

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
DECEMBER 14, 2021 – 2:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
John Ratliff, City Attorney
Traci Hushbeck, City Clerk
COL Rhett A. Taylor, Fort Sill Liaison

Mayor Booker called the meeting to order at 2:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Mike Teel, Cameron Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Mary Ann Hankins, Ward One
Keith Jackson, Ward Two
Linda Chapman, Ward Three
Jay Burk, Ward Four
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven
Randy Warren, Ward Eight

ABSENT: Allan Hampton, Ward Five

Mayor Booker and the City Council members expressed their appreciation to Council Member Jackson and thanked him for all his years of service.

PRESENTATION: Employee Spotlight Award to Katisha Wiley, Parks and Grounds

The City Manager recognized Katisha Wiley, Parks and Grounds, for her outstanding performance.

REPORTS: MAYOR/CITY COUNCIL:

Hankins stated a lot of good things are happening across the city and she appreciates all the city employees.

Burk encouraged everyone to go see Elmer Thomas Park.

Johnson invited everyone to the Patterson Center on Saturday for Breakfast with Santa.

AUDIENCE PARTICIPATION: None

CONSENT AGENDA:

Mayor Booker stated he has received a request to pull item #7 to discuss. Warren requested item #3 be discussed separately.

MOVED by Warren SECOND by Burk to approve the consent agenda with the exception of items #3 and #7. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Southwestern Bell Telephone Company in the amount of \$3,852.76, and William Hanes in the amount 253.82.
2. Consider approving revised Council Policy 1-1, Employee Travel, dated December 14, 2021 to replace Council Policy 1-1, Employee Travel dated September 28, 2021.
3. Consider approval of the dissolution of the Lawton Arts and Humanities Council and the transfer of its assets and duties to the McMahon Auditorium Authority.

Warren stated this is the final step in a long journey that has been going on for five years. He stated this adjustment will save money and will go towards the mission that was created for both groups.

MOVED by Warren SECOND by Burk to approve the dissolution of the Lawton Arts and Humanities Council and the transfer of its assets and duties to the McMahon Auditorium Authority. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

4. Consider approving a resolution to approve the Amended Lease Agreement for the Farmers Market between the City of Lawton and the Farmers Market Institute. **Resolution 21-211.**
5. Consider approving a Joint Resolution by the City of Lawton and the Lawton Fort Sill Chamber of Commerce to support and authorize funding assistance for parking lot improvements within Ned Shepler Park associated with the development of the Lawton Farmers Market located at 77 SW 4th Street in an amount not to exceed \$90,052. **Resolution 21-212.**
6. Consider approving an Amended Agreement for Limited Services between the City of Lawton and the Lawton Farmers Market Institute.
7. Consider adopting a resolution deeming it impractical to summarily abate a nuisance located on the private road situated near the intersection of SW 67th Street and West Gore Boulevard and directing the City Attorney to bring suit in District Court against Darryl D. Dunn and Christine J. Downs, current owners of the private road, and all other potential parties in interest, for the purpose of abating said nuisance pursuant to Title 50 O.S. §17.

Ratliff stated several weeks ago the council gave his authority to pursue legal action against the owners of this private road due to longstanding potholes. The Fire Marshall has determined that the road is not suitable for fire trucks to use. He stated the City Manager used this authority to temporarily abate the nuisance by filling in the holes. The resolution has been amended to read “due to the extreme nature of the public nuisance and the public safety risk posed by the condition of the private road which would affect the ability of the Fire Department to quickly respond to emergency calls, the City has temporarily filled the large open and unguarded pits with gravel, however, such measures are temporary, and it remains impractical to summarily abate the nuisance in a permanent manner absent Court action.” He requested the council approve the resolution with the amended paragraph.

MOVED by Warren SECOND by Burk to approve **Resolution 21-213** with the amended language. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

8. Consider accepting a Permanent Roadway and Utility Easement from and Temporary Easement from Duane Gartner, Trustee of The Unified Credit Trust u/a Gartner Family Trust for right of way needed for the W. Gore Blvd Reconstruction from SW 67th ST to SW 82nd ST, Project No. EN1208, and authorizing the Mayor and City Clerk to execute the document(s) and authorizing payment for the same.
9. Consider accepting a Permanent Roadway and Utility Easement from Bly’s Partnership, an Oklahoma Partnership consisting of Richard Boatsman and Dan Young, of Lawton, Comanche County, State of OK, for right of way needed for the W. Gore Blvd Reconstruction from SW 67th ST to SW 82nd ST, Project No. EN2108, and authorizing the Mayor and City Clerk to execute the document(s).
10. Consider accepting a temporary easement from Crossroads Youth and Family Services Inc, for right-of-way needed for the 2017 Ad Valorem Streets and Roads Program (Residential), Phase II, Project No. EN1707P2 and authorize the Mayor and City Clerk to execute the document.
11. Consider accepting a temporary easement from Walter Harkless Jr., a widowed person, for right-of-way needed for the 2017 Ad Valorem Streets and Roads Program (Residential), Phase II, Project No. EN1707P2 and authorize the Mayor and City Clerk to execute the document.
12. Consider accepting a temporary easement from Oleta P. Bergmann AKA Oleta P. Dean, a single person, for right-of-way needed for the 2017 Ad Valorem Streets and Roads Program (Residential), Phase II, Project No. EN1707P2 and authorize the Mayor and City Clerk to execute the document.
13. Consider accepting a temporary easements from Zakary Kenyon and Magan M. Kenyon at 4630 SE Brighton Drive, Thomas Whittenberg and Erika Whittenberg at 1619 NW 22nd Street, Teddy Leyba at 1623 NW 22nd Street, David Cumbey and Kathy Sue Cumbey at 1615 NW 22nd Street, The Florence Gail Elkins Living Trust at 1408, 1410, and 1412 NW

22nd Street, Arthur Jones and Wilma Jones at 1424 NW 22nd Street, Dezimen Ryan Gomez at 1418 NW 22nd Street, Cleta Cheatwood at 2112 NW Baltimore Avenue, Marcella Hill at 1212 NW Smith Avenue, Karen Householder-Shirey at 1617 NW 22nd Street, Mayhue Family Trust at 5872 NW Dearborn Avenue, Keri Lea Harrell at 1704 SE Indiana Avenue, Chad and Crystal Kenyon at 1715 SE Indiana Avenue, Judith Livingston at 1608 SE Indiana Avenue, Francis Thibodeau and Connie Thibodeau at 1612 SE Indiana Avenue, Steven Biggs at 1702 SE Indiana Avenue, Amanda Harrison and Tommy Harrison at 1906 SW 43rd Street, John Eversole at 1910 SW 43rd Street, Thomas Myers at 7206 NW Taylor Avenue, The Estate of Walter Tallent at 7203 NW Taylor Avenue, Colette Dunbar at 504 SW Coral Avenue, Clifford Ellis and Shaundra Ellis at 506 SW Coral Avenue, Carlyle Ingle Jr. at 8103 SW Forest Avenue, Bobbie Jean Bouchard at 513 SW Coral Avenue, Richard Stone and Francine Stone at 503 SW Coral Avenue, John Dyer Jr. and Lisa Dyer at 511 SW Coral Avenue, Estate of Mathilda Jimenez at 5322 NW Elm Avenue, Dana Michelle Smith at 5316 NW Elm Avenue, Fernando Torres and Dina Torres at 5308 NW Elm Avenue, Oleta Dean at 5318 NW Elm Avenue, Walter Harkless Jr. at 5334 NW Elm Avenue and Crossroads Youth and Family Services at 2402 SW E Avenue, for right-of-way needed for the 2017 Ad Valorem Streets and Roads Program (Residential), Phase II, Project No. EN1707P2 and authorize the Mayor and City Clerk to execute the documents.

14. Consider awarding contract RFPCL22-012 Rental or Lease Work Clothing to UniFirst Corp. of Wichita Falls, TX.
15. Consider extending contract (CL21-013) Heavy Equipment Service & Parts to C.L.Boyd of Lawton, Ok for an additional year.
16. Consider awarding contract (CL22-015) Pest Control Services to Allstate Termite & Pest Solutions, 26021 Allstate Ave., Shady Point, OK.
17. Consider approving appointments to boards and commissions.

Redistricting Commission

Indie Michaels
1421 NW Great Plains Blvd
Unexpired Term Expires 07/01/30
(Ward 8 Appointment)

BUSINESS ITEMS:

18. Consider receiving a presentation from Clarity Telecom, DBA Bluepeak, regarding the introduction of new cable television and broadband internet service in Lawton, and direct staff to take appropriate action as necessary.

Cleghorn stated they have asked a representative from Clarity Telecom to come and give an introduction on their desire to expand their cable broadband internet service in Lawton.

Desi Stoops, Vice President for Market Development, Bluepeak, presented information on their

desire to provide a new cable television and internet service to the citizens of Lawton.
(Presentation is on file in the City Clerk's office)

MOVED by Warren SECOND by Fortenbaugh to direct staff to prepare the appropriate documents necessary to grant a cable franchise to Bluepeak. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

19. Consider authorizing the City Manager to use American Rescue Plan Act (ARPA) funding to implement a three tiered Covid-19 Premium Pay to all current general employees, who physically worked hours between March 23, 2020 and May 30, 2021; authorizing the City Manager to implement Covid-19 Vaccination Incentive Pay in the amount of one thousand dollars (\$1,000.00) to all current general employees, who are fully vaccinated and receive the booster shot and/or 3rd dose on or before June 30, 2022; authorizing the City Manager to negotiate with Police and Fire Unions for eligibility to receive Covid-19 Premium Pay and Covid-19 Vaccination Incentive Pay which mirrors that of the general employees; and authorizing the City Manager to use excess funding to implement Covid-19 Vaccination Incentive Pay to fully vaccinated new hires who receive the booster shot and/or 3rd dose after six (6) months of satisfactory service on or before June 30, 2022 and a back to work incentive.

Craig Akard, Human Resources Director, briefed the council on the portion of the American Rescue Plan Act that allows for premium pay. He stated the council previously approved a \$3.6 million budget for premium pay for employees.

Cleghorn stated this is only for current employees. He thanked Floyd Law Firm for their assistance in developing the distribution plan.

MOVED by Burk SECOND by Warren to authorize the City Manager to establish and implement Covid-19 Incentive Pay and Covid-19 Vaccination Incentive Pay for eligible employees and authorize the City Manager to negotiate with Police/Fire Unions for Covid-19 Incentive Pay and Covid-19 Vaccination Incentive Pay which mirrors that of the general employees. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

Mayor Booker stated items #20 and #21 will be stricken from the agenda.

20. Consider approving a Resolution repealing and replacing Resolution No. 2021-64 specifying the revised 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%) as approved by the registered voters of the City of Lawton, Oklahoma at an election held for such purpose on February 11, 2020. **STRICKEN**
21. Consider approving a resolution amending the City of Lawton FY21-22 budget, as amended, by transferring up to \$4,000,000.00 from the 2019 Capital Improvement Fund to the General

Fund, and appropriating said funds to the City-at-Large Division's Radios account for the replacement of the City's obsolete public safety radio system. **STRICKEN**

22. Consider authorizing the purchase of a complete Public Safety Radio system from Motorola Solutions, Inc. in the amount of \$3,965,800.00 for the purpose of replacing the City's existing obsolete radio system.

Dewayne Burk, Deputy City Manager, stated staff is recommending that ARPA funding be used as a contingency funding pending the outcome of the audit of the public safety sales tax.

Jared Williams, Deputy Fire Chief, briefed the council on the status of the current radio system.

Cleghorn stated because of supply issues we cannot get parts anymore and we cannot get them repaired.

D. Burk stated we would be buying these off a state contract and we have the opportunity to save \$339,000 towards the purchase of this radio system if we can provide a purchase order or notice of intent by tomorrow.

MOVED by Warren SECOND by Chapman to authorize the purchase of a complete Public Safety Radio system from Motorola Solutions, Inc. in the amount of \$3,965,800.00, with the funding source from the Public Safety Sales Tax and contingency funding from ARPA funding, pending the outcome of the audit of the public safety sales tax.

Fortenbaugh stated he spoke with Council Member Hampton before the meeting, and he was concerned that there may come a time in the future where they would have to turn the encryption off, and he wanted to know if that was possible.

Sean Miller, Motorola Representative from Bearcom, stated the encryption is AES256 bit and now all the state agencies are going to 256, so if you have a multi-agency event, you will need to talk back and forth. He stated you can do the encryption per channel when needed.

Mayor Booker questioned the expected the life of these radios.

Mr. Miller stated approximately ten years.

Johnson clarified that they needed to information by tomorrow.

Mr. Miller stated all the manufacturers are doing price increases across the board. Motorola has a 10-15% price increase that will take effect January 15th.

VOTE ON MOTION: AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren.
NAY: None. MOTION CARRIED.

23. Have a discussion on whether or not the city council is interested in: (1) amending city code to provide for a local bid preference in certain qualifying instances for public construction contracts, and (2) as a prerequisite for such a preference, developing a policy for council approval setting forth the parameters “to clearly demonstrate the economic benefit to the local area or economy”, and give direction to staff as appropriate.

Ratliff stated that recently state law was amended permitting municipalities to allow a local vendor preference for public construction contract in certain circumstances. A 2021 amendment to state law by the Oklahoma Legislature created two versions of 61 O.S. §103 (the applicable provision in state law for local vendor preference in public construction contracts). One version allows for the preference in certain circumstances for public construction contracts exceeding 100,000.00 or construction management trade contracts or subcontracts exceeding \$50,000.00. The other version of the statute allows for the preference in certain circumstances for public construction contracts exceeding \$50,000.00. Both versions of the statute state that a municipality may provide for a local bid preference of not more than 5% of the bid price if the awarding public agency determines there is an economic benefit to the local area or economy. Provided, however, the local bidder or contractor must agree to perform the contract for the same price and terms as the bid proposed by the nonlocal bidder or contractor. Any bid preference granted hereunder must be in accordance with an established policy adopted by the governing body of awarding public agency to clearly demonstrate the economic benefit to the local area or economy. Also, no local bid preference shall be granted unless the local bidding entity is the second lowest qualified bid on the contract. The state law defines “local bid” to mean the bidding person is authorized to transact business in Oklahoma and maintains a bona fide establishment for transacting such business in Oklahoma. State law also provides no local bidder preference for construction contracts for which federal funds are available for expenditure when these provisions may be in conflict with federal law or regulation. If council chooses to move forward with local vendor preference for public construction contracts, he suggested staff draft a policy and to change the corresponding ordinance to allow for this local vendor preference.

Fortenbaugh stated he would like to get all the work done by local companies, but he does not like to give preference to people in the whole contracting scheme of things. He has a hard time supporting this because he feels they are adding favoritism to certain groups.

Burk stated they have always had a policy to support local business, this just lets them do it at the construction level. That is the only change he sees.

Mayor Booker stated they could not do construction contracts this way before now.

Chapman stated if the local vendor does not want to adhere to the 5%, then they would not get the job.

Ratliff stated if the local vendor does not want to do it for the lowest responsive bid, then the preferential treatment does not matter.

Burk stated this is a change because before they could go with the local vendor if they were within that 5%, now that is not the case.

Warren stated this council and future councils will have to be careful about change orders because once that bid is made, and that preference is given, they will have to be careful about what is a real change order and what is a cushion.

Johnson stated she agrees because they can make up for the amount in change orders. She stated they also need to make sure that they are the better construction company. That is a concern.

Ratliff stated that is already in the code. You can consider past performance on other projects.

MOVED by Warren SECOND by Hankins to direct staff to prepare an ordinance and policy for council approval providing for a local bid preference in certain qualifying instances for public construction contracts. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

24. An ordinance amending Personnel Policies and Procedures Section 17-1-102, Division 17-1-1, Article 17-1, Chapter 17, Lawton City Code, 2015 by amending the definition of “Introductory period” to include employees in promoted, demoted and departmental transferred positions; amending the definition of “Shift employee” by deleting the exclusion of introductory employees; amending the definition of “Stand-by differential pay” by deleting the word regular; providing for severability and establishing an effective date.

Akard stated the proposed amendment is to clarify that promoted employees, demoted employees, and employees in transferred positions within another department are in an “introductory period” as is the current practice. The amendment further allows all employees, regardless of regular or introductory status, the ability to receive shift differential and stand-by pay. The proposed amendment was supported by the Employee Advisory Committee.

MOVED by Warren SECOND by Jackson to adopt **Ordinance 21-33**, waive the reading of the ordinance, read the title only establishing an effective date. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 21-33

AN ORDINANCE AMENDING PERSONNEL POLICIES AND PROCEDURES SECTION 17-1-1-102, DIVISION 17-1-1, ARTICLE 17-1, CHAPTER 17, LAWTON CITY CODE, 2015, AMENDING THE DEFINITION OF “INTRODUCTORY PERIOD” TO INCLUDE EMPLOYEES IN PROMOTED, DEMOTED OR DEPARTMENTAL TRANSFERRED POSITIONS; AMENDING THE DEFINITION OF “SHIFT EMPLOYEE” BY DELETING THE EXCLUSION OF INTRODUCTORY EMPLOYEES; AMENDING THE DEFINITION OF “STAND-BY DIFFERENTIAL PAY” BY DELETING THE WORD REGULAR; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

25. Consider approving the conceptual plan for the City of Lawton Youth Sports and Recreation Facility, to include the location within Elmer Thomas Park as shown, directing staff to prepare an agreement with the architect to design full construction documents, and approving the Mayor and City Clerk to execute any required documents.

John Shiver and Hunter Bradshaw, Stantec Architecture Inc, presented the conceptual plan for the City of Lawton Youth Sports and Recreation Facility.

Bryan Henry, committee member, stated in a park setting you must be careful about how you handle the structure, and he feels their team has come up with some good ideas. He feels this is a great gateway to the city. He stated the committee is asking for the council's support to move forward. It is important in the planning of this project to get this to a spot where they can consider this project shovel ready, which is a huge factor in the federal grant programs they are looking at.

Cleghorn stated they had the opportunity to apply for both infrastructure and quality of life grants through the Defense Community Infrastructure Program. He stated this is an applicable request for that funding.

Mr. Henry stated they need a location and a final design, which is a critical factor. He stated the time frame will open in mid-May and will close in mid-July. The final cut is in mid-August and the final awards are in mid-September.

Cleghorn stated this is just one of the many potential grants that could help assist with this project.

Fortenbaugh requested they put this on the website to show that the area is not that big, and it is not ugly, by any means.

Burk stated LETA works in that park and many are concerned that it is too much concrete for the park. He does not want more parking spaces, but he does like that it is tiered to go back into the existing contour of the park. He has had many citizens contact him and ask that this not be put in the park because there is so much that goes on in the park. He loves the concept, but not the location. People are also concerned about traffic.

Mr. Shiver stated since the presentation at the LETA meeting, they have minimized the additional amount of parking spaces and pavement. He feels that they have greatly enhanced all the activities that go on in the park. He stated the park is about activities and bringing people into the park to experience an activity. He feels that by placing the building in the park it interjects an opportunity for life to happen in bringing in people and activities. They may have to address traffic issues in the future and upgrade the road infrastructure. This is an opportunity to bring families together and have them engage in something that is important to them, their children's activities.

Burk stated he loves the concept, and we need it for our kids. His only concern is putting it in the right spot.

Hankins stated she had two emails against the location. She feels that it will bring families to the park and there is still plenty of room for outdoor activities.

Warren stated he received one negative email. He is protective of the park, but he feels this is a good thing. Everything they have done in the past few years has enhanced that park and made it better.

Johnson stated she has received a couple email against it, but she supports it because it will bring families together although they may be doing different activities.

Mayor Booker stated he feels this will wow people when they turn that curve and this says something about the community. He supports this project and the location.

Burk stated he feels this is best for our community and our children.

MOVED by Burk SECOND by Warren to approve the conceptual plan for the City of Lawton Youth Sports and Recreation Facility, to include the location within Elmer Thomas Park as shown and direct staff to prepare an agreement with the architect to design full construction documents. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

STAFF REPORTS:

Finance Report:

Kristin Huntley, Deputy Finance Director, presented revenue and expenditure highlights for the period ending November 30, 2021. (On file in the City Clerk's office).

The Mayor and Council convened in executive session at 3:52 p.m. and reconvened in regular, open session at 5:19 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action regarding the City and the Fires Innovation Science & Technology Accelerator (FISTA) and Central Mall Lawton Realty Holding, LLC and/or Kohan Retail Investment Group and if necessary, take appropriate action in open

Ratliff read the title of item #26.

MOVED by Burk SECOND by Warren to authorize the City Attorney to pursue legal action against the Kohan Group for unpaid rent associated with the purchase of Central Mall on January 5, 2021. AYE: Hankins, Jackson, Chapman, Burk, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 5:21 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK