

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 11, 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
COL Don A. King, Fort Sill Liaison

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 Reverend Dr. Robert Gorrell, Centenary Methodist 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

REPORTS: MAYOR/CITY COUNCIL: None

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JANUARY 28, 2020.

MOVED by Burk SECOND by Warren to approve the minutes of the regular meeting of January 28, 2020. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Mayor Booker stated item #3 will be stricken from the agenda.

MOVED by Warren SECOND by Burk to approve the consent agenda with the exception of item #3. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider accepting a \$12,081.36 donation to the Library from the Friends of the Library to be designated for library-related activities and library materials. Exhibits: None.
2. Consider accepting the Public Library Family Engagement Project grant of \$2,000.00 from the Oklahoma Partnership for School Readiness Foundation, Inc. (OPSR) for the purpose of funding 1,000 Books Before Kindergarten initiatives at the Lawton Public Library. Exhibits: None.
3. Consider revoking a permanent utility easement previously given to AEP/PSO across the Public Safety Facility property near Gore Boulevard and S. Railroad Street. Exhibits: October 8th, 2019 Easement Council Agenda Item and Release of Easement Document.
STRICKEN
4. Consider authorizing staff to utilize funding from the Fire Cost Recovery Fund for the purchase of Fire Department Equipment. Items being requested are dual certified Firefighting/Rescue Gear at a cost of \$91,198.00 and 36 sets of Structural Firefighting Gear at a cost of \$87,264.00 from Casco Industries. The total amount requested for equipment is \$178,462.00. Exhibits: None.
5. Consider extending contract (RFPCL19-014) Fire Service Cost Recovery & Billing to Fire Recovery USA of Roseville, CA for an additional year. Exhibits: Department Recommendation, Extension Form, Price Sheet.
6. Consider approving appointments to boards and commissions. Exhibits: None.

City Planning Commission

David Davison
Existing Member
12/14/22

Darren Medders
New Member
Unexpired Term 12/14/21

Museum of the Great Plains

Sharon Cheatwood
At Large
New Member
Unexpired Term 6/30/20

Robert Morford
At Large
New Member
Unexpired Term 06/30/21

Park and Recreation Commission

Susan Hargraves Thompson
Ward 6
Existing Member
01/01/22

Bill Stamp
Ward 3
New Member
02/11/22

Parks and Recreation Commission

Bill Stamp

Ward 3

New Member

02/11/22

NEW BUSINESS ITEMS:

7. Hold a public hearing and consider a resolution amending the Land Use Plan from Residential/Low Density to Industrial and an ordinance changing the zoning from Temporary A-1 General Agricultural District and R-1 Single-Family Dwelling District to I-4 Heavy Industrial District zoning classification for property located approximately one mile north of SW Lee Boulevard between SW 82nd Street and Goodyear Boulevard. Exhibits: Resolution No. 20-__, Ordinance No. 20-__, Location Map, Application and draft CPC Minutes.

Richard Rogalski, Community Services Director, stated this request is to rezone approximately 142 acres of land from Temporary A-1 to I-4 and approximately 57 acres of land from R-1 to I-4 for expansion of the West Lawton Industrial Park. The applicant is the Lawton Economic Development Corporation, and the property owner is Clayton L. Green Revocable Trust. The zoning of the surrounding area is Temporary A-1 to the north and west; Temporary A-1 and I-4 to the south; and R-1, R-3 Multiple-Family Dwelling District, C-1 Local Commercial District, and C-3 Planned Community Shopping Center District to the east. The land use of the surrounding area is vacant to the north, West Lawton Industrial Park to the south, single-family residential and vacant to the east, and vacant to the west. The Land Use Plan shows the R-1 portion of the requested area to be Residential/Low Density. The applicant has provided 16 acres of R-1 zoned land (300 feet) to act as a buffer between the existing single-family residential subdivision (Wyatt Village) and the proposed I-4. Due to the acreage included in the request and the buffer of R-1 from the existing residential subdivision, a binding site plan is not required. The majority of the requested area is shown to be Industrial in the Land Use Plan. The City Planning Commission held a public hearing on this request on January 30, 2020. During the public hearing six persons spoke against the request and three persons spoke in favor of the request. The CPC, by a vote of 5 – 1, recommended approval to the City Council.

PUBLIC HEARING OPENED.

Jim Eason, 716 NW Heinzwood Circle, stated he owns the land on the northside of proposed rezoning. He stated this is the last piece of property on Gore Boulevard that can be single housing. The City is now seeking to breach those assurances and the public trust by rezoning the joining land to industrial use which will devalue the surrounding homes.

Kendall Reffett, 219 SW 84th Street, stated they purchased their lot in 2007. They were promised there would be a residential area behind their lot. She stated they live with the stench of Republic Paper and they are not sure a buffer zone will take away any kind of stench that may locate there because there is really nothing that can prevent what will locate on that property. She requested the council vote no as written with the 300 feet.

Ron Nance, Chairman of Lawton Economic Development Corporation, stated LEDC is sensitive to the concerns of the residents. It was their idea to propose the 300-foot buffer zone. They will try to place uses that will not be intrusive to the residents and will not impact them any more than they already are with existing industry. They are spending a tremendous amount of money to get utilities to that area and it is vital that the community come together and provide jobs. The price of real estate all over town is declining because of the lack of jobs. They feel this will be a situation good for everyone.

Tolbert Wyatt, 8306 SW Castlestone, stated his property has devalued. He questioned if the property sells will the value of his home increase and is there was any consideration for any modifications to the proposed rezoning.

Mandy Womack, 215 SW 84th Street, stated they deal with the horrible smell from Republic. She stated the 300 feet buffer is nothing. She stated this industry will do nothing for the Lawton Public School system, it is in the Cache zone. She requested the council vote no.

Brad Cooksey, President of LEDC, stated two years ago when he took the job they were tasked with finding new industrial land. The CCIDA helped them with purchasing an engineering report about where would be the most beneficial and cost effective place to buy property. All signs pointed back to the west side. This land became available over the past year and it makes sense to do this. It is the most beneficial and cost effective way to expand and bring in new business. This is one of the last pieces of land to develop to be in the LPS school district. Due to the location of this land and that it is out there with all of our other major industry, it makes the most sense.

John Mackey, 312 NW Ridgeview Way, stated he has been on the CCIDA for 25 years and he was shocked to hear what the industrial prospects say when they come here. They want land that is shovel ready and they want it to be practically given to them. They ask about rail connection and they will turn away and leave if you do not have rail access. This is the only place in Lawton that has rail access. Property values do not go down because of zoning, they go down because of comparable sale prices in the community. He stated there is a lot of vacant homes and they need to do something to bring in businesses. He stated everyone needs to work together.

David Holcomb, 8308 SW Fitzroy Place, stated homes go into default because of a lack of income. There is a lot of room for growth south of Lawton. He questioned if anyone wants I-4 zoning in their back yard. The only way to compliment residential is to wrap it with commercial and you compliment it with industry. You do not shove industry around three sides of residential area. He stated maybe they need to look at rerouting the rail. They need to go south because there is plenty of room. The Wyatt brothers had a vision for that entire area and they had it platted for residential and commercial, there was no industry. The council needs to do what is right for the future.

Nancy Holcomb, 8308 SW Fitzroy Place, stated when they looked for a home in Lawton they wanted sidewalks and a view of the mountains and they found it in Wyatt Village. She requested the council vote not.

Lonny Womack, 215 SW 84th Street, stated residents do not like it. He questioned where they were going to get the people to work, are they going to move here? There is a lot of railroad track across this city. Will these industries get sweetheart deals on water and electricity and not have to pay taxes?

Mike Veal, 8305 SW Fitzroy Place, stated everyone here is for the advancement of Lawton. He stated the land can be chopped but the seller refuses to take anything other than an all or nothing deal. All these areas around this are going to be adversely impacted by industrial moving to the area. He suggested they include Wyatt Village into the deal and just buy everyone out. He stated there is some compromise on what land should and should not be used. There will be an increase in air and noise pollution.

Ryan Lasorsa, formerly of 8307 NW Fitzroy Place, stated he has lived here his whole life. He stated there is land all throughout the city. He stated most of his friends have left Lawton because there is nothing keeping them here. This is not going to get people to come back. This will make the homes and property values undesirable.

Jim Olsebrook, 314 SW 83rd Street, stated people have sold their homes when they heard this news and this is destroying the neighborhood of Wyatt Village. Their neighborhood is one of the safest neighborhoods. He stated the city could declare eminent domain and cut them out completely. Wyatt Village could disappear if the council decides to do it. This is not right. He questioned if the bank was selling this land because there is an issue with the loan and is there a conflict of interest.

Buddy Green, 5601 E. Gore, stated he is the applicant for the rezoning. He stated no bank owns the property and no bank has ever owned the property. He stated he and Mr. and Mrs. Kerr jointly own the property. He stated he filed the application to have it rezoned at the request of CCIDA.

Bob Morris, 401 SW 83rd Street, stated they city only has to notify the property owners within a 300 feet area. He stated no one knew what was going on. He stated it was Liberty Bank that took the foreclosure from the Wyatts. Realtors told him that there would be a 10% devaluation of their homes if this goes in.

Carla Scott, 8309 SW Castlestone, stated when she moved here she found a great home in Wyatt Village. She does not want to see industry in her back yard. It is not fair to this community and it is a disservice to minimize what they say and feel. She stated they do not want to sell their home. It is important to hear what they say because they do not want heavy industry around them. She suggested they increase the buffer area.

Tim George, 8314 SW Castlestone, stated he agrees we need growth, but none of the residents of Wyatt Village zoned that property. He stated the intensity of the uses in I-4 is a big deal. He stated the city code states that they should facilitate the future development of various tracts of land to the existing community. He stated when the council looks at the code, he respectfully requested that the council vote no.

Michael Crawford, 402 SW 84th Street, stated in 2016 they built a custom home in Wyatt Village. He stated the train is right in his back yard. He stated he is against the rezoning.

Bob Morris stated it is not the jobs that people are leaving for, it is the crime in this town. This needs to be cleaned up first.

PUBLIC HEARING CLOSED.

Mayor Booker stated that Mr. Green stated that the bank does not own this property. He stated it is his understanding that Mr. Green sought out LEDC to purchase this property.

Mr. Green stated he had his attorney contact Jim Eason to ask if he wanted to buy it and Mr. Eason refused the offer and said he did not plan to do any more development. At that time he spoke with Brad Cooksey to see if they would be interested in the property and he would let them purchase it and he would even finance a loan for up to 15 years if it would help. He stated they ended up negotiating a deal with a stipulation that they could get it rezoned as industrial because that is the only use for the property because of the rail. He stated it is a natural area for industry.

Burk stated it is the perfect area for industrial for the fact that it does have the rail spur, which they have all been told that is what it takes to get industry here that offers good paying jobs. He stated with TIF funding, once the property is sold there could be a stipulation that things need to happen like fencing, a berm, or mature trees. He feels that with the incentives they can give from the TIF they can try to bring in jobs and help these big industries come here because we have lost so many opportunities because we had no incentives to offer. The only way he will support doing this is if it had sound walls or berms with trees, whatever is aesthetically pleasing. There are a lot of people here that will be affected and they need to do everything they can to mitigate the possibility that we are going to have an issue.

Rogalski stated the proposed purchaser is the LEDC and the TIF district provides for a large amount of flexibility in how you develop property. That flexibility is in the development agreement. Every time an industrial user goes into our TIF district, there will be a development agreement which sets forth the expectations from the industry and the community. The agreement will come to the council and nothing will be spent from the TIF funding unless approved by the city council. There is the flexibility to make all types of improvements.

Burk stated if this is approved tonight, when it becomes a development it will come back to the council and at that point they can mandate the things they want to see happen. They will have the opportunity to use TIF money to make demands.

Rogalski stated the development agreement is an agreement and there could be demands on both sides. They would not necessarily have to use TIF funds for the improvements, they could just be added to the developer or the industry's obligation. The council can make requirements and decide who will pay for it.

Mayor Booker questioned if there was some opportunity for the council to be able to say no to a certain use.

Rogalski stated the specifics would come back to council on what the company is and how they are going to develop it.

Burk stated he wants to make sure they take into consideration the sound, smell and anything that would affect the neighborhood. He stated LEDC is trying to get more high tech jobs here because we don't have good paying jobs here and it makes young people not want to come back. He stated they have got to fix the economy in Lawton and the only way is to invest in ourselves. He stated the council has the authority to say yes or no to a development and they can do the right thing when the development does happen and he hopes all these citizens return to give their opinion.

Fortenbaugh stated they are not using their heads on this and he questioned if anyone on the council listened to these people who have come forward. He stated I-4 is the least restrictive zoning they have, R-1 is the most restrictive, and now we are going to put them together and say get along with each other. He stated LEDC has over 700 acres of land out there in the industrial park they can build on. They are not doing enough to protect these residents. What he sees is a little piece of Lawton Public Schools and we are going to try to jam some industry in. The purpose of zoning is to provide for the health and welfare of the citizens of this town and he has never heard of making R-1 into I-4, it is ridiculous. He hopes the members of council are listening to these citizens.

Warren stated the truth of the situation is that Lawton is in this situation because we do not have jobs. The only way to fix that is to bring in jobs. None of these entities involved are trying to destroy a neighborhood. If someone shows interest and it comes back to this council, they will make sure this neighborhood is taken care of. He stated that LEDC and CCIDA is going to make sure that they don't even present a company that will not pass that test. He stated it is important to his constituents that we have jobs and when you have an entity that wants to locate in an area we need to try to make that happen as long as it does not hurt the rest of the community. He feels all three entities will do their best to make sure that does not happen. He is going to do everything in his power to make sure that they fit whatever wants to locate near this neighborhood, they will make sure it is safe and secure.

Hankins stated that not all industry is smelly and noisy, there are things that will be acceptable and will not hurt the neighborhood. She stated she would certainly be protective of the residents of Wyatt Village if something comes back to the council because she respects each citizen who came here tonight and she would not want anything to happen to this neighborhood.

Johnson thanked each person who came tonight and who spoke to the council. She stated they have to look at how their decision affects the city as a whole. She would hope they learned a lesson regarding Republic Paper and some of the things that they did not anticipate but they are trying to fix the problem. She stated they will take into consideration not allowing another industry to come in that has some type of emissions or noise. They have to look at both sides and her constituents are looking for jobs and that is what they need. There should be a win-win,

even if it means extending out the buffer area and making it aesthetically pleasing. She wanted to assure the citizens that their voices have been heard.

Hampton stated he drove around the neighborhood to evaluate the situation. He stated we are all in this thing together and some decision are very hard. He appreciates those who attended and he has listened to what was said.

Chapman stated no matter how this vote turns out, there will be some people who are going to be upset and some will be happy. She thanked all of those who attended the meeting and spoke for and against this issue. She did listen and she understands the concerns. She also has to be thinking about what is the best answer for the good of Lawton. They want to be very careful about what is going to come in to that property at some point in time.

Burk stated he would like to make a motion with some stipulations. He suggested the buffer zone be a minimum of 500 feet and that the council approve the buyer before anything is to be built on this property. The council and the residents will be fully aware of what is to be done with this property.

MOVED by Burk SECOND by Warren to adopt **Resolution No. 20-13** and **Ordinance 20-03**, waive the reading of the ordinance, read the title only to include a buffer of 500 feet minimum and that this will come back to the council before the sale and approval of construction. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Johnson, Warren. NAY: Fortenbaugh. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 20-03

An ordinance changing the zoning classification from the existing classification of R-1 Single-Family Dwelling District to I-4 Heavy Industrial District Zoning Classification on the tract of land which is hereinafter more particularly described in section one (1) hereof and changing the zoning classification from the existing classification of temporary A-1 General Agricultural District to I-4 Heavy Industrial District Zoning classification on the tract of land which is hereinafter more particularly described in section two (2) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance as amended by council that the buffer zone will be at least 500 feet in width and that any future sale of the property from a city of Lawton board or authority must be approved by the council.

8. Hold a public hearing and consider a Use Permitted on Review for the operation of a medical marijuana growing facility in conjunction with a medical marijuana dispensary in C-5 General Commercial District located at 6105 NW Cache Road. Exhibits: Location Map, Site Plan, Application and CPC Minutes.

Rogalski stated this request is for Lot 1, Block 1, Cache Road Business Park. The applicant and property owner, Travis Craig, proposes to operate a medical marijuana growing facility in conjunction with a medical marijuana dispensary. Formerly this property was used as a dry cleaners. The zoning of the surrounding area is R-1 to the north and C-5 to the south, east, and west. The land use of the surrounding area is single-family residential to the north, commercial

(Los Tres Amigos Restaurant to the south, commercial (Enterprise Rent-A-Car) to the east, and commercial (Chili's Grill and Bar) to the west. The building to be used for the medical marijuana business sits approximately 182 feet from the rear property line that is adjacent to the single-family residential to the north. On January 16, 2020, the City Planning Commission held a public hearing on this request. Two persons spoke against the request, and one person spoke in favor of the request. The CPC, by a vote of 5 – 1, recommended approval to the City Council. Notice of public hearing was mailed to 25 property owners within 300 feet of the requested area on January 21, 2020 and proper notice was published in *The Lawton Constitution* on January 26, 2020.

Warren stated this is basically a rehab of the building, no new structure.

Rogalski stated yes, they are using the existing building and doing some interior work.

Burk questioned if the back of the property was open.

Rogalski stated yes, it is just vacant property. The entire grow facility would be inside the existing building. This is a binding site plan.

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

MOVED by Warren SECOND by Burk to approve a Use Permitted on Review for the operation of a medical marijuana growing facility in conjunction with a medical marijuana dispensary in C-5 General Commercial District located at 6105 NW Cache Road. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

STAFF REPORTS

Bart Hadley, Deputy City Manager, updated the council on where the PSO lines will be run to the Public Safety Facility property. He stated PSO no longer needs the right of way easement and will sign it back over to the City of Lawton. He stated the line would go down 1st Street and stay above ground.

Warren stated the power for the actual building is coming from the east side, so the power issue won't affect the building at all. There may be a delay in removing the poles so that we can finish parking lots and the grounds.

The Mayor and Council convened in executive session at 7:44 p.m. and reconvened in regular, open session at 9:32 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

9. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the status of an ongoing investigation concerning pension calculations, and, if necessary, take appropriate action in open session. Exhibits: None.

Ross read the title of item #9.

MOVED by Burk SECOND by Johnson to adopt the recommendation of the pension trust board to authorize John Papahronis of McAfee & Taft to 1) assist staff as necessary with legal questions that may arise during the ongoing investigation of pension calculations; and 2) prepare and file with the IRS any application / paperwork deemed necessary to address calendar year and fractional month miscalculations being identified. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

10. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Michael Cleghorn as City Manager, and in open session take other action as necessary. Exhibits: None.

Ross read the title of item #10.

MOVED by Warren SECOND by Fortenbaugh to renew his contract for twelve months with a salary increase of 2.5%. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

Mayor Booker reported that the CIP proposition passed by a vote of 64%.

Burk thanked Mayor Booker for leading the charge on this effort.

There being no further business to consider, the meeting adjourned at 9:37 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK