MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 12, 2019 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
Frank Jensen, 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 Pastor Don Barnes, Lawton First Assembly, followed by the Pledge of Allegiance.

ROLL CALL

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

PRESENTATION OF OUTSTANDING CITIZENS OF COMANCHE COUNTY TO SHYKIRA SMITH

Mayor Booker presented a Certificate of Commendation from the Mayor's Office to Shykira Smith

PROCLAMATION RECOGNIZING GARVER ENGINEERING

Mayor Booker recognized the collaborative and educational efforts of Garver Enginnering in conjunction with the Garver Gives initiative. He presented the proclamation to Michael Graves, COO of Garver Engineering.

AUDIENCE PARTICIPATION:

Ted Symeleski, 2509 SW Cornell, stated there is no left hand turn on Gore and Sheridan at Murphy's and cars and still trying to make that turn off of Gore into Murphy's and this blocks traffic. In other places in Oklahoma they use barriers.

Davis stated he turned this concern into staff to take to the Traffic Commission. He stated it should have gone in February.

Larry Wolcott, Public Works Director, stated the Traffic Commission did consider this issue at the January meeting and they decided to leave as is and monitor the situation.

Davis stated if Mr. Symeleski would write a letter expressing his concerns he would go to the next Traffic Commission meeting and present it for him if he could not attend.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF OCTOBER 23, 2018 AND JANUARY 8, 2019.

MOVED by Burk SECOND by Jackson to approve the minutes of Lawton City Council regular meetings of October 23, 2018 and January 8, 2019. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Booker stated he has two requests to speak on item #8. Davis requested item #18 and Warren requested items #14, #15, #16 and #17 be considered separately.

MOVED by Burk SECOND by Warren to approve the consent agenda with the exception of items #8, #14, #15, #16, #17 and #18. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Jack and Darlene Irene Tyler in the amount of $35.00, Johnsie Goodwin in the amount of $500.00 **(Res 19-04)**, Kenneth and Andrea VanGorder in the amount of $2,500.00 **(Res 19-05)**, and Christi and Justin Wilson in the amount of $856.77 **(Res 19-06)**. Exhibits: Legal Opinion/Recommendation, Resolution 19-___, Resolution 19-___, and Resolution 19-___.

2. Consider the following damage claim recommended for denial: Enrique Cintora in the amount of $4,053.78. Exhibits: Legal Opinion/Recommendation.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in making payment on the judgment in the Workers' Compensation case of Richard Franz in the Oklahoma Workers' Compensation Commission, Case No. CM2017-03922K. Exhibits: **Resolution 19-07**.

4. Consider approving a request for the City of Lawton to waive fees for the bi-annual Lawton Fort Sill Open Streets events to be scheduled for the spring and fall of 2019 to include the provision of necessary services as appropriate. Exhibits: None.

5. Consider accepting an $8,000.00 donation to the Library from the Friends of the Library to be designated for library-related activities. Exhibits: None.

6. Consider accepting Fiscal Year 2018-2019 grant funds in the amount of $500.00 from the Corporation for National and Community Services for the Retired and Senior Volunteer Program. Exhibits: Federal CNCS Notice of Grant Award.

7. Consider approving a budget resolution to amend the McMahon Fund to include investment interest and to amend the Hunt & Fish Fund to include revenue received from the Elk Hunt that was approved by Council on August 14, 2018 after the 18-19 Budget was approved. Exhibits: Budget **Resolution 19-08**, Budget Amendment Form FY 2018-2019, McMahon Fund and Hunt & Fish Fund.

8. Consider adopting a resolution to support an Oklahoma Affordable Housing Tax Credit application by Cornerstone Associates LLC (Cornerstone), to the Oklahoma Housing Finance Agency for the proposed Legacy Senior residence apartment complex to be located on an approximate 4 acre parcel at OH Arnold Park, which is located in northeast Lawton. Exhibits: Resolution 19-__ and Location Map.

Richard Rogalski, Community Services Director, stated as part of the request there was some discussion of a request to be considered by the body at a future date for $450,000 of HOME funds. Today will just be a resolution of support.

Burk questioned what kinds of things the $450,000 could be used for.

Christie James, Assistant Director for Housing and Community Development, stated at this point it would affect nothing that is planned out. That HOME fund money is something that has been built up over previous years and it is designated for projects like this.

Burk stated it has to be used in areas of need, so there are certain criteria to meet HOME needs.

James stated the HOME funds have to be used to provide affordable housing whether by renovation or more supply for low or moderate income.

Mayor Booker stated at this time they are just putting the council on notice for the request. This is not part of the recommendation today.

Rogalski stated this will probably come back in two to four weeks. This is a resolution of support but also letting the council know this request is coming.

Mayor Booker stated he called the tax assessor and he asked how this would be taxed since it is on city property and they said there would be no property tax charged on the property value as long as the city owned it.

Rogalski stated on the real property there would be no property tax assessment, on the personal property, which would be buildings, he believes there would be an assessment on the personal property.

Mayor Booker stated the improvements would be taxable and the personal property, but the land value, which is roughly $4,900 per year, that is a lot of money over a 50 year period. He questioned if there was any discussion about that because that is taking money from the schools as well as the city and county.

Rogalski stated currently the real property is city property so it currently is not taxable. When they first approached the city they were willing to purchase or lease. The lease option was the most expedient, but they were not adverse to purchasing the property.

Mayor Booker stated there are two citizens who would like to speak.

Cody Zimmerman, representing Winchester Apartments, 1821 NW 82nd Street, stated he is opposing this project because of the current rental market in Lawton. He stated the market is down and they haven't hit 100% occupancy in 12 years. That was about the time Fort Sill housing was built and nine other apartment complexes came to town including three tax credit properties. The absolute best has been 85% occupancy in the past seven years he has been there. It has happened twice. They have seen as low as 67% occupancy and they generally trend somewhere between that. Because of the vacancy factors, his business has lost over $1 million and that doesn't include what they pay for vacant electric meters, vacant water, sewer and trash and upkeep. He feels they should invest money in other areas than the rental business. He encouraged the council to talk to those in the rental business because there is a lot available but we just don't have the market right now.

Mayor Booker questioned his current occupancy.

Mr. Zimmerman stated it is 79%.

Mayor Booker questioned his rental rate.

Mr. Zimmerman state one bedroom is $470, two bedroom is $575 and three bedroom is $645 and that includes utilities.

Johnson questioned if people apply that are ineligible because of not having the right income or things on a background check. She questioned why he was not reaching full capacity.

Mr. Zimmerman stated the traffic just isn't there.

Davis questioned if he was in a situation where he was turning people away because they are not eligible or the housing is too high. With this Cornerstone project the staff has stated that there is a shortage for low to moderate income for senior citizens in the Lawton area. He questioned if Mr. Zimmerman has run into that situation where he does not provide the type of housing that these people are looking for and you have to turn them away.

Mr. Zimmerman stated no.

Burk stated the type of housing we are talking about is for 62 and older and most of these people don't want to live next door to a 21 year old. It is a gated community with an elevator and this is for a specific demographic of people. They have this same location in Duncan that stays full. It is hard to find this type of place in Lawton unless you want to pay $4,000 a month for an assisted facility. He suggested that property owners look at making areas for 62 and older.

Mr. Zimmerman stated he would help anyone who wants to rent.

Mike Nottingham, 8610 SW Combs Road, stated he is concerned about this project because his occupancy is 64%. His other complex which is Rosewood Apartments is at 57% occupied. He questioned if the developers of the Cornerstone project could change the rules and rent to someone younger than 62.

Burk stated no, he asked the same question. He questioned the rental prices at Rosewood.

Mr. Nottingham stated a one bedroom small rents for $715 with all bills paid. A one bedroom large rents for $795 and a two bedroom rents for $825. They have had to drop their rent to compete and they are still struggling to fill it.

Burk stated it has really become a renters market. The one reason he felt this was a good project is because it had to be in a specific area of town that needed to be brought back and he liked the fact that it was close to the public safety facility. There are just not a lot of complexes for people who are 62 and older, and they are always full and there are waiting lists.

Mr. Nottingham stated he feels this project will hurt the other complexes.

Johnson questioned how they become eligible.

Mr. Nottingham stated it is two times the rent. They have dropped that because people are qualifying. Where they get into a problem is when someone is convicted of a felony or they have evictions. They will rent but it will be a larger deposit.

Johnson stated Mr. Nottingham stated it might hurt or decrease the capacity they have now. She questioned in what way if they are not being eligible now, how do you think that will affect with this particular age group that is being targeted for this particular project.

Mr. Nottingham stated he has several senior citizens living in his complex now and he would hate for them to move to another complex. It does not seem right since they are hurting right now. He paid $18,000 in property taxes.

Mayor Booker questioned if the chamber had some updated numbers on apartments.

Brenda Spencer Ragland, President of Lawton Fort Sill Chamber of Commerce, stated they did an analysis which closed in December and they looked at the housing market as well as apartments in Lawton. At the time they are reflecting about 2,000 vacancies for single structures as well as apartments. There were approximately 575 vacancies with apartments. Over the past couple days she called some apartment associations and she heard anywhere from 65% occupancy on up to 80%. We are definitely running low on occupancy.

Mayor Booker questioned if the chamber's survey of the 575 apartments include the 200 some apartments that were approved at the last council meeting.

Ms. Ragland stated no, this analysis included what is vacant and what is readily available today to rent.

Mayor Booker stated he requested a copy of the third party needs assessment and he was given an 18 month old report. He read vacancy rates for various complexes. He stated this does not line up with the chamber's analysis.

Ms. Ragland stated we are operating on 2010 census data and they have seen a decline in population and that is lending itself to what you are hearing from these business owners. She believes that they need to take a cautious approach when they look at the data they are receiving and they need to analyze and decide where do they want these apartments if we need them or do we work with our business managers and that is her job at the chamber to work with them to see how they promote and sell.

Jackson stated in his ward so many houses are boarded up and not even on the market and he has a feeling that is what is going on with a lot of single family houses.

Burk stated the issue is not the amount of apartments that are available, they are talking about a specific amount of people who are 62 and older and they are not going to rent an upstairs apartment, it is going to have to have an elevator. This is going to eliminate a lot of apartments. He does not see that they are segmented off so that 62 and older are living in a spot where they feel comfortable. He feels they are talking about apples and oranges here. You have to decide what you want for rent and what kind of renters you want. Most of these places that you look at for this type of housing that cater to elder people are full.

Ms. Ragland stated as of today she spoke with nine apartment managers and they do work to accommodate to meet the needs. We have apartment managers as well as realtors that are truly working to fill their units and they are willing to work with people and they do have plenty to meet that need. She believes they need to look at what is being asked.

Johnson stated not only is this apartment complex for seniors 62 and above, but they have amenities that are not in other apartments right now. It is not just to house, it is to keep them engaged and there will be staff there to provide different activities for them, so it is totally different from housing someone in an apartment where they are by themselves. This is a community and that is the difference she sees with this project. She realizes there are vacancies and there are various reasons for that. What she finds when she tries to get people housing is that there are things in their background or they are not making the two or three times the month for rent. This is not just an apartment complex, but this is something different.

Brad Schwab, Cornerstone Associates, stated this is a 42 unit apartment complex built specifically for seniors 62 and older. This building is designed to facilitate the needs of the tenants. It is a three story structure with an elevator and common hallways. The common spaces include a kitchen area and a dining area provided primarily for get togethers. There is also a fitness center and library. They will also work with agencies in the area to provide services, health checks, screenings and events on issues that are important to seniors. There will be 22 one bedroom and 20 two bedroom units. Residents have to qualify to live there and they also have to have a credit check and background check. They are excited about being in Lawton and they have tried over the past few years to get a project approved here. It has been difficult because of OHFA rules.

Davis questioned what percentage of this project was funded through tax credits.

Tanner stated that citizens are texting him and they can hear the council when they speak but they are having problems hearing the person at the podium.

Mr. Schwab stated the total project is $8.6 million and the tax credits come to $2 million.

Davis stated that Cornerstone would get the tax credit from the federal government, they sell that tax credit to a company that is buying down their tax bill and that is how they get the money to fund the project along with the money they are requesting today, the $450,000.

Mayor Booker stated he likes this project but he has some challenges. It bothers him that there is no property tax paid on the land. What do they need to do to get Lawton growing again, which is a question they have to answer. One of the things they have to do is to protect our schools and make sure they have funding and it also gives an unfair advantage when one property doesn't have to pay as much tax as another. He is concerned about the occupancy numbers that are reported. He received, from the planning department, an 18 month old needs assessment and it doesn't even come close to what the chamber of commerce is telling us in their very recent needs assessment and that concerns him. In 2010 we had less than 300 inactive water accounts, but today it is almost 4,000 inactive water accounts. The U.S. Census Bureau says that we have lost about 4.5 % of our population and there are other third party companies that estimate it at 8.5%. He didn't have time to track down all of the foreclosures that we have had in the apartment industry since the drawdown of the army, which he thinks was in 2014, and many of the challenges that we face today are related to that drawdown. He has some concerns about the accuracy of the numbers that were given in the needs assessment. In the matter of thinking long term, he has called the Oklahoma Housing Financing Agency (OHFA) which is the agency in

Oklahoma that is charged with the responsibility of dealing with anything having to do with rent, tax credits, section 8, etc, and he called them and asked about the resources they have that we do not know about or understand and he invited them to Lawton so that they can see the challenges we face and what resources they have that can help our community. He stated they agreed and they are looking at a date in April to do that. We need to build a long term plan of how we can use the federal programs to help us in our community and still help the citizens. It is his understanding that there are two submission cycles, one was in January and one in July. Six months is not too far away for us to check and get the proper information to make sure we are dealing with good data. He likes this deal and the place it is going to be and the idea that it pays the city some money whether we sell the land or lease it. There are so many concerns and he is uncomfortable jumping at this and he would recommend that the council table this and face the challenges and try to come up with a solution that will work for their next submission cycle and wait on the OHFA to come down and give us a briefing and help us develop a long term plan that would be good for Lawton.

Johnson stated they are working with the Lawton Housing Authority in finding a partnership where we are able to do some more projects in other areas.

Davis stated he agrees with the Mayor that there is a lot about this project that is appealing, however if you have a private business and you have someone move into town that the government is funding 40% of their business to compete with you, you would not be too happy. That is what we have here, it is basically a federal subsidy, which he is personally opposed to. We have people in this community that have invested tens of millions of dollars right here and a lot of those people are in the apartment business and are trying to help Lawton grow. The long term effect of this project seems like it could hurt the people here in Lawton. There is a difference between what the city staff has told the council in the background information in that there is a need for this type of housing and what they have seen tonight. Since they have been talking about this he has not had one senior come to him and tell him they cannot find affordable housing, but he has multiple businesses come to him and say that they meet this need. He is concerned that we are competing with our local business owners using federal money to fund almost 40% of their project and he feels this is not a level playing field and it is unfair to the people that have invested their money in our community.

<u>MOVED by Tanner SECOND by Davis</u> to table. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

9. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on: NW Kingswood and Stonegate Place and NW 31st and Atlanta. Exhibits: **Resolution 19-09** and Traffic Commission Minutes and Traffic Issue Requests.

10. Consider acknowledging receipt of Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 896 linear feet of 8-inch PVC pipe, 456 linear feet of 6-inch PVC pipe for sanitary sewer line and all appurtenances to serve Eisenhower Middle School located at 5702 W Gore Boulevard, in the NE/4 of Section 33, T2N, R12W, Comanche County, Oklahoma. Exhibits: Permit to Construct is on file in the City Clerk's Office.

11. Consider acknowledging issuance of permits for the construction of waterline and sewer line and appurtenances from the Oklahoma Department of Environmental Quality to serve the Larrance Street Reconstruction – Gore Blvd. to D Ave. & Gore Blvd. and Railroad Street Intersection Improvements Project #2014-06, City of Lawton, Comanche County, Oklahoma. Exhibits: Permit to Construct dated January 15, 2019 is on file in the City Clerk's Office.

12. Consider extending contract for Items No. 1-5 and 9 of Fire Hydrants Contract to American Waterworks Supply Inc. of Norman, OK; and Items No. 6 and 7 to Ferguson Waterworks of Oklahoma City, OK. Exhibits: Department Recommendation, Contract Extension Forms, Price Sheets.

13. Consider extending the requirement contract for Sodium Hydroxide to Petra Chemical Company of Dallas, TX for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

14. Consider awarding a contract to Accord Systems to handle all Affordable Care Act (ACA) reporting for calendar year 2018 on behalf of the City of Lawton and authorize the Mayor and City Clerk to execute the contract. Exhibits: Accord Customer Agreement.

Warren stated he pulled this item as a companion to the next ones and he basically had one question. Has Accord done any work for the City of Lawton up to this point or is this a new contract?

Warren Wick, Human Resources Director, stated the reports are for the Affordable Care Act and all the calculations that go into the number of people that are in the plan for a certain amount of months and then they have to do a bunch of different calculations to meet the affordable care act. They are waiting for this approval to put this in place.

Warren clarified that they have not done any work for the City yet.

Wick stated not yet.

MOVED by Warren SECOND by Burk to award a contract to Accord Systems to handle all Affordable Care Act (ACA) reporting for calendar year 2018 on behalf of the City of Lawton and authorize the Mayor and City Clerk to execute the contract. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

15. Consider extending the contract for the City of Lawton's Employee Assistance Program (EAP) to Deer Oaks for an additional year as authorized by the contract, and make the extension retroactive to July 1, 2018 to account for the payments made for the contract's services since that time. Exhibits: Contract Extension Form. Deer Oaks Contract (2016) is on file in the City Clerk's Office.

Warren questioned how this company provided this service without an approved contract from the city council.

Wick stated with the benefit roll outs that came out last spring, tucked in the health care was Deer Oaks. The whole health care program included an EAP program which is Deer Oaks, which is a subset of that health care program. They just considered it as an extension of that plan it just started rolling out and they have been making payments ever since and it has been used and utilized.

Warren stated this concerns him. He questioned how many other contracts are out there and being paid that the council has not approved. He does not know how this happened or why it happened or how it could happen, because someone in the City of Lawton wrote a check to accompany that which was not approved by this city council. He thinks they need to find out how this happened and they owe it to the citizens of Lawton to be completely transparent in how that can take place, that is their money that is being spent with no oversight from this council. It is like it has a mind of its own and the council is not involved. There is not going to be a need to discuss this on each of the following items because they are exactly the same as this. It is not like this happened one time, we have contracts out there that are getting paid and they do not know anything about them. He questioned if he can table all these at one time.

Jensen stated they will need to be voted on individually. He stated there has to be a contract monitoring system, if there is not they are not doing their job. Deer Oaks is a contract that has some options to extend. They contacted HR late last year because they realized they did not have an extension as authorized by our option to extend. He took a look at this issue and he felt there is a problem here. He did not want to address this in a piecemeal fashion because if you have one you may have more. One of the assistants in HR started looking through their other contracts and there were some that had extension authorizations and the council approves this pursuant to the contract provisions where they are automatic unless you give notice within 30 or 60 days and of course it is all subject to appropriations for the next fiscal year to fund those. But like this one, there was a requirement for some affirmative action to exercise that option, this one and the other two. The HR assistant looked through their other contracts and these three definitely fell in the category where we do have lawful appropriations in the budget to pay, but on the third one it is a brand new contract. He stated we have lawful appropriations but we don't have a lawful encumbrance by a signed agreement to extend or a new contract and once again we have the issue of the money has already been paid and they are not going to voluntarily give it back to us.

Warren stated he is not just concerned with HR contracts, he is concerned about other departments and how do we track this because the same thing could be happening someplace else.

Jensen stated you can track it through the City's auditing system like they do in his office or you can track it in your own department. The strong recommendation is on the agenda item that they will implement a monitoring program either with the assistance of the auditing department or they can do it themselves.

Wick stated they recently put a program in place and there is no way these things will falter back off and not be approved by council. But on items #15, #16 and #17, because they are extensions and as part of the benefit program to be rolled out for July 1, for some reason they did not come back to the council to get approval. It was an extension and they had the funding but they didn't come back to council and that is what occurred. They have got the checkpoints in place and this won't occur going forward with HR contracts.

Warren stated he will move to approve these items because he does not think there is a way to back up, but we have to find a way to make sure that this doesn't happen again. This is completely opposite of what the process is supposed to be.

Hadley stated this is an issue that is being looked into and there has been some changes made to ensure that this does not happen again. There was an oversight in a particular department, however these companies have been providing the service to the employees and we have been paying for the service. These contracts were not approved by council and once this was discovered the only thing they could do at that point was take care of it from our side and bring it to council and to let them know these weren't approved at the proper time but we have been paying for these contracts and those companies have been providing the service and he does not think we have much legal standing in trying to get our money back and we certainly can't give the services back so they are asking council to approve these contracts.

<u>MOVED by Warren SECOND by Burk</u> to extend the contract for the City of Lawton's Employee Assistance Program (EAP) to Deer Oaks for an additional year as authorized by the contract, and make the extension retroactive to July 1, 2018 to account for the payments made for the contract's services since that time.

<u>SUBSTITUTE MOTION by Davis</u> to keep the motion as stands but amend it by adding to give direction to the city manager to create and/or implement a procedure or program and bring back to council that program to ensure in every department that this does not happen again.

Warren stated he would amend his motion to include direction to staff to provide the current checks and balances that are in HR to the rest of the departments.

Jensen stated the cleanest thing to do is just to go with the substitute motion.

<u>SUBSTITUTE MOTION by Davis SECOND by Warren</u> to extend the contract for the City of Lawton's Employee Assistance Program (EAP) to Deer Oaks for an additional year as authorized by the contract, and make the extension retroactive to July 1, 2018 to account for the payments made for the contract's services since that time and to give direction to the city manager to create and/or implement a procedure or program and bring back to council a program to ensure in every department that this does not happen again. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

16. Consider approving the City of Lawton's revised life insurance and accidental death and dismemberment policy with Mutual of Omaha, and make the approval retroactive to July 1, 2018 to account for the payments made for the contract's services since that time. Exhibits: Mutual of Omaha Policy and Certificate Revised July 1, 2018 is on file in the City Clerk's Office.

MOVED by Warren SECOND by Burk to approve the City of Lawton's revised life insurance and accidental death and dismemberment policy with Mutual of Omaha, and make the approval retroactive to July 1, 2018 to account for the payments made for the contract's services since that time. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

17. Consider extending the contract with Zurich American Insurance Co. of Dallas, TX, the City's provider of Employee Accidental Death Insurance for an additional year as authorized by the contract, and make the extension retroactive to July 1, 2018 to account for the payments made for the contract's services since that time. Exhibits: Zurich 2017 Application and 2018 Endorsement.

Warren stated this is the one that really got his attention because he thought about what a horrible situation we would have been in if someone had needed this insurance. Prior to the new contract that they didn't approve, it was a flat fee, but the new contract was a full years' salary at the time of the accident. That is a huge thing and if that hadn't been approved then we would have been trying to pay out on a contract that the council had never approved.

MOVED by Warren SECOND by Burk to extend the contract with Zurich American Insurance Co. of Dallas, TX, the City's provider of Employee Accidental Death Insurance for an additional year as authorized by the contract, and make the extension retroactive to July 1, 2018 to account for the payments made for the contract's services since that time AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

18. Consider awarding contract (RFPCL19-014) Fire Service Cost Recovery & Billing to Fire Recovery USA of Roseville, CA. Exhibits: Department Recommendation, Abstract of Proposals, Price Sheet, Copy of Proposed Contract.

Davis stated he has had several people over the past year come to him about this cost recovery item and he is requesting that Chief Burk explain the contract.

Chief Dewayne Burk, Lawton Fire Department, stated the cost recovery program was passed by ordinance in 2012. The plan was put together in 2013. The program encompasses a charge back for costs that are not normally associated with fire suppression. Typically they deal with hazmat type calls or traffic accidents where they do clean up and scene safety. They also have technical rescue equipment that they deploy on occasion. There have been incidents where they have had no way of absorbing the cost associated with these calls that are really outside of the boundaries of fire protection.

Davis questioned if things like directing traffic at a traffic accident can be billed through this.

Chief Burk stated yes, and the bill is sent to the insurance company. A lot of the insurance companies have a fee or a set aside amount for emergency services and home insurance typically carries a $500 reimbursement for protection if you have a house fire, but we currently don't collect that now. With a car accident, if you have a wreck and you caused it, your insurance would get the bill for the fire department coming out and making the scene safe.

Davis stated a question he has received from citizes is that they live here and they pay taxes and their taxes pay for police and fire and now you are coming to the scene of my accident and double charging me.

Chief Burk stated across the nation, public safety is looking for ways to recoup some of the costs that are typically associated with these services. We have a limited tax base and there is no way to generate additional revenue. Everything they do comes directly from tax payers and over the years they have had other things dumped into their lap. What initially started as fire protection has turned into hazmat mitigation, technical rescue mitigation and extractions, they literally are jack of all trades and because of that they get the calls when no one else knows what to do. This is one way to get a little bit of that back so that they can continue to provide that service.

Davis stated he understands the billing to the insurance companies, but in the case when someone would only have liability insurance and did not have a policy that would cover that, would they be responsible and be billed for those costs?

Chief Burk stated they don't typically bill the individual they only bill the insurance companies. There is an appeal process if their insurance didn't cover it.

Davis stated ultimately the insurer is not really responsible it is the person the services were provided to. If that cost is not covered by their insurance company there is an appeal process they could go through and it may or may not win.

Burk stated they are talking about traffic accidents. Any traffic accident they respond to is a billable call and at the time they arrive they obtain information from the police officers that are there and they get a police report. Even if a citation is not issued, they have an indication of who the "at fault" party is with respect to the services that are rendered.

Davis stated the point that citizens are making to him is that they are being double charged because they already pay their taxes for that service. He questioned if that money goes to a special fund.

Chief Burk stated yes it goes into a cost recovery fund and it carries over from year to year and is designated for fire department related expenses.

Davis questioned how much was in that fund.

Chief Burk stated between $175,000 and $200,000.

Mayor Booker stated this was a city ordinance that was passed in 2012. What they are voting on today is a contract to fulfill the work of the ordinance.

Tanner stated this is a policy that the city set in place to be able to recoup our costs specifically when the firefighters go out and clean up the accidents. This is a way that we can bill the insurance companies, which is who they are going to go after. If there is a case that the insurance company does not want to pay, we do not aggressively go after the citizen. He does not know why we are not recouping the $500 on these house fires because every rural fire department gets this $500.

Burk stated he also feels this is something they need to be doing because our costs go up daily. This all started because of the trench accident on the west side of town that trapped a person in a ditch and we didn't have any way to go after the company's insurance and there were thousands of dollars in cost. He feels they need to look at the insurance for the house calls.

Chief Burk stated they can amend the ordinance and bring it back to council.

Cleghorn questioned if this was a council directive to look into this particular policy.

Mayor Booker stated he feels that staff needs to look into this and report back to council.

<u>MOVED by Burk SECOND by Jackson</u> to award contract (RFPCL19-014) Fire Service Cost Recovery & Billing to Fire Recovery USA of Roseville, CA. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

19. Consider approving appointments to boards and commissions. Exhibits: None.

<u>Lawton Airport Authority</u>

Dr. Robert Morford
Existing Member
12/31/2021

Jennifer Kreb Ellis
Existing Member
Chamber Representative
12/31/2021

<u>Lawton Arts & Humanities Council</u>

Anthony F Griffith
New Member
Unexpired Term 6/30/2020

<u>Lawton Enhancement Trust Authority</u>

Dr. Robert Morford
Ward 1
Existing Member
Unexpired Term 09/11/21
(Continued on the Next Page

Mayor's Commission On The Status Of Women
Barbara Curry
New Member
02/12/2021

Parks & Recreation Commission

Ross Hankins	Wayne Willis
Ward 1	Mayor's Appointment
Current Member	New Member
12/31/2021	12/31/2021

20. Consider approval of payroll for the periods of January 14 – February 11, 2019.

NEW BUSINESS ITEMS:

21. Consider Change Order #9 to the contract between Flintco, LLC and the City of Lawton for construction of the Public Safety Facility. Exhibits: Change Order #9 - Public Safety Facility.

George Hennessee, City Engineer, stated on January 22nd he proposed change order #8 in trying to recover some of the cost of the pier test. At that time it was discussed that there were some amenities that he was asked to remove from change order #8 and that change order was rejected. Change order #9 is a modification of change order #8. That modification includes two significant changes. One is that they add items that were on change order #8 he is asking those to be an official change order and come out with a change order money. The decrease is decreased by an additional $2,202 and that would be to delete liner panels from the support building. He feels they can eliminate the interior panel for a temporary period and put that in at a later date and not impact the functionality of the building.

Fortenbaugh stated he is concerned about where we are at in this project right now. We have blown through our budget and now we are trying to find places to save money by not doing things. This is not going away, it is going to happen again in a month or two and then we will have to find some more money somewhere. He is against this and he feels they need to find the money without taking away from the building.

Warren stated when this started it was about building a police station because the current station was not fit to be inhabited. Over a period of time it morphed into a bigger facility and now we are deleting items from the police station, which was the original intent of this program. He does not know where we get the money, but we can't continue to delete things from the core project in order to accomplish other things. He stated that maybe they should finish the project that they started, which was the police station, and then worry about finishing the jail. He stated we currently have a jail that is semi-functional and has been grandfathered in, so we have a little bit of time to extricate ourselves out of that jail. Let's use that time to finish this project properly and worry about the jail at the end.

Hennessee stated the original CIP included the police station, the jail, municipal court and fire station #1. In order to maximize the impact of our funding, they intentionally tried to incorporate these into the same structure. The police station does occupy a greater portion of this structure but it is a structure for all four functions.

Warren stated he understands that, but his point is that when the discussion started prior to the CIP it didn't start because we needed a new fire station or a new court. It started because we needed a new police station and now that is where the cuts are being made.

Burk stated he will disagree because he was here and helped make this decision about how we would go forward and that is not how it was decided. It was decided that we have a court system that is in disrepair and is in a building with foundation issues with a sewer line underneath that is collapsing. The police station and the jail were the initial part because the jail was leaking sewage onto police employees. They also need to move finance and IT out of that building because it is in disrepair and we couldn't finish this building because the state did not come through with their $2 million in guaranteed money that they said they would give us through a grant. The fire station was put into this project because we could not figure out how to fit the fire trucks in the old fire station so that is the next part. He has been here from the beginning with a group of dedicated council members who worked to come up with a plan. It is not perfect and we are going to have issues along the way. He does not want to do away with things that are inside the building and that is asking too much, but it is his understanding that we would try to find a way to fund this $100,000 that would save on the exterior structure and the only thing that would not be completed is the interior build out.

Hennessee stated they will build the restroom facility but the other interior walls will not be constructed.

Burk questioned if there was heating and air in this building.

Hennessee stated yes.

Burk stated that everything will be done but the final finish of this building. He questioned if we have any ideas about how to recoup this money. He questioned when this project will be complete.

Hennessee stated right now with the weather and utility delays it will be spring of 2020.

Burk questioned if there is a way that we can do something through the general fund and figure out a way to finish that building out. Can we find some money down the road before this is finished the spring of 2020 so we can finish out the interior of this exterior building.

Tanner stated we had some change orders a few months back and the council formed a change order committee and they made recommendations to go ahead and pay based on the fact that the contractor had already done the work. Some of these change orders could have been architectural design flaws and they have not reassembled the committee to discuss possibly looking into a way to recoup some of the money from the architectural firm. He will set up another committee meeting to look into the feasibility of recouping some funds from the architect.

Davis stated the $100,000 plus they are trying to save right now is money that is already spent. If they did pass this they are in the negative and there is no one on this council who realistically thinks this is the last change order they will see. If they were to pass this, it wouldn't be two weeks and they will have another change order and what part of the building are they not going to finish. If they do this throughout this whole project they will end up with a nearly $40 million project with all kinds of things that are unfinished. He agrees that the thing to do is find a central thing that they can defer and make that the jail and finish everything else like they told the citizens they would and keep their word and look at the jail after every change order is in. He would ask the council to reject this plan and ask the engineer and the city manager to come back with a plan of deferring costs on finishing out the jail until we have everything else completed and once our funds are out we know exactly what we have left and attack a single project and a single number.

Jackson stated he does not feel we can stop a project once we have contracts.

Tanner stated he hates that they have come so far in the project but he agrees. They already have a functioning jail.

Mayor Booker stated they need to keep ideas open as they are trying to come up with solutions. They need to be creative and think outside the box. He has a lot of concerns about how we are going to pay to run this jail, that has never been addressed. He has heard that we have to fully staff the jail for the size, not how many people are in it.

MOVED by Davis SECOND by Fortenbaugh to reject. AYE: Hankins, Davis, Tanner, Fortenbaugh, Johnson, Warren. NAY: Jackson, Burk. MOTION CARRIED.

22. Consider an ordinance pertaining to the Lawton Emergency Medical Services Code, amending Sections 7-5-1-536, 7-5-1-537, 7-5-1-538, 7-5-1-539 and repealing and reserving Section 7-5-1-542, Division 7-5-1, Article 7-5, Chapter 7, Lawton City Code, 2015, by reorganizing the emergency medical services committee, stating requirements for compliance with the Oklahoma Open Meeting Act, renaming "EMSC Disciplinary Panel" to "EMSC Oversight Panel", reorganizing said panel, deleting language concerning meetings, providing for severability and establishing an effective date. Exhibits: Ordinance 19-__.

Davis stated this item is initiated by the council committee that was formed to look at this section of the code. The committee looked at cleaning up this section of the code and to reorganize the emergency medical services committee and this is a vote to reinstitute that committee and then to start the process of getting everyone that is a part of this involved in the oversight of our EMS in Lawton.

Bart Hadley, Assistant City Manager, stated this is just a repair of a section of this ordinance. The rest of it will be done by the committee at a later date. This ordinance still needs a lot of work and this is the portion that sets the committee that will actually do the rest of the work.

Davis stated the committee is set up by ordinance and this is updating the language. They tried to change as little as possible because they want the input of the members that will be on that committee.

MOVED by Davis SECOND by Warren to adopt **Ordinance 19-02**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 19-02

An ordinance pertaining to the Lawton Emergency Medical Services Code, amending Sections 7-5-1-536, 7-5-1-537, 7-5-1-538, 7-5-1-539 and repealing and reserving Section 7-5-1-542, Division 7-5-1, Article 7-5, Chapter 7, Lawton City Code, 2015, by reorganizing the Emergency Medical Services Committee, stating requirements for compliance with the Oklahoma Open Meeting Act, renaming "EMSC Disciplinary Panel" to "EMSC Oversight Panel", reorganizing said panel, deleting language concerning meetings, providing for severability and establishing an effective date of thirty days from today.

23. Consider adopting an ordinance amending Section 17-1-4-137, Lawton City Code, 2015, by providing an option for City Department Directors to allow their introductory employees to apply for other open positions within the same department; providing for severability and establishing an effective date. Exhibits: Ordinance 19-__.

Hadley stated over the past few months they have had several departments that have introductory employees and when there have been openings come up within that department, those introductory employees may have been qualified to apply for the opening but code prohibited that ability. The current code does not allow for introductory employees to apply for other positions during their six month introductory period. Staff does not recommend that this be changed to allow employees to apply in other departments, it will need to be within the same department.

Davis stated he feels this is a great idea. He confirmed that they could move to another department after the six month introductory period.

Hadley stated that is correct.

MOVED by Jackson SECOND by Warren to adopt **Ordinance 19-03**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 19-03

An ordinance pertaining to personnel policies and procedures amending Section 17-1-4-137, Chapter 11, Lawton City Code, 2015, to allow an employee on introductory status, when approved by the department director, to apply for a vacant position within the same department in which they are employed; providing for severability; and establishing an effective date of thirty days from today.

24. Consider adopting an ordinance amending Section 17-1-6-167, Lawton City Code, 2015, by establishing an option for the City Manager to utilize employees on terminal leave on a limited basis for transitional purposes; clarifying longevity benefits of employees taking terminal leave; and, correcting a grammatical error; providing for severability and establishing an effective date. Exhibits: Ordinance 19-__; July 27, 2006 City Attorney's Legal Opinion.

Hadley stated in 2006, the former City Attorney issued a legal opinion clarifying the longevity benefit language included in City Code Section 17-1-6-167. The legal opinion states that although no increase in longevity benefit is allowed while an employee is on terminal leave, employees on terminal leave do still receive the longevity benefit earned prior to beginning terminal leave. This interpretation has been followed consistently for many years, dating back to at least 2006. Recently, the interpretation of this section was questioned. To lessen future confusion and/or misinterpretation, a change to this section of the code is being proposed consistent with the 2006 legal opinion. Staff believes the change will clarify this section of the code and eliminate any future misinterpretation and/or misapplication. This ordinance also proposes an amendment which establishes an option for the City Manager to utilize employees on terminal leave on a limited basis for transitional purposes. The purpose of this amendment is to lessen the disruptive impact to departments when employees take terminal leave by allowing for some continuity on specialized projects and/or duties that the employee may have been assigned to or have particular skill in handling. In these types of situations, it would greatly benefit various departments to allow employees to continue to work on such important projects/duties on a limited basis while on terminal leave, within the discretion of the City Manager. Each day worked on terminal leave would extend the terminal leave end date by one day.

<u>MOVED by Burk SECOND by Davis</u> to adopt **Ordinance 19-04**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 19-04

An ordinance pertaining to personnel policies and procedures amending Section 17-1-6-167, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2015, by establishing an option for the city manager to utilize employees on terminal leave on a limited basis for transitional purposes; by clarifying the longevity benefits of employees on terminal leave; and, by correcting a grammatical error; providing for severability and establishing an effective date of thirty days from today.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL King stated they are looking at opportunities to expand services that they require on the installation to outside of the installation, so they are looking to Lawton to be able to provide certain services that they are now being limited on based on their future and current budget.

Warren stated on February 21st the Lawton Community Theater will have a production of The Frog Prince at McMahon Auditorium. Tickets are $5.

Johnson stated the Alpha Kappa Alpha Inc. is hosting a semi formal banquet in honor of Black History Month on Saturday at Cameron University. Tickets are $35.

Fortenbaugh stated with regards to the cost recovery item that was approved, he does not mind that they bill the insurance companies to pay back some of those services. If you get into an accident and you are injured, the first person you will see is a fireman because they will be there first. It is worth the money.

Tanner welcomed the new city manager to Lawton. He declared his candidacy for the Ward 5 council seat.

Burk stated he is a member of the National Military Communities Council through National League of Cities and the federal government expects our installations to outsource to local cities and that really helps when you go through BRAC realignment. We are currently working together on our animal welfare services and he feels there are many other things they can work together on. He is looking forward to future endeavors with Fort Sill.

Davis stated Ward 3 community meetings are held on the Monday night before every council meeting. They meet at 6:30 p.m. at the fire union building, 1116 SW C Avenue.

Hankins reported that she is attending the Lawton Citizens Police Academy. She stated it is a very informative program.

Mayor Booker stated with regards to the change order that was discussed, staff has done a good job trying to do what they were instructed to do, but the council has given direction to go in a different direction. He stated he is amazed at the passion of the city employees and he especially thanked Bart Hadley for all the help he has given him.

The Mayor and Council convened in executive session at 8:38 p.m. and reconvened in regular, open session at 9:36p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

25. 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 and FY 2019-2020 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 item #25.

Davis stated this is a two year agreement and he appreciates the council and the police union working together.

MOVED by Burk SECOND by Davis to approve a two-year agreement for Fiscal Year 2018-2019 and Fiscal Year 2019-2020 with the International Union of Police Associations, AFL-CIO Local 24, providing for among other things: For Fiscal Year 2018-2019, Increase the spread between Step F and Step G in the police pay plan from 2% to 5%, effective February 25, 2019, increase the spread between Step G and Step H in the police pay plan from 2% to 5%, effective February 25, 2019, provide a one-time incentive to eligible officers in the gross amount of $1,800.00, less all applicable taxes, deductions, withholdings and pension contributions, with said incentive payable on or before March 27, 2019. For Fiscal Year 2019-2020: Add a new 5% I step to the police pay plan, provide a double merit step increase to eligible officers who had their merit step increase frozen in Fiscal Year 2013-2014, provided no officer shall be allowed to go beyond Step I in the pay plan. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action/claim involving A.E. Construction Co. and liquidated damages, and take appropriate action in open session as necessary. Exhibits: None.

Jensen read the title of item #26. No action was taken.

27. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of John Arthur Moser, Jr. and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #27. No action was taken.

28. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in United States District Court of Chu H. Pae vs. City of Lawton, CIV-16-1198-G, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #28.

MOVED by Warren SECOND by Jackson to authorize the City Attorney to engage in mediation for the pending case in United States District Court of Chu H. Pae vs. City of Lawton, Case No. CIV-16-1198-G and to appoint Council Member Keith Jackson as the City's representative at the mediation. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:41 p.m. upon motion, second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK