

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 25, 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 6:02 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Apostle Ray Garcia, The Impact Center of Lawton, 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

PROCLAMATION HONORING PAT HENRY

Mayor Booker presented Mrs. Henry with a proclamation honoring her contributions to the community and the state.

EMPLOYEE SPOTLIGHT PRESENTATION TO JOSHUA BENAVIDES – STREETS DIVISION

The City Manager recognized Joshua Benavides, Streets Division, for his outstanding performance.

REPORTS: MAYOR/CITY COUNCIL:

Johnson stated this Thursday at 5:30 p.m. the Citizens with Solutions will meet at the Patterson Center. She stated on Friday at 6:30 p.m. the CU Empowering Women in Leadership and STEM group will be having a free conference. On March 5th the Lawton Mental Health Coalition in

partnership with the Mental Health Association of Oklahoma and Together Oklahoma is having a mental health town hall at Cameron University.

Fortenbaugh stated there is a lot of positive activity going on around town.

Hampton stated this is a very exciting time to be in Lawton/Fort Sill.

COL King announced that Armed Forces Day will be held on May 16th. Fort Sill will be holding a free concert on the installation.

AUDIENCE PARTICIPATION:

Sharon Cheatwood, 2112 NW Baltimore Avenue, reported that the Oklahoma Arts Council will be coming to Lawton for a listening session on March 30th at 5:30 p.m. at the Museum of the Great Plains. They will discuss visions, values, goals and priorities for the future.

Gregory Carroll, 802 SE 3rd Street, stated that businesses are being separated because they are in the medical marijuana business. There have been uneducated decisions made by some of the inspectors. They just need the right people to know what is going on and they need to look at some of the enforcements that are going on. He stated a lot of growers have moved outside of the city limits.

CONSENT AGENDA:

Mayor Booker stated item #3 will be discussed separately.

MOVED by Burk SECOND by Chapman 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 the following damage claim recommended for denial: Jackie Jackson in the amount of \$2,707.53. Exhibits: Legal Opinion/Recommendation.
2. Consider approving an Outside Water Sales Contract with Thomas D. Tugmon and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.
3. Consider approving an Outside Water Sales Contract with David E. Schmidt, Tanen Munoz, and Brian Rogian and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.

Mayor Booker stated he has two requests to speak on this item.

David Schmidt, 948 SE Lasso Loop, stated when he and his partners purchased this property a year ago there was no outside water agreement in place. He went through the covenants in place and it all has to do with his project which is a cannabis grow and they do have a green house on

the property. They are conscious about what they are doing with regards to pollution. There is not an HOA out there and there has been no enforcements. There are all kinds of buildings and carports. They have put a lot of effort in checking into the requirements through the OMMA, county and city. He placed a phone call to the city about the zoning and was told they could do whatever they wanted because it is a rural area. They are not trying to put 10 or 15 greenhouses out there. He has an attorney in Tulsa that has also made those phone calls to the city prior to applying for the permit. If there needs to be fences built he will build them.

Burk questioned if Mr. Schmidt is currently growing.

Mr. Schmidt stated yes.

Burk questioned if he had an OMMA license.

Mr. Schmidt stated yes.

Burk stated this subdivision was done as a residential area, not commercial. Medical marijuana is not a resident grow, it is a commercial grow. He stated the set of regulations he saw that came from some residents was that it was for residential use only.

Mr. Schmidt stated there are businesses out there that are commercial. When you put the effort in to follow the guidelines, they are not trying to force anything on anyone they are just doing what they were told they were able to do. He stated the structure of this whole project was not careless. No one out there has enforced any of the covenants and no one has said anything until it was about a cannabis grow. The green house is opaque and it is not transparent.

Burk stated he is not against cannabis, but he is against encroachment upon residential customers. Most grower try to make sure they are away from residential areas because of the smell. He doesn't know how many greenhouses will be out there.

Mr. Schmidt stated they have one now and they could have five or six. They will have a fence. The intention was not to encroach on residential, it was to talk to a person who should be educated enough to not put him in a position where he is liable for overstepping some boundaries.

Ross stated in 1987 the City of Lawton was ordered by the district court to provide outside water to Rangers Ranchettes. After that, the residents were not signing written agreements to obtain outside water. Both city code and state statutes require that any outside water sale be pursuant to a written contract. This came to staff's attention when someone representing this property applied for a building permit and it was discovered that there was a restrictive covenant that is not under the jurisdiction of the City, but it does prohibit commercial activity in Rangers Ranchettes. If the restrictive covenants are not being enforced, there is a remedy for the landowners to try to remove those covenants through court proceedings. It is not incumbent upon the City to make determinations and to be aware of restrictive covenants outside the city. Staff has prepared two contracts, one for residential use only and then a residential and commercial contract, depending on what the council chooses to do.

Rodney Dirickson, 862 SE Lasso Loop, stated he is representing the community of Rangers Ranchette. He stated the plan for this commercial water meter is to build a medical marijuana grow farm inside of their neighborhood. They all agree that they do not want this around their children or grandchildren. This goes against their covenants, which are automatically renewed every 10 years. These are single-family residential lots and not commercial. They have a covenant that lists no noxious or offensive trade that will become a nuisance to the neighborhood. They want a safe family friendly neighborhood, one that puts children first. He stated he sent a copy of the covenants to each council member to review. They are asking city leaders to vote no on this request.

Jimmy James, 1004 SE 90th, stated when he bought his property he called the city and was told he needed to call the county. He wanted to put marijuana in his shop, and he did. He called the city and was told he was in the county and he could do whatever he wanted. He called the county and was told he could do whatever he wanted. No one ever said anything to him about water and he did not have neighbors complaining. Why is everyone complaining now, is it because someone overheard someone say there will be 15 shops. Why all of the sudden is there a problem now.

Kevin Henson, 350 SE Lasso Loop, stated he does not care if anyone is growing marijuana, what he is concerned about is one road in and one road out. This house has already broken the water line once, which is how everyone knows about this now. When they came to fix it, it was discovered that there was a commercial business. He does not care if someone is growing marijuana in their garage, but they are talking about a Quonset hut, it is huge. Now the owner just said they are going to have five more. There is no fence there, and that is against the law. That lot was built for one house and five acres. There was a water line put in there in the 1970's by some deal and it is barely maintained now, do we have the capacity for a commercial operation? This is not about marijuana; it is about the size of the operation. This is about a commercial business in a residential area. They need help because the county has not fixed this with an ordinance. This is a shady deal, this is someone sneaking in and getting something done before anyone knew what was going on.

Gregory Carroll, 802 SE 3rd Street, stated this is part of the problem. If you have a cannabis facility fencing is required. A greenhouse then becomes a single building and the rules become different. Mr. Schmidt said he was going to put up a fence, maybe something can be worked out. Many of the facilities in Lawton do not have a fence built around their facility, it does not incorporate their entire property and this is where people need to have understanding and compassion. In that area, there are people that breed and sell horses, that is not residential. In addition, someone out there tests his or her vehicle from the Lawton speedway, which is a noise issue.

Burk stated he has issues with putting a commercial meter in a residential neighborhood and he is not against the operation, he is against the operation where it is currently located and proposed to be. He would like to deny the request.

Ross questioned for the commercial.

Burk stated yes.

Mayor Booker questioned if Burk would like to give them the residential contract

Burk stated yes. He questioned what would keep them from using the residential line on the grow.

Ross stated the usage is monitored. The contract gives the City the right to go onto the property to inspect.

Burk questioned if there was a home on the property.

Ross stated yes.

Burk stated he would make the motion that the residential meter is hooked to the house only. It is up to the people in the neighborhood to fight this out.

MOVED by Burk SECOND by Warren to provide a residential contract and meter hooked to the house only. AYE: Hankins, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

4. Consider a donation certificate, a consent of owners right of entry, perpetual utility easement, perpetual change of channel easements, temporary construction easement, and warranty deeds with the Oklahoma Department of Transportation (ODOT) regarding JP# 30427(05) and authorizing the Mayor and City Clerk to execute these documents. Exhibits: Documents and Right of Way plans are on file in the City Clerk's Office.
5. Consider approving appointments to boards and commissions. Exhibits: None.

Board of Adjustment

Neil Springborn
CPC Representative
Existing Member
01/27/2023

NEW BUSINESS ITEMS:

Mayor Booker stated he will turn the meeting over to Mayor Pro Tem Burk. He exited the dais.

6. Consider approving an Industrial Development Funding Agreement with the Lawton Fort Sill Economic Development Corporation (LEDC), a not-for-profit Corporation led by the community's business leaders, whereby LEDC will purchase the historic Fairmont Creamery building and grounds in order to redevelop the facility into the FIRES Innovation Science and Technology Accelerator (FISTA) staffed with high tech jobs and providing high tech training in support of the mission of Fort Sill's FIRES Center of Excellence and related missions, and the City of Lawton will furnish from 2016/2019

Industrial Development Sales Tax collections funding in the amount of \$2,500,000 in support of the project, and authorizing the Mayor and City Clerk to execute the Agreement with LEDC to ensure proper accounting for the funding.
Exhibits: Industrial Development Funding Agreement (on file in City Clerk's Office).

Burk stated he has received many calls asking him questions regarding this item. He stated they would like to tell the citizens everything they know about this project, but they cannot. They are not hiding anything and this is going to be great for Lawton. They are going to restore an amazing building and this is a unique opportunity to get federal and state support.

Brad Cooksey, President of the Lawton Economic Development Corporation, presented a power point presentation. (On file in the City Clerk's Office).

Clarence Fortney, Superintendent of the Great Plains Technology Center, stated six months ago they invested in this project by appointing James Taylor, who is their small business coordinator. They believe this project will provide great opportunities for our youth for high paying, high tech jobs.

Dr. John McArthur, President of Cameron University, stated he would like to see the opportunity for his graduates to stay here and to use what they have learned to help this community continue to grow and improve. He endorses this opportunity to put this number of companies in one place and to keep the intelligence and hard working ethic they see from citizens who graduate from Cameron University, in addition to the support it provides for Fort Sill and so many other pieces that are essential to the growth of Lawton-Fort Sill.

Warren stated everything is focused on jobs, because we cannot do all the things to run this city without citizens and keeping our children here. This is the first of some exciting things in store for Lawton and it is because of the citizens' involvement in the CIP and their willingness to put the tax money on the line.

Chapman stated this is just the beginning steps and there will be more to come. It is very exciting and so many entities are looking at us at every level. She thanked everyone who worked on this project.

Hampton stated this takes a lot of work, investment and time to plan. He likes the idea of us tying ourselves to Fort Sill and doing projects together. All of the old buildings and artifacts that are left in the city are dear to his heart and he is excited about the Farmer's Market building going in because that will enhance the downtown area and bring life back to the area. The public safety facility is also a beautiful building. If you wait too long on artifacts, it will just be too late and it would be devastating to lose that building because there are so few historical artifacts left. This will add to the downtown area and he is behind this project.

MOVED by Warren SECOND by Chapman to approve an Industrial Development Funding Agreement with the Lawton Fort Sill Economic Development Corporation and authorize the Mayor and City Clerk to execute the Agreement with LEDC to ensure proper accounting for the

funding. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren.
NAY: None. MOTION CARRIED.

(Mayor Booker returned to the council dais)

7. Consider an ordinance amending Personnel Policies and Procedures Section 17-2-9-202, Division 17-2-9, Article 17-2, Chapter 17, Lawton City Code, 2015, by removing Animal Welfare from Group #6 of the Employee Advisory Committee; amending Group #3 to include Animal Welfare; providing for severability and declaring an effective date. Exhibits: Ordinance 20-__.

Dewayne Burk, Human Resources Director, stated this item was a recommendation that came from the Employee Advisory Committee (EAC). The Animal Welfare Division is now under the Police Department so this will put them in the same group as the public safety officers.

MOVED by Burk SECOND by Warren to adopt **Ordinance 20-04**, 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 20-04

An ordinance pertaining to personnel policies and procedures, amending Section 17-2-9-202, Division 17-2-9, Article 17-2, Chapter 17, Lawton City Code, 2015, by removing animal welfare from Group #6 of the Employee Advisory Committee; amending Group #3 to include Animal Welfare; providing for severability and establishing an effective date of thirty days after passage.

8. Consider an ordinance amending Personnel Policies and Procedures Sections 17-1-4-137 and 17-1-1-102, Chapter 17, Lawton City Code, 2015, by extending the introductory period from six (6) months to twelve (12) months; amending the definition of “introductory period” or “introductory status” to reflect the twelve (12) month timeframe; allowing introductory employees to apply for vacant positions after completion of six (6) months; allowing part time employees benefits after completion of six (6) months of service; providing for severability and declaring an effective date. Exhibits: Ordinance 20-__.

Dewayne Burk stated this change brings the general employee group consistent with all three employee groups. Fire and police both have one-year probationary periods. In addition, several directors have requested an extension of the current probationary period, which is six months. They also addressed the introductory status with the part time employees getting their benefits at six months.

MOVED by Burk SECOND by Warren to adopt **Ordinance 20-05**, 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 20-05

An ordinance amending personnel policies and procedures Sections 17-1-4-137 and 17-1-1-102, Chapter 17, Lawton City Code 2015, by extending the introductory period from six (6) months to twelve (12) months; amending the definition to reflect the twelve (12) month timeframe; allowing introductory employees to apply for vacant positions after completion of six (6) months; allowing part time employees benefits after completion of six (6) months of service; providing for severability and declaring an effective date.

9. Consider an ordinance amending Personnel Policies and Procedures Section 17-1-6-161, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2015, by clarifying the years of service associated with vacation accruals for full-time and part-time employees; establishing that employees with less than twelve (12) months of employment shall not be paid for any accrued vacation balance upon separation; providing for severability, and establishing an effective date. Exhibits: Ordinance 20-__.

Dewayne Burk stated this item addresses clarification for all vacation accruals. This also solidifies the current practice of employees being allowed to receive their beginning vacation accruals at the completion of their six months, even though the probationary period has been extended to a year.

MOVED by Burk SECOND by Fortenbaugh to adopt **Ordinance 20-06**, 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 20-06

An ordinance amending personnel policies and procedures Section 17-1-6-161, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2015, by clarifying the years of service associated with vacation accruals for full-time and part-time employees; establishing that employees with less than twelve (12) months of employment shall not be paid for any accrued vacation balance upon separation; providing for severability and establishing an effective date.

Mayor Booker stated many questions have arisen about outside water sales, the policies, and the way we calculate our cost of water in order to pass that on. One of the things he discovered is that it does not appear that the \$12 million we have spent taking care of our dams in the past for years or are in the process of spending is calculated in the cost of water delivery as well as an additional \$50 million that we are using to look for additional water and that includes \$17 million for a new water plant that is included in the CIP. He stated we have an alternative water resource committee that he would like to reactivate. There are no current council members on that committee which was represented by wards 1, 5 and 6. He questioned if those council members would volunteer to be on this committee and meet to discuss various water issues including the cost and other issues associated with outside water sales. He stated Council Member Hampton will serve as the chairman of that committee.

Dewayne Burk stated the City Manager has asked him to brief the council on the EAC's requests for the upcoming 2020-2021 budget year. They have requested a 3% cost of living adjustment and they would like to see longevity pay reinstated. The City Manager has directed staff to include a 1% cost of living in the proposed budget to see what effect it will have on the budget. He has also requested staff to look at the cost of reinstating longevity pay. Longevity pay was discontinued on July 1, 2003.

STAFF REPORTS

Kara Haynes, Finance Director, presented revenue and expenditure highlights for the period ending January 31, 2020. (On file in the City Clerk's office).

Cleghorn stated he will email the City Manager's report to the council. He stated with regards to the EAC and Chapter 17, the ordinance requires twice annually that he report the request of the EAC. This fulfills that request.

The Mayor and Council convened in executive session at 7:28 p.m. and reconvened in regular, open session at 9:38 p.m. Roll call reflected all members present excluding Johnson who left the meeting at 9:10 p.m.

EXECUTIVE SESSION ITEMS:

10. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action regarding the 2008 Chevron energy performance contract and amendments related thereto between the City and OpTerra ES (formerly Chevron ES), and now known as Engie Services U.S., and, if necessary, take appropriate action in open session. Exhibits: None.

Ross read the title of item #10.

MOVED by Burk SECOND by Warren to (1) suspend the implementation of the VoIP project under the Third Amendment of the OpTerra Agreement and direct staff to enter into negotiations with Engie/OpTerra to discuss the possible termination the Third Amendment and resolution of all issues related thereto, and (2) further move to direct staff to look into other solutions for VoIP implementation. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Warren. NAY: None. MOTION CARRIED.

11. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the hiring/appointment of an interim City Attorney, to include possibly extending or amending the contract of Robert L. Ross to act as Interim City Attorney, interviewing candidates for the position of the interim City Attorney or City Attorney discuss the status of the process for hiring a permanent City Attorney, and if necessary, take action in open session. Exhibits: None.

Ross read the title of item #11.

Burk stated the council is very thankful for the service of Mr. Ross and all that he has done as the Interim City Attorney. The council will not be renewing his contract.

Ross thanked the council for the opportunity to serve.

12. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Traci L. Hushbeck as City Clerk, and in open session take other action as necessary. Exhibits: None.

Ross read the title of item #12.

MOVED by Burk SECOND by Warren to extend the contract with Traci Hushbeck with a 2.5% pay increase. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Warren, Booker. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:43 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK