to come to work for the City of Lawton and it has not always been easy, especially with the pay situation with the general employees. He feels this is a great idea.

MOVED by Burk SECOND by Warren to approve a policy pertaining to employee birthday leave; creating Council Policy 3-4 Employee Birthday Leave; establishing birthday leave for all full-time and part-time General Employees, for use during their birth month and establishing an effective date. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

14. Consider an ordinance pertaining to Personnel Policies and Procedures amending Section 17-1-3-124, Division 17-1-3, Article 17-1, Chapter 17, Lawton City Code, 2015, clarifying the City Manager's authority to move and/or transfer personnel for the good of the service without a formal posting in circumstances such as demotions, disciplinary actions, or other personnel moves; providing for severability, and establishing an effective date. Exhibits: Ordinance 20-\_\_.

Dewayne Burk, Human Resources Director, stated this item authorizes the City Manager to provide direction concerning personnel moves when it does not concern a vacant position. They may have to move people from one location to another, whether they are volunteering or because of disciplinary measures being taken. Periodically they will have employees who get into a position they may have applied for and then find it was not what they thought it was and they request to go back to a previous position or a similar position. This authorizes the City Manager to be able to manage the situation and place those employees.

MOVED by Burk SECOND by Warren to adopt **Ordinance 20-01**, 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 20-01

An ordinance pertaining to personnel policies and procedures, amending Section 17-1-3-124, Division 17-1-3, Article 17-1, Chapter 17, Lawton City Code, 2015, by clarifying the city manager's authority to promote, transfer, or make other personnel moves of existing city employees that would benefit the city of Lawton; providing for severability and establishing an effective date of thirty days after passage.

15. Consider an ordinance pertaining to Personnel Policies and Procedures creating Section 17-1-6-169, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2015, titling the section Leave Usage, establishing that vacation, sick, historical sick, flex and compensatory leave time must be taken in not less than quarter hour increments; amending Section 17-1-5-152, Division 17-1-5, Article 17-1, Chapter 17, Lawton City

Code, 2015, establishing that time worked in excess of forty (40) hours each established work period is to be computed in quarter hour increments; providing for severability, codification, and establishing an effective date. Exhibits: Ordinance 20-\_\_.

D. Burk stated this code change brings all three employee groups into line, both fire and police already have this in their collective bargaining agreements. It also provides some consistency across the board with respect to the general employees and payroll issues.

MOVED by Burk SECOND by Chapman to adopt **Ordinance 20-02**, 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 20-02

An ordinance pertaining to personnel policies and procedures, creating Section 17-1-6-169, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2015, titling the section leave usage and establishing that vacation, sick, historical sick, flex, and compensatory leave time must be taken in not less than quarter hour increments; amending Section 17-1-5-152, Division 17-1-5, Article 17-1, Chapter 17, Lawton City Code, 2015, by establishing that time worked in excess of forty (40) hours each established work period is to be computed in quarter hour increments; providing for severability, codification, and establishing an effective date of thirty days after passage.

#### STAFF REPORTS

Cleghorn stated effective January 1, 2020, the police take home vehicle was implemented. Staff is still working on the legality portion of that and they are also making sure that they have their numbers straight so they can come back to council with that information. He stated Council Member Warren wanted to make sure that they did not implement something that put the City in the position of liability.

Cleghorn introduced Joe Painter, Deputy City Engineer.

The Mayor and Council convened in executive session at 6:52 p.m. and reconvened in regular, open session at 8:19 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 review the employment of Nathan M. Johnson as Municipal Judge, and in open session take other action as necessary. Exhibits: None.

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

17. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2019-2020 between the International Association of Fire Fighters (IAFF), Local 1882, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Ross read the title of item #17.

MOVED by Burk SECOND by Warren to approve a six-year agreement for Fiscal Years 2019-2020, 2020-2021, 2021-2022, 2022-2023, 2023-2024 and 2024-2025 with the International Association of Firefighters Local 1882, providing for among other things 1) Increasing the spread between Step G and Step H in the fire pay plan to 5%, effective January 27, 2020, 2) Increasing the spread between Step H and Step I in the fire pay plan to 5%, effective January 9, 2023, 3) Providing an annual public safety sales tax incentive to eligible firefighters, less all applicable taxes, deductions, withholdings and employee and city pension contributions and 4) Adding a “Me Too Clause” stating that if during the term of this agreement the City’s non-union general employees receive an across the board pay raise [other than normal merit step increases], the members of the fire union will receive the same across the board pay raise. AYE: Hankins, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

18. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the independent contractor agreement between the City and Robert L. Ross, Interim City Attorney, and if necessary, take appropriate action in open session. Exhibits: None. **THIS ITEM WAS STRICKEN FROM THE AGENDA**

There being no further business to consider, the meeting adjourned at 8:23 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