

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 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 6:04 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
Jay Burk, Ward Four
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven
Randy Warren, Ward Eight

ABSENT: Dwight Tanner, Jr., Ward Five

EMPLOYEE SPOTLIGHT PRESENTATION TO CINDY GRIFFIN AND SHARI RODRICK
– HUMAN RESOURCES DEPARTMENT

The City Manager recognized Cindy Griffin and Shari Rodrick for their outstanding performance.

REPORTS: MAYOR/CITY COUNCIL - None

AUDIENCE PARTICIPATION: None

CONSENT AGENDA:

Davis requested item #10 be considered separately

MOVED by Burk SECOND by Warren to approve the consent agenda with the exception of item #10. AYE: Hankins, Jackson, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: None.
MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Kamonikah N. Farrow, through her attorney Mike Markey in the reduced amount of \$6,500.00 (**Res. 19-111**) and Robert Carter in the amount of \$1,258.81 (**Res. 19-112**). Exhibits: Legal Opinions/Recommendations.
2. Consider approving an Outside Water Sales Contract with Tracy Rowe and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Survey Certificate, Exhibit A showing Lot 3 split into three (3) tracts, Location Map. Contract is on file in the City Clerk's Office.
3. Consider approving an Outside Water Sales Contract with Tracy Rowe and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Survey Certificate, Exhibit A showing Lot 3 split into three (3) tracts, Location Map. Contract is on file in the City Clerk's Office.
4. Consider approving a resolution amending the City of Lawton FY19-20 budget, as amended, by increasing Economic Development (Fund 14) appropriations by \$85,000.00 for additional industrial development legal consulting services. Exhibits: **Resolution No. 19-113**.
5. Consider approving a revised Agreement with the Center for Economic Development Law, broadening the scope of the prior agreement including authorizing and directing the Center for Economic Development Law to prepare an expanded policy for non-retail development and to prepare a project plan pursuant to the Local Development Act which, if approved, will create up to thirteen additional increment districts within the City instead of the originally planned two. Exhibits: Revised Agreement with Center for Economic Development Law.
6. Consider approving the 2020 Notice of Meeting Schedule for Lawton City Council Meetings and Resolution 19-___ rescheduling the regularly scheduled meeting in December 2020. Exhibits: 2020 Notice of Meeting Schedule for Lawton City Council; **Resolution No. 19-114**.
7. Consider approving operation agreement for the Holiday in the Park, "Holiday House". Exhibits: Holiday House Operation Agreement.
8. Consider approving a Ground Sub-Lease agreement for scoreboard installation between Youth Scoreboards, LLC and the City of Lawton. Exhibits: Ground Sub-Lease Agreement.
9. Consider releasing the escrow agreement in lieu of performance bond for the water and sanitary sewer improvements to serve the Replat of Lot 2, Block 1, Sun Group Development, located approximately ½ mile west of NW 67th Street on the south side of NW Quannah Parker Trailway, and accepting the water and sanitary sewer improvements and an escrow agreement in lieu of maintenance bond. Exhibits: Location Map. Maintenance Bond is on file in the City Clerk's office.

10. Consider rejecting all bids and authorizing staff to rebid a construction contract for the Library Renovation Project #2017-09. Exhibits: Bid Tab Sheet on file in the Engineering Department.

Davis stated this was bid by two contractors and one of the contractors did not provide proper bid documents with the bonding issue. He would like to make a motion tonight that they award the project to the next lowest bidder so the project can move forward instead of sending it out to rebid.

MOVED by Davis SECOND by Warren to award the contract to the next lowest bidder. AYE: Hankins, Jackson, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

11. Ratify staff approval of Change Order #2 to the contract between Timco Blasting and Coating and the City of Lawton for construction of the Lawtonka Dam Gate Rehabilitation Project. Exhibits: Change Order #2 – Lawtonka Dam Gate Rehabilitation Project.
12. Consider authorizing Lawton City Mayor to sign grant applications seeking funding towards Ellsworth Spillway repairs identified during the CH2M Hill/Jacobs Engineering investigation and design. Exhibits: None.
13. Consider extending contract (CL18-007) Heavy Equipment Service & Parts to C.L. Boyd Co., Inc. of Lawton, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
14. Consider approving appointments to boards and commissions. Exhibits: None.

Lawton Economic Development Authority

Fred Fitch
Existing Member
12/15/2025

Ernie Sheppard
Existing Member
12/15/2025

NEW BUSINESS ITEMS:

15. Hold a public hearing and consider a resolution amending the Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from R-1 Single-Family Dwelling District to C-1 Local Commercial District zoning classification on property located at 1412 NW 23rd Street. Exhibits: Resolution No. 19-___, Ordinance No. 19-___ with Site Plan, Location Map, Application and CPC Minutes.

Debbie Dollarhite, Senior Planner, stated this request is for Lot 26, Block 6, Stephens Addition and measures approximately 60 feet by 180 feet. The proposed use is parking area for an expanded Chick-Fil-A restaurant. The applicant, Bryan Burger, represents Chick-Fil-A. The property owners, Bobby R. and Brenda Sue Lathe, have also signed the application.

The zoning of the surrounding area is R-1 to the north and east, C-1 and C-5 General Commercial District to the south, and R-1 and C-1 to the west. The land use of the surrounding area is single-family residential to the north and east, Chick-Fil-A restaurant to the south, and single-family residential and Pizza Hut to the west. As shown on the site plan submitted with the application, Chick-Fil-A proposes to demolish the current restaurant, construct a larger restaurant, modify the parking, and drive-thru areas. This request is only for an expanded parking area. On October 24, 2019, the City Planning Commission held a public hearing on this request. The CPC, by an 8-0 vote, recommended approval to the City Council. Notice of public hearing was mailed to 40 owners of property within 300 feet of the requested area on November 5, 2019, and proper notice was published in *The Lawton Constitution* on November 9, 2019. Staff received no objections to this request.

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

MOVED by Warren SECOND by Burk to approve **Resolution No. 19-115** amending the Land Use Plan from Residential/Low Density to Commercial. AYE: Hankins, Jackson, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

MOVED by Warren SECOND by Davis to adopt **Ordinance 19-29**, 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, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 19-29

An ordinance changing the zoning classification from the existing classification of R-1 Single-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.

16. Hold a public hearing and consider an ordinance to close the alley in Block 22, of Original Townsite of Lawton, located between SW 1st Street and S Railroad Street and SW A Avenue and SW B Avenue, and accept public utility easements. Exhibits: Ordinance No. 19-____, Location Map, Utility Easements are on file in the City Clerk's Office. Letter from CenterPoint Energy Attorney. **STRICKEN**
17. Hold a public hearing and receive a presentation of proposed Skills Training, Education, Development and Investment (STEDI) Project Plan for the purpose of providing information, including an analysis of potential positive or negative impacts, and answering questions regarding the proposed Project Plan. Exhibits: STEDI Project Plan, Analysis of the Financial Impacts, and Eligibility Report (Included documents are subject to change prior to the date of this hearing).

Dan Bachelor, Center for Economic Development Law, presented information on the Skills Training, Education, Development, and Investment (STEDI) Project Plan. (Presentation is on file in the City Clerk's Office)

Mayor Booker stated the council will not be taking any action on this item tonight. There will be a second public hearing and action item on the agenda for December 10th. The public hearing is for asking and receiving answers, it will not be for expressing views, that will be done at the second public hearing.

PUBLIC HEARING OPENED.

Tom Leon, 2307 NW Redwood Lane, stated the ad valorem tax was in this plan and he questioned if this changes the ad valorem tax.

Mayor Booker stated this is an ad valorem plan, but it does not raise taxes.

Mr. Bachelor stated that this does not affect anyone's property taxes. When the district is established, you determine what that tax base is and all the taxes that those preexisting values generate continue to be allocated to the taxing jurisdiction. As new investment is made, that new investment creates a new tax revenue stream and it is only the new revenue stream that you can use to pay your project off. It does not change the taxes on any other properties, it is only the new revenue stream.

Sammy Powell, citizen, questioned if Goodyear was included in the boundaries of the TIF.

Mayor Booker stated it is not.

Mr. Powell stated the ad valorem tax will be raised on new businesses or new home structures in that TIF area.

Mayor Booker stated there will be no new homes because that is industrial land. It is only industry and new growth that is put in place. Right now it affects only the growth of Republic Paperboard.

Mr. Powell stated that is tax district #3, the other districts will be affected if something starts to happen with new businesses and that district will be set up at that time.

Mayor Booker stated if we get a company recruited for one of those alphabets on the map, then the city council would vote to activate that increment district and it would be labeled #4 or #5. We have averaged about one industry a decade, so this project plan is 10 years long, but since we have started talking about this TIF district and the CIP, we have received more interest from the Department of Commerce. All of the income brought in will be spent in the project area, which is to further develop that industrial area so it will be more attractive for more industry.

Mr. Powell stated the funding still goes to the schools until a business comes into the district.

Mr. Bachelor stated it depends on which version the council approves.

Mr. Powell questioned who would be in charge of the funds.

Mayor Booker stated the Lawton Economic Development Authority (LEDA) will manage the funds but the council will end up making the final decisions.

PUBLIC HEARING CLOSED.

18. Consider approving a Non-Retail Business Economic Development Assistance Policy superseding and replacing the Economic Development Assistance Policy-Industrial, Council Policy 1-11, adopted by the City Council of the City of Lawton on September 21, 2009. Exhibits: Non-Retail Business Economic Development Assistance Policy – City Council Policy 1-11.

Mr. Bachelor stated in connection with our work in framing the proposed STEDI project plan, they were also asked to look at the City's previously adopted industrial development policy. This is a policy that speaks to the conditions under which it might be appropriate to provide financial incentives and support for industrial development. As a result, this is a recommendation on updating this policy. Step one is to change the focus from industrial to non-retail business. In today's business environment, so much of the business opportunity is creative and we are in a world of digital technology. Those jobs that can create high paying jobs may or may not be industrial in the traditional sense. You want the door open and focused on that wide range of business opportunity that is other than retail. It is important to emphasize the non-retail aspect because these are the businesses that create the highest economic multipliers for the community. The assistance will be tied to performance and the emphasis is on employment and investment minimums, which have been modified. The threshold of 20 jobs for new job creation has been left the same but they recommend that the investment threshold be changed from \$500,000 to \$1 million coupled with the 20 jobs. If it is expansion of existing facilities then use a 10-job threshold and \$500,000 as an investment threshold for eligibility. The new policy provides for emphasis on partnerships with schools, Great Plains Technology, Cameron University and for STEM education and skills training, which is a critical part of your non-retail business development opportunity in today's world.

Burk stated in 2009 we had no retail or industrial incentives in Lawton and businesses were coming to them asking for help. He put together a couple of committees and he was amazed to see that most of the original policy was left intact.

Mr. Bachelor stated it is a good basic policy, but they just did a little fine-tuning to fit where Lawton might be going in the future.

Burk stated he feels this is a good policy. The only concern is that he feels that the 10 new job threshold and \$500,000 investment is steep. He questioned if that number was the norm.

Mr. Bachelor stated there is not a norm, but the plus of the large investment numbers is that if you have them, it gives you some incremental revenue to work with. The majority of new small

businesses fail so you have a higher level of uncertainty. He encouraged the council to take a separate evaluation of what can be done to nourish small enterprise entrepreneurial activity.

Burk stated since 2009 they have only used this one time for an incentive so obviously it did not work the way they thought it would.

Mr. Bachelor stated a little help could go a long way for a small struggling start up enterprise, so it is worth considering. This is focused on the bigger business attraction and development but it has not focused on what Council Member Burk is talking about.

Burk suggested they look at getting a committee together to look at helping small businesses develop and those that are interested could still apply with lesser thresholds.

MOVED by Burk SECOND by Davis to approve a Non-Retail Business Economic Development Assistance Policy superseding and replacing the Economic Development Assistance Policy-Industrial, Council Policy 1-11 AYE: Hankins, Jackson, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

19. Consider approving Ordinance No. 2019-____ relating to finance and taxation; amending the Lawton City Sales Tax Code, codified as Article II of Chapter 10 of the Lawton City Code, 2015; by the enactment of a new paragraph under Section 10-2-205 of the Lawton City Code, 2015; levying an excise tax of two and one-eighth percent (2.125%) on the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of the State of Oklahoma; providing a limited term of the excise tax beginning April 1, 2020, and ending December 31, 2034, with the exception one-half percent (1/2%) of the two and one-eighth percent (2.125%) excise tax will be for an indefinite period; providing that the excise tax levied by this new paragraph under Section 10-2-205 of the Lawton City Code, 2015 shall be cumulative to all other excise taxes levied by this Chapter or any other taxing authority; providing for codification; repealing certain ordinances contingent upon the approval of this Ordinance by the voters; providing for severability; and providing an effective date for Sections 1 and 2 of this Ordinance with approval of the Ordinance by City voters required. Exhibits: Ordinance No. 19-__.

Mayor Booker stated that since the Oklahoma Supreme Court ruling on the MAPS project, this changed the rules and that is why there are four items to approve.

MOVED by Warren SECOND by Burk to adopt **Ordinance 19-30**, waive the reading of the ordinance, read the title only. AYE: Hankins, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 19-30

Ordinance relating to finance and taxation; amending the Lawton City Sales Tax Code, codified as Article II of Chapter 10 of the Lawton City Code, 2015; by the enactment of a new paragraph (d) under Section 10-2-205; by enacting an ordinance assessing and levying an excise tax of two and one-eighth percent (2.125%) in addition to all other excise taxes assessed and levied by the

city of Lawton, Oklahoma and all other taxing authorities, upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of the State of Oklahoma; providing a limited term of the excise tax beginning April 1, 2020, and ending December 31, 2034, with the exception one-half of one percent (1/2%) of the two and one-eighth percent (2.125%) excise tax will be for an indefinite period; providing that the excise tax levied by this new paragraph (c) and amended section shall be cumulative to all other excise taxes levied by this chapter or any other taxing authority; providing for codification; and providing an effective date for sections 1 and 2 of this ordinance with approval of the ordinance by city voters required; repealing certain ordinances contingent upon the approval of this ordinance by the voters; providing for severability of the provisions of this ordinance; and requiring the full text to be published.

20. Consider approving a Resolution specifying the intent of the Mayor and Council of the City of Lawton, Oklahoma with regard to the replacement of the existing seven-eighths of one percent (7/8%) Capital Improvement/Operational Expenditure Sales Tax and the one and one-quarter percent (1.25%) Capital Improvement Sales Tax with a new sales tax to be levied of two and one-eighth percent (2.125%) to be voted on by the registered voters of the City of Lawton, Oklahoma at an election to be held for such purpose on February 11, 2020. Exhibits: Resolution 19-____.

Mayor Booker stated there was an error in the resolution published in the agenda book and a revised resolution has been distributed to the council.

MOVED by Burk SECOND by Warren to adopt revised **Resolution 19-116**. AYE: Hankins, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

21. Consider approving a Resolution authorizing the Mayor to issue a Proclamation calling a special election submitting Ordinance No. 2019-____ to the registered voters of the City of Lawton, Oklahoma, for their approval or disapproval, which if approved would amend the City Sales Tax Code by levying an excise tax of two and one-eighth percent (2.125%) on all sales taxable under the sales tax laws of the State of Oklahoma for a term beginning April 1, 2020, and ending December 31, 2034, with the exception one-half of one percent (1/2%) of the two and one-eighth percent (2.125%) tax will be for an indefinite period; specifying the proposition to be submitted to the voters; providing that the call for the election shall be by Mayoral Proclamation; providing for publication of this Resolution and the Proclamation issued by the Mayor to call the said election; and further providing that the returns thereof shall be canvassed by the County Election Board pursuant to State law and certified to the Mayor and Council. Exhibits: Resolution 19-__ and Election Proclamation.

MOVED by Burk SECOND by Hankins to adopt **Resolution 19-117**. AYE: Hankins, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

22. Consider approving a Resolution relating to the special election called by the Mayor and Council of the City of Lawton for February 11, 2020, for the purpose of submitting to City voters Ordinance No. 2019-____, levying a two and one-eighth percent (2.125%) excise tax for a term beginning April 1, 2020, and ending December 31, 2034, with the exception one-half percent of one percent (1/2%) of the two and one-eighth percent (2.125%) tax will be for an indefinite period; setting forth the facts required by Section 13-102 of Title 26 of the Oklahoma Statutes; directing the City Clerk to submit this Resolution to the Secretary of the Comanche County Election Board before December 12, 2019; further directing the City Clerk to forthwith submit a current, certified copy of the Lawton City Charter to said Election Board as required by law and directing the City Clerk to forthwith provide the Comanche County Election Board with a map designating the municipal limits and ward boundaries of the City of Lawton as required by Section 13-107 of Title 26 of the Oklahoma Statutes. Exhibits: Resolution 19-____.

Davis wanted to clarify that the council is just voting to send this out to a vote of the people. He stated his constituents are excited about getting this on the ballot and they wanted the opportunity to vote on this.

MOVED by Warren SECOND by Burk to adopt **Resolution 19-118**. AYE: Hankins, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: Jackson. MOTION CARRIED.

STAFF REPORTS

Kara Haynes, Finance Director, presented revenue and expenditure highlights for the period ending October 31, 2019. (On file in the City Clerk's office). She distribute a revised page one from the September report.

Cleghorn presented the monthly City Manager's report for October 2019. (On file in the City Clerk's office)

Mayor Booker complimented the Parks and Recreation staff for the Holiday in the Park event. He felt it was the best parade in the area and Elmer Thomas Park is spectacular thanks to the addition of hotel/motel funding.

Burk stated they put \$37,000 from hotel/motel into that park and they finally have a revenue source to make it something substantial. He thanked Parks and Recreation staff for working so hard to get it done.

The Mayor and Council convened in executive session at 7:42 p.m. and reconvened in regular, open session at 9:53 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending tort claim of Julie Snodgrass filed with the City on November 12, 2019, and the pending Notice of Charge of Discrimination the City received from the U.S. Equal Employment Opportunity Commission on behalf of Julie Snodgrass, and, if necessary, take appropriate action in open session. Exhibits: None.

Ross read the title of item #23.

MOVED by Burk SECOND by Davis to appoint the law firm of McAfee and Taft to represent the City in the pending tort claim and EEOC charge brought by Julie Snodgrass against the City of Lawton. AYE: Hankins, Jackson, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

24. 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 #24. No action was taken.

25. 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 #25. No action was taken.

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss initiating a public nuisance action involving Latin Mix, LLC also known as “The G Spot,” located at 1714 NW Cache Rd. and take appropriate action in open session. Exhibits: None.

Ross read the title of item #26.

MOVED by Fortenbaugh SECOND by Johnson to authorize the City Attorney’s office to enter into negotiations with the owners of The G Spot, located at 1714 NW Cache Rd., to remedy issues at that location which may constitute a public nuisance. AYE: Hankins, Jackson, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

27. Pursuant to Section 307B.4, Title 25 of the Oklahoma Statutes, consider convening in executive session to discuss litigation initiated against the owner(s) of the Lincoln Villa Apartments to collect for unpaid water bills, and to take appropriate action in open session. Exhibits: None.

Ross read the title of item #27.

MOVED by Warren SECOND by Burk to ratify the actions of the City Attorney's office in filing suit against CPD Holdings, Inc., the Flip Team LLC and Leonard Day for unpaid water bills at Lincoln Villa Apartments and to authorize staff and the Mayor to prepare and execute a bond in support of a pre judgement writ of attachment should the same be required by the court in this case. AYE: Hankins, Jackson, Davis, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:58 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK