

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 14, 2020 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
Tim Wilson, Deputy City Attorney
Traci Hushbeck, City Clerk
COL Don A. King, Fort Sill Liaison

Mayor Booker called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Council Member Allan Hampton, followed by the Pledge of Allegiance

ROLL CALL

PRESENT: Mary Ann Hankins, Ward One
Linda Chapman, Ward Three
Jay Burk, Ward Four
Allan Hampton, Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven (arrived @ 6:14 p.m.)
Randy Warren, Ward Eight

ABSENT: Keith Jackson, Ward Two

REPORTS: MAYOR/CITY COUNCIL

Hampton stated he appreciates everyone's patience during this time.

CONSENT AGENDA

Mayor Booker stated item #4 will be stricken from the agenda.

MOVED by Burk SECOND by Warren to approve the consent agenda with the exception of item #4. AYE: Chapman, Burk, Hampton, Fortenbaugh, Warren, Hankins. NAY: None.
MOTION CARRIED.

1. Consider depositing the reimbursements received from the Oklahoma Department of Transportation for transportation planning and Congestion Mitigation and Air Quality planning for FY 2019 into the City of Lawton Actuated Traffic Signals account.
Exhibits: None.

2. Consider an agreement with Melissa Kirby regarding insurance checks provided to her for the rehabilitation of the roof and associated storm damage at her residence located at 1716 NW Pollard Avenue, Lawton, OK 73507, and authorizing the Mayor and City Clerk to execute the agreement. Exhibits: Agreement on file in the City Clerk's office.
3. Consider accepting a public access easement for a portion of sidewalk constructed at the southeast corner of NW 34th Street and NW Cache Road, adjacent to EZ GO Store located at 3164 NW Cache Road. Exhibits: Location Map. Easement is on file in the City Clerk's Office.
4. Consider approving additional funding for 2019-04 Rehabilitate SW Neal Boulevard and SW Ard Street Project associated with intersection reconstruction and drainage improvements. Exhibits: None. **STRICKEN**
5. Consider acknowledging receipt of a Tier II permit for the discharge of treated wastewater from the City of Lawton Wastewater Treatment Plant into Nine Mile Creek from the Oklahoma State Department of Environmental Quality. Exhibits: None.
6. Consider acknowledging receipt of a Tier II permit for the discharge of treated wastewater from the Medicine Park Water Treatment Plant into Medicine Creek from the Oklahoma State Department of Environmental Quality. Exhibits: None.
7. Consider approving plans and specifications for and authorizing the drilling of Wellsite K. Exhibits: Location Map. Contract Documents are on file in the Public Utilities Department Office.
8. Consider approving three application documents and two contracts to provide fully insured health care coverage along with selected ancillary coverage for eligible City of Lawton employees and those eligible retirees to Blue Cross Blue Shield of Oklahoma effective July 1, 2020, and authorize the Mayor and City Clerk to execute the contracts. Exhibits: Cost Analysis. Fully Insured Proposal BCBS Medical and Dental Contracts and BCBS Ancillary Products Contracts are on File in the City Clerk's Office. .
9. Consider awarding contract (CL20-014) GAC Granulated Activated Carbon to Carbon Activated Corp of Compton, CA. Exhibits: Department Recommendation, Abstract of Bids, Price Sheets.
10. Consider approving appointments to boards and commissions. Exhibits: None.

Park and Recreation Commission

Jason Scott
New Member
1/1/2022

Anthony Cox
Existing Member
1/1/2022

UNFINISHED BUSINESS ITEMS:

11. Consider the following damage claims recommended for denial: Behanz and Abbas Johari in the amount of \$9,995.31, and Marcella Ivins in the amount of \$3,500.00.
Exhibits: Legal Opinions/Recommendations.

Kelea Fisher, Deputy City Attorney, stated regarding the first claim of Behanz and Abbas Johari, Mrs. Johari's car was stranded in flood waters due to a flash flood. She recommended denial at the last council meeting and Council Member Fortenbaugh had some additional questions of the public works director. She stated that her recommendation has not changed.

Fortenbaugh stated he did get an opportunity to speak to Mr. Wolcott and he was able to answer his questions. He stated the Mr. Johari requested that he distribute additional information to the council. He stated that Mr. Johari stated that flooding occurs frequently at this intersection and he believes that something needs to be done. Mr. Johari is asking for \$3,731.37 for the replacement engine for his car.

MOVED by Fortenbaugh to approve the damage claim of Behanz and Abbas Johari in the amount of \$3,731.37. MOTION DIED DUE TO A LACK OF A SECOND

Burk stated that Dr. Johari is a wonderful citizen and he hates that they have to possibly turn this down, but it puts the council in legal jeopardy down the road and he just cannot support this.

MOVED by Warren SECOND by Burk to deny the claim of Behanz and Abbas Johari. AYE: Burk, Hampton, Warren, Hankins, Chapman. NAY: Fortenbaugh. MOTION CARRIED.

Fisher stated Ms. Ivins owns the rental property located at 2507 NW Prentiss Avenue and she alleges that in 2018 her renter was experiencing issues with sewer draining into their yard so she hired plumbers on several occasions to snake the line but the problem persisted. She then hired a plumber to install a new sewer line in January 2018 but the problem continued. In May 2018, the plumber dug up the service line and found it was not connected to the City's main. Ms. Ivins is requesting reimbursement of \$3,500 which is the cost to dig up the service line and to connect it to the main. She stated generally when the City installs or repairs a portion of the main, the City is responsible for connecting or reconnecting the service line to the City's main. When a private sewer line is installed, it is the plumber's responsibility to insure that the new private line is connected to the City's main. A new City main was installed in this area on February 18, 2004 and our service records show it was connected on that date. There has been no record of sewer construction on this main since then. The council has two issues to consider, the timeliness of which Ms. Ivins filed the claim and the merit of the claim. The Governmental Tort Claims Act regulates the tort claims process for municipalities and the act states that claims must be presented within one year of the date the loss occurred. This council should not pay a claim if it is not timely filed.

Mayor Booker questioned if she can she still make the claim if she has missed the time.

Fisher stated the council would have to ignore that statutory deadline which she is not recommending. Because she did file a claim, she has to bring it to the council to make that determination.

Fortenbaugh stated she notified the City on June 18, 2018 that there was a problem.

Fisher stated at that point we requested she fill out the tort claim form and return that. At that point she chose not to file the claim.

Warren stated the claim was untimely and the citizen does have recourse in district court.

MOVED by Warren SECOND by Hankins to deny the claim.

Burk stated he is concerned because he has worked with the people from Affordable Plumbing and they are very reputable. It states they replaced the line but they did not tap the main but the City went on to drill the hole in the main for the tap. The City has done this before where they failed to hook back up to the line. This is a reputable plumbing company saying that they were there, they called the City out, and there was no tap to the main line. He hates the fact that we are out of the timeframe from when she should have submitted the claim, but it sounds like she tried but she just misunderstood the form.

Fisher stated she does believe that she misunderstood the form. She stated she contacted the City's sewer rehab construction inspector and she was told there was no record of any permit that was requested or received to install the private sewer line and that there was no record of any request for the City to come out and inspect the connection to the main or their attempted tap to the main.

Burk stated there has been multiple time where he has called in for an inspection and it has been lost in translation. That happens on occasion and we lose those records. It sounds like it could have been an error on his part and he feel there was some misunderstanding on what needed to be done to file the claim.

Fortenbaugh stated the City obviously caused her problems and he cannot help but feel some responsibility.

VOTE ON MOTION: AYE: Warren. NAY: Fortenbaugh, Johnson, Hankins, Chapman, Burk, Hampton. MOTION FAILED.

MOVED by Burk SECOND by Fortenbaugh to approve the claim of Marcella Ivins in the amount of \$3,500.00. AYE: Johnson, Hankins, Chapman, Burk, Hampton, Fortenbaugh. NAY: Warren. MOTION CARRIED.

Mayor Booker stated he did not recognize COL King during the report section.

COL King updated the council on what steps Fort Sill is taking to keep the community safe. He stated they are still training on base.

NEW BUSINESS ITEMS:

12. Discuss the status of the COVID-19 Pandemic as it relates to the City of Lawton, including the proclamation of civil emergency issued by the Mayor, and take appropriate action as necessary. Exhibits: None.

Mayor Booker stated for those who want to open back up a business or activity, he requested they submit a one or two page outline of how they are going to insure it is safe. He stated that serious and complete presentations will be given full consideration. He stated citizens can send their plans to their council members or to him directly. He stated those activities or businesses that are under the control of the Governor will be forwarded to his office.

Burk reported that there will be a proclamation effective tomorrow that will open up golfing, clothing stores, sporting good stores, car washes, all merchandise on the governors list will be able to do curbside with masks and they can also do delivery or mail. They are asking that these employers offer masks to their employees.

Fortenbaugh stated he wished the council could meet more often to discuss these decisions because a lot of things are being put out that he does not know about until it happens and then he has citizens calling and asking about these decisions that he had nothing to do with. The council can meet pretty quickly if needed to discuss this issue.

Hampton stated he is continuing to work on worship guidelines for the churches.

Mayor and council continued discussion on this issue.

STAFF REPORTS

Cleghorn recognized Assistant Chief James Apple who will be retiring Friday. He stated they have requested that the Governor extend the budget deadline by 90 days. He stated there will be a lot of unknowns as we move into the next fiscal year because of the issues we are facing now.

The Mayor and Council convened in executive session at 7:17 p.m. and reconvened in regular, open session at 8:43 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

13. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Notices of Charge of Discrimination the City received from the U.S. Equal Employment Opportunity Commission on behalf of the charging parties Melissa Clements, Denise Ezell, Kelea Fisher, Kristin Huntley, Megan Loftis and Julie Snodgrass, and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title to item #13. No action was taken.

14. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending tort claims of Melissa Clements, Denise Ezell, Kelea Fisher, Kristin Huntley, Megan Loftis and Julie Snodgrass, filed with the City on September 27 and November 12, 2019, and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title to item #14. No action was taken.

15. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Gerald S. Ihler vs. City of Lawton, CJ-20-185, and, if necessary, take appropriate action in open session. Exhibits: None.

Wilson read the title to item #15. No action was taken.

There being no further business to consider, the meeting adjourned at 8:44 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK