MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 8, 2019 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
Bob Ross, Interim City Attorney
Traci Hushbeck, City Clerk
COL Don A. King, Fort Sill Liaison

Mayor Booker called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Charles Barnett, followed by the Pledge of Allegiance

ROLL CALL

PRESENT:
Mary Ann Hankins, Ward One
Keith Jackson, Ward Two
Caleb Davis, Ward Three (arrived @ 6:09 p.m.)
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven
Randy Warren, Ward Eight

ABSENT: None

PROCLAMATION FOR WHITE CANE SAFETY DAY

Mayor Booker proclaimed October 15, 2019 as White Cane Safety Day.

RECEIVE THE ANNUAL UPDATE FROM LAWTON ENHANCEMENT TRUST AUTHORITY

Jay Burk, Chairman of the Lawton Enhancement Trust Authority, presented a year-end report on the activities of the Lawton Enhancement Trust Authority for fiscal year 2018-2019. (A copy of the presentation is on file in the City Clerk's Office)

REPORTS: MAYOR/CITY COUNCIL

Mayor Booker stated two weeks from tonight they need to be discussing what they want to do with the Central Fire Station building. He stated there was some confusion about the $700,000.

It was not ad valorem, it was sales tax, and they need to deal with this at the next council meeting.

Johnson stated she will be having her Citizens with Solutions meeting on October 24th at 5:30 p.m. at the Patterson Center.

Tanner thanked Council Member Burk and all the members of the Lawton Enhancement Trust Authority for all they do for this community.

Davis stated his Ward 3 meeting will be held on each Monday night before the council meeting at 6:30 p.m. at 1116 SW C Avenue.

AUDIENCE PARTICIPATION:

Susan Thompson, 2309 NW 75th Street, questioned what happened to the money the City received from the agreement with Fort Sill for animal welfare services. She stated over the next five years the City will receive $1.39 million that we could be investing and upgrading our shelter. She stated the shelter has limited hours and it is hard for citizens to get there and she feels they need to start thinking outside the box. She feels they owe it to the shelter to make sure they are funded adequately.

Burk stated he was on the council committee that put together the contract with Fort Sill. He stated every penny they have received from Fort Sill has gone into that fund to operate the day-to-day operations. He stated they have made many changes and they are in the process of making some changes with the contract.

Ms. Thompson questioned if the City's part of the budget decreased, because it seems like their budget has not increased. She stated that is a big misconception.

Burk stated there were no cuts to funding and no decrease in their budget.

CONSENT AGENDA

Mayor Booker stated item #6 will be stricken from the agenda.

Tanner requested item #4 be considered separately.

<u>MOVED by Warren SECOND by Hankins</u> to approve the consent agenda with the exception of item #4. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Rose and Joe Brady in the amount of $3,521.43 **(Res. 19-86)**, Galena Lake in the amount of $59.00, and James Gochenour in the amount of $1,242.90 **(Res. 19-87)**. Exhibits: Legal Opinion/Recommendation, Resolution 19-__, Resolution 19-__.

2. Consider the following damage claim recommended for denial: Rick and Cindy McCollister in the amount of $500.00. Exhibits: Legal Opinion/Recommendation.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in making payment on the judgment in the Workers' Compensation case of John McKiever Hambrick III in the Oklahoma Workers' Compensation Commission, Case No. CM-2016-00289Q. Exhibits: **Resolution 19-88**.

4. Consider approving an updated Council Policy 4-3, Municipal Securities Disclosure Policy, setting forth the responsibilities and requirements of City staff to comply with Securities & Exchange Commission (SEC) Rule 15c2-12 relating to financial and other informational/operating data of the City disclosed in connection with the issuance by the City of General Obligation (GO) Bonds and other municipal securities sold in the municipal securities marketplace. Exhibits: Proposed Updated Council Policy 4-3.

Tanner stated a few years ago the City had some issues with reporting certain information to the Securities and Exchange Commission. He stated they were told that the ultimate responsibility lies with the elected officials and that this information concerning our bonds is gathered and issued in a timely manner, but that they could delegate that responsibility to an in house group which they created called this disclosure working group. He stated they are no longer personally liable as long as they had full confidence in this in house group. He commended the interim City Attorney for bringing this to the council because it is very important that they compile this information and get it out to the bondholders in a timely manner.

<u>MOVED by Tanner SECOND by Davis</u> to approve an updated Council Policy 4-3, Municipal Securities Disclosure Policy. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

5. Consider approving the City of Lawton Community Rating System (CRS) Program for Public Information (PPI) 2019 Annual Progress Report. Exhibits: 2019 PPI Annual Progress Report.

6. Consider granting a permanent utility easement to AEP/PSO across the Public Safety Facility property near Gore Boulevard and S. Railroad St. Exhibits: Preliminary Layout. **STRICKEN**

7. Consider setting the date of November 12, 2019, to hold a public hearing to close the alley in Block 21, Woods Addition, located between SW 2nd Street and SW 3rd Street, SW G Avenue and SW H Avenue. Exhibits: Application and Location Map.

8. Consider approving a deed of dedication for public street, utilities and sidewalk related to the NW 38th Street Project Cache Rd to Rogers Lane State Job No. 18488(04), and the property located at 2302 NW 38th Street, authorizing the Mayor and City Clerk to execute the document. Exhibits: Location Map. Document is on file in the City Clerk's office.

9. Consider approving the construction plat for Rogers Lane Commercial Addition, located at the northwest corner of NE Angus Place and NE Rogers Lane. Exhibits: Plat Map.

10. Consider extending contract (CL19-009) Manhole Rings and Covers to Core & Main LP of Owasso, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

11. Consider awarding contract (CL20-002) Manhole Coating Product to Corgill Construction, Inc. of Greenwood, AR. Exhibits: Department Recommendation, Abstract of Bids, Price Sheets.

NEW BUSINESS:

12. Hold a public hearing and adopt a resolution declaring the structures located at 536 NE Carver Avenue, 508 NE Carver Avenue and 1906 SW B Avenue to be dilapidated pursuant to Division 6-5-1 Lawton City Code, 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: Resolution and exhibits for each property.

<u>536 NE Carver Avenue</u>

Will Hines, Neighborhood Services Supervisor, stated on October 3rd the owner did come in and apply for a demolition permit, but as of this afternoon, he has not been granted one. The property owner stated he had a couple of items to take care of. He 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 January 2017. Hines presented photographs of the property.

Johnson questioned how long the property owner has to come back with the permit application.

Hines stated if the property is approved tonight, he will have 30 days to pull the permit.

Johnson questioned what was keeping him from getting a permit.

Hines stated they have to contact the utility companies to make sure those utilities have been secured and they have to bring proof that has been done before they can secure a demolition permit.

Johnson questioned if 30 days was an adequate amount of time to get this done.

Hines stated yes.

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

MOVED by Johnson SECOND by Fortenbaugh, to adopt **Resolution 19-89** declaring the structure located at 536 NE Carver Avenue to be a dilapidated public nuisance. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

508 NE Carver Avenue

Hines 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 December 2009. Hines presented photographs of the property

Burk stated many of these houses have chain link fences with trees growing in them and grass growing a mile high. He stated we leave all that and it looks terrible. He stated we need to come up with a better plan to take down those old fences to make sure we can get in there and mow the property. He feels that we need to clear the property and be proactive.

Hines stated when they tear it down it looks great at first, but as growing season starts they need to keep it up.

Burk stated we need to deal with the fences and shrubs as we are demolishing the property.

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

MOVED by Johnson SECOND by Burk, to adopt **Resolution 19-90** declaring the structure located at 508 NE Carver Avenue to be a dilapidated public nuisance. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1906 SW B Avenue

Hines 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 April 2015. Hines presented photographs of the property

PUBLIC HEARING OPENED.

Tom Leon, 2307 NW Redwood Lane, stated these kinds of properties are all over Lawton and the owners need to take care of their property.

Tanner stated the owners should come forward and take care of these properties, but it is hard for them to do this when they live in Mississippi. Many property owners do not live in town and do not take care of their property.

Cleghorn stated they are streamlining this process and starting to implement changes so they can process more properties more often.

PUBLIC HEARING CLOSED.

MOVED by Tanner SECOND by Davis, to adopt **Resolution 19-91** declaring the structure located at 1906 SW B Avenue to be a dilapidated public nuisance. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

13. Hold a public hearing and consider an ordinance amending Sections 18-5-8-580 and 18-5-9-591, Lawton City Code, 2015, modifying the use of bakery as a permitted use within C-1 Local Commercial District and C-2 Planned Neighborhood Shopping Center District. Exhibits: Ordinance 19-__.

Debbie Dollarhite, Senior Planner, stated recently a request was submitted for a bakery on property zoned C-1 Local Commercial District. Section 18-5-8-580, uses permitted in C-1, allows "bakery, retail outlet, but baking shall not be done in this district." Other uses permitted in C-1 have bakeries as accessory uses, such as grocery stores and restaurants. Section 18-5-9-591, uses permitted in C-2, allows "bakery, retail outlet, but not the baking of bread except as a minor incidental portion of the retail operation." Grocery stores are also permitted in C-2 and can have a bakery as an accessory use. On September 26, 2019, the City Planning Commission held a public hearing on this proposed code amendment to allow "bakery, where products prepared are retailed on the premises" in C-1 and C-2. This amendment would limit the intensity of the use by not allowing bakeries which prepare and sell goods as a wholesale operation. The Commission recommended approval of the amendment to the City Council.

Tanner stated this is a user-friendly policy and they are helping out the small enterprises.

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

MOVED by Tanner SECOND by Davis to adopt **Ordinance 19-20**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days after passage. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 19-20

An ordinance pertaining to zoning amending Sections 18-5-8-580 and 18-5-9-591, Lawton City Code, 2015, modifying the use of bakery as a permitted use within the C-1 Local Commercial District and C-2 Planned Neighborhood Shopping Center District, providing for severability, and establishing an effective date of thirty days after passage .

14. Hold a public hearing and consider an ordinance to close a portion of a utility easement along the rear property line of 910 NW Micklegate Boulevard. Exhibits: Survey, Exhibits: Ordinance 19-__.

Dollarhite stated on July 23, 2019, Council voted to hold a public hearing on a request to close a portion of a utility easement along the rear of Lot 15, Block 11, Wyatt Acres Addition, addressed as 910 NW Micklegate Boulevard. The applicant, Preston Holsinger, the owner of this lot initially requested that approximately 3 feet of the 10-foot wide utility easement be closed for a distance of 42 feet due to an encroachment of a portion of the existing concrete decking for an in-ground pool into the utility easement. Public Works and several franchise utility companies objected to closing 3 feet due to existing utilities in the 10 foot utility easement. The owner then requested to close only 1.5 feet of the easement. Public Works, Fidelity Communications, CenterPoint Energy and PSO were notified of this request and do not object to closing 1.5 feet of the 10 foot utility easement.

Fortenbaugh questioned if they are bringing this to council because the homeowner encroached on the easement.

Dollarhite state yes, the deck around their swimming pool encroached on the easement. She stated it goes further than the foot and a half, but they are going to remove the encroachment beyond that foot and a half. They wanted to have a clear title to their property.

PUBLIC HEARING OPENED.

Barry Ezerski, 2810 NE Scottsdale Circle, stated he is the listing agent for Mr. Holsinger, who owns the property. He stated this pool was built 25 years ago, long before Mr. Holsinger bought the property. Unfortunately, the new buyer had a survey done that showed that the pool was four inches over the utility easement. A deck runs nine feet beyond that to the fence. He stated the only thing running back there was the electric and they have worked with PSO who asked them to move it back a little further. He stated they will then remove the rest of the decking to the fence and just put something down that is less permanent.

PUBLIC HEARING CLOSED.

MOVED by Fortenbaugh SECOND by Davis to adopt **Ordinance 19-21**, waive the reading of the ordinance, read the title only. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 19-21

An ordinance closing approximately 1.5 feet by 42 feet of a platted 10-foot utility easement located in the rear of lot 15, in block 11, of Wyatt Acres Addition.

15. Consider adopting a resolution fixing the amount of street improvement general obligation bonds, series 2019, 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 clerk to give notice of said sale as required by law and fixing other details of the issue. Exhibits: Resolution 19-__ (included in packet); Notice of Sale; Continuing Disclosure Agreement and Preliminary Official Statement (on file in the City Clerk's Office)

Ross stated the second page of the agenda item commentary states that bids will be accepted until 11 a.m. on Tuesday, October 8, 2019. He stated this is a typographical error. The resolution and the rest of the material has the correct date of November 12, 2019.

David Floyd, Floyd Law Firm, stated this is the third issuance out of the $55 million street improvement bonds that were approved by voters two years ago. This item will allow them to go forward with a notice of sale and authorizing the bonds to be sold competitively. The notice was sent out to local area banks and other investors. They will come back in a month and present the bids they received and the council will award the sale.

MOVED by Burk SECOND by Warren to adopt **Resolution 19-92**. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

16. Consider ratifying the approval by staff of Change Order No. 2 to the contract with T&G Construction for the reconstruction of SW 52nd Street from Stillwater Central Railroad north to Gore Blvd, approximately ½ mile, for the ratification of approval to replace Manholes with Junction Boxes. Exhibits: Change Order No. 2.

George Hennessee, Engineering Director, stated engineering has received a request for a change order on the 52nd Street project. He stated staff worked on the design concept for the project and the project was bid and awarded to T&G Construction. The second project manager approved this concept. We had an eight-foot diameter manhole and a five foot diameter pipe going into it and that works okay if it is going straight through, but when you make a bend there is a very small support piece that causes it to have a weak area. The decision was made to convert those pipes to boxes, which have a better support structure. He was notified of this two weeks ago and he prepared this for consideration of council. The boxes have been constructed and they are in the ground and they are operating and they have not been approved in the period that is required.

MOVED by Davis SECOND by Burk to ratify the approval by staff of Change Order No. 2 to the contract with T&G Construction. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

17. Consider approving a Resolution declaring the intent to consider approval of an updated Industrial Development Assistance Policy, and a Project Plan and creation of Tax Increment Districts under the Local Development Act; directing preparation of a Project Plan; appointing a Review Committee; directing the Review Committee to make findings as to eligibility and financial impact, if any, on taxing jurisdictions and business activities within the Districts; and directing the Review Committee to make a recommendation with respect to the proposed Project Plan. Exhibits: Resolution 19-__.

Mayor Booker stated this is about moving to the next phase of creating an industrial TIF plan in order to help pay for critical infrastructure and incentives, mostly in the west industrial park, but also in the airport industrial park. He stated we are so far behind in industry and there is no way that Lawton can do this on its own. If we do implement this TIF, the State of Oklahoma will be participating at a rate of about 40% and everything that is done with TIF funds. If the council approves the next step tonight, then they will notify each of the taxing entities by statute and begin to organize an advisory committee that will study the TIF proposal, hold public hearings to educate the public and get public feedback, review the impact on each taxing entity and make a recommendation to the council on whether to proceed or not to proceed. There is some urgency to approve this tonight because if they do not get all the meetings in and make the final approval by December, they would diminish the impact of the TIF due to some work proceeding at Republic that would be put on the tax rolls January 1, 2020, so it makes it time critical that we approve going to this next step tonight.

Chad Hance, Superintendent of Cache Public Schools, stated this will have a big impact on Cache Public Schools since part of this TIF will be in the industrial park which is in their school district. He requested that they look at the effects this TIF will have on their economy. There are some good TIF's and there are some bad TIF's. He has found that this will not necessarily grow the tax base and the work force. He believes they should invest in people. He has some questions about the transparency of this plan because the meetings he has been involved in were just regarding the Republic Paper manufacturing plant. He stated the Mayor showed him a map of the areas included in this TIF and that is not what has been talked about in the meetings he has attended. He requested that the council really look at what kind of financial impact this will have on his school district, career tech and the county health department. He stated this will also affect the relationship with existing businesses in the industrial park.

Mayor Booker stated we voted on this about two months ago at LEDC's recommendation and an advanced committee was formed which consisted of the Mayor and the executive committee of LEDC. They did meet twice and there was no requirement to have open meetings. They developed this plan and it went through a lot of discussion that included the possibility of putting a TIF district over the entire industrial park. They changed it to be a TIF plan that would create TIF districts when something happens at certain times, like when we get a company that changes hands, and that would create the TIF district. What they are voting on tonight is to go to the next step of forming the advisory committee and each taxing entity will get a representative. That taxing entity is to hold public hearings and come back with a recommendation to the council on how to proceed in the first meeting in December.

Ron Nance, Chairman of Lawton Economic Development Corporation (LEDC), stated they must invest in the future. Assessments in Comanche County and Lawton are declining and we are behind other communities as far as investment for industrial development. He stated it will take a significant amount of money and we must invest the TIF dollars in our future. An industry will leave a community if that community does not build and maintain infrastructure. If we don't take care of our existing industry and invest in our infrastructure, we risk the loss of potential new businesses and loss of existing industry. He stated with regards to our neighbors to the west, we would hope they would recognize the benefits of investing new tax dollars in the future; it will help those tax assessments. He stated with regards to TIF districts, they do not take any taxes that any schools are currently receiving, they do not cost taxpayers anything and they help attract and maintain industry.

Tanner stated they are being asked to appoint a review committee to assess what the impact, bad or good. He stated he is for appointing this committee.

Fortenbaugh questioned how this would affect the Cache School District.

Mr. Hance stated they would not receive any growth in that TIF. If they do attract a new business, they will have to educate their children and they need funding to do that. He stated with the indebtedness they have right now, their property owners would share more of that debt which should have been shared with that company moving into their district, and that is how it will affect them.

Fortenbaugh questioned if it was fair to say that they would not lose what they currently have.

Mr. Hance stated they would not lose what they have right now, but they would not receive any of the growth.

Davis questioned what Cache has invested in that industrial park to help with the infrastructure, the roads or incentives for the companies that they are benefitting from currently.

Mr. Hance stated none, the school district is not responsible for the development of the industrial park.

MOVED by Tanner SECOND by Hankins to adopt **Resolution 19-93**. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

STAFF REPORTS

Kristin Huntley, Interim Finance Director, presented revenue and expenditure highlights for the period ending August 31, 2019. (On file in the City Clerk's office).

Cleghorn introduced Kara Haynes, the new Finance Director.

The Mayor and Council convened in executive session at 7:20 p.m. and reconvened in regular, open session at 8:45 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

18. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2020-2021 between the International Union of Police Associations (IUPA), Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Ross read the title of item #18.

MOVED by Tanner SECOND by Warren for the fiscal year 2020-2021 negotiations with IUPA Local 24, move to appoint Tim Wilson as the City's chief negotiator and further move to appoint Dewayne Burk, Bart Hadley and Assistant Chief James Apple to the negotiating team with Kelea Fisher to be designated as an alternate member. AYE: Hankins, Jackson, Davis, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: Davis. MOTION CARRIED.

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

Ross read the title of item #19. No action was taken.

20. 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 and Megan Loftis, all filed with the City on September 27, 2019, and, if necessary, take appropriate action in open session. Exhibits: None

Ross read the title of item #20. No action was taken.

21. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss five 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 and Megan Loftis, and, if necessary, take appropriate action in open session. Exhibits: None

Ross read the title of item #21. No action was taken.

There being no further business to consider, the meeting adjourned at 8:49 p.m. upon motion, Second and roll call vote.

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STAN BOOKER, MAYOR

ATTEST:

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TRACI HUSHBECK, CITY CLERK