MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 9, 2018 – 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 Reverend Robert Rose Jr., First United Methodist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:
Bob Morford, Ward One
Keith Jackson, Ward Two
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven
Randy Warren, Ward Eight

ABSENT:
Caleb Davis, Ward Three

PROCLAMATION FOR WHITE CANE SAFETY DAY

Mayor Fitch proclaimed October 15, 2018 as White Cane Safety Day in the city of Lawton.

PROCLAMATION FOR NATIONAL ARTS AND HUMANITIES MONTH

Mayor Fitch proclaimed the month of October 2018 as National Arts and Humanities Month

PRESENTATION ON THE ARTS IN LAWTON

Clem Wehner, Arts for All, Inc, briefed the council on what the arts groups do in Lawton each year.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF SEPTEMBER 11 AND SEPTEMBER 25, 2018 AND THE SPECIAL MEETING OF OCTOBER 1, 2018.

MOVED by Burk SECOND by Jackson to approve the minutes of the regular meetings of September 11 and September 25, 2018 and the special meeting of October 1, 2018. AYE: Morford, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Fortenbaugh request item #6 be considered separately.

MOVED by Burk SECOND by Jackson to approve the consent agenda with the exception of item #6. AYE: Morford, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider adopting a resolution approving the joint petition settlement and making payment in the workers' compensation claim of Tonya Criger. Exhibits: **Resolution No. 18-70**.

2. Consider accepting a donation in the amount of $10,000.00 from the Cancer Centers of Southwest Oklahoma, in appreciation for the City's continued support of the Spirit of Survival running and bicycling event. Exhibits: None.

3. Consider accepting a grant of $ 80,800.00 and entering into a grant agreement with the Oklahoma Highway Safety Office (OHSO) to target and reduce the number of alcohol-related crashes and fatality accidents within the City of Lawton. Exhibit: A copy of the grant agreement summary is on file in the City Clerk's office.

4. Consider authorizing acceptance of a grant award in the amount of $73,000.00 from the 2018 Oklahoma Office of Homeland Security Grant Program for a Crime Analyst position and authorize the City Manager/Mayor to sign acceptance forms. This grant award will be for a two-year period from September 1, 2018 to August 31, 2020. Exhibits: None.

5. Consider approving a memorandum of understanding with the Board of County Commissioners of Comanche County, Oklahoma, authorizing the Lawton Police Department to assist with the transportation of Comanche County Regional Juvenile Detention Center residents in the event an emergency situation renders the detention center unable to sustain operations and necessitates the relocation of its base of operations. Exhibits: Copy of the proposed MOU.

6. Consider approving an agreement and authorizing the Mayor and City Clerk to execute same for the East Gore Boulevard/I-44 Pedestrian Bridge programmed by the City and designated as State Job Number 32816(05) which consists of Design of the East Gore Boulevard/I-44 Pedestrian Bridge. Exhibits: Engineering Contract Funding Agreement.

George Hennessee, Engineering Director, stated in a letter dated October 4, 2016, the Oklahoma Department of Transportation (ODOT) awarded the City of Lawton Transportation Alternatives funding for the East Gore Boulevard/ I-44 Pedestrian Bridge. This project is projected to cost

$1,300,000 with ODOT providing $700,000 requiring the City to provide the remaining $600,000 match. On August 22, 2017, Council authorized the use of unencumbered and available 2008 and 2012 CIP sales tax funds, 2015 STE ADA Compliance funds and Fund 35 Bicycle Path/Trailway funds for the City's $600,000 match for the East Gore Boulevard/ I-44 Pedestrian Bridge Project #2016-04 State Project TAP3-2988(004) TP, JP No 32988(04). Staff interviewed ODOT approved design firms for the design of the bridge on March 8, 2018 and recommended CEC as the most qualified firm to ODOT. ODOT has negotiated a design fee in the amount of $191,911 for the design of the project, $153,529 federally funded (80%) and matched by the City at $38,382 (20%). ODOT has requested an Engineering Contract Funding Agreement between the City of Lawton and ODOT to fund this phase of the project.

Fortenbaugh stated he has received a lot of feedback and most people don't understand why we are doing this, and they are not in favor of this project. He questioned if we have spent any money on this project.

Hennessee stated we have obligated $600,000 for the construction and design of the project. It was initiated by council because we had two or three fatalities on I-44 because of people crossing the highway.

Burk stated it is more than needed because people are still having those people walking across the bridge. It is a matter of time before someone is hit on that bridge because it is only designed for vehicles. He stated ODOT has agreed and has come up with some funding. This is the only way for pedestrians to cross.

Fortenbaugh stated we don't have money for raises or sidewalks around schools. He questioned if we were obligated to pay this.

Hennessee stated if the council does not authorize the project it will not be designed.

Burk stated every street needs sidewalks for the safety of our citizens. He stated ODOT came here and they also felt this project was needed.

Warren stated he has had no one from the west side say they are happy about spending $600,000 on a pedestrian bridge. He has been trying for years to get sidewalk put in at Eisenhower Middle School. He questioned if anyone has talked to any of the tribes to participate in the cost of the sidewalk to the pedestrian bridge.

Ihler stated there is no agreement to participate. He stated we have signed an agreement with ODOT, and we did request that they do something after several fatalities on I-44. They did pay for a fence. We did submit three projects to ODOT for funding and one was the Eisenhower sidewalk project, and they chose the pedestrian overpass with a $700,000 match.

Warren questioned when ODOT plans to do a major reconfiguration of that bridge.

Hennessee stated the desire is to make a single span bridge that goes from the east side to the west side of I-44. That bridge would be 25 feet south of the existing bridge.

Burk stated they did meet with the Comanche chair and they are willing to help. He stated this is not an east side/west side issue. There is only one way to get across I-44 and it is dangerous.

Warren stated he understands the need for something there, but he cannot support spending $600,000 so that a few people can get across a bridge rather than hundreds of kids getting to a school.

Tanner stated this is matching funds. It is not safe and there are people who have to walk because they don't own a vehicle. ODOT is agreeing to pay for something that we desperately need for citizens to get across I-44. We have moved these unencumbered funds from the 2008 and 2012 CIPs to support the $600,000. He encouraged the council to support what we have already started.

Fortenbaugh stated there are hundreds of children who walk in the street, that is an unsafe condition. He stated ODOT is just telling us what to do.

<u>MOVED by Tanner SECOND by Burk</u> to approve an agreement and authorize the Mayor and City Clerk to execute same for the East Gore Boulevard/I-44 Pedestrian Bridge programmed by the City and designated as State Job Number 32816(05) which consists of Design of the East Gore Boulevard/I-44 Pedestrian Bridge. AYE: Morford, Jackson, Burk, Tanner. NAY: Fortenbaugh, Johnson, Warren. MOTION CARRIED.

7. Consider approving Amendment No. 9 to the March 14, 2011 agreement with CH2MHill Engineers, Inc. for additional professional engineering services for replacement of the sodium hypochlorite tanks at MPWTP. Exhibits: Amendment to the agreement.

8. Consider approving a contract with Amy Sims, d.b.a. Minnow Marina at Fisherman's Cove for the management and operations of the Fisherman's Cove RV Park and Campground on Lake Ellsworth. Exhibits: Contract with Amy Sims, d.b.a. Minnow Marina at Fisherman's Cove, Aerial Photo, Legal Description.

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

<u>Lawton Access Board</u>
Rocco Bonacci
New Member

10. Consider approval of payroll for the periods of September 24-October 7, 2018.

OLD BUSINESS ITEMS:

11. Hold a public hearing and consider an ordinance amending Chapter 18, Lawton City Code, adding definitions and establishing zoning requirements for medical marijuana growing, processing, research, and dispensary facilities and declaring an emergency. Exhibits: Table I – Medical Marijuana Zoning, Ordinance No. 18-___ (as directed by Council) and Ordinance No. 18-__ (also includes growing in A-1 with restrictions)

Richard Rogalski, Deputy City Manager, stated on June 26, 2018, State Question 788 was passed which legalized the licensed use, sale, and growing of marijuana for medicinal purposes. State Question 788 included language that prohibits municipalities from unduly changing or restricting zoning laws to prevent the opening of a retail marijuana establishment, but provides no guidance for the zoning of growing, processing, and research facilities. The State is still in the process of drafting regulations for the medical marijuana industry, and it is likely that the final rules will impact our code. However, the City is receiving numerous inquiries as to which zoning districts such facilities would be permitted and it is important for the Council to set this determination. On September 25th the City Council discussed this issue and continued the public hearing to October 9th. During the discussion Council directed Staff to include the combined use of a growing and dispensary facility in the C-5 General Commercial District. The new proposed ordinance lists commercial growing facility when associated with a dispensary located within the same building as a Use Permitted on Review in the C-5 district. However, as mentioned at that meeting, Staff remained concerned that the proposed regulations may have been overly restrictive on the location of an outdoor growing facility. The State originally restricted growing facilities to be within enclosed buildings, but that language was eliminated from the latest version. Several factors, to include odor and security, make the outdoor growing of medical marijuana a more intense use, not the same as indoor growing. The original version of this ordinance, which included outdoor growing facilities as a Use Permitted on Review in the I-4 District, would allow the City Planning Commission to determine if a proposed location, to include measures to mitigate the impacts to the adjacent properties, was appropriate. The Use Permitted on Review process provides notice to nearby property owners and invites them to voice their concern or support during a public hearing. Staff remained concerned however that outdoor growing of medical marijuana was not allowed in any zoning district by right. Reviewing this matter further, Staff believes an equitable solution would be to allow medical marijuana growing facilities, whether indoor or outdoor, as a Permitted Use in the A-1 General Agricultural District when located a minimum of 1,000 feet from any non-agriculturally zoned property. This provides a 1,000-foot buffer from adjacent non-agricultural uses while allowing growing facilities in more than 8,000 acres of agricultural property within our municipal limits. It should be noted that this buffer would not protect those low-density residential areas that have developed in A-1 and A-2 zoning districts. Table I shows the zonings districts where medical marijuana dispensary, growing, processing, and research facilities would be allowed to locate. When the State has finalized rules for the medical marijuana industry, staff will review the same and forward any supplementary City regulations as deemed necessary.

Jensen stated when the state health department originally did their regulations the requirement was going to be for an enclose facility for growing. They took it out when the Oklahoma Attorney General's office got involved and said they were overreaching on these regulations that aren't authorized by the state questioned that was approved by the voters. They took out things like the enclosed facility and some other requirements. They did a whole redo of their regulations because the attorney general got involved. These changes are still not finalized today. They are talking about having a right somewhere other than a use permitted on review, that is his recommendation, whether it is in an agricultural area or somewhere else, he will leave that to his discretion. They need something to address the issue because there or other communities in the state that are being sued.

Tanner stated the second proposal is the one Richard came up with after he visited with the city attorney. He questioned what the nurseries in town are zoned.

Rogalski stated nurseries are allowed in commercial zoning.

Tanner questioned what was the difference? You are growing a plant.

Rogalski stated if you are growing a field of plants it creates additional odor and it is also the value of the material. He does not believe that anyone will want to grow outdoors.

Tanner stated he received a call from management at the mall and they would like to be included in the zoning to have a dispensary.

Rogalski stated the mall is in an urban renewal plan and LURA will be addressing this similar issue next Tuesday for their urban renewal plan areas. They will make a recommendation to CPC and then to council.

Burk stated a lot of what they are doing tonight is probably good foresight. He agrees with the C-5 and he does not know of a lot of people who will grow outside. He cannot imagine someone trying to protect that investment. He stated these facilities are spending hundreds of thousands of dollars on processing equipment and he feels they are doing the right thing opening it up to other areas and then having the use permitted upon review in C-5 will help those existing facilities. Most of this will be done inside and no one will know what is being grown in these facilities. They will have a growing facility with a sale facility where people will purchase.

Mayor Fitch stated staff is working diligently to keep abreast of what is going on and what other communities are doing. The rules are going to be changing as we get further into this and things within the state may tighten down and we will have to change the ordinance. Other communities have found themselves being sued and we don't need that. We need something in place immediately and we need an ordinance in place.

Fortenbaugh stated he has been contacted by three business that are interested in the marijuana business and they talked about "Seed to Sell" as their business model. They want to grow, process, and sell in one facility. This says it would have to be I-2, I-3 or I-4.

Rogalski stated it is how they will process. Growing allows you to package and sell. In a growing facility you can't turn it into something else. It is an industrial process, and it would go to I-3.

Burk stated he does not agree with that. In Oklahoma City there is a processing facility one block from the hospital. It can't be that dangerous if they put it one block from a hospital. We need to back up because we are going on assumptions. We don't know the processes. People are not going to be letting out odors in the middle of town or blowing up a block. Why would we make it be in industrial?

Rogalski stated any processing of pharmaceuticals is in industrial. That is currently in our code. Processing of marijuana matched the uses in I-3. I-1 is light industrial like warehousing.

Burk stated he can support everything but having it be in industrial. He feels that all three things can happen in one facility. If you tell these people they can't do it we are going to be in a lawsuit. It needs to be a use upon review.

Mayor Fitch suggested they just put it as use permitted on review. We will find a situation where at least we can review it and make a determination.

Johnson stated we need to find a middle ground. If we say it is a use permitted on review, we can control where it goes in the city.

Tanner recommended that they go from C-5 to I-4 with a use permitted on review.

PUBLIC HEARING OPENED.

Tony Terrell, 3018 NE Stratford Circle, stated he is 75% owner and co-founder of Oklahtopia. They are a dispensary, grow and processing plant. They have already secured two locations and he does not see the difference in industrial zoning. Why is there a difference between the processing and the growing. He does not understand why one is I-1 and one is I-2.

Rogalski stated growing is an ignorant process and is similar to warehousing which is I-1. Processing is taking a commodity and turning it into something else. That is exactly what they do in I-3, which includes manufacturing pharmaceuticals.

Mr. Terrel stated this is a gray area and he would like to see Lawton take the lead and do it right and collaborate with people who are serious about providing a service to the citizens as an alternative. He does not understand, if you do not have the knowledge of environmental risks or dangers, how can you zone it differently.

Morford questioned what you process.

Mr. Terrel stated there are odor mitigation systems, certain ventilations systems, water purifications systems. There are people making decision on the zoning that don't know about the process. There is no risk to the community. There is no odor. It would be crucial to exceed the standards set by the state. It bothers him that you want to jump to a vote in a gray area with legal ramifications.

Jensen stated they have had very little time to prepare for this and Mr. Rogalski is trying to respond to numerous calls to his office to get some zoning established. He was tasked with trying to come up with a comparable business or entity. He is not trying to be an expert. People are demanding to know where they can plan to put a facility.

Mr. Terrel stated he does not want challenges to people who have legitimate businesses with millions of dollars invested. They have already spent $7,500 on three licenses with the state, and

they are ready to go. They have two buildings, one on 11th and one on Atlanta and they are ready to go, and they would hate to see any barriers put up in a gray area.
Burk stated they are trying to be the least restrictive they can but still trying to protect the citizens. He agrees with everything but the industrial side. He does not see that what they are looking at tonight is restricting anyone.

Mr. Terrel stated if they start with C-5 and above for processing and grow, he feels that would be a good start. They have secured the real estate, they will not be buying it, they will be renting it.

Warren stated they need to look at the use permitted on review and see if it will work. He invited Mr. Terrel to help them understand what is involved. He suggested they table this item until the next meeting.

Burk stated he is getting calls and people are ready to open and operate. He stated the use upon review sounds right and this will allow people to get started.

Warren questioned if C-5 low enough with a use permitted on review.

Burk stated they may just have a use permitted on review and look at them on a case-by-case basis.

Rogalski stated if they wanted to include processing with the grow and dispensary in C-5 with a use permitted review, he questioned how they felt about the I-1 for outdoor growing.

Burk stated he does not care about outdoor growing, he feels no one will growing outdoors.

Rogalski stated they can make a motion to amend this.

Tanner stated it seems the council is looking a modified version of table 2 where they are looking at opening it up to outdoor growing in in agricultural areas and other areas would be a use permitted on review.

Brenda Hunter, citizen, stated she had questions about how to obtain a permit to run a dispensary. She questioned if there are customers that don't a prescription, how will they handle this.

Rogalski stated the state will give people a license to operate a dispensary. Right now the city is just looking at the zoning for those facilities.

PUBLIC HEARING CLOSED.

MOVED by Tanner SECOND by Burk to approve table 2 and amend it by allowing other zoning areas to be a use permitted on review.

Jensen stated the motion was to approve the second version of the ordinance and what you need is a floor amendment to make sure it is straight on the record so you can finalize the ordinance.

Tanner stated they want to open with table 2, the areas in this zoning that are closed off to be permitted on review, meaning they would go to the planning commission and the planning commission would decide if they would approve the permit or not.

Rogalski stated he does not think we can do that in this motion. That is a lot of code changes.

Jensen stated the original floor amendment is for the growing, processing dispensary.

Burk suggested they amended the motion to say let's start with doing the use upon review with the facility and give staff a chance to come back with more changes.

Tanner questioned where they could put the use permitted on review.

Jensen stated they will need to have more public hearings if necessary.

MOVED by Tanner SECOND by Burk to adopt **Ordinance 18-30**, that includes the medical marijuana in A-1 with the change that Section 7, medical marijuana grow facility and medical marijuana processing facility associated with a medical marijuana dispensary located in the same closed building, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Morford, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 18-30

AN ORDINANCE PERTAINING TO PLANNING AND ZONING AMENDING SECTIONS 18-1-1-106, 18-5-1-501, 18-5-8-580, 18-5-8-581, 18-5-9-591, 18-6-12-623, 18-6-12-624, 18-6-13-635, 18-6-14-646, 18-6-15-658, 18-6-16-671, 18-6-17-681, AND 18-6-17-682, CHAPTER 18, LAWTON CITY CODE, 2015, TO ADD DEFINITIONS AND ESTABLISH ZONING REQUIREMENTS FOR MEDICAL MARIJUANA GROWING, PROCESSING, RESEARCH, AND DISPENSARY FACILITIES; PROVIDING FOR RENUMBERING; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

NEW BUSINESS ITEMS:

12. Provide the Consultant, Dewberry Architects, an opportunity to explain the necessity of one item on Change Order No 3, two items on Change Order No. 5 and one item tabled on Change Order No. 3 and the Architects responsibility. Exhibits: Clarification Request

Chris Hill, Project Principal for Dewberry Architects, presented an overview of what has happened and how these issues have come about. He stated Dewberry does not have the authority to approve change orders and stated things happen in projects.

Tanner questioned why this did not go through the change order committee. He was concerned when the change orders were submitted in the amount of $172,000, apparently were approved by a former city employee, knowing the general contractor and the architectural firm knew what the state laws were concerning change order in that if it is over $45,000 then it is mandatory that it come before the governing body. They are trying to determine if the remaining one for $126,000 is because of a design flaw by the architectural firm.

Ihler stated at the August 28th meeting staff was directed to ask Dewberry to provide a response to their level of responsibility on these four items.

Mr. Hill stated $112,000 of that was an issue found with the foundation that was prepared for the project was insufficient to meet code and that is when they made a modification in pricing.

Morford questioned why this came up after the bid.

Mr. Hill stated things happen as you continue through a project. Obligation is to meet design intent and to meet code. He stated they want to deliver a structurally sound building.

Burk stated we found it and did the work before we had the approval to do the work. Why didn't someone come to council. Anything over $40,000 has to be brought back and why did someone approve it. Someone dropped the ball and are they saying it was our staff.

Ihler stated he did see an email where this particular item on this change order where Flintco had indicated they had received the information from the architect and that they had not received any written authorization from the City, and they proceeded on their own in the interest of moving the project along and not providing any cost increases as a result of delays.

Burk stated someone locally probably did the work and he is not sure that they have been paid. If they don't pay this, who eats this money, the contractor?

Ihler stated yes.

Burk stated we still have to abide by the law.

Warren stated the architect designed this building. It is not the responsibility of the citizens of Lawton. This should not happen again because we have changed the way we do things. They did the work to move the project along. Why weren't the seismic loads designed correctly?

Mr. Hill stated he addressed this in his written response. He stated the mapping had changed.

Tanner stated he would like to discuss this with the city attorney because the contractor proceeded without approval and the question of the design flaw.

Mayor Fitch stated there is no action to be taken on this item.

Tanner stated he will call a change order committee meeting to discuss.

Jensen stated engineering staff should be included.

13. Consider approving an Ordinance amending Chapter 22-1-1-102, Division 22-1-1, Article 22-1, Chapter 22, Lawton City Code, 2015, as amended, to establish a method to annually increase the maximum income limits for elderly and disabled persons to qualify for a reduction in utility rates by annually adjusting the annual household income limit by the same percentage as any annual increase that may be provided by the Social Security Administration's benefit payments that are instituted prior to March 1st of that same calendar year, and amending Section 22-1-1-104 to conform with Section 22-1-1-102 regarding income level adjustments, and providing for severability. Exhibits: Ordinance 18-__.

Ihler stated the council requested staff to come back with some kind of methodology that would be an automatic renewal based on some function, and the function they are utilizing is the social security administration's benefit payments. If they are to provide an increase to those on social security, then we would incorporate the increase.

Warren stated this just gives us a way to do this automatically. He stated this cost is between $35,000 and $40,000 a year, which is a lot of money.

<u>MOVED by Warren SECOND by Burk</u> to adopt **Ordinance 18-31**, waive the reading of the ordinance, read the title only and establishing and providing for severability. AYE: Morford, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 18-31

AN ORDINANCE PERTAINING TO UTILITIES AMENDING SECTION 22-1-1-102 and 22-1-1-104, DIVISION 22-1-1 ARTICLE 22-1, CHAPTER 22, LAWTON CITY CODE, 2015, BY ESTABLISHING AN ANNUAL ADJUSTMENT TO INCREASE THE ANNUAL HOUSEHOLD INCOME LIMIT FOR ELDERLY AND DISABLED PERSONS TO QUALIFY FOR A REDUCTION IN UTILITY RATES, AND PROVIDING FOR SEVERABILITY.

14. Consider providing direction to staff indicating the desire of Council regarding the private sewer main line located in the Tropes Addition. Exhibits: Letter from Mike Cornish, Attachment 1 – map showing the location of the existing private sewer main line and Attachment 2 – map showing the proposed relocated new sewer main line.

Rusty Whisenhunt, Director of Field Utilities, stated they received a request from Mr. Cornish to bring this to council and get some direction. This is an area that is bound by Lee Boulevard on the north side and Jefferson on the south side. It starts at Sheridan Road and goes to the west of that location. The Tropes addition was originally platted in 1904 in 5-acre tracts along that section. There were 8 five-acre tracts platted. In the 19060's two of the lots were replated into some residential areas which are adjacent to Jefferson Avenue starting at 24th Street. When that was done some public sewer mains were installed to support that residential area. The commercial area never had public sewer installed to support the commercial area. Since that time a private sewer main was installed and not dedicated to the city to support that area. Since that time these five-acre tracts have been divided up into several different properties and owned by several different property owners. Over time that sewer main has become a problem to the property owners through there and it had deteriorated, and it is very hard to maintain for the private businesses. It actually runs underneath two large buildings and under awnings of a couple of other buildings. At its current location it cannot be maintained. These lots are basically locked away from any public sewer main. They are looking for direction from council to find out what council wishes to do. They have put together a possible design for the project and it includes construction to provide sanitary sewer to all these tracts at a cost of almost $500,000, it is 4800 lineal feet of sewer to provide a public sewer main to each one of these properties. They need direction on how to proceed, whether to reconstruct this line and build that line and acquire the easements or to leave it with the private property owners and let them continue to deal with the issue.

Mike Cornish, 6209 West Gore, stated somehow it has been deemed that he owns that sewer line from 26th Street all the way to Gene Burks Auto Glass. He does not know who decided that, but he has had to maintain it for 38 years. They had another problem when the city was doing the rehab at 24th Street. They managed to stop up a private line that is supposedly his. He had to hire a flush truck because the city refused to bring theirs. This line goes up and serves Sonic, the Storks Nest, C&E, Strickland's Commercial Buildings, Combined Home Health, Pac Rat Storage, United Rentals, Pete's Garage and numerous others. The City collects sewer rehab and funds from all these people, so he believes that the City needs to move forward and give them adequate sewer service to maintain these 17 existing properties that are on this sewer line. That is what he is asking of the council. Right now, he spends $4,000 a year in sewer rehabs on his 7 properties that are tied to this line. Take $4,000 a year times 38 years and that is hundreds of thousands of dollars collected for something the city will not touch and help the existing businesses in Lawton.

Mayor Fitch questioned if this line was ever dedicated.

Whisenhunt stated this line was never dedicated and it is not in a utility easement. The parts from Sheridan Road to 24th Street have been reconstructed when Gene Burk built his new building, they reconstructed and provided utility easements and reconstructed to city standards. Just behind Gene Burks' there was a utility easement given for that property at the same time the replat in 1960 was done. There are a number of commercial businesses connected to that line and basically it is a community service line that really services all of those owners and it is not just Mr. Cornish's responsibility, it belongs to all of them. These are five-acre tracts and they allowed septic tanks at that time and in 1904 when this was first platted there was no sewer out there. It has evolved and been a problem for a number of years for both Mr. Cornish and the other businesses out there, but to fix it, it does carry a $500,000 price tag. He agrees that something does need to be done to fix it.

Burk questioned if sewer rehab would be the route they would go to do this.

Ihler stated if they are going to be directed to reconstruct a new sewer line to serve those areas it would be done with the sewer rehab group.

Burk stated this is one of those things that needed to have been done a long time ago. It serves a lot of businesses over there. They have had to move and adjust because sewer rehab issues have come along, and he would like to see them look at this and sewer rehab would be the group to do it. He is assuming they have money in that program to make this happen.

Ihler stated the sewer rehab program is funded through sales tax through the 2016 sales tax, which ends in 2025. They came back to the council six months ago and asked the council to approve a continuation of the $2.35 on the utility bill until the entire sewer rehab program is complete. Burk stated he would recommend that they get this sewer line fixed sooner than later.

Mayor Fitch questioned if there was enough easement room in front of all of these buildings.

Whisenhunt stated the problem is that there is a 24-inch water main on that side of the street in between getting the 10-foot separation from that water main and the required DEQ separation from the water main out there in front of the businesses, there is not room, unless they lay it in Lee Boulevard. They have to come up with a route that is less intrusive than that, and that is taking it from Jefferson and bringing a couple of lines up in there and taking it back to the new trunk main that is being built with the sewer rehab program and that doesn't affect any of the businesses and gives a better route and it will service all the tracts.

Mayor Fitch stated they would take it south.

Whisenhunt stated they would take it from in front of the businesses where their services are and take it south to the Jefferson Street right of way down to the new north wolf creek one trunk main and it will be able to pick all of these facilities up. That is where the 4800 lineal feet of main is, but you are not having to deal with the pavement other than Jefferson.

Mayor Fitch suggested they give direction to staff to put together all the costs and time frame when this could be addressed and then bring it back to council for some action to be taken.

Ihler stated the $500,000 cost is for construction, it does not include any right of way that they would have to obtain. If the direction is that the city put this in, they would hope that the property owners that are going to benefit from this would donate the easement for the sewer line, but there is no guarantee that will happen.

Burk stated this sewer line would make the property more valuable than a private line that is messed up.

Warren stated he and Councilmember Jackson have discussed this sewer line for 20 years and if they have the ability to do this and can find the money to get this accomplished he can definitely support this. There are a lot of businesses involved and they would be helping a lot of people.

Tanner stated he would like to direct city staff to get a firm cost on the installation of the new sewer line along with the cost of the easements. They would hope that the property owners would donate those easements.

Mayor Fitch questioned if they would run the line all the way up to those properties.

Whisenhunt stated they would take it to where it abuts each tract of property where their existing services are located. This is what they do in the other sewer rehab programs.

Mayor Fitch stated everyone seems to be in agreement with Council Member Tanner's recommendation and they let staff get to work on it and then bring it back.

Whisenhunt stated the project would take getting the design together and then they will have to create the right of way documents. This will take a little time. The $500,000 is based upon it being done in house by sewer rehab crews.

MOVED by Tanner SECOND by Burk to direct staff to develop cost estimate. AYE: Morford, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

15. Discuss and consider the City Manager Job Description and recruiting process to replace the retiring City Manager. Exhibits: The City Manager Job Description and Summary of Strategic Government Search (SGR) service proposal. SGR service full proposal is on file in the City Clerk's Office.

Warren Wick, Human Resources Director, reviewed the proposal from Strategic Government Resources (SGR). He stated the total expense would be $26,500.

Mayor Fitch stated he does not feel that we need to be doing this ourselves. The council will still be able to give input on the parameters.

Fortenbaugh stated we cannot afford to make a bad hire and he feels this is worth $26,500.

Warren stated he agrees.

MOVED by Morford SECOND by Warren to approve the process and a cost amount not to exceed $26,500 associated with utilizing SGR for recruiting a new City Manager. AYE: Morford, Jackson, Burk, Fortenbaugh, Johnson, Warren. NAY: Tanner. MOTION CARRIED.

16. Consider adopting a resolution amending the FY 2018-2019 budget to increase the staffing level of the Information Technology (IT) division by adding a newly created staffing position of Information Technology Director, thereby making the IT division a department. Exhibits: Resolution No. 18-__ and Position Description for IT Director.

Fortenbaugh stated the IT committee has been looking at the IT situation for six months and they found that IT touches every department, and we don't have any strategic plans. We are very reactive, and we need a department head to manage all of IT. He is recommending we hire this person.

Tanner stated the council has not been briefed and this idea was brought forth a while back. He questioned what the director would do as opposed to the division supervisor and what would be the cost of this new position and where the money is coming from.

Ihler stated the cost to fund the position the remainder of this year would be paid through personnel lapses. We have about 30 vacancies so there is a lapse in salaries because they have to budget for every position. The IT division supports every department, and they should have someone on the same level as other department. The estimate cost would be $125,000 to $160,000 for one full year.

Tanner stated the council hired a consultant to analyze the city's needs. He has never seen anything about our needs, and it has never been explained. He stated we are not going to fix our IT problems until we know what we need.

Fortenbaugh stated he feels that we know what we need and we are taking the supervisor position and supercharging it into a department head.

Tanner stated the council hasn't been briefed.

MOVED by Fortenbaugh SECOND by Morford to approve **Resolution No. 18-71**. AYE: Morford, Jackson, Burk, Fortenbaugh, Johnson, Warren. NAY: Tanner. MOTION CARRIED.

17. Consider approval of Change Order #6 by Flintco, LLC to their contract with the City of Lawton for construction of the Public Safety Facility. Exhibits: Change Order #6 - Public Safety Facility.

Ihler stated he distributed a correction regarding the contingency allowance.

Hennessee presented information regarding the change order.

MOVED by Burk SECOND by Jackson approve Change Order #6 by Flintco, LLC to their contract with the City of Lawton for construction of the Public Safety Facility. AYE: Morford, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

18. Discuss and consider whether or not to approve Change Order #7 with Flintco, LLC to their contract with the City of Lawton for construction of the Public Safety Facility. Exhibit: Change Order #7 - Public Safety Facility.

Hennessee stated this item was discussed earlier that dealt with the seismic loading of the building. The amount is $126,121. This change order was tabled.

Burk stated he would like to know if the architect would be able to work a deal where we would split the cost. This would prevent us from going to court and it would move us forward.

(Representative from Dewberry) stated they believe they are not liable, and they do not have financial responsibility. They have spent the time to make sure it was engineered properly, and they would be glad to discuss in more detail.

Fortenbaugh stated the work got done and they need to consider paying this.

MOVED by Tanner SECOND by Morford to table.

Jensen stated it they are going to pay this it should come out of the contract contingency amount and not increase the contract amount. He stated there is another one coming in the amount of $170,000.

Ihler stated they only have $124,985 in the contingency fund. They are $1,136 short of being able to pay all of it.

Trent ??, counsel for Flintco, stated they went forward with the work to keep the project on schedule. They are not forcing the council to make a decision. If they would have waited the cost would have been higher. They believe the law entitles the city to pay for this.

Tanner stated they could have called an emergency meeting of the council.

Trent stated staff did not give that option.

Burk questioned how they could pay this if there is not enough in the contingency fund.

Trent stated they would accept the $124,985.

SUBSTITUTE MOTION MOVED by Burk SECOND by Fortenbaugh to approve Change Order #7 in the amount of $124,985, by Flintco, LLC to their contract with the City of Lawton for construction of the Public Safety Facility. AYE: Morford, Jackson, Burk, Fortenbaugh. NAY: Tanner, Warren, Johnson. MOTION CARRIED.

The Mayor and Council convened in executive session at 9:22 p.m. and reconvened in regular, open session at 9:37 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEM:

19. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in United States District Court of Margie M. Robinson, as the Personal Representative of the Estate of Christina Dawn Tahhahwah, Deceased vs. City of Lawton, and eleven police/correctional officers, CIV-16-869-F, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #19.

MOVED by Fortenbaugh SECOND by Jackson to authorize City to participate in mediation, Warren and Burk to serve as council reps. AYE: Morford, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:39 p.m. upon motion, second and roll call vote.

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FRED L. FITCH, MAYOR

ATTEST:

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TRACI HUSHBECK, CITY CLERK