

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 22, 2016 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Samuel Curtis, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:09 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Dr. Keith Miles, Central Baptist 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
 Cherry Phillips, Ward Six
 V. Gay McGahee, Ward Seven
 Doug Wells, Ward Eight

ABSENT: Rosemary Bellino-Hall, Ward Three

PRESENTATION OF OUTSTANDING CITIZENS OF COMANCHE COUNTY TO
JENNY CLEMENT-SHAW AND GORDON SHAW

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Jenny Clement-Shaw and Gordon Shaw

PRESENTATION OF CERTIFICATES OF RECOGNITION TO MARY SELLERS,
COURTNEY BOGGS AND TAMAURA SHELTON WHO EARNED TITLES AT THE
ROYAL INTERNATIONAL PAGEANT

Mayor Fitch recognized Mary Sellers and Tamaura Shelton who will represent Lawton and compete for national titles.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR
MEETING OF NOVEMBER 8, 2016.

MOVED by Wells SECOND by Jackson to approve the minutes of Lawton City Council regular meeting of November 8, 2016. AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated the Martha Phillips claim on item #1 will be stricken from the agenda.

MOVED by Wells SECOND by Burk to approve the consent agenda with the exception of the Martha Phillips claim on item #1. AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Tonya and Larry Walters in the amount of \$298.00 and Martha Phillips in the amount of \$7,724.24. Exhibits: Legal Opinions/Recommendations.
2. Review and approve annual funding of the 3rd Annual Freedom Festival as established in Resolution 14-139 in the amount of \$65,000.00. Exhibits: None.
3. Consider accepting a donation of \$70.00 from the ongoing sale of cookbooks with employee recipes for deposit into the City of Lawton wellness account in Fund 35, to be used for future employee wellness events; further authorize proceeds from the future sales of cookbooks to also be deposited into Fund 35 for employee wellness events; and provide that all unspent proceeds deposited into Fund 35 from these sales not roll over into the general fund at the end of the fiscal year. Exhibits: None.
4. Consider accepting a \$1,246.80 donation to the Library from the Friends of the Library to be designated for library-related activities. Exhibits: None.
5. Consider and take action with respect to a Resolution of the City of Lawton, Oklahoma (the “City”) approving action taken by the Lawton Water Authority (the “Authority”) authorizing issuance, sale and delivery of a promissory note of the Authority to the Oklahoma Water Resources Board; ratifying and confirming a lease agreement, as amended pertaining to certain Water, Sanitary Sewer, and Refuse Systems; and containing other provisions related thereto. Exhibits: **Resolution No. 16-82**.
6. Consider approving the construction plans for waterlines along SW 6th Street to serve Coleman American Moving and Storage located at 2115 SW 6th Street subject to a condition. Exhibits: Location Map.
7. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 1,645 linear feet of 8-inch PVC sanitary sewer line, 2,010 linear feet of 12-inch PVC sanitary sewer line, 35 linear feet of 6-inch PVC waterline, 1,820 linear feet of 8-inch PVC waterline, 960 linear feet of 10-inch PVC waterline, and all appurtenances to serve Eastlake Addition, Part 3B, located north of NE Cache Road and west of NE 45th Street, in the SE/4 of Section 22, T2N, R11W, I.M., Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk’s Office.

8. Consider releasing the performance bond and accepting the waterline and maintenance bond for Lawton Downtown Center, Part 3, located at 435 NW 2nd Street. Exhibits: Plat Map. Maintenance Bond is on file in the City Clerk’s Office.
9. Consider extending contract (CL15-015) Heavy Equipment Services and Parts to C.L. Boyd Company of Oklahoma City, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
10. Consider extending contract (RFPCL15-027) Copier Contract to GMC Solutions LLC dba Bennett Office Equipment of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
11. Consider approving appointments to boards and commissions. Exhibits: None.

Industrial Development Authority

Keith Jackson
2603 NE Garden Lane
Lawton, OK 73507
Unexpired Term 5/25/19
Vacancy

12. Consider approval of payroll for the periods of November 8 – 21, 2016.

OLD BUSINESS ITEMS:

13. Consider the following damage claim recommended for approval: Invitational Apartments in the amount of \$1,200.00. Exhibits: Legal Opinions/Recommendations and Resolution No. 16-__.

Kelea Fisher, Assistant City Attorney, stated this claim was tabled at the November 8th meeting at the request of public works staff. She has discussed additional information with staff and it was agreed that her recommendation will remain as an approval of this claim.

MOVED by Burk SECOND by Jackson to approve the damage claim of Invitational Apartments in the amount of \$1,200.00 (**Res. 16-83**). AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

NEW BUSINESS ITEMS:

14. Hold a public hearing and consider an ordinance amending Section 18-1-1-106, Division 18-1-1, Article 18-1, Chapter 18, adding the definition of pet day care center and modifying the definition of major street and amending Section 18-5-8-581, Division 18-5-8, Article 18-5, Chapter 18, Lawton City Code, 2015, adding pet day care centers as a Use Permitted on Review in C-1 Local Commercial District and declaring an emergency. Exhibits: Ordinance No. 16-__.

Debbie Dollarhite, Planning Division, stated recently a request for rezoning was submitted for a doggie day care. Pet day care centers are not listed in the City Code, and the use listed in the Code which is closest to the operation of a pet day care center is a kennel. The least restrictive zoning classification which permits a kennel is C-5 General Commercial District. On October 27, 2016, the City Planning Commission (CPC) reviewed the rezoning request and considered C-5 as too intense for this type of use and recommended the City Code be amended to allow pet day care centers as a Use Permitted on Review in C-1 Local Commercial District. The Use Permitted on Review does require a public hearing and public notice before the CPC. The proposed ordinance adds the definition of pet day care center and adds pet day care centers as a Use Permitted on Review in C-1 if located on a major street. As a Use Permitted on review the CPC can set additional conditions depending on the location and the surrounding area. The CPC did hold their public hearing yesterday and they did recommend approval of this ordinance. The ordinance also modifies the definition of major street to include all arterial and collector streets as shown on the Federal Highway Administration Functional Classification Map.

Phillips questioned if this request is going in a home or a commercial building.

Dollarhite stated it is in a commercial building.

Jackson questioned if there is any concern about noise to the neighbors.

Dollarhite stated when this goes to the CPC on December 15th, there will be a limitation on the number of dogs that can be kept overnight and they do have to provide the screening in the outside area because there is adjacent residential. It will be done on a case by case basis. She stated with the pet day care center the dogs are only brought outside to relief themselves. Most of the time they are kept inside the building.

Burk stated in larger communities these are very well received and a lot of them are right next to a residential area and he has not heard of any issues.

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

MOVED by Tanner SECOND by Burk to adopt **Ordinance 16-30**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-30

An ordinance pertaining to planning and zoning amending Section 18-1-1-106, Division 18-1-1, Article 18-1, Lawton City Code, 2015, amending the definition of major street and adding the definition of pet day care center; amending Section 18-5-8-581, Division 18-5-8, Article 18-5, Chapter 18, Lawton City Code, 2015, adding pet day care center as a use permitted on review in C-1 Local Commercial District; providing for renumbering; providing for severability; and declaring an emergency.

15. Hold a public hearing and consider an ordinance to close the 10 foot utility easement along the rear of Lots 11-13, Block 31, Wyatt Acres Addition, Part 15, located on NW Taylors Landing, between NW Allison Lane and NW Micklegate Boulevard. Exhibits: Ordinance No. 16-___ and Location Map.

Dollarhite stated on October 11, 2016, Council set a date of November 22, 2016, to hold the public hearing for this proposed closure. The request is to close the 10 foot utility easement along the rear of Lots 11-13, Block 31, Wyatt Acres Addition, Part 15, located on NW Taylors Landing, between NW Allison Lane and NW Micklegate Boulevard. There are no utilities located within this easement; all of the utilities are located in the 25 foot utility easement located along the front of these lots. PSO, CenterPoint Energy, AT&T, Fidelity, and the City of Lawton Public Works have been notified of this request and they have no objections.

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

MOVED by Burk SECOND by Jackson to adopt **Ordinance 16-31**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-31

An ordinance closing the utility easement along the rear of lots 11-13, in block 31, of Wyatt Acres Addition, Part 15.

16. Hold a public hearing and adopt a resolution declaring the structure located at 7209 NW Maple Drive to be dilapidated pursuant to Lawton City Code 6-5-1; ordering the owner(s) to abate the nuisance; authorizing summary abatement; and authorizing the City Attorney to commence legal action in district court to abate the nuisance. Exhibits: Resolution 16-___.

Joshua Leach, Neighborhood Services Supervisor, reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. Leach presented photographs of the property. He stated they have had no response from the homeowner but they have heard from the banks that are in the process of foreclosing on this house and they are working to take it down themselves within the next three weeks.

Phillips questioned if there was someone interested in buying the lot.

Leach stated there is someone interested in purchasing the lot after the structure has been raised by the bank.

Phillips stated she has received several calls about this property.

Jackson stated there are over 200 pieces of property in this town that are adding blight to Lawton and we are never going to get there by adding one per month. He suggested staff bring more dilapidated properties to the council. He gets calls at least once a week about houses in his ward.

Ihler stated there were originally six properties to bring to council but three of the property owners passed away during the past month and we have to go back and reissue the documentation and one property owner made improvements to the property.

Tanner stated when the city declares these properties as dilapidated the city has to pay to have these torn down. He questioned how much money is in the fund that we use to demolish these structures.

Leach stated there is \$150,000 in the fund.

Mayor Fitch stated this property will be torn down at the cost of the bank.

Jackson stated \$150,000 was included in the sales tax extension program to take care of some of these blighted houses.

Tanner questioned if the \$150,000 was used for tall grass/abatement.

Leach stated no, it is strictly for dilapidated structures.

Wells stated when this was passed, part of the provision was that once we finally collected the destruction fees off the tax rolls, it goes back into that fund so it will be a self-perpetuating fund.

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

MOVED by Phillips SECOND by McGahee, to adopt **Resolution 16-84** declaring the structure located at 7209 NW Maple Drive to be a dilapidated public nuisance. AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

17. Consider accepting the annual audit report on the City of Lawton for the year ended June 30, 2015, as presented by BKD, LLP. Exhibits: None.

Mike Lyons, Sr. Manager with BKD CPA's and Advisors, presented the financial statements for the City of Lawton for the fiscal year ending June 30, 2015. (The audit is on file in the City Clerk's Office). He stated they were able to give a clean and unmodified opinion and the financial statements of the City of Lawton for the fiscal year were free from material misstatements.

Wells questioned if they could give an approximate time for the 2015-2016 audit completion.

Mr. Lyons stated they are in the planning stages and trying to get resources allocated to be able to schedule that.

Ihler stated we have been behind for many years and we have made a concerted effort through working with BKD to catch up. He feels confident that we will have 2016 before next years' fiscal year begins. We have to have the 2016 done by the end of December, but that is not going to happen but it will be completed by the end of the fiscal year in June 2017. We will back on

the regular schedule and we should be able to keep up with the audits and he feels confident as we continue to work with BKD that we will be back on schedule.

Tanner stated that the 2015-2016 needs to be done by December of this year but it is not going to be done. He questioned why it needed to be done by December.

Ihler stated the audit is required to be done within 180 days from the end of the fiscal year.

Tanner stated if we don't get it by December we are basically a year behind on our audit.

Ihler stated we will be looking at the 2016 audit that has to be done in December and if it happens in March of 2017 then we would have been 3 months behind and when the fiscal year ends in June 2017 he feels confident that it will be done by December 2017.

Tanner questioned the consequences if 2016 is not done by December.

Ihler stated we file our financial statements at the end of each fiscal year when the audits are complete. We will have to file a disclosure statement with the SEC at the end of December. This could affect the interest rates that we receive when we go out for notes and bonds.

Tanner stated he is talking about the bonds we have already issued, we have to file these audits in a timely manner and if we don't then we are subject to being penalized in some way.

Jensen stated we are going to meet our filing requirements in December.

MOVED by Wells SECOND by Phillips to accept the annual audit report on the City of Lawton for the year ended June 30, 2015. AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

18. Consider approving an ordinance authorizing the calling and holding of an election on February 14, 2017, in the City of Lawton, State of Oklahoma, for the purpose of issuing general obligation bonds in the amount of \$55,300,000 over a 13-year period in order to fund improvements to be made to the City's streets and roadways, as deemed appropriate and prioritized by City Council; providing for severability; declaring an emergency; and requiring the full text to be published and take action as necessary. Exhibits: Ordinance No. 16-__ and Election Proclamation.

Ihler stated as council has visited with their constituents the most important issue they want the City to address are the streets and come up with some funding to be able to repair our streets. When the Chamber issued a survey 68% listed infrastructure and streets as the greatest need in our city. It is clear that the community wants us to come up with a long term street improvement program. The 2015 sales tax extension carries us out to December 31, 2025, so we have no methodology to come up and make new street improvements as we move forward over the next ten years. The 2016 program, which was actually a rollover of the 2012, does not end until December 2025. So essentially we have no new sales tax available to us for about ten years to be able to go out and make street improvements. Staff looked at alternatives for a long term street

improvement program and if they looked at sales tax it would have to increase by 1/3 of a percent and they talked to retailers in the community and it is just not a good idea to go above our current 9%. They also analyzed the service and utility bill, but to come up with a similar dollar amount it would be an increase of \$12 - \$13 a month. This left them with the option of ad valorem property tax and they looked at what they could do to minimize the effect on the homeowners/property owners in the community. Our average mill levies that have been appropriated for city improvements for the past 15 years has been 10.68 mills. They would like to stay along that average so they are not increasing what the citizens have been paying the past 15 years. He stated BOK financial securities have put together projections and if they stayed at an average of 10.5 mills for the next 13 years they could generate approximately \$55.3 million. This is what they have decided would be best for the citizens because it is not an increase, in fact it is slightly less than what they have been paying on average the past 15 years. He stated they looked at how that will affect a homeowner who owns a \$100,000 home and last year when they paid their taxes they paid \$916.15. Projecting forward to 2017, if this is approved, they would be paying \$929.12. Basically that is an increase of \$13 for that particular time and for the years moving forward it starts dropping down. Basically this keeps the mil levy right at that 10.5 which is less than the average that the citizens have paid for the city's portion for the past 15 years. (He projected a list of proposed projects). He stated the one decision left is if they want to put \$2 million in each residential ward and then have the remainder going for the arterial list or do we want to scale back and put more in the arterial list. That will be discussed in a future workshop. He stated they are asking the council to approve calling for the election on February 14, 2017. He stated he has been asked why they are keeping it at 10.5 mills and it is because there are other entities that need improvements, specifically the schools, and they felt that \$4 million a year would be a good program that we could keep up with and get started. Hopefully when this program ends in 13 years future councils will continue on and keep it at this same level dedicated to streets. They have identified \$150 to \$200 million worth of street improvements in the residential areas and in the arterials they have approximately \$500 million in projects.

Burk stated \$2 million will not come close to the street projects needed in his ward but there is no way they can come up with \$700 million at one time. He stated this is no different than when they were forced to put money into CIP's to upgrade sewer and water lines throughout the city a few years ago. He stated it is a never ending thing for infrastructure in our city. They cannot wait for ten years to be able to replace roads in the city. He knows that Lawton Public Schools has needs and when they did the public safety tax he sat down with Dr. Deighan, his staff and some council members to discuss the plan. He promised that the City would not go after the school's mil money and they have not done that. The mil money for the City is for the City. In 2013 some of the mills fell off for the schools and that is when citizens voted overwhelmingly to approve putting that mil right back to exactly where it was at. We have to come up with a bond issue that is going to work and try to figure out how to get school bonds passed in the city of Lawton and that is very hard to do. They need to work together and not against each other and they did that with the public safety tax. They are not working against the schools, this is just a renewal of the tax that we already have. They need to come up with a strategic plan that doesn't just say they have one school they need to rebuild, but we have a community wide need. If they don't include the whole city, the whole city doesn't vote for it. He will pay more property tax if he knows every school and every part of Lawton is impacted and he feels most citizens will agree to that. He stated they are not here tonight against the public schools and he does not

know how it got started that they are taking money from public schools because he would never vote for that. We would like to renew the tax we currently have and bring it back to the exact amount we had before and be able to have some money for road repairs that citizens desperately need. Then they need to get together as a community to figure out a bond proposal that will work for the city of Lawton and not for just one area of town.

Jackson stated when the City Manager approached some of them about this plan they knew that the citizens were not excited about passing more tax increases. They requested that the City Manager look at the property tax without an increase. He feels staff did a great job in putting this together and the ad valorem is the 10.53 mills that we already use and as some of the indebtedness falls off they will go back in and use that same money. We are not using county, vo-tech or school money, only City of Lawton money.

Tanner stated a bond issue to increase teacher salaries would unanimously pass. He stated these numbers fluctuate, one year it is 15 mills and another year it is 7 mills. He questioned what we use these mills for right now.

Mayor Fitch stated they are used for capital improvements, they cannot be used for operations.

Tanner stated it was his understanding that this was a sinking fund and we were paying legal obligations. If the City loses a lawsuit, then we are able to attach this to the property tax. If we have a workers comp claim then we attach this to the property tax and it is his understanding that the majority of these mills are used for that purpose.

Ihler stated it is not the majority, it is actually a very small amount. The majority is used for capital improvements. The average for the sinking fund is about \$900,000 every year.

Tanner questioned an example of a capital improvement that we have used with this money.

Ihler stated as part of the 2002 CIP it would have been for the SE water treatment plant design and the mil levy paid for the majority of that design work. In the 2012, there was the animal shelter building, the landfill maintenance building and fire station #8 which is being built now.

Tanner stated in 2002 where it is 15.5 mills, we didn't have to send that out to a vote of the people.

Ihler stated yes it did. For project improvements we have to go to a vote of the people.

Tanner stated he understood that we used this mil levy basically to deal with any unforeseen lawsuits. If we lose a \$10 million lawsuit, then that actually could be added to this.

Jackson stated this is so hypothetical.

Jensen stated we haven't come close to that in his 26 years. They haven't even come close to a \$1 million lawsuit.

Tanner stated if we were sued for \$10 million and we lost and we have this voted in for 10.5 mills, would that be added to this 10.5.

Jensen stated we are mixing up what they are trying to do tonight. What they are doing tonight is very specific projects and that is all this money can be used for.

Chris Gander, BOK Financial Services, stated regardless of whether this passed or not, state statutes allow for judgements and they would be assessed over a three year period.

Tanner stated if we lost a substantial lawsuit over that three year time frame this 10.5 mills would go up.

Mr. Gander stated yes.

Burk stated that is no different than if you were the school system, the county or anyone else. It all goes to the same thing.

Tanner stated the 10.5 mills is not set in stone, it could potentially go higher if we lose a major lawsuit.

Mr. Gander stated yes, but even if this doesn't pass you would still have that same risk.

MOVED by Burk SECOND by Morford to adopt **Ordinance 16-32**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Morford, Jackson, Burk, Phillips, McGahee, Wells. NAY: Tanner. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-32

An ordinance authorizing the calling and holding of an election in the City of Lawton, State of Oklahoma, for the purpose of submitting to the registered qualified electors of said city the questions of the approval or rejection of Ordinance no. 16-32 of the city relating to the issuance of the bonds of said city in the sum of fifty-five million three hundred thousand dollars (\$55,300,000) to provide funds for street/roadway improvements, including city utilities under and adjacent to such streets/roadways found to be in need of repair/replacement, such utilities to be owned exclusively by said city; and levying and collecting an annual tax , in addition to all other taxes, upon all the taxable property in said city for the payment of the interest and principal on said bonds; and declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells stated he attended the NLC conference in Pittsburgh and he will bring some information from the sessions he attended.

Phillips stated she attended the Holiday in the Park event and it was well attended and a wonderful event. She thanked the staff who put this together.

Tanner stated he attended the Fishing for Food event in Elmer Thomas Park which was very successful. He stated LETA donated the money to stock Lake Helen.

Burk stated he also attended the NLC conference in Pittsburgh. He stated every year his goal is to bring one thing home and this year he has five. The relationship with the NLC is strong and he suggested others on council need to attend the conference.

Jackson stated he does feel that our curbside trash pickup program is working and it seems that there is more debris stacking up beside the roads. He is not sure that citizens know they need to call in and ask for that pickup. He would like staff to look at this issue to see if they need to go back to a spring/summer cleanup program.

Tanner stated the reason it is not working is because people are not turning their bulk trash pickup in. When he drives through his ward and he sees people that have trash out he will go up and ask them if they have called solid waste. He feels they just need to communicate to the general public.

Jackson stated it is not his job to stop and knock on everybody's house that has trash and debris in their front yard.

Morford stated in December the runway at the airport will open back up to planes from Fort Sill. He stated it will cost about \$3 million to give them about 15 more years of use on the runway.

Ihler stated they need to schedule the workshop to finalize the OpTerra project.

Tanner stated he is reluctant to go into debt to pay for all these improvements even though they are good ideas.

Mayor Fitch stated there is a situation with the phone system and we are not going to be getting service somewhere down the line.

Wells stated it does not need to be done as quickly as they were originally being told.

Mayor Fitch stated staff will send out some dates and they need to make it happen.

There being no further business to consider, the meeting adjourned at 7:27 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK