

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 24, 2015 – 6:00 P.M.
NEW 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 Glen A. Waters, Fort Sill Liaison

Mayor Fitch 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 Pastor Michael Logan, Galilee Missionary Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Cherry Phillips, Ward Six
V. Gay McGahee, Ward Seven
Doug Wells, Ward Eight

ABSENT: None

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO MG (R)
LEE BAXTER.

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to MG (R) Lee Baxter.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR
MEETINGS OF OCTOBER 13 AND 27, 2015.

MOVED by Burk SECOND by Jackson to approve the minutes of October 13 and October 27, 2015. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated item #3 and item #5 will be stricken from the agenda and the appointment of Jennifer Stricklin to the Airport Authority will be stricken from item #17. He stated item #7 will be discussed separately

MOVED by Jackson SECOND by Burk to approve the consent agenda with the exception of items #3, #5, #7 and the appointment of Jennifer Stricklin on item #17. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for denial: John Wajciechowski in the amount of \$390.30. Exhibits: Legal Opinion/Recommendation.
2. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in making payment on the judgment in the Workers' Compensation case of Daryl Gene Nobis in the Workers' Compensation Court of Existing Claims, Case No. 2013-07853 L. Exhibits: **Resolution 15-90**.
3. Consider rescinding the agricultural leases for grazing and baling previously awarded to Sullivan Farms, authorize the re-letting of these agricultural leases, and refuse to consider any subsequent bids from Sullivan Farms for these agricultural leases. Exhibits: Letters to Sullivan Farms are available for inspection at the City Attorney's Office. **STRICKEN**
4. Consider approving a professional services agreement for legal consulting services with the firm Municipal Finance Services, Inc., and authorize the Mayor and City Clerk to execute it. Exhibits: Consulting Agreement with Municipal Finance Services, Inc.
5. Consider accepting an engagement letter for technical accounting and consulting services with the firm of Crawford & Associates, P.C., and provide guidance to staff as appropriate. Exhibits: Engagement letter with Crawford and Associates, P.C. **STRICKEN**
6. Consider countersigning the Oklahoma Virtual Library Consortium agreement with OverDrive, Inc. so the library can purchase electronic materials including e-books through the consortium. Exhibits: OverDrive, Inc. Application Services Agreement is on file in the City Clerk's Office.
7. Consider authorizing the City Manager to utilize Rolling Stock funding in the amount of \$524,940.49 for the purpose of purchasing an equipped Sutphen Fire Pumper Truck and authorize a two-year lease/purchase for the approved new Caterpillar 826K Compactor. Exhibits: Quote for Caterpillar 826K Compactor.

Wells stated he went back and looked at the budget and in the rolling stock we end up the year with approximately \$1.3 million left over. Rather than ending up with a split purchase of that compactor into two years he would make the motion that we approve the purchase of the pumper for \$524,940.49 and pay the full amount of \$641,316 for the Caterpillar Compactor this year, which is a \$200,000 savings and also because we are paying it in one year we are saving

\$38,000. With the \$200,000 plus the \$38,000 and then use \$350,000 out of the carryover out of rolling stock to make the purchase and do it all within one year so we don't have a payment next year. He stated he did speak to Mr. Ihler about this suggestion and he did agree with this proposal.

Ihler stated we have \$1.1 million projected carry over and we will take that \$324,000 that we were going to pay for the second year lease purchase on the compactor and we will just pay for it out of this year's budget and we will buy both. We will still have \$800,000 left over in rolling stock carry over.

Tanner questioned if we were planning any purchases out of this rolling stock fund this year.

Wells stated we started the rolling stock year with \$732,000 and we will collect about \$2.6 million and we are spending about \$2.2 million leaving us with a carryover of \$1.1 million. We are buying trucks, fire trucks, police cars, etc.

Tanner questioned if this will deplete our reserve for any additional purchases.

Ihler stated as we collect rolling stock funds as the year goes on we will have funds that we will be budgeting in next year's budget to purchase rolling stock just as we have this year.

Phillips questioned what the initial reason was for it being presented like this.

Ihler stated they were originally focused on trying to save money. They were looking at what was actually budgeted in the original capital outlay for this year and we didn't take a look at what we had in the rolling stock carryover and there was money to be left over at the end of the year and it would be much better to go ahead and utilize those funds and purchase both this year.

MOVED by Wells SECOND by Jackson to pay out of rolling stock carry over for the pumper truck plus pay a total cost in one year at the time of purchase of the Catpillar Compactor and take it out of the rolling stock fund. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

8. Consider adopting a resolution in support of the Oklahoma Affordable Housing Tax Credit application by MACO Development Company, LLC, to the Oklahoma Housing Finance Agency for a proposed senior housing development located at the southeast corner of SW 11th Street and SW Douglas Avenue. Exhibits: **Resolution 15-91**.
9. Consider accepting a permanent easement and a temporary easement from Keith E. and Rachel Cordes, husband and wife, for right of way needed for the Pat Henry Elementary School, Safe Routes to School Project# 2013-09, authorizing the Mayor and City Clerk to execute the documents. Exhibits: Location map. Documents are on file in the City Clerk's office.

10. Consider accepting a permanent easement and a temporary easement from Daves Realty, L.L.C., for right of way needed for the Pat Henry Elementary School, Safe Routes to School Project# 2013-09, authorizing the Mayor and City Clerk to execute the documents. Exhibits: Location map. Documents are on file in the City Clerk's office.
11. Consider accepting four permanent easements from John E. Barnes, Jr., Linda T. Dauber and Paul E. Barnes, Co-Trustees of the John E. Barnes, Sr. Family Trust, Dated October 20, 2005, for right of way needed for the SW Bishop Road Reconstruction 67th Street to 38th Street, Project# 2013-11, authorizing the Mayor and City Clerk to execute the documents. Exhibits: Location maps. Documents are on file in the City Clerk's office.
12. Consider accepting a permanent easement from John E. Barnes, Jr., Linda T. Dauber and Paul E. Barnes, Co-Trustees of the John E. Barnes, Sr. Family Trust, Dated October 20, 2005, for right of way needed for the SW Bishop Road Reconstruction 67th Street to 38th Street, Project# 2013-11, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location map. Documents are on file in the City Clerk's office.
13. Consider awarding a construction contract to Miller Construction & Sons, INC. for the I-44 Ramp Water Line Relocation Project #2013-10. Exhibits: A copy of the contract is on file in the City Clerk's office.
14. Consider accepting the 2012 CIP Street Mill & Overlay Project (NW Fort Sill Boulevard from W Gore Boulevard to NW Ferris Ave, #2014-04) as constructed by T&G Construction, Inc., assessing liquidated damages and placing the Maintenance Bond into effect. Exhibits: The Maintenance Bond is on file in the City Clerk's office.
15. Consider awarding contract (CL16-005) Redi-Mix Concrete, primary vendor to Bid #1 to Lawton Transit Mix Inc., of Lawton, OK and secondary vendor to Bid #2 to Southwest Ready Mix of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
16. Consider extending contract for Liquid Ammonium Sulfate to a primary vendor; Chemtrade Chemicals US, LLC, of Parsippany, NJ and a secondary vendor; Brenntag Southwest, Inc., of Nowata, OK for an additional year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
17. Consider approving appointments to boards and commissions.

Airport Authority

Johnny Owens
Comanche County Commissioner
315 SW 5th Street Room 301
Lawton, Oklahoma 73501
12/31/18

Jennifer L. Stricklin (STRICKEN)
17 NW Eagle Mt. Road
Lawton, Oklahoma 73507
12/31/18

Col R Brett Lewis
144 NE Haddington Place
Lawton, Oklahoma 73507
12/31/18

Sean Fortenbaugh
817 NW Thornbury Drive
Lawton, Oklahoma 73504
12/31/18

City Planning Commission (CPC)

Pat Henry
2601 NW Lake Ridge Drive
Lawton, Oklahoma 73505
12/14/18

Mayor's Commission On The Status Of Women

Yvonne Moore
4439 NW Baltimore Avenue
Lawton, Oklahoma 73505
12/17/15

18. Consider approval of payroll for the period of November 9-22, 2015.

NEW BUSINESS ITEMS:

19. Consider an ordinance pertaining to personnel policies and procedures amending Section 17-1-6-168, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2005, authorizing City Council to place City Council appointed employees on administrative leave by at least five affirmative votes, providing for severability, and establishing an effective date. Exhibits: Ordinance 15-__.

Jackson questioned the significant of five affirmative votes, why not just a majority vote.

Jensen stated the only thing we have in the charter or the code right now as far as the appointed employees by the council is a charter provision that says the City Manager may be suspended by the council by five affirmative votes and that is the same voting requirement in all the contracts for the appointed employees. They are trying to keep it consistent across the board. They need to put something in the city code that covers not just the City Manager, but also the other appointed employees.

Phillips questioned if this information has to go in the charter.

Jensen stated when we do have a charter election this will be one of the clean up measures that they do in connection with any charter review.

MOVED by Wells SECOND by Tanner to adopt **Ordinance 15-31**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 15-31

An ordinance pertaining to personnel policies and procedures, amending Section 17-1-6-168, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2005, by amending the administrative leave provision set forth in city code for city employees; providing for severability and declaring an effective date of thirty days from today.

20. Consider an ordinance relating to vehicles and traffic amending Section 23-5-548, Article 23-5, Chapter 23, Lawton City Code, 2005, by making it illegal for commercial motor vehicle operators and public transit drivers to use hand-held mobile telephones, and establishing an effective date. Exhibits: Ordinance 15-__.

Scott Meaders, Deputy City Attorney, stated in 2015 the state legislature amended state law making it illegal for public transit drivers and commercial drivers to use hand held devices and it is broader than the texting restriction. This ordinance will make city code consistent with state law.

Phillips questioned if the drivers had radios in their vehicles.

Ihler stated all of our garbage truck drivers and a lot of our equipment operators have hand held radios in their vehicles.

Meaders stated the restriction here is for hand held mobile telephones.

Phillips stated they can still use the hand held radio if they have one.

Meaders stated radios are not restricted.

Burk stated our police officers are using hand held phones and he questioned if this would apply.

Meaders stated the focus is on drivers in commercial vehicles which are defined in code and public transit drivers. They do not want these individuals using hand held phones, not even if the vehicle is stationary at a light. They can make emergency calls but the vehicle has to be pulled over on the side of the road.

Wells stated he thinks the confusion is that the state also passed law that you cannot use hand held cell phones driving POV's.

Jensen stated that is a common misconception with the no texting and driving ordinance. State law is talking about texting, it is not prohibitive to use your cell phone up to you ear or your Bluetooth.

Burk questioned how it could be that every vehicle the city owns would not be considered a commercial vehicle.

Jensen stated the police are considered emergency vehicles. If they were commercial vehicles they would have to have a commercial drivers license.

Burk stated he does not agree. His employees do not have commercial drivers licenses but they drive his commercial vehicles and according to the state his vehicles have to be registered as commercial vehicles. He is confused about what we are trying to do.

Jensen stated this applies to commercial vehicles operated by people with commercial drivers licenses. We don't view all of our vehicles as commercial vehicles.

Burk stated that we are saying that every driver that has a CDL would be restricted from using that phone, you are not talking about a commercial vehicle. Something is not right.

Meaders stated this restricts the operation of commercial motor vehicles while using a hand held mobile telephone.

Jensen questioned if there was anything in the ordinance about who the operator is.

Burk stated this is going to be confusing because his vehicles have to be tagged commercial and everything over three quarter ton they have to have a CDL, but those that don't are still commercial vehicles according to state law. He stated even city vehicles are commercially tagged.

Jensen stated they have city tags.

Burk stated that is a commercial tag.

Jackson suggested they table this item until they get clarification.

Burk stated if officers are trying to enforce this law they need to know who they are talking about.

Wells stated staff is just trying to implement state law.

Burk stated that maybe the state needs to tell us what they are really trying to say. Do we ask the Attorney General?

Jensen stated we can request an opinion but it may be a while before we get a response. He would recommend that council pass this ordinance tonight because we are simply mirroring state law. As far as the application, we will have to do some more research.

Burk stated we are not going to do anything about this until we figure out what it says.

Jensen stated yes, but we need to get it on the books.

Phillips stated it does say "motor vehicle operators in public transit drivers" is the way it is defines.

Burk stated it is confusing and he can't imagine being a police officer trying to figure out who he is supposed to pull over.

Jackson suggested they move to approve this ordinance and ask staff to obtain clarification, definition and opinion.

Burk stated this is confusing and we are not going to implement pulling people over until we figure out what the state is talking about.

Phillips questioned if the wording was exactly like the state wording.

Jensen stated yes.

Burk questioned how you can enforce something you don't understand.

Jensen stated if you have a commercial vehicle tag, that is the starting point. If you have a commercial vehicle tag that is a commercial vehicle and they will pull them over if they see them using a hand held telephone. If we go any further than that we will have to get some clarification.

Burk stated he is not against the idea, he just does not understand it.

Wells stated he hopes that the City Attorney will come back and tell them what this really says or get an opinion from the Attorney General regarding how that affects a pickup truck with commercial tags.

Tanner stated he is interpreting it as commercial vehicle operators that have to have a CDL.

Burk stated he is driving a car that is tagged as a commercial vehicle.

Jensen stated they need to look in the definition section. They rewrite state law and it is not perfect. If they can't find the answer in the definition section they will ask for an opinion.

MOVED by Jackson SECOND by Tanner to adopt **Ordinance 15-32, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.**

(Title read by City Attorney)

Ordinance 15-32

An ordinance relating to vehicles and traffic amending Section 23-5-548, Article 23-5, Chapter 23, Lawton City Code, 2005, by making it illegal for commercial motor vehicle operators and public transit drivers to use hand-held mobile telephones, and establishing an effective date of thirty days from today.

21. Consider an ordinance relating to vehicles and traffic amending Section 23-5-547, Article 23-5, Chapter 23, Lawton City Code, 2005, by expanding the types of stationary vehicles drivers must be cautious about when approaching, providing for severability, and establishing an effective date. Exhibits: Ordinance 15-__.

Meaders stated this is a legislative change in 2015 by the Oklahoma State legislature and they expanded the definition of the types of stationary vehicles to include the department of transportation and the Oklahoma Turnpike Authority vehicles.

Bellino-Hall questioned if you have to slow down.

Meaders stated if there are two lanes of travel in the same direction and the roadway conditions allow you to move over into the passing lane then that is your obligation. If there is a car on your left or you cannot move over then your obligation is to slow down and proceed cautiously by. If it is just a two lane road and obviously you cannot get over, the obligation is to just slow down as you pass these vehicles.

MOVED by Wells **SECOND** by McGahee to adopt **Ordinance 15-33**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 15-33

An ordinance relating to vehicles and traffic amending Section 23-5-547, Article 23-5, Chapter 23, Lawton City Code, 2005, by expanding the types of stationary vehicles drivers must be cautious about when approaching, providing for severability, and establishing an effective date of thirty days from today.

22. Consider an ordinance relating to vehicles and traffic, amending Section 23-5-540, Article 23-5, Chapter 23, Lawton City Code, 2005, by amending when the use of a child passenger restraint system is required, providing for severability, and establishing an effective date. Exhibits: Exhibits: Ordinance 15-__

Steven Greb, Assistant City Attorney, stated this ordinance is to bring our code consistent with state law. Children from 4 to 7 have to be in some sort of child chair, restraint system or booster seat. Children younger than 4 have to be in a child restraint system that is rear facing.

MOVED by Burk **SECOND** by Jackson to adopt **Ordinance 15-34**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 15-34

An ordinance relating to vehicles and traffic, amending Section 23-5-540, Article 23-5, Chapter 23, Lawton City Code, 2005, by amending when the use of a child passenger restraint system is required, providing for severability, and establishing an effective date.

23. Consider an ordinance pertaining to offenses and crimes creating Section 16-6-1-624, Division 16-6-1, Article 16-6, Chapter 16, Lawton City Code, 2005, by prohibiting any person from projecting a laser on or at a law enforcement officer, providing for severability, codification, and establishing an effective date. Exhibits: Exhibits: Ordinance 15-__.

Greb stated this ordinance is to bring our code consistent with state law. It simply says that you cannot point a laser at a police officer.

Phillips questioned if these were the state fines.

Greb stated yes.

Morford questioned why it was just police officers.

Greb stated the definition section of a law enforcement officer is very broad and it includes emergency management employees, judges, employees of the city or other government agencies.

Morford stated in the New York area they are having problems with people flashing airplanes.

Greb stated part of that same state law included pointing lasers at airplanes. He has spoken to the airport manager about this and she may be bringing that change in the future.

MOVED by Burk SECOND by Jackson to adopt **Ordinance 15-35**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 15-35

An ordinance pertaining to offenses and crimes creating Section 16-6-1-624, Division 16-6-1, Article 16-6, Chapter 16, Lawton City Code, 2005, by prohibiting any person from projecting a laser on or at a law enforcement officer, providing for severability, codification, and establishing an effective date of thirty days from today.

FINANCE REPORT (No finance report was given)

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Col. Waters stated Fort Sill will be hosting the tree lighting ceremony on December 1st at 6 p.m. The Governor has invited Fort Sill officials to the Water Summit on December 1st and 2nd to speak about repurposing and reuse water. Fort Sill is hosting a job fair on December 10th from 9 a.m. to 3 p.m.

McGahee stated last Saturday the Patterson community had a great block party and residents had an opportunity to speak with city staff about some issues. She thanked the Galilee Baptist Church and the health department for coming together to make it happen so they can improve

that area. She invited the council and the community to a meet and greet on Monday, November 30th at Great Plains Technology Center from 6 p.m. to 8 p.m.

Phillips stated the recycle committee has met and reviewed proposals and they are still considering what Lawton should do. The environment for recycling is not as profitable as it used to be but they are continuing to move on it.

Tanner stated he attended an event early Saturday morning called Fishing for Food which helps the local food bank. The event was put together by former City Council member Michael Tennis. He thanked the Cameron students who volunteered for the event and also LETA who stocked the pond with trout. He attended the Christmas Parade as the Grand Marshall and Holiday in the Park. He is very thankful to be able to participate in the form of government that we have where citizens elect their representatives. He thanked city staff who do their best to implement the policies that the city council has put together since 1901.

Morford thanked staff for all the work at the Museum of the Great Plains.

Ihler thanked all the employees who will be out working in the bad weather that is expected over the weekend.

Mayor Fitch stated the council had talked about some modifications to the charter and he would like the council members to make notes about the things they would like to discuss and they will set up a special council meeting when they return after the first of the year. He stated legal staff is looking at statute changes made by the state and what changes we may have to make in the charter.

The Mayor and Council convened in executive session at 6:54 p.m. and reconvened in regular, open session at 7:25 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

24. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2015-2016 between the Police Union, IUPA Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #24. No action was taken.

25. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2015-2016 between the International Association of Fire Fighters (IAFF), Local 1882, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #25.

Burk stated that without the public safety tax this could not have been a reality. Our citizens believed that we were going to take care of our fire and police and hopefully someday they will take care of the general employees

MOVED by Burk SECOND by Wells to approve a contract with the fire union for fiscal years 2015-2016 and 2016-2017 providing for, among other things, 1) increasing the starting pay for new hires to \$36,545.60, 2) providing for a \$2,500 public safety incentive in both years, 3) creating an EMT incentive to encourage firefighters to obtain advanced medical certifications and 4) adopting the provisions of the City's 2014 tobacco and vapor free ordinance. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Tony Kemp and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #26. No action was taken.

There being no further business to consider, the meeting adjourned at 7:30 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK