MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MARCH 10, 2020 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
Tim Wilson, Deputy 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 Tony Christie, First Baptist 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
Randy Warren, Ward Eight

ABSENT:
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven

REPORTS: MAYOR/CITY COUNCIL

COL King briefed the council on the status of the corona virus with regards to Fort Sill. He stated they are using preventative measures to avoid exposure to Fort Sill and the Lawton area.

Chapman stated they are starting a neighborhood watch in the Meadowbrook/Heinzwood area. The first meeting will be April 20th at 6 p.m. at St. Paul's United Methodist Church. She commended the code enforcement division who inspected some areas in which she had some concerns. She stated she truly appreciates the work they are doing.

AUDIENCE PARTICIPATION:

Joshua Savoy, 4614 NW Meadowbrook Drive, stated there has been some vandalism problems going on in the Lawton View area on Pennsylvania. He stated the front windows of his church have been busted out and there has been vandalism to cars. They have called the police but it took 1 ½ hours for someone to get back with them. He just wanted to raise the awareness of the situation.

Mayor Booker suggested Mr. Savoy speak with the Deputy City Manager.

Garlin Hall, 3421 SW Abilene, Barnett Chapel A.M.E. Church, stated he is representing the church as well as Ranch Oaks addition. He stated the roads have some craters especially turning into the neighborhood off of 11th Street.

Burk requested the City Manager look into the situation.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF FEBRUARY 25, 2020.

<u>MOVED by Warren SECOND by Burk</u> to approve the minutes of February 25, 2020. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Warren. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Booker stated he would like item #9 to be discussed separately.

<u>MOVED by Burk SECOND by Warren</u> to approve the consent agenda with the exception of item #9. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Warren. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Jacqueline McNeal in the reduced amount of $4,852.63. Exhibits: Legal Opinion/Recommendation and **Resolution 20-14**.

2. Consider adopting a resolution approving the joint petition settlement and making payment in the workers' compensation claim of Justin Dipprey. Exhibits: **Resolution 20-15.**

3. Consider accepting a refund check in the amount of $7,180.00 from Republic Paperboard Company and approving a resolution amending the City of Lawton FY19-20 budget, as amended, by appropriating the refund to the Utility Services Division Repair and Maintenance account (050-0414-000-00-0211-0000). Exhibits: **Resolution 20-16**.

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 2020, to include the provision of necessary services as appropriate. Exhibits: None.

5. Consider allowing the City of Lawton to terminate its agreement with Vertical Communications Inc. by providing 120-days written notice to Vertical of its intent to terminate so the City can proceed as previously directed in seeking another Voice Over Internet Protocol (VOIP) solution. Exhibits: Termination letter to Vertical Communications Inc.

6. Consider approving resolution 2020-__ amending Appendix A, Schedule of Fees and Charges, Lawton City Code, as amended, by removing late fees for library material and establishing an effective date. Exhibits: **Resolution 20-17**.

7. Consider approving a "Baby Come Back Library Amnesty Opportunity" to facilitate the return of library materials by waiving of certain fee charges on delinquent customer accounts. Exhibits: None.

8. Consider accepting permanent sanitary sewer easements from Cameron University for right of way needed for construction of the North Wolf Creek Trunk Main Expansion and Upgrade #2 Project, and authorizing the Mayor and City Clerk to execute the document for the same. Exhibits: Location Map - Attached as Exhibit A. Easement Documents on file in the City Clerk's office, Legal Description on file in the City Clerk's office.

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

Mayor Booker introduced Kyndall Erricson, a Cameron PLUS scholar, who is being appointed to the Mayor's Commission on the Status of Women. He encouraged the council to consider younger people when making appointments to the boards and commissions.

MOVED by Burk SECOND by Warren to approve appointments to boards and commissions. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Warren. NAY: None. MOTION CARRIED.

Arts and Humanities Council

David Torbert
New Member
Unexpired Term 06/30/21

Max Sasseen
New Member
Unexpired Term 06/30/22

Dr. Charles Owens
New Member
Unexpired Term 6/30/20

Chance Harmon
New Member
Unexpired Term 06/30/22

Building Development Appeal Board

Michael Merritt
Fire Prevention
Existing Member

Citizens' Committee On Capital Improvement Program (CIP)

Sammie Powell
Ward 8
Existing Member
04/08/2023

Dwight Tanner
Ward 5
New Member
Unexpired Term 09/10/2021

Judy Odom
Ward 3
New Member
03/25/2023

Paula Bowen
Ward 7
New Member
4/23/22

Highland Cemetery Board

Barry Beauchamp
New Member
Unexpired Term 5/26/2022

Robert Williams
Existing member
03/28/2026

Mayor's Commission On The Status of Women

Nathaline Pool
At Large City or County
New Member
03/10/2022

Kyndall Erricson
At Large City or County
New Member
03/10/2022

Charise Walker
Ward 3
New Member
03/10/2022

McMahon Auditorium Authority

Dory Thomas
New Member

Redistricting Committee

Michael McGill
Ward 8
New Member
03/10/2025

NEW BUSINESS ITEMS:

10. Consider accepting the annual audit report on the City of Lawton for fiscal year ended June 30, 2019, as presented by BKD, LLP. Exhibits: The annual audit report for fiscal year ended June 30, 2019 will be on file in the City Clerk's Office and distributed to the Mayor/Council members immediately upon receipt from the auditors.

Joel Haaser, Managing Director for BKD, LLP, presented the audit report for fiscal year ending June 30, 2019. He stated it was an unmodified, clean opinion.

MOVED by Jackson SECOND by Burk to accept the annual audit report on the City of Lawton for fiscal year ended June 30, 2019. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Warren. NAY: None. MOTION CARRIED.

11. Hold a public hearing and consider a request for a Use Permitted on Review for the operation of a medical marijuana growing facility in conjunction with a medical marijuana dispensary for property zoned C-5 General Commercial District located at 201 SW Lee Boulevard. Exhibits: Site Plan, Location Map, Application and Draft CPC Minutes.

Richard Rogalski, Community Services Director, stated this request is for Lots 13 - 16, Block 20, Beal Addition, located at the northwest corner of SW 2nd Street and Lee Boulevard. The property is zoned C-5 General Commercial District. The applicant, David Van Hoozer, indicated that he has been approached by potential buyers and wants to be able to market the property for the operation of a medical marijuana growing facility in conjunction with a medical marijuana dispensary in the existing building. Mr. Van Hoozer does not intend to operate the medical marijuana dispensary or growing facility. The zoning of the surrounding area is R-4 High Density Apartment District and C-5 to the north, C-5 to the south and west, and I-3 Light Industrial District to the east. The land use of the surrounding area is single-family residential and tire shop to the north, commercial center and automotive body shop to the south, restaurant to the east, and used car lot to the west. The current use of this property is a used car lot.
On February 13, 2020, the City Planning Commission (CPC) held a public hearing on this request. During the public hearing, one person spoke against the request and one person spoke in favor of the request. The CPC, by a vote of 5 – 2, recommended approval of the request. The approval of a Use Permitted on Review is bound to the site plan submitted with the application. If the future owner of the property desires to expand the building or make significant changes to the site, the City Planning Commission and the City Council would have to review and approve the changes following the procedures set out in Section 18-1-1-113 of the City Code.

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

MOVED by Warren SECOND by Jackson to approve a request for a Use Permitted on Review for the operation of a medical marijuana growing facility in conjunction with a medical marijuana dispensary for property zoned C-5 General Commercial District located at 201 SW Lee Boulevard. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Warren. NAY: None. MOTION CARRIED.

12. Consider approving an ordinance adopting an employee retirement system, defined contribution plan for the City Manager of the City of Lawton, Oklahoma; providing retirement benefits for the eligible employee serving in the position of City Manager of the City of Lawton; providing for purpose and organization; providing for definitions; providing for eligibility and participation; providing for employer and employee contributions; providing for accounting, allocation, and valuation; providing benefits; providing for required notice; providing for amendments and termination; providing for transfer to and from other plans; creating a committee and providing for powers, duties, and rights of committee; providing for payment of certain obligations; providing for duration and payment of expenses; providing for vesting schedules; providing for a fund to finance the system to be pooled with other incorporated cities, towns and their agencies and instrumentalities for purposes of administration, management, and investment as part of the Oklahoma Municipal Retirement Fund; providing for payment of all contributions under the system to the Oklahoma Municipal Retirement Fund for Management and Investment; providing for non-alienation of benefits and loss of benefits for cause; adopting those amendments mandated by the internal revenue code; providing for employer pickup of required contributions; providing for repealer and severability; and establishing an effective date of June 1, 2020. Exhibits: Ordinance 20-__ and Joinder Agreement. Master Defined Contribution Plan is on file in the City Clerk's Office.

Dewayne Burk, Human Resources Director, stated this item would create a customized defined contribution pension plan for the City Manager.

Jodi Cox, Executive Director of the Oklahoma Municipal Retirement Fund, stated they are a non-profit group with no brokers or middle men making a commission on these retirement dollars. They were formed under state statute and all of their expenses at a non-profit price are pooled and spread across the state of Oklahoma. They currently administer the plan for general employees hired after 2017. They work with over 230 cities and towns across the state. He stated it is very standard for a City Manager to negotiate a separate plan. This will establish a new plan and the City Manager has determined that he wants to put in 9% of his pay so he will tax defer into the new plan. They wrote a plan provision that allows for variable employer contributions, so it is based on budget and contract negotiations if the employer is going to contribute to the plan or not. In this plan the employer contribution is not subject to FICA and Medicare and the plan maximum is higher than the current 457 plan. Over time, this will save taxpayer dollars and budget dollars because you will not have to gross that up into his wages. She stated they have about 100 city managers that have negotiated this separate plan.

<u>MOVED by Burk SECOND by Chapman</u> to adopt **Ordinance 20-07**, 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, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 20-07

An ordinance adopting an employee retirement system, defined contribution plan for the City Manager of the City of Lawton, Oklahoma; providing retirement benefits for the eligible employee serving in the position of City Manager of the City of Lawton, Oklahoma; providing for purpose and organization; providing for definitions; providing for eligibility and participation; providing for employer and employee contributions; providing for accounting, allocation, and valuation; providing benefits; providing for required notice; providing for amendments and termination; providing for transfer to and from other plans; creating a committee and providing for powers, duties, and rights of committee; providing for payment of certain obligations; providing for duration and payment of expenses; providing for effective date; providing for vesting schedules; providing for a fund to finance the system to be pooled with other incorporated cities, towns and their agencies and instrumentalities for purposes of administration, management, and investment as part of the Oklahoma Municipal Retirement Fund; providing for payment of all contributions under the system to the Oklahoma Municipal Retirement Fund for management and investment; providing for non-alienation of benefits and loss of benefits for cause; adopting those amendments mandated by the internal revenue code; providing for employer pickup of required contributions; providing for repealer and severability.

13. Consider approving a resolution approving an Economic Development Agreement by and among the City of Lawton, the Lawton Economic Development Authority, and Republic Paperboard Company, LLC, authorizing the Mayor and City Clerk to execute the agreement, authorizing the Lawton Economic Development Authority to execute such documents and to take such actions as may be necessary or appropriate to implement the

Economic Development Agreement, including approval of amendments, the submission of reports and other information as necessary for the Lawton Economic Development Authority to perform the terms of the Economic Development Agreement. Exhibits: Resolution 20-__.

Rogalski stated this economic development agreement is last step to facilitate the expansion of Republic Paperboard. He stated Republic is located within the area described as Increment District No. 3 within the Skills Training, Education, Development and Investment (STEDI) Project Plan approved by the City Council on December 10, 2019. This level of investment and new job creation is in accordance with the Non-Retail Business Economic Development Assistance Policy, Council Policy 1-11, approved on November 26, 2019. This agreement has been reviewed and approved by Republic Paperboard and the Lawton Economic Development Authority. LEDA approved the terms of the Agreement by resolution at a regular meeting held on January 23, 2020. Republic has proposed an economic development project wherein Republic will make a $94 million capital investment in both personal and real property and create twenty new permanent quality jobs with an average compensation of approximately $108,006 per year per position. In consideration of the significant costs associated with the project expansion and the creation of twenty new quality jobs in Lawton, the Lawton Economic Development Authority (LEDA) and Republic have negotiated the terms of a conditional Economic Development Agreement which provides assistance in development financing to Republic in an amount approximately equal to two times the new net annual payroll for the newly created twenty jobs, which benefit would be payable in the form of a reimbursement of a portion of the business personal property taxes generated by the ad valorem taxes in Increment District No. 3, in years 6 through 25, and for Republic's efforts to ensure the City's collection of sales and use taxes on building items, construction materials, and personal property in connection with the Project Expansion, reimbursement to Republic equal to 10% of the undedicated portion of the sales and use taxes (which is 2% of the current Lawton 4.125% tax rate) that are actually collected by the City in connection with the project.

MOVED by Burk SECOND by Warren to approve **Resolution 20-18**. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Warren. NAY: None. MOTION CARRIED.

14. Consider Change Order #14 to the contract between Flintco, LLC and the City of Lawton for construction of the Public Safety Facility. Exhibits: Change Order #14 - Public Safety Facility.

George Hennessee, Engineering Director, stated there are twelve items on the proposed change order. He reported to the council the adjustment items which have been identified since the last change order.

Burk stated he is not happy that there are so many things on here that were not identified upfront. He wants to make sure that we are taking note of all these things because he would like to sue these people who designed this facility. He is done with the City having to pay for someone else's mistakes. He stated they are fortunate that they had $500,000 in IT money to put into this or they would have already been in the hole. He promises that they will not make the July deadline because there will be something else. He stated with this change order they are adding

56 more calendar days. He feels they were very generous in adding calendar days in last time, but there comes a point where they just need to get to work. We are paying millions of dollars here. In looking at these items he does not see how we don't do it but he wants to make sure we are noting every one of these things that were left off the plan or wasn't included that any engineer or architect would say it had to be there. He is at the point where he is tired of giving more days and more money. He questioned if $136,000 would get us to the end of the job.

Hennessee stated no.

Burk stated he could agree to pay the $85,356 with 25 calendar days.

Hankins stated in PCO #60, the request for weather delays is 16 days, yet the contractor is asking for 23 days. Can the council approve only the 16 days.

Burk questioned if the 23 days were added into our number or is it the 16 days.

Hennessee stated the 16 days is a suggestion, the contractor has asked for 23 days.

Warren stated this is not the contractors fault, but the City paid millions of dollars to an architect firm that has experience with building detention facilities, yet they wanted us to build a jail that has no doors, has no security over the lighting and the wires to the lighting. He is so disappointed with the architect on this jail. They have had to spend money on items that should have been taken care of during the design process. He hopes that staff is keeping a list because they need to revisit this at the end of the project.

Hennessee stated this is a complex structure.

Warren stated he realizes that but there are some things that are just not acceptable, like the screening over the wires, that is just absurd.

Burk stated he does not see how they change the $85,356, but he is going to suggest they approve 25 days. He wants staff to stay on top of this because they need to have some relief when they get through with this.

<u>MOVED by Burk SECOND by Warren</u> to approve Change Order #14 in the amount of $85,356 and approving 25 additional days. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Warren. NAY: None. MOTION CARRIED.

STAFF REPORTS: None

There being no further business to consider, the meeting adjourned at 6:51 p.m. upon motion, Second and roll call vote.

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STAN BOOKER, MAYOR

ATTEST:

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TRACI HUSHBECK, CITY CLERK