

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MARCH 28, 2017 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Frank Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Samuel Curtis, Fort Sill Liaison

Mayor Fitch 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 Dr. Bill Schneider, St. John Lutheran Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bob Morford, Ward One
 Keith Jackson, Ward Two
 Caleb Davis, Ward Three
 Jay Burk, Ward Four
 Dwight Tanner, Jr., Ward Five
 V. Gay McGahee, Ward Seven
 Doug Wells, Ward Eight

ABSENT: Cherry Phillips, Ward Six

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO GENE LOVE

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Gene Love.

EMPLOYEE SPOTLIGHT PRESENTATION TO INGE WILSON – FINANCIAL SERVICES DEPARTMENT (STRICKEN FROM AGENDA)

PROCLAMATION FOR VIETNAM VETERANS DAY (STRICKEN FROM AGENDA)

PROCLAMATION FOR NATIONAL SERVICE RECOGNITION DAY

Mayor Fitch proclaimed April 4, 2017 as National Service Recognition Day. He presented the proclamation to Karen Flowers, RSVP Administrator.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR
MEETINGS OF FEBRUARY 28 AND MARCH 14, 2017.

MOVED by Wells SECOND by Jackson to approve the minutes of Lawton City Council regular meetings of February 28 and March 14, 2017. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated item #5 will be stricken from the agenda. Tanner requested item #4 and Davis requested item #9 be considered separately.

MOVED by Burk SECOND by Jackson to approve the consent agenda with the exception of items #5, #4 and #9. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Joey and Caitlin Torres in the amount of \$1,212.04 (**Res 17-30**) and Manual and Alene Torres, dba Sooner Lawn and Pest Control, Inc. in the reduced amount of \$4,000.00 (**Res 17-31**) and Markeia Carter in the reduced amount of \$4,000.00 (**Res 17-32**). Exhibits: Legal Opinions/Recommendations , Resolution 17-____, Resolution 17-____ and Resolution 17-____.
2. Consider accepting a donated trailer from M28 Ministries, Inc. via the Friends of the Library to be designated for library usage. Exhibits: None.
3. Consider approving a resolution authorizing amendments to the City of Lawton Investment Policy. Exhibits: **Resolution 17-33**, the amended City of Lawton Investment Policy with line outs and Resolution No. 04-57.
4. Consider directing staff to proceed with the process of placing the Harmon Park, Union Park, 35th Division Park, Mattie Beal Park properties within the Historic Preservation Overlay District. Exhibits: Location map of each park.

Tanner stated this item is co-sponsored by Councilmember McGahee. Two of the parks are in her ward. He stated this item is about preserving some of Lawton's history and these are WPA parks and if they put them in this historical preservation zoning it would help us in securing some grants and tax incentives for much needed repairs.

Mayor Fitch stated the City will be financially responsible for maintaining these parks.

Tanner stated the City is already financially responsible for keeping these parks maintained but it could help us with obtaining grants and tax incentives.

Morford stated this will have to go through the process it is not just approval tonight.

Davis questioned the likelihood of receiving grant money.

Tanner stated he is not sure, but it increases our chances better than what we have right now.

Jackson stated the main thing is that this prevents anyone from getting rid of them or tearing anything down.

MOVED by Tanner SECOND by McGahee to direct staff to proceed with the process of placing the Harmon Park, Union Park, 35th Division Park, Mattie Beal Park properties within the Historic Preservation Overlay District. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

5. Consider authorizing staff to investigate the disposal of four parks/properties, including Woods Park, Airport Park, North Legion Park, and unused property near Lake Ellsworth that have each been identified as potential surplus public properties of limited recreational value to the City of Lawton. Exhibits: Park Location Map and Aerials.
STRICKEN
6. Consider accepting Fiscal Year 2017-2018 grant funds in the amount of \$40,000 from the Federal Corporation for National and Community Service (CNCS) for the Retired and Senior Volunteer Program (RSVP). Exhibits: Federal CNCS Notice of Grant Award.
7. Consider approving the construction plans for an 8-inch sanitary sewer line to serve the proposed Murphy's Oil development located on the southwest corner of W Gore Boulevard and SW Sheridan Road, subject to conditions. Exhibits: Location Map.
8. Consider approving Change Order #1 and accepting the SE 45th Street Water and Sewer Line Relocation Project #2015-08 as constructed by Southwest Water Works, LLC and placing the Maintenance Bond into effect. Exhibits: Change Order #1 and Request for Additional Days Letter, on file in City Clerk's Office.
9. Consider a one year lease contract for the large hydraulic excavator with C.L. Boyd Co., Inc., of Oklahoma City, Oklahoma and authorizing the Mayor to execute the contract. Exhibits: Contract with C.L. Boyd Co., Inc., of Oklahoma City, Oklahoma.

Davis questioned if this was the fourth year on this lease and questioned how long we were going to continue the lease.

Ihler stated we have been leasing this particular equipment for three years and after three years we have to go back out for bids and these are the only two companies that did submit bids. This is the first year of this second go around. In talking with the sewer rehab supervisor, he believes we are going to have to lease for 18 months to 2 more years.

Davis stated so one additional year after this.

Ihler stated that is correct.

Davis questioned if the cost was the same as the previous three years.

Ihler stated he does not recall the cost of the first year, but it reduced by half the second year and the third year reduced to the \$3,876. They are giving it to us at the same price they did last year.

Davis requested staff get him the numbers.

Ihler stated he would.

MOVED by Davis SECOND by Tanner to approve a one year lease contract for the large hydraulic excavator with C.L. Boyd Co., Inc., of Oklahoma City, Oklahoma and authorize the Mayor to execute the contract. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

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

Lawton Access Board

Ray Polk
3503 W Gore Blvd
Lawton, Oklahoma 73505
New Member

Housing Authority

Terry Jones
1908 SW 24th Street
Lawton Oklahoma 73505
4/27/20
Existing Member

Traffic Commission

Randy Somerlott
3018 NE Lancaster
Lawton Oklahoma 73507
Existing Member
4/26/20

Robert Kelso
2515 NW 38th Place
Lawton, Oklahoma 73505
Existing Member
4/26/20

David Means
PO Box 665
Lawton, Oklahoma 73502
Existing Member
04/26/20

11. Consider approval of payroll for the periods of March 13 – 26, 2017.

OLD BUSINESS ITEM:

12. Consider the following damage claim recommended for denial: LaShonda Bernstine in the amount of \$575.00. Exhibits: Legal Opinion/Recommendation.

Tanner stated several councilmembers requested that staff look into the lagoon issue regarding this claim.

Kelea Fisher, Assistant City Attorney, stated there was a sewer claim from October 2016 in the amount of \$575 and she has recommended denial of the claim because there was no history on the lift station which was one segment downstream from her home and there was no history on that sewer line. There were questions raised about the lift station and she has asked Britt Hubbard, the construction inspector for the sewer system technical division, to be in attendance. She also sent a letter to the claimant advising her to be here tonight. She stated she has obtained no information that has changed her original recommendation to deny the claim.

Tanner stated if the pump station is working properly then they wouldn't have to use this sewage lagoon.

Britt Hubbard, Construction Inspector for the Sewer System Technical Division, stated not necessarily. That sewage lagoon is one of the four components of the lift station. Sometimes if they are doing maintenance they will have that water go directly over to that lagoon. Other times they have had a power outage that shut off pumps and that allowed the water to go to the lagoon. The lagoon is set up to hold at least 24 hours of wet weather flow which is a high flow on the sewer system in that area.

Tanner questioned if the sewer lagoon reached its capacity, would that cause a backup into the main sewer line. The citizen is claiming that because of the overcapacity in the sewage lagoon it backed up in the main sewer line.

Wells questioned if only her line would be affected if it started overflowing.

Hubbard stated both pumps would have to fail and then the sewage lagoon would have to fill up. At that point it would start backing into the main. He stated they have no records of having any issues with that lift station before or after October 2016. He stated they have trucks out there because of normal maintenance and sewage going into the lagoon can be part of the normal maintenance also. It just depends on what they are doing and what is going on out there.

Mayor Fitch stated it would be normal to see a maintenance truck at these lift stations. He stated they check these periodically.

Hubbard stated they go by all of the lift stations and look at things on a regular basis.

McGahee stated the claimant said there was always someone out there working on the pump station and that was a concern. She stated the council did not realize that someone could be out there every day for preventative maintenance.

Hubbard stated it may not be every day, but they will be out there on a regular basis throughout the week.

Burk stated there are several lift stations on the east side where they have had some issues but the city crews stay on top of those lift stations and they are constantly monitoring these so seeing someone there does not mean there is an issue. He stated sometimes in town you may see a flush truck at a main and sometimes that is just regular maintenance. There is a lot of work that goes into keeping our lines free and clear of debris.

Tanner stated he wished the claimant was here because she did a really good job at the last council meeting pleading her case. He stated we see a lot of people file a lot of claims against the City and some are very extravagant, but this lady just wanted the \$75 she paid the plumber and the \$500 deductible she paid on her insurance.

Davis clarified that there is no history of any pump failure or back up in that sewer line in the past two years.

Hubbard stated he went back three years in their records and in that time there was a pump failure, the electricity had gone off and water had gone into the lagoon and they hooked up an auxiliary pump. Those things have happened but it is not a failure of those components that made the main back up.

Davis clarified that our main has not backed up.

Hubbard stated they have no history on her main being backed up or any history on the City's main upstream backing up either.

MOVED by Wells SECOND by Morford to deny the damage claim of LaShonda Bernstine in the amount of \$575.00. AYE: Morford, Jackson, Burk, McGahee, Wells. NAY: Davis, Tanner. MOTION CARRIED.

NEW BUSINESS ITEMS:

Mayor Fitch stated they will address item #17 because there are people in attendance from out of town.

17. Consider adopting a resolution fixing the amount of 2017 Street Improvement General Obligation Bonds to mature each year; fixing the time and place the bonds are to be sold; designating a paying agent/registrar; approving the preliminary official statement and distribution thereof; ratifying and confirming a continuing disclosure agreement; authorizing the City Clerk to give notice of said sale as required by law and fixing other details of the issue. Exhibits: Resolution 17-__.

Chris Gander, Bank of Oklahoma, stated this resolution sets the date, time and place to receive bids on the first issue of the recent election for street improvements. Bids will be due at 11:00

a.m. on April 25th and they will be in attendance at the council meeting that night to report the bids they received and then council will award the bid.

MOVED by Wells SECOND by McGahee to adopt **Resolution 17-43** fixing the amount of 2017 Street Improvement General Obligation Bonds to mature each year; fixing the time and place the bonds are to be sold; designating a paying agent/registrar; approving the preliminary official statement and distribution thereof; ratifying and confirming a continuing disclosure agreement; authorizing the City Clerk to give notice of said sale as required by law and fixing other details of the issue. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

Mayor Fitch stated the properties at 401 SW 13th Street and 10 NW 58th Street will be stricken from the agenda.

Tanner stated they are giving folks an opportunity to voluntarily comply.

13. Hold a public hearing and adopt a resolution declaring the structures located at 401 SW 13th Street (**Stricken**), 520 SW Sheridan Road, 614 SW 23rd Place, 908 SW Jefferson Avenue, 914 SW 8th Street, 914 SW 9th Street, 1315 SW G Avenue, 1714 SW A Avenue, 1718 NW Smith Avenue, 2209 NW Pollard Avenue, 10 NW 58th Street (**Stricken**) and 7209 NW Maple Drive to be dilapidated and a public nuisance, ordering the owner to abate the nuisance, authorizing summary abatement, and authorizing the City Attorney to commence legal action in District Court to abate the nuisance. Exhibits: Resolutions and exhibits for each property.

Jackson commended Mr. Leach for bringing this many properties forward. Blight and dilapidated houses are a major problem in the city of Lawton and he receives these calls on a continuous basis.

520 SW Sheridan Road

Joshua Leach, Neighborhood Services Supervisor, reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since November 2006. Leach presented photographs of the property

PUBLIC HEARING OPENED

Ellen Davis, property owner, stated she has been doing a green demo and she recently reapplied for the permit. She stated her permit did expire but she applied for a new one this morning. She stated the office part is being torn down and she has already restored the garage in which she plans to keep her horse trailer. She stated that staff did get the property owner behind her to move his vehicles and that is why she has not been able to work on the property.

Leach stated he did receive an email today that her permit was extended.

Mayor Fitch questioned if there is anything staff can do to monitor her progress because she got the permit before the property was placed on the D&D list.

Leach stated they can monitor her for 30 days and see how she progresses.

Tanner stated this is in his ward and she did get a permit. When citizens come forth, he feels it is the council's responsibility to give them a chance. He stated this is the second time.

Ms. Davis stated she had a buyer and it fell through so she did continue with the green demo.

Jackson questioned if Ms. Davis was searching for a buyer or is she trying to bring the property up to code.

Ms. Davis stated she decided to keep the garage to store her horse trailer.

PUBLIC HEARING CLOSED

McGahee questioned how many days she had to comply if it is on the D&D list.

Leach stated once it is on the D&D list she would have 30 days to get a remodel or demolition permit. After 30 days she would have a 90 day window to complete the work.

Jackson stated staff will monitor her progress and if she is not making any progress in 30 days we will take it.

MOVED by Tanner SECOND by Jackson to table for 30 days. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

614 SW 23rd Place

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated there was a fire at this location on August 16th and utilities were turned off at that time. Leach presented photographs of the property

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

MOVED by Davis SECOND by Burk, to adopt **Resolution 17-34** declaring the structure located at 614 SW 23rd Place to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

908 SW Jefferson Avenue

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated there was a fire at this location in February 2009 and utilities were turned off at that time. Leach presented photographs of the property.

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

MOVED by McGahee SECOND by Morford, to adopt **Resolution 17-35** declaring the structure located at 908 SW Jefferson Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

914 SW 8th Street

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the utilities were turned off in May 2013. Leach presented photographs of the property.

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

MOVED by McGahee SECOND by Jackson, to adopt **Resolution 17-36** declaring the structure located at 914 SW 8th Street to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

914 SW 9th Street

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the utilities were turned off in April 2014. Leach presented photographs of the property.

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

MOVED by McGahee SECOND by Wells, to adopt **Resolution 17-37** declaring the structure located at 914 SW 9th Street to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

1315 SW G Avenue

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the utilities have been inactive since October 2014. Leach presented photographs of the property.

PUBLIC HEARING OPENED.

Roger Jefferies, 609 SW Monroe, stated his family owned that shop area for numerous years and when his dad passed the property was in probate so they couldn't do much. He is not asking to try and save the property but he is requesting a little more time to get the items out from the shop. He is trying to cooperate as much as he can.

Tanner stated he does not see a problem giving Mr. Jefferies time to get in and get his items out of the property. He stated Mr. Jefferies still has the option to get a discount at the landfill. He questioned if Mr. Jefferies could get it out in 30 days.

Mr. Jefferies stated he should be able to get his items off the property and he will stay in touch.

PUBLIC HEARING CLOSED.

Davis stated it is his understanding that once it is on the D&D list they do not have to give them special permission to be able to retrieve things.

Mayor Fitch stated they do not need to give them special permission, they have 30 days to get a permit to renovate or get his stuff out.

MOVED by Tanner SECOND by Jackson, to adopt **Resolution 17-38** declaring the structure located at 1315 SW G Avenue to be a dilapidated public nuisance and give the owner 30 days to retrieve his items from the building. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

1714 SW A Avenue

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated there have been no utilities since June 2016. Leach presented photographs of the property.

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

MOVED by Tanner SECOND by Burk, to adopt **Resolution 17-39** declaring the structure located at 1714 SW A Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

1718 NW Smith Avenue

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated there have been no utilities since November 2004. Leach presented photographs of the property.

PUBLIC HEARING OPENED.

Shelby Poindexter stated this is her grandfather's building and he passed away several years ago. She stated her family has tried to sell it and they have no desire to keep the building.

Jackson stated this has been a problem for a number of years and the value of the property would increase if the building was gone. He stated if they put it on the D&D list they will still own the corner but we will take the building down.

Ms. Poindexter stated she does not know how to go about doing anything with the property.

Jacksons stated the neighbors have been calling and they are demanding that something be done with the property.

Tanner stated if the City tears down the property we will put a lien on the property and when it sells that lien will have to be satisfied.

PUBLIC HEARING CLOSED.

MOVED by Jackson SECOND by McGahee, to adopt **Resolution 17-40** declaring the structure located at 1718 NW Smith Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

2209 NW Pollard Avenue

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated there have been no utilities since February 2015. Leach presented photographs of the property.

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

MOVED by Morford SECOND by Burk, to adopt **Resolution 17-41** declaring the structure located at 2209 NW Pollard Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

7209 NW Maple Drive

Leach reported this property has previously been to council but this is a foreclosure and a new company has gotten involved in the process so they needed to give them notice. He reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated there have been no utilities since October 2013. Leach presented photographs of the property.

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

Wells questioned if they could legally put it on the D&D list if there is a new mortgage company involved.

Leach stated yes, this will give the new company notice and a chance to be heard.

MOVED by Wells SECOND by McGahee, to adopt **Resolution 17-42** declaring the structure located at 7209 NW Maple Drive to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

Jackson requested that they receive some follow up information on these properties like when they are actually torn down.

14. Consider an ordinance amending Personnel Policies and Procedures Section 17-1-4-132, Division 17-1-4, Article 17-1, Chapter 17, Lawton City Code 2015, by inserting language specifying that prior to reclassification of positions, written notice shall be provided to the mayor and councilmembers; providing for severability, and establishing an effective date. Exhibits: Ordinance 17-__.

Tanner stated this started three years ago when Mr. Long was the City Manager. Citizens had approached him with some maintenance needs that needed to be done in 35th Division Park and he brought these up to Mr. Long who told him he didn't have the money but would put it in the next budget. He stated a month later they had a second assistant city manager and this person just popped up out of nowhere. Mr. Long never consulted him or informed him, this was just a position that showed up and it puzzled him how that happened. He stated a few weeks ago a citizen asked him why we were hiring a public relations specialists and he told them he didn't know anything about it. He stated if we create a new position it has to go through the budget process and the council gets to say if they agree with it or not. Under chapter 17 the council has given the city manager and the directors the authority to reclassify, which is not a bad thing, but in his opinion when you have another assistant city manager, you are actually creating a new position and he feels this needs to go through the budgetary process. He feels that with this public relations specialist, that is creating a new position and it is not necessarily a reclassification. He is asking that when these positions are being reclassified they get notified by the city manager in advance. He would like for the issue to be on the agenda for discussion and the council to have the ability to say yes or no. Some of the comments he has heard about this public relations specialist is if it would be better to hire this person or perhaps hire two grass mowing specialists or some specialists in filling in potholes or some concrete finishing specialists.

Davis stated this requires that the council be notified and he would like to make an amendment that it act like it does through the normal process and go through the budgetary process and that the council has to provide approval and not just be notified. He stated a reclassification to this measure is a policy issue more than a procedure issue. He would like to make an amendment that is requires city council approval, it is not that big a deal to put it on the agenda and that way the council knows about it and they can answer the citizens. He has gotten a lot of questions about this as well and he had no idea what they were talking about.

Tanner questioned if they could make an amendment to this item.

Jensen stated Councilmember Tanner originally requested advance written notice only. If the amendment is going to be to require approval of the city council, then they take out the line he added and at the end of the last line they say "upon the approval of the city council" instead of the city manager.

Mayor Fitch stated Councilmember Tanner was talking about the situation when the second assistant city manager was brought into play by Mr. Long and the city manager is now Mr. Ihler and Mr. Russell was the assistant city manager as well as Mr. Hadley. Mr. Ihler inherited this situation and now he is looking at not filling the second assistant city manager position at \$100,000 plus a year.

Tanner questioned if they are completely doing away with the second assistant city manager.

Mayor Fitch stated yes and they are filling it with a lesser paid public information position. This is something that the council has been talking about for some time and they wanted to put that in the budgetary process. He stated in creating a new position he feels those items should go through the budget process and when Mr. Long created that second assistant city manager position, the budget should have been brought into consideration at that time. He does not recall how that was handled.

Tanner stated it wasn't in the budget, they never discussed it. It always puzzled him how that happened, and when this came up and he asked staff to help him out on at least being notified, then he realized that this is actually some authority that councils in the past have given any city manager, which is the ability to reclassify positions. He is not against it, in some instances it is good. To him, another assistant city manager is a new position and a public relations specialist is a new position.

Mayor Fitch stated the second assistant city manager position was created and it was apparently was not handled correctly, but it is over with and now Mr. Ihler is eliminating that position and having a public information officer take that position at a lower salary.

Ihler stated at the last council meeting Councilmember Tanner brought this up and told him at that time that he had no problem notifying the council that he was going to be reclassifying the position. He stated ever since he became city manager on multiple occasions several councilmembers have come to him and said that we really need a public information officer. Those were part of the duties of the assistant city manager for administration and the reason he chose the reclassification route was so he could remove those duties of the assistant city manager and left those duties that deal with public information and that is why the salary reduction is approximately \$35,000.

Mayor Fitch stated when you are talking about reclassifying a concrete finisher who is being promoted to a supervisor, he feels that is micromanaging and that is the job of the city manager.

Tanner stated the spirit of this part of the city ordinance when it comes to reclassifications is geared more toward someone who is a concrete finisher and they have moved up the ladder. What they are doing here is creating a whole new position.

Mayor Fitch stated they are not, this is part of the duties of the second assistant city manager. Now they are doing away with the duties of the assistant city manager and redistributing some of those duties between the city manager and the current assistant city manager.

Tanner stated he shows up one day and all of the sudden there are two assistant city managers and to him that is a created position and it is the council's responsibility to decide whether or not we need a second assistant city manager. He wants to prevent this in the future.

Wells questioned if Ihler is going to do any more reclassifications outside of the budget process.

Ihler stated he will follow the process as it relates to our budget process. The department heads submit any requests for reclassifications to the HR department and they must submit those by December. The HR department reviews them and then makes a recommendation to the city manager and if approved they are incorporated into the budget in July. He cannot say that he would not reclassify a position if we were underutilizing an individual that has talent.

Wells stated that now if the city manager wants to do this he needs to notify the council.

Ihler stated the ordinance as it is written today allows the city manager to do this without it being part of the budget process.

Tanner stated with Councilmember Davis' amendment the council will be notified and the item will be on the agenda for council approval. He does not see what the big deal is, it only takes a couple weeks to do something like this.

Wells stated he does not know how the second assistant city manager position was created, but in the process they did away with the public works director position and brought that position up as the assistant city manager and then developed a different structure in the public works department. It was really a reclassification of that super public works director position.

Ihler stated that he was contacted and told that council wanted someone at city hall to provide information about public works type projects and he was told by the city manager at that time that he wanted him to report to city hall and that he was changing his title, he did not change his pay, and all of the sudden he was the assistant city manager of operations. He had the same type duties but he had greater interaction with council.

Davis stated they are in the weeds a little bit talking about the PR position. This is not going to affect this position at all as it is not an emergency ordinance. He stated this will avoid this very thing they are doing right now. This ordinance solves the problem of the council not knowing what is going on. From this point on they will not only know, but will have a record of how they voted on it. When citizens asked why a position was created or reclassified, they will know. It is a simple process to put it on the agenda, have a discussion and then vote on it.

McGahee questioned if this PIO position is the only job that has been reclassified. It sounds like that occasionally, through day to day operations, the city manager may reclassify an employee.

Ihler stated in his short time as city manager, the only reclassifications that he can recall have been through the budget process.

McGahee stated she does agree that if a job is reclassified she would like to know if there is a position open. She is satisfied with having the council notified.

Mayor Fitch questioned if they are talking about the department head level. How far down the line are they talking about notification.

Davis stated they are talking about reclassification. He questioned how many times Mr. Ihler has reclassified other than through the budget process.

Ihler stated he does not recall he has had any as the city manager. As the public works director there may have been one or two a year.

Davis stated they are not talking about a giant workload here, they are talking about reclassification other than through the budget process. If it is necessary to create or reclassify a job without using the normal budgetary process, this is just ensuring that they do it like they normally do it and there are no loopholes in here. This would have been one time in two years that this would have happened and this discussion would have been avoided.

Jackson stated he has been on the council a long time and he feels we are entering a dangerous area attempting to micromanage and take authority away from the city manager. Most of the positions that are created are done through the budget process and they get an opportunity to approve new positions. He cannot see the city manager having to waste his time notifying the council when he gets ready to reclassify a rec aide I to a rec aid II or a secretary I to a secretary II position over and over and just micromanage this city government.

Davis stated he wants to be clear and that is a misuse of the term “micromanage” by Councilmember Jackson. It is not micromanaging when you have one instance in two years that this covers, you cannot call this micromanaging. The citizens don’t vote on the city manager, they vote on their city council members and they expect them to look out for their best interest. If there is a job reclassified or created, the citizens want to know why we are paying nearly \$70,000 for an information officer. The council does not even have a say, it is a policy decision. He has received multiple phone calls and messages about this and he responds to every single one of them. He does not have the privilege of sitting back and ignoring them and if he has to answer this, they deserve the right for him to vote on this.

Tanner stated the city manager has authority because the city council has chosen to delegate this authority to the city manager’s position. This is something that was done years past. The city charter says “all powers of the city, including the determination of all matters of policy, are vested in the council as indicated herein. The council shall have power, subject to the state constitution, law, and this Charter. To adopt the budget, raise revenue, and make appropriations; and to regulate bond elections, issuance of bonds, sinking funds, the funding of indebtedness, salaries, wages, and other compensation of officers and employees, and all other fiscal business of the city”. They have delegated the authority to the city management position to do these reclassifications and in his opinion, they are talking about the lower level positions. They were not talking about creating a new position like an assistant city manager and/or a public relations specialist who is now taking on half the duties of the former assistant city manager. He feels they need to table this and look into it a little deeper and polish it up a little better.

Burk stated when they passed this years’ budget there were two assistant city managers. At some point they hired a city manager and they gave him the authority to manage city business. The council sets policy and budget. The city manager cannot go over the budget or increase something that goes above and beyond what authority the council gives him. There are always

people being reclassified by department directors that come in and say something has to be changed. The city manager manages this, it is not the job of the council. As long as those dollars are accounted for and that money is spent as they said and unless the city manager goes over that, they hired him to do a job. He agrees with Councilmember Jackson that there comes a point when they are micromanaging the people they hire to do their job. He is okay with the council receiving notification. The city manager has taken a position and saved us \$30,000 and split the duties and he does not know how those two will handle all the duties they have today and they need someone to help get the correct information out. He stated the county has a PIO, Lawton Public Schools has a PIO, Fort Sill has a PIO and the police department has a PIO. There is a reason for that, so that you get the correct information out to the correct people. He does not have a problem with the original version of this item but he cannot support telling the city manager that he can never reclassify something that he feels needs to be reclassified, as long as he does not go over the money he is given to spend.

Morford stated there are only four people that the council hires and they hire the city manager to run the city and that is what they are paying him for. The council does not hire any other individuals than those four.

Tanner stated the citizens elected the council members to monitor the function of any office, department or agencies of the city government. It is not just to give everything to the city manager and just accept what he does. He questioned if they needed people that repair the streets or mow the grass in the parks less than they need this PR specialist. In his opinion the money would be better spent in other areas at this point in time. It would be nice if the council had the ability to help make these decisions, not that they wouldn't go along with the city manager, but it is part of their responsibility to make sure that the citizen's money is spent wisely and he does not feel that a PR specialist right now is the right way to spend that money.

Mayor Fitch stated you are spending \$30,000 less a year than you were.

Burk stated when they went out for a vote of the people on the roads, Councilmember Tanner voted no and the rest of the council voted yes to get the bond passed. He stated they have fought to get things done and millions of dollars in CIP projects are on the ground because this council has pushed it forward. He will support that the council be notified but he will not support the fact that the city manager has to come to the council to get approval every time he moves the weed eater guy over to the mowing position. He does not need to micromanage that.

Davis stated Mr. Ihler has reclassified one job in the past two years. The council has the authority and they do this every single year in the budget process, so to say that they are micromanaging this position, then why do they even go through the budget process at all. This is just closing a loophole that in between the budget year reclassifications still have to be voted on by the city council. It is not micromanaging, it is allowing the city council to have the authority they are given in the charter. He stated this is not about the PR position, this is about the citizens wanting to know why there was a reclassification and \$70,000 spent and it is not true to say that we saved \$35,000, we weren't spending \$107,000 and it is their ability to approve whether they rehire an assistant city manager or reclassify that position. They do it through the budget process every year and by not approving this they are neglecting their responsibility.

MOVED by Burk SECOND by Morford to adopt **Ordinance 17-07**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today.

SUBSTITUTE MOTION by Davis SECOND by Tanner to adopt **Ordinance 17-08**, removing the line to notify city council and replace with line to require city council approval, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Davis, Tanner. NAY: Morford, Jackson, Burk, McGahee, Wells. MOTION FAILED.

(Title read by City Attorney)

Ordinance 17-07

An ordinance amending personnel policies and procedures Section 17-1-4-132, Division 17-1-4, Article 17-1, Chapter 17, Lawton City Code 2015, by inserting language specifying that prior to reclassification of positions, the city manager shall obtain the approval of the city council; providing for severability, and establishing an effective date.

VOTE ON ORIGINAL MOTION: AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-07

An ordinance amending personnel policies and procedures Section 17-1-4-132, Division 17-1-4, Article 17-1, Chapter 17, Lawton City Code 2015, by inserting language specifying that prior to reclassification of positions, written notice shall be provided to the mayor and councilmembers; providing for severability, and establishing an effective date.

15. Consider approving an ordinance pertaining to Offense and Crimes, reusing repealed and reserved Section 16-5-1-543, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2015, by renaming the section; defining terms; prohibiting the improper use of unmanned aircraft around critical infrastructure facilities; providing for exceptions and penalties; providing for severability and establishing an effective date. Exhibits: Ordinance 17-__.

Tim Wilson, Deputy City Attorney, stated this is an ordinance created in response to state law that went into effect last November. For critical infrastructure facilities it will become illegal or prohibitive to operate an unmanned drone or aircraft within 400 feet above a critical infrastructure facility or in a way that interferes with a critical infrastructure facility or an object that causes a disturbance. There are exceptions for the government or if you have consent from the person using the critical infrastructure facility otherwise it will prohibit drones from getting within a distance from these facilities.

Mayor Fitch stated that basically this is just following the state statute.

Wilson stated that the state law does not provide for criminal penalties it just provided for civil penalties.

Jensen stated the law was under the chapter of criminal offenses, but for some reason they didn't include a criminal penalty and we are recommending that we do so.

Davis stated they are talking about these little drones that people can buy at the toy store.

Wilson stated there is a definition in the ordinance for unmanned aircraft.

Davis questioned if it would be a violation of this ordinance for a child to go out in the neighborhood to fly this toy over his house.

Wilson stated it would not as long as his house is not near a critical infrastructure facility.

Davis questioned the definition of a critical infrastructure facility.

Wilson stated these would be facilities such as a city dam, electrical power generating facility, chemical manufacturing facility, etc. There are at least 15 definitions in the ordinance. He stated you can fly your drone in a park as long as it is not violating any FAA regulations.

Davis stated if the kid's neighborhood was next to a critical infrastructure and he was flying his toy, then he would be in violation.

Wilson stated if he were to fly with less than 400 feet above the critical infrastructure facility or where the unmanned aircraft makes contact with the critical infrastructure facility or any person or object on the premises of that facility or if somehow it gets close enough to interfere with the operation.

Jensen stated the answer to the question is yes. What you are calling a toy they are calling unmanned aircraft as defined. You are talking about juveniles and we don't charge juveniles in municipal court.

Davis stated kids lose control of these all the time and they go off. If it were to go into a critical infrastructure facility they would have committed a crime.

Wilson stated potentially yes.

Davis stated playing with a toy.

Jackson stated as written in the background information, on November 1, 2016, a state law went into effect restricting the use of unmanned aircraft near critical infrastructures. So that means that we are simply trying to adhere to state law that has already been passed.

Jensen stated it is already a violation, but the state law did not put in any criminal penalties, they put in civil penalties. We are not going to be charging anyone under 18 in municipal court.

Morford stated the council passed an ordinance last summer and they went by FAA regulations that say that you can't fly a drone within 5 miles of the airport and the whole city of Lawton is within that.

Jensen stated that is a no drone zone that he and the Airport Manager created around the airport.

Morford stated that would mean that it is against the law to fly a drone in Lawton.

Jensen stated they are just trying to avoid a serious violation.

Wells stated there is a federal regulation that you can't fly a drone above 400 feet and ours is that you can't fly it under 400 feet around critical infrastructure, but up to 400 feet a child could fly a drone anywhere that is not critical infrastructure. You have to have a license to fly above 400 feet.

Tanner stated if a young person is flying a drone and it gets off course by accident, that does not mean that the police officer is going to throw the book at them.

MOVED by Wells SECOND by McGahee to adopt **Ordinance 17-08**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Morford, Jackson, Burk, Tanner, McGahee, Wells. NAY: Davis. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-08

An ordinance pertaining to offenses and crimes, reusing repealed and reserved Section 16-5-1-543, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2015, by renaming the section "improper use of unmanned aircraft; exceptions and penalty", defining terms, prohibiting the operation of unmanned aircraft over critical infrastructure facilities, excepting conduct of specified entities or persons, prescribing penalties for violations, providing severability and declaring an effective date of thirty days from today.

16. Consider an ordinance pertaining to Personnel Policies and Procedures amending Sections 17-1-4-135 and 136, Division 17-1-4, Article 17-1, Chapter 17, Lawton City Code, removing the provision for a step increase after an employee's initial six months of employment, requiring instead one year of service prior to being eligible for a step increase, deleting obsolete language, providing for severability and establishing an effective date. Exhibits: Ordinance 17-__.

Chase Massie, Human Resources Director, stated this came to council about a year and half ago but was turned down because staff did not have some of the statistics related to cost savings. He stated the Employee Advisory Committee (EAC) has recommended approval. The cost savings over a three year period is \$340,000. This item does not affect any current employees or employees hired prior to May 1, 2017. No current employees that are due a six month step would be affected. Those hired after May 1, 2017 would receive a step on their one year anniversary assuming they receive a satisfactory performance evaluation.

Wells stated they would go from step A to B in one year instead of step B in six months.

MOVED by Wells SECOND by Jackson to adopt **Ordinance 17-09**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Morford, Jackson, Burk, Tanner, McGahee, Wells. NAY: Davis. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-09

An ordinance pertaining to personnel policies and procedures amending Sections 17-1-4-135 and 136, Division 17-1-4, Article 17-1, Chapter 17, Lawton City Code, 2015, removing the provision for a step increase after an employee's initial six months of employment, requiring one year of service prior to being eligible for a step increase, deleting obsolete language, providing for severability and establishing an effective date of thirty days from today.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Curtis stated Fort Sill and the Dolese quarry is partnering for a 5k run this Saturday. It will start at 9 a.m. and you can register on line or at 8 a.m.

There being no further business to consider, the meeting adjourned at 8:09 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK