MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 11, 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

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 Minister Dewayne Hall, Get the Word Out, 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
Cherry Phillips, Ward Six
V. Gay McGahee, Ward Seven

ABSENT:
Doug Wells, Ward Eight

PROCLAMATION FOR SAFE DIGGING MONTH

Mayor Fitch proclaimed April 2017 as Safe Digging Month in the city of Lawton. He presented the proclamation to Keith Marple, Centerpoint Energy, who encouraged everyone to call 811 before they dig.

AUDIENCE PARTICIPATION:

Rev. Dr. Clarence Luckey, President of Lawton Branch of the NAACP, 1512 Washington Avenue, stated he and the members of the NAACP are in attendance to present a proposal to the city council to establish a citizens' review board. He stated the council received a proposal in March 2017. The review board will ensure an open controlled process for citizen complaints and grievances to be heard and reviewed fairly and impartially involving members of the Lawton Police Department. He stated their national office encouraged them to create a commission to investigate individual claims of discrimination within law enforcement agencies. He stated this review board will ensure public accountability over the powers exercised by the members of the Lawton Police Department and they are asking for the support of the council. (He presented the proposal to Mayor Fitch).

Mayor Fitch requested that Dr. Luckey present his agenda to the city manager and set a date when representatives can meet with the city manager, Chief Smith and the city attorney.

Michael Sneed, 1418 NW Logan, stated he just returned to Lawton and he would like to know what is going on with beautification in Lawton. He was here 13 years ago and some roads have not been improved. He stated there is trash in front of properties and he feels the owner should be held accountable for their areas. He wants to do something to help the beautification of Lawton.

Mayor Fitch stated Lawton Enhancement Trust Authority (LETA) is a beautification organization within the city and Councilmember Burk is the chairman and they have made great strides in beautification. As far as the road conditions, in February there was a $55 million program for road reconstruction that was passed by the citizens and that work will be starting very soon. He stated that neighborhood services is working hard to address the issues with trash and dilapidated properties.

Mr. Sneed stated that anything he can do he will be happy to volunteer his time.

Mayor Fitch requested Mr. Sneed provide his information to the city clerk.

Tanner reminded citizens that they can call the solid waste division two times a year and have debris picked up.

Delores Raphel, 329 SW 71st Street, questioned what the City was doing to improve the sewer rehab in our city. She stated recently they are encountering foul odors from the sewer lines. She stated when they have heavy rains there is flooding and she recently has had to put sand bags around her home and she had never had to do that before. The water is not draining from the street. She would like to know what the City has proposed for improving sewer rehab and water runoff within the city.

Ihler stated that we have a sewer rehab program that started in 1998 and a construction crew that works specifically on sewer rehab of our system. He stated we spend $5 - $6 million a year on improvements to our sewer system. By the time the program is done we will have spent over $100 million on our sewer system. He stated as far as storm water runoff, we are updating our master plan and defining areas where improvements need to be made. He stated there is not enough money to do as much work as they would like to do. He stated it has been more noticeable the past two years because our rain events have been more intense and we have had 3 or 4 storm events that have been greater than a 100 year storm event and we just can't design for those types of storms.

Jackson stated over the past years they have changed procedures that they allow builder to do when they are building neighborhoods. They require them to take care of the amount of water that enters the property. There is not enough money to address the flood problems that we have, but we are working on it.

Ms. Raphel questioned where the waste goes from the Bar-S plant.

Ihler stated it goes into our sewer system but they follow a pre-treatment program to meet certain standards before they can discharge it into our system.

Ms. Raphel questioned who monitors that.

Ihler stated the wastewater treatment plant has an industrial pre-treatment program and a team that works on that.

Brenda Loggins, 8314 Castle Stone, stated she agrees with everything that has been said about the citizens review board, beautification and the sewer rehab program. She read from a letter she had written to her council representative.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JANUARY 10, 2017.

MOVED by Jackson SECOND by Burk to approve the minutes of the Lawton City Council regular meeting of January 10, 2017. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated they need to discuss item #4. Tanner requested items #8 and #16 be considered separately.

MOVED by Burk SECOND by McGahee to approve the consent agenda with the exception of items #4, #8 and #16. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

1. Consider approving a Master Services Agreement with Fidelity Cablevision, Inc., for the purpose of providing high speed internet and a private Metro Ethernet (Metro E) service, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Master Services Agreement is on file in the City Clerk's office. "Exhibit E" – Access Service Request – Fidelity Communication Service Order attached.

2. Consider approving a Master Services Agreement and a Service Level Agreement with Quasar Data Center LTD, for the purpose of providing an instant computing infrastructure, provisioned and managed over the Internet, as well as providing a cloud platform service for storing the City's electronic data, providing a secondary off-site data recovery location as a backup in the event the City's primary data center is disabled, and authorize the Mayor and City Clerk to execute the agreements. Exhibits: Master Services Agreement and a Service Level Agreement are on file in the City Clerk's office. Quasar Cloud Quote Sheet attached hereto.

3. Consider approving a Cooperative Agreement between the City of Lawton and the Oklahoma Department of Wildlife Conservation (ODWC) to fund restroom, dock, sidewalk and parking improvements at Ralph's Resort at Lake Ellsworth, and authorize the Mayor and City Clerk to execute. Exhibits: ODWC Cooperative Agreement.

4. Consider declaring as surplus four city-owned properties, including Woods Park, Airport Park, North Legion Park, and unused property near Lake Ellsworth, authorizing staff to establish a reserve price for each property and to sell these properties by competitive bid. Exhibits: Park Location Map and Aerials.

Jack Hanna, Parks and Recreation Director, stated they need to remove the Airport Park property. He is asking that the other three properties be declared surplus. He spoke with a broker who gave his professional opinion on the properties and they are looking to do this through a bid process instead of by auction. If they do this through auction, they would charge a minimum of 6% or $2,500 to do the auction. He stated the broker's estimate of the properties is North Legion Park was worth $1,000 and they are requesting to set a minimum bid of $500, Woods Park was worth $1,000 and they are requesting to set a minimum bid of $500 and the Lake property is estimated to be worth between $16,000 - $20,000, and they are requesting to set a minimum bid of $8,500.

Davis requested that Hanna explain the airport property and why it is being pulled.

Hanna stated the Airport Park property exceeded the $50,000 mark and that will have to be done by ordinance.

Jensen stated they will have to do a non-emergency ordinance if the appraisal or estimate exceeds $50,000 to give the voters a chance to object to that if they decide it is not a good idea to sell that high value.

Hanna stated the estimated property value of Airport Park is $76,000.

Davis stated he would like to see the property at Lake Ellsworth pulled off this item because there is an easement issue through the center of this property. He stated he understood that the easement is on the next agenda. He stated there is a longstanding verbal agreement of an easement through the center of this property in order for some people to access their personal property and that has never been made official in writing. They have been working on getting that officially done before this property sells.

Hanna stated there is an undefined county road that is an accessibility point and we do have to provide some kind of access point for the property owner.

Davis stated there is a driveway there that they have been using for years and all they are requesting is that we make that legal.

Jensen stated they are preparing that easement document at the request of Councilmember Davis and it will be back at the next council meeting. All they need to do tonight is make a motion to declare two of these parks as surplus property so they can get started.

MOVED by Jackson SECOND by Tanner to declare Woods Park and North Legion Park as surplus properties and authorize staff to establish a reserve price for each property and to sell these properties by competitive bid. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

5. Consider setting the date of May 23, 2017, to hold a public hearing to close a portion of SW 15th Street, located between Blocks 5 and 6, Waldman Addition, from the north right-of-way line of SW G Avenue to the south right-of-way line of the Stillwater Central Railroad. Exhibits: Application and Location Map.

6. Consider awarding a contract for the City of Lawton's Employee Dental Insurance to Delta Dental and authorize the Mayor and City Clerk to execute the contract. Exhibits: Delta Dental Contract.

7. Consider approving an agreement between the City of Lawton, and Skulls Unlimited International, Inc. ("SUI"), for the purchase and removal of euthanized animal carcasses from the City of Lawton Animal Welfare Division and authorize the Mayor to execute the Agreement. Exhibits: Agreement.

8. Consider approving an agreement with City of Grandfield to provide services by the Lawton Animal Welfare Division to receive animals for the purpose of adoption, re-homing, sending to rescue, euthanization, or other means of disposal, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement.

Tanner questioned the amount of fees that Grandfield will be paying.

Russell Anderson, Animal Welfare Supervisor, stated they will be paying $40 per animal.

MOVED by Tanner SECOND by McGahee to approve an agreement with City of Grandfield to provide services by the Lawton Animal Welfare Division to receive animals for the purpose of adoption, re-homing, sending to rescue, euthanization, or other means of disposal, and authorize the Mayor and City Clerk to execute the Agreement. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

9. Consider approving Amendment No. 7 to the August 12, 2008 contract with Black and Veatch Corporation for professional engineering services for the design of Wastewater Treatment Plant Improvements Work Package No. III. Exhibits: Amendment to the Agreement is on file in the City Clerk's office.

10. Consider extending (CL16-018) Mowing & Litter Control Area 2 with Rob's Lawn Care of Cache, OK for an additional year and not extending (CL16-018) Mowing & Litter Control Area 1, currently held by Lawn Wizards of Lawton, OK and rebidding this portion of the contract. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

11. Consider extending contract for (RFPCL16-015) City-wide Hardware/Software Support to Abtech Technologies of Carlsbad, CA for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

12. Consider extending contract for (CL16-022) Mowing & Litter Control Areas B, D and E to Teen Challenge of Lawton, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

13. Consider awarding contract for (RFPCL17-007) Installation of Custom Shade Sails to RTA Playground Construction, Inc of Pekin, IN. Exhibits: Department Recommendation, Price Sheet.

14. Consider extending contract for (RFPCL15-030) Concession Operation McMahon Park to LaSill Optimist Club of Lawton, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

15. Consider extending contract (RFPCL15-016) Bulk Fuel Delivery to CAREY JOHNSON OIL COMPANY of Lawton, OK (Primary Contractor), GLENN OIL COMPANY of Lawton, OK (Secondary Contractor), and PETROLEUM TRADERS CORPORATION of Fort Wayne, IN (Emergency Backup Contractor) for sites located at the Public Works Yard, Lake Lawtonka and Lake Ellsworth for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

16. Consider awarding contract for (CL17-012) Half Ton Pickups to Vance Country Ford of Guthrie, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

Tanner stated that they give a 5% local vendor margin and that was $1,046.40 and the Vance Country Ford vendor bid price was $1,073 less, so basically our local vendor, Billingsley Ford, missed getting this bid by $26.50 per unit, so he missed it by 5.1%. He would like to award this bid to Billingsley Ford because they employ a lot of people in this town and he believes in keeping the money local if possible.

<u>MOVED by Tanner SECOND by Jackson</u> to award contract for (CL17-012) Half Ton Pickups to Billingsley Ford of Lawton, OK.

Phillips questioned where do they stop or start. If it is 4.9% or 5.3% do they go there? She agrees with keeping the money local but they have to have some kind of rule to follow.

Mayor Fitch stated the rule is 5%.

Tanner stated when we send our capital outside of the community it enriches that community. He stated they missed it by $26.50.

Mayor Fitch stated we go by rules and all the bidders knew the rules and they submitted their bids accordingly.

McGahee questioned the legal ramifications if they do not meet the criteria that is set. She supports the local company.

Jensen stated this is a council rule and if they don't want to follow it, it is up to the council. He stated if they have to defend something he does not want to comment.

Davis stated if they vote this in they will be paying $1,037.45 more.

Tanner stated Vance Ford came in at a cheaper bid, but in the past council has given local vendors a 5% variance so we can keep the money local. He stated Billingsley Ford generates a lot of income for our community and in this case he is willing to spend a little extra to support our local dealership.

Davis stated he is for local business, but his concern is that this is not his personal money, this is the citizens of Lawton's money and they are spending $1,000 of someone else's money.

Mayor Fitch questioned where you draw the line.

Burk stated the rule is still 5% and if they want to change that, it is up to council. At this point the rule is 5% and obviously someone outbid them, even with the 5%. He does not like it, but he does not see how they get around that at this point.

Jackson stated when they start rejecting these bids they start losing bidders and that is not a good deal at all. He would like to keep this local, but he would be concerned down the road if they continue to do this.

VOTE ON MOTION: AYE: Tanner. NAY: Morford, Jackson, Davis, Burk, Phillips, McGahee. MOTION FAILED.

Davis stated that bidder number one, Carter Chevrolet, was at $20,749, and that is lower than Vance Chevrolet which was $20,797.

Larry Wolcott, Public Works Director, stated there are a lot of changes in addition to that base price that gave them the final award price.

Davis stated that is still higher, $62,247 versus $62,391.

Wolcott stated the numbers they are comparing are on that third sheet in the agenda item. The total delivered price that is recommended for award is $19,855.

MOVED by Burk SECOND by Morford to award contract for (CL17-012) Half Ton Pickups to Vance Country Ford of Guthrie, OK. AYE: Morford, Jackson, Davis, Burk, Phillips, McGahee. NAY: Tanner. MOTION CARRIED.

17. Consider awarding contract for (CL17-014) One Ton Cab Chassis to Billingsley Ford of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

18. Consider extending contract for (CL16-016) Cement Kiln Dust to Silver Star Construction of Moore, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

19. Consider awarding contract for (CL17-013) Sodding and Grassing to Green Turf Sod of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

20. Consider extending contract for (CL16-017) Precast Concrete Manholes to Primary Structure of Guthrie, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

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

Board of Adjustment
Johnny Owens
PO Box 181
Lawton, Oklahoma 73502
Existing Member
05/25/2020

City Planning Commission (CPC)
David Denham
1012 NW Bell
Lawton, Oklahoma 73507
Existing Member
05/10/20

Library Board
Patty Neuwirth
715 Heinzwood Circle
Lawton Oklahoma 73505
Existing Member
05/31/1919

Tom Rine
1807 NE 29th Street
Lawton, Oklahoma 73507
Existing Member
05/31/1919

Susan M. Kremmer
201 NW Mockingbird Rd
Lawton, OK 73507-1608\
Existing Member
05/31/19

22. Consider approval of payroll for the periods of March 27 – April 9, 2017.

NEW BUSINESS ITEMS:

23. Hold a public hearing and consider an ordinance changing the zoning from R-3 Multiple-Family Dwelling District to C-1 Local Commercial District zoning classification on property located at 1003 SW Washington Avenue. Exhibits: Ordinance No. 17-__, Location Map, Application and CPC Minutes.

Richard Rogalski, Community Services Director, stated this request is for Lots 12, 13, and 14, Block 6, McClung Addition, located at the northwest corner of SW 10th Street and SW Washington Avenue. The applicant is Edward Dzialo, Jr., and the property owner is Templeton and Associates, dba Hamm Enterprises. The property is currently vacant, and there is no proposed development at this time. The applicant has been advised that future development of this property would require a public hearing process for approval of a site plan. The zoning of the surrounding area is C-5 General Commercial District to the north and west and R-3 to the south and east. The land use of the surrounding area is CVS Pharmacy and drive to the north and west and single-family residential to the south and east. The 2030 Land Use Plan designates these lots as Commercial. On March 16, 2017, the City Planning Commission held a public hearing on this request. Originally, the request was for C-5 General Commercial District zoning; however, the applicant amended the request for C-1 Local Commercial District zoning. The CPC, by a vote of 7 to 2, recommended approval of C-1 zoning.

McGahee stated there is no binding site plan and it seems a bit premature since they will have to come back to council and actually say what is going on the property.

Rogalski stated that staff wants to see a site plan, but there is a concern when you are marketing a property and it is zoned R-3. If you look at their situation they are wrapped around with commercial zoning and they want to sell the property for development, even though they don't have the development yet, but it will help them sell it if they can get it rezoned. He stated the CPC discussed that and they voted 7-2 to recommend approval.

McGahee confirmed that what they want to build there will have to come back to the CPC and council.

Rogalski stated yes, the final use would be part of that binding site plan and that would have to come back to the CPC and council and it would be a public hearing which would give notice to all of the surrounding neighbors.

Morford stated there are some commercial uses that can go in R-3.

Rogalski stated in R-3 it is very limited and it has to be related to an apartment complex like laundry, etc. It has very minimal uses.

Phillips question what could go in a C-1 area.

Rogalski stated it is called neighborhood commercial and it allows uses that are compatible with neighborhoods such as markets, offices, shoe stores, etc. It does not allow for bars or things like that. It is very limited and it would be even more limited because it would have to come back with a site plan depicting the use for council approval.

Jensen stated this item is written as though there is a site plan to be approved. There is no site plan to be approved tonight because the site plan is empty and there is nothing in there that says that this ordinance will remain in effect subject to a binding site plan being prepared and submitted to the council for approval at a later date. This is written as thought we already have a site plan.

Rogalski stated the site plan it has is simply a blank lot.

Jensen stated there is no language in here that says that this ordinance will remain in effect and is contingent on them submitting a binding site plan.

Rogalski stated it is not part of this ordinance that it is contingent upon. A site plan provision is part of city code that says that if you are going to change your site plan it has to go through a process.

Jensen stated there is nothing to change because there is nothing there.

Burk stated the lot is empty right now and if they decide they want to change that our city code says they must go back before the CPC and get a binding site plan with the changes approved and then it would come back to council.

Jensen stated he understands that process but it is not reflected in what they are approving tonight.

Burk stated they are approving a site plan with nothing on it because there is nothing there. If someone is going to come and change what is currently on the site plan they still have to come back to CPC and council.

McGahee questioned if a potential buyer knows that they can't do anything with the property until it come back to CPC and council.

Rogalski stated whenever a property is approved with a binding site plan there is a special notation on the zoning maps.

Burk stated when you go to get a permit they will tell you all there is to do with this property that has already been set up and you will be stuck with a binding site plan.

McGahee questioned why this would make it easier to market.

Burk stated they can get more money out of commercial property than an empty residential lot.

Phillips questioned if they can ask for a different zoning when they come back with a site plan.

Rogalski stated they could come back because it is the same process as a rezoning. He stated there are about four properties that council has approved with these blank site plans and so far none has come back for development. This is something that they are requesting.

PUBLIC HEARING OPENED.

Edward Dzialo, representing the property owner, stated the property has been in the Hamm family for 60 years and right now it is zoned R-3 and they can't sell it or build on it. The reason a site plan is not attached to the request is that would basically be a fraud because they don't intend to develop it. They could put something on there but it wouldn't mean anything. There is built in protection because whoever buys the property will have to have a public hearing before the CPC on a site plan and then it would have to come back to council for approval. Zoning at C-1 will afford this family the chance to market this property and they have had this on the market for a year and have had no interest because it is R-3. He feels this is the minimum change that would be appropriate for this property.

Davis stated if this remains R-3, basically it is not a marketable property.

Mr. Dzialo stated that is correct.

Davis stated it is not necessarily about making more money, it is just about making it marketable so that something could go here and be part of beautifying our city.

Mr. Dzialo stated there are many uses in C-1 that will compatible with that area.

PUBLIC HEARING CLOSED.

<u>MOVED by McGahee SECOND by Tanner</u> to adopt **Ordinance 17-10**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 17-10

An ordinance changing the zoning classification from the existing classification of R-3 Multiple-Family Dwelling District to C-1 Local Commercial District zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

24. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Agriculture to Residential/Low Density and an ordinance changing the zoning from A-1 General Agricultural District to R-1 Single-Family Dwelling District zoning classification on property located southwest of the intersection of NW St. James Place

and NW Wellington Way. Exhibits: Resolution No. 17-__, Ordinance No. 17-__, Location Map, Application, CPC Minutes.

Rogalski stated this request is for a 34.4 acre tract of land located southwest of the intersection of St. James Place and Wellington Way in St. James Place subdivision. The owner and applicant is James Eason, Quail Ridge, Inc. The proposed use of the property is for single-family residential. The zoning of the surrounding area is R-1 and R-3 Multiple-Family Dwelling District to the north, R-1 to the east, and A-1 to the south and west. The land use of the surrounding area is single-family and multiple-family residential to the north, single-family to the east, and agriculture to the south and west. The 2030 Land Use Plan designates this area as Agriculture. The proposed use is for single-family residential, and a site plan is not required. On March 16, 2017, the City Planning Commission held a public hearing on this request. The CPC, by a vote of 9 - 0, recommended approval of the request.

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

MOVED by McGahee SECOND by Morford to adopt **Resolution No. 17-44**. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

MOVED by Burk SECOND by Tanner to adopt **Ordinance 17-11**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 17-11

An ordinance changing the zoning classification from the existing classification of A-1 General Agricultural District to R-1 Single-Family Dwelling District zoning classification on the tract of land which is hereinafter more particularly described in Section One (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

25. Consider approving an ordinance amending Sections 17-3-4-331, 332, 333, 335, 336, 337, 339, 350, 353, 354 and 355, amending the title of Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2015, closing the city's regular employee retirement system by prohibiting employees hired on or after July 1, 2017 from participating in the retirement system, amending the title of the retirement system, adding the definition of "contract member" and amending the definitions of "earnings" and "employee," removing unnecessary definitions and updating certain definitions, amending the contribution and funding requirements of the retirement system, limiting participation in the retirement system to employees hired before July 1, 2017, allowing vested contract members over 62 years of age the option of electing to retire and receive their retirement benefit while remaining employed with the city, prohibiting former employees rehired on or after July 1, 2017 from participating in the retirement system, requiring four of the seven pension trust commissioners to be employees participating in the retirement system or retirees receiving a monthly pension benefit from the system, adding a "vice-chairperson" officer position to be elected from the pension commissioners, requiring future amendments to the retirement system to first be presented to the pension trust

commissioners for review and comment prior to the city council taking action; providing for severability and declaring an effective date of July 1, 2017. Exhibits: Proposed Ordinance No. 17-__.

Bart Hadley, Assistant City Manager, stated they have four related agenda items. The first is to consider approval of closing to new employees our current pension system. In September of last year council voted and directed staff to create this item as well as the companion items on this agenda. Council had previously formed a council committee to look at this issue. That committee had two goals, one was to develop a plan that did not negatively affect any current city employees and the second was to develop a retirement plan for future employees that would begin to lower the very large unfunded liability within our current employee retirement plan without costing the city and the citizens more money. This item closes our system and brings that plan up to date. He stated he is the chairman of the Pension Trust and they were very concerned about this issue and asked the council to allow them time to do an actuary study before they move this direction to make sure it did not negatively affect the pension plan. The plan presented today does not negatively affect our current plan, it actually funds our current plan better than if we don't make this change and just continue down that road. At the request of the Pension Trust and the council committee they have some built in protections to ensure that future councils can't just make a change, but they would have to bring any changes to the Pension Trust and allow them to study the change and provide a recommendation back to the council.

McGahee stated she had read that the Pension Trust voted to not recommend changing the plan. She has also heard from a number of employees that even though they are not affected, they are concerned about future hires.

Hadley stated the Pension Trust passed a motion that they did not recommend making this change to a defined contribution plan, but if the council does, they urgently asked council to protect the current plan. The actuary said that they needed to continue to fund this plan with the current employee and the city's contributions to remain the same and that an additional, an amount equal to 6.5% of future employees pay, would also be deposited into this current plan. It is because of that additional 6.5%, the actuary says that as long as that continues into this current plan for at least the next 20-25 years, this will better fund our current plan. That was the primary concern of the Pension Trust. The Employee Advisory Committee (EAC) made a similar motion initially and said that they are against making this change.

Jackson stated this issue has been in discussion for a long time and this issue has been discussed nationwide by the federal and state government. This is an issue because of unfunded liabilities. You want to make sure that those who retire are taken care of and the other issue is that the current employees in the system are not going to be affected by the program. He feels this is an effort that governments across the country are moving to and he feels we also need to.

Hadley stated that pension systems for private industry and governments have been moving toward this same type of scenario. The primary reason is that many had too lucrative benefits that weren't funded well enough and it has bankrupted many state pension systems. Our current unfunded liability stands at about $35 million. We were holding our own ground with some changes that were made with some foresight by the previous pension trust which reduced benefit hire after a certain date. They increased the funding a little and reduced the benefit so that your retirement is based on the career average rather than the end of the career, which is typically a higher amount. With the stock market and the way things have been going we have been losing ground. He stated another benefit of this change is that there are generational differences with young workers today and we have a young workforce at the City of Lawton and many younger people prefer a pension system that is portable.

Burk stated when the economy started to become bad the current program became dire. He stated he went to a 401.k in his company and he matches a portion of their retirement and that is something he knew he could fund or drop. A lot of companies are dropping retirement benefits because they cannot pay them. His goal is to take care of the current general employees and that means making sure that their retirement plan are solvent. There are two other employee groups that don't get affected by this and they have huge unions to come up here and scream and yell. The general employees don't have that voice. He feels that he is voting for the best interest of the employees.

Hadley stated the number one goal of the committee is that they don't want to do anything to negatively affect the current employee's pension system and what they have brought today provides those protections. He feels they went beyond those initial goals because the Pension Trust had concerns and they have some safeties built in because they don't know what can happen with future councils.

Phillips questioned if any of the communities around us have made this change.

Chase Massie, Human Resources Director, stated Oklahoma Municipal Retirement Fund (OMRF) has about 200 cities in their group and he would say about 50% of those are on a defined contribution plan. He stated Duncan, Shawnee, Ada and Broken Arrow are all participating.

Phillips stated she was on the original pension committee to look at this and she found several articles that showed that after 20 years of contributing to 401.k type plans, many participants do not have enough money at retirement to live on. Those participating in a defined benefit plan did have a larger nest egg. This has to do with the discipline provided by the required contributions investing schedule in a defined benefit plan from the employee and the employer. Social security is in terrible financial trouble and it is prudent for the employee and employer to look at their retirement future from a more local viewpoint instead of assuming decisions that are made by other corporations or public entities that might fit our community also. She stated we are talking about the future lives of trusted employees, their families and our city. She does not think a potential employee applies for a job based on this one factor but she does think that many apply for a job with the city because of the total benefits package offered. Some will accept a job with lower starting pay to get the benefits. A defined retirement benefit plan is a major investment in the employee by the city. A person wants a job with security, benefits to support their family and a future with some certainty and they want an employer who wants to invest in them. This city has gotten through the good times and bad times and they get through with the help of the citizens paying their taxes, the employees continuing their service and the city offering benefits that attract and keep qualified personnel. She has received many emails from employees and one of them impressed her. It was from a millennial who said that the human factor should not be overlooked. People have stayed at their jobs for the working environment and the benefits and they cannot support this change.

McGahee stated she has been against this change because of the human factor. She is concerned about recruitment value within the city. The pay scale is low, but the defined benefit plan is the best benefit that the city has to offer and she feels that future employees deserve to have that benefit. It will offer retention for the employees and she believes that this is not the best move. She stated there was a change in 2011 and she does not know if they have looked at where they stand with that change. She cannot support this change.

Tanner stated he volunteered to be on this committee and based on the 2014 audit we were about $27 million underfunded. He stated we invest about 60% of this plan into the stock market. Now we are up to $35 million. He stated the committee wanted to make sure that the current retirement plan stays solvent and it is funded. He stated employees will not only have a city retirement plan, they will also have social security. He feels that this is the best plan and would prefer not to add any more employees to what he sees as a failing plan.

Davis stated the only thing he heard mention as far as funding was hoping that the stock market did better.

Hadley stated the actuary report was from last year and he has said that the stock market will not make or break this plan, it is the funding level. He has indicated that we would need to add another 6% of payroll into this to properly fund this. He stated that would be millions of additional dollars every year. The only choice would be to split that cost with the employee and part of that 6% would have to be contributed out of the employee's low pay.

Davis stated the three options are 1) hope, 2) for employees to share part of the burden and 3) to lower staffing levels.

Hadley stated lower staffing levels would mean less money going into the plan. This plan before the council is the only one he can think of that does not require additional money from the city above what we are currently contributing and does not require additional money from the employees and still improves our long term condition. He stated early on he did have concerns that it would hurt our hiring and retention, but as they have gone through this, he is now supporting this option. He stated we currently have a high turnover rate, so this pension plan is not keeping people here and many are asking for a plan that they can take with them. With the new plan after 3 years they become 20% vested, after 4 years they go to 40%, after 5 it is 60%, after 6 it goes to 80% and after 7 years they are fully vested.

Davis stated if it stays the way it is, at some point we will have to take 3% more out of their paycheck to fund this plan.

Hadley stated no, he is saying that the most recent actuary report is saying that to properly fund our current plan, we need to bring it up to another 6% of salaries going into this plan. He is not sure where that money would come from.

Phillips stated the figures she saw was that over the next 30 years we could fund the current plan.

Hadley stated that is correct.
Phillips stated right now we are 63% funded.

Hadley stated it changes every year and it has gone down a little bit. We are unfunded at $35 million.

Tanner stated next year it may be another 6%.

MOVED by Jackson SECOND by Tanner to adopt **Ordinance 17-12**, waive the reading of the ordinance, read the title only and establishing an effective date of July 1, 2017. AYE: Morford, Jackson, Davis, Burk, Tanner. NAY: Phillips, McGahee. MOTION CARRIED.

(Title read by City Attorney) Ordinance 17-12

An ordinance pertaining to personnel policies and procedures, amending Sections 17-3-4-331, 332, 333, 335, 336, 337, 339, 350, 353, 354 and 355, amending the title of Division 17-3-4, article 17-3, chapter 17, Lawton City Code, 2015, closing the city's regular employee retirement system by prohibiting employees hired on or after July 1, 2017 from participating in the retirement system, amending the title of the retirement system, adding the definition of "contract member," removing unnecessary definitions and updating certain definitions, removing outdated references to the "revised retirement system," amending the contribution and funding requirements of the retirement system, limiting participation in the retirement system to employees hired before July 1, 2017, allowing vested contract members over 62 years of age the option of electing to receive their retirement benefit while remaining employed with the city, prohibiting former employees rehired on or after July 1, 2017 from participating in the retirement system, requiring four of the seven pension trust commissioners to be employees participating in the retirement system or retirees receiving a monthly pension benefit from the system, adding a vice-chairperson officer position to be elected from the pension commissioners, renaming "chairman" to "chairperson," requiring future amendments to the retirement system to first be presented to the pension trust commissioners for review and comment prior to the city council taking action; providing for severability and declaring an effective date of July 1, 2017.

26. Consider approving an ordinance adopting an employee retirement system, defined contribution plan for the City of Lawton, Oklahoma; providing retirement benefits for eligible employees 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; providing for employer pickup of required contributions; providing for repealer and severability; and establishing an effective date of July 1, 2017. Exhibits: Proposed Ordinance No. 17-__, Joinder Agreement & Master Defined Contribution Plan.

MOVED by Jackson SECOND by Morford to adopt **Ordinance 17-13**, waive the reading of the ordinance, read the title only and establishing an effective date of July 1, 2017. AYE: Morford, Jackson, Davis, Burk, Tanner. NAY: Phillips, McGahee. MOTION CARRIED.

(Title read by City Attorney) Ordinance 17-13

An ordinance adopting an employee retirement system, defined contribution plan for the city of Lawton, Oklahoma; providing retirement benefits for eligible employees 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 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 July 1, 2017.

27. Consider approving a resolution adopting by reference the trust indenture titled "Oklahoma Municipal Retirement Fund" and authorize the Mayor and City Clerk to execute the agreement to pool funds with other Oklahoma cities and towns for the purposes of administration, investment and management. Exhibits: Proposed Resolution No. 17-__ with (1) an original pooling agreement and (2) Trust Indenture of the Oklahoma Municipal Retirement Fund attached to the resolution as Appendices "B" and "C".

MOVED by Jackson SECOND by Burk to adopt **Resolution 17-45**. AYE: Morford, Jackson, Davis, Burk, Tanner. NAY: Phillips, McGahee. MOTION CARRIED.

28. Consider designating the City's Human Resources Director to serve as the authorized agent of the City in matters pertaining to the proposed defined contribution retirement plan for eligible employees hired on or after July 1, 2017, and authorize the Mayor and City Clerk to execute the Authorized Agent Notification Form. Exhibits: OMRF Authorized Agent Notification Form.

MOVED by Jackson SECOND by Morford to designate the City's Human Resources Director to serve as the authorized agent of the City in matters pertaining to the proposed defined contribution retirement plan for eligible employees hired on or after July 1, 2017, and authorize the Mayor and City Clerk to execute the Authorized Agent Notification Form. AYE: Morford, Jackson, Davis, Burk, Tanner. NAY: Phillips, McGahee. MOTION CARRIED.

29. Consider adopting a resolution proposing an amendment to the Charter of the City of Lawton to be voted on by the citizens of the City. Exhibits: Resolution No. 17-__.

Tanner stated he is going to make a motion to table this issue but he wanted to clarify that this item does not affect current city employees, only future hires. He stated it is not directed at general employees, but the top level city administrators. The proposal gives the citizens of Lawton the opportunity to vote and decide if they want the city administrators, who help create policy and rules that the citizens of Lawton have to live by and help make financial decisions that the citizens of Lawton have to live with, good or bad, to move closer to the Lawton Fort Sill region, as opposed to living in Oklahoma City, Norman, Guthrie, Burkburnett, etc. Now we have no policy that can control this situation. He was going to urge the council to give the citizens of Lawton the opportunity to vote and decide this question, but instead he would like to table this.

MOVED by Tanner SECOND by Phillips to table. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. MOTION CARRIED.

30. Consider adopting a resolution calling for a special election to be held on September 12, 2017, to consider the approval or rejection of an amendment to the Charter of the City of Lawton as specifically set forth in the resolution. Exhibits: Resolution No. 17-__ and Notice of Election. **THIS ITEM WAS STRICKEN FROM THE AGENDA.**

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Phillips stated she stopped by the Trash Off on Saturday and she was impressed by the level of activity. She questioned why there were not food truck parked at McMahon Auditorium.

Burk stated they have had different activities and free food there in the past, but it is very difficult to get people to want to come and eat there while they are throwing away trash.

Burk stated he is very proud of the Lawton Animal Welfare division. March 2017 was the fourth time they became a no kill facility. He stated it really helps when you have support from management. He stated they have started to work on the Veteran's Center sidewalk project on the east side. He stated they have three different bricks for sale, a 4" x 8" brick is $100, an 8" x

8” brick is $200 and an 8” x 8” brick with a custom logo for $400. There are about 600 brick spots. He stated this is tax deductible through Lawton Enhancement Trust Authority.

The Mayor and Council convened in executive session at 8:19 p.m. and reconvened in regular, open session at 8:39 p.m. Roll call reflected all members present excluding Tanner and Davis.

EXECUTIVE SESSION ITEMS:

31. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in United States District Court for Western District of Oklahoma of Tony L. Kemp vs. City of Lawton, CIV-2017-306, and if necessary, take appropriate action in open session. Exhibits: None. **THIS ITEM WAS STRICKEN FROM THE AGENDA**

32. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Shayne G. Hayden vs. City of Lawton, CJ-2005-650, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #32. No action was taken.

There being no further business to consider, the meeting adjourned at 8:39 p.m. upon motion, second and roll call vote.

____
FRED L. FITCH, MAYOR

ATTEST:
____
TRACI HUSHBECK, CITY CLERK