

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JUNE 25, 2019 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
Tim Wilson, Deputy City Attorney
Traci Hushbeck, City Clerk

Mayor Booker called the meeting to order at 6:06 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Charles Webber, Free Gospel Church of our Lord and Savior Jesus Christ, followed by the Pledge of Allegiance.

ROLL CALL

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

ABSENT: Caleb Davis, Ward Three

REPORTS: MAYOR/CITY COUNCIL

Mayor Booker stated he is pleased with what he is seeing in the new city manager and the direction he is taking this city. He is also very proud of the city staff and the way they have responded to new leadership.

COL King stated it has been a pleasure working with the Mayor, city council and the new city manager.

Johnson stated her Citizens with Solutions meeting will be held on June 27th at the Patterson Center at 5:30 p.m.

Fortenbaugh stated he is getting calls from constituents complimenting the city and the work they are doing and the level of customer service they are receiving.

Tanner congratulated all of the recent high school graduates and specifically his son Jalen Tanner who graduated from Lawton High.

Jackson stated the Freedom Festival will be this Saturday, June 29th starting at 10 a.m. and will go to 10 p.m.

AUDIENCE PARTICIPATION:

Virgil Watson, 1604 NW Lincoln Avenue, stated the area around 16th and Taylor was hit by a small tornado, which caused significant damage to the Lawton Heights United Methodist Church. He is requesting that a waiver or exception be granted to allow tree limbs to be picked up from their parking lot along with the curbside. They are putting limbs in appropriate length piles but due to the amount it is prohibitive for them to put it along the curb. They would also ask that this not count against their allowed pickups. They would also like to request this for the rest of the affected homes in the neighborhood.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF MAY 28, 2019 AND JUNE 11, 2019.

MOVED by Burk SECOND by Warren to approve the minutes of Lawton City Council regular meetings of May 28 and June 11, 2019. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Mayor Booker stated the claimant on item #1 has requested to speak. Tanner requested item #9 be considered separately.

MOVED by Warren SECOND by Fortenbaugh to approve the consent agenda with the exception of items #1 and #9. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for denial: Jenny Smart in the amount of \$2,125.30. Exhibits: Legal Opinion/Recommendation.

W. R. Moon, Assistant City Attorney, stated the events occurred on June 25, 2018 where in the claimant alleges that she collided with a piece of concrete while she was northbound on 17th Street crossing Gore Boulevard. The claimant alleges that she could not see this concrete due to the curve of the road. The claimant submitted two estimates for repair to her vehicle in the amount of \$1,566.77 and \$1,554.65 as well as estimate for a new tire in the amount of \$570.65. Neither the streets department, fire department or police department or emergency dispatch had received notice of the concrete being in the roadway. Denial of the claim was based on two factors. One was the fact that the City had no notice of this condition and the second reason for denial is the thought of contributory negligence in that each driver is under a duty to operate their vehicle with reasonable prudence, which means observing the road in front of them.

Jenny Smart, 1503 SW Bishop Road, stated where the road curves the rock was not where she could see it and she hit it with her car. Her sister talked with a Lawton Police officer and was

told to file a claim with the City. She stated the rock was not visible and she turned in pictures with her claim. She stated she thinks it is a chunk of the curb.

Tanner questioned if Ms. Smart had vehicle insurance that covered the damage.

Ms. Smart stated she was going to file a claim until she was told to come and file a claim with the City.

Tanner stated on these types of claims, if the City is given prior notice and then damage occurs to a vehicle, then we would be obligated to pay the claim. The council is just following state law and they cannot approve these type of claims.

Ms. Smart stated she would have filed with her insurance had the police officer not told her to file a claim with the City. She had no idea the concrete was in the road.

Tanner stated under state statute, municipalities have to have prior notice so they can correct the situation. He suggested she file a claim with her auto insurance.

Ms. Smart stated that it is very confusing because she was told that everything with her claim looked okay and she was told to file the claim from the police officer.

Tanner stated if the City gets prior notice that there is something in the road we don't remove it then we are liable to pay that claim.

Ms. Smart stated that the piece of concrete has been back in the road.

Burk stated the state statute says that we need prior notice that there is an issue with the road. We do need to find out if the rock is back in the road. He stated anyone can file a claim, but the legal staff will follow state statute and give a recommendation to the council.

MOVED by Burk SECOND by Warren to deny the damage claim of Jenny Smart in the amount of \$2,125.30. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

2. Consider approving the professional services agreement with John C. Mackey, for various matters involving real property, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement for Professional & Legal Services.
3. Consider approving the professional services agreement with Mackey Law Firm, to provide professional property research services in connection with dilapidated properties, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement for Professional & Legal Services.

4. Consider approving the professional services agreement with Mackey Law Firm, to provide legal representation in an eminent domain case still ongoing as result of the City's widening of 38th Street, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement for Professional & Legal Services.
5. Consider approving the professional services agreement with Mackey Law Firm, to serve as alternate prosecutor and independent investigator, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement for Legal Services.
6. Consider renewing a professional services agreement for bond counsel services with the Floyd Law Firm, P.C., of Norman, OK. Exhibits: Floyd Law Firm, P.C. Proposed Professional Services Agreement.
7. Consider renewing a professional services agreement retaining the law firm of Hawkins, Delafield & Wood LLP as Disclosure Counsel in connection with the issuance of the City's General Obligation and other Bonds that must comply with applicable municipal securities regulations including continuing disclosure requirements regarding the City's financial statements and annual financial information/operating data relating to each Bond Issue. Exhibits: Letter of Engagement from Hawkins, Delafield & Wood LLP.
8. Consider renewing the professional services agreement with McAfee & Taft for legal services related to the City's pension system, employment / labor related services, and other areas as requested by the City, including adding provisions for environmental / water law representation, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement for Professional & Legal Services.
9. Consider approving an Agreement between the Lawton Fort Sill Chamber of Commerce and the City of Lawton to fund activities by the Chamber designed to encourage, promote and foster tourism, including elements of economic development related thereto in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement (with updated performance measures and goals) and Proposed Budget.

Tanner stated he would prefer that the city council manage directly the hotel/motel tax but he realizes that this is not going to happen at this time. He feels that this hotel/motel tax is possibly hindering the chamber in their recruitment and maintenance of current membership. He has been a member of the chamber for years and he is a pro chamber guy but he is just anti chamber on managing the hotel/motel tax. He feels the chamber does good work and he supports them. He has had a check on his desk for about six months to renew his membership and the upper level management has known about this. He stated they have not shown up to collect their check, so that tells him that they do not need that \$375 because they are receiving this hotel/motel tax. They are not hungry for new members or to maintain the current membership.

MOVED by Warren SECOND by Burk to approve an agreement with the Lawton Fort Sill Chamber of Commerce. AYE: Hankins, Jackson, Burk, Fortenbaugh, Johnson, Warren. NAY: Tanner. MOTION CARRIED.

10. Consider approving an Agreement between the Lawton Economic Development Corporation [LEDC] and the City of Lawton to fund activities by LEDC designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement (with updated performance measures and goals) and Proposed Budget.
11. Consider approving an Agreement for Limited Services between the Lawton Enhancement Trust Authority (LETA) and the City of Lawton to fund activities by LETA designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement for Limited Services and LETA 2019/2020 Final Budget.
12. Consider approving a rental agreement through Aurora Pictures for video streaming services to be utilized for employee training from July 1st 2019 through June 30, 2020. Exhibits: Aurora Picture’s Video Streaming Rental Agreement.
13. Consider accepting proposals from OneNet for the City’s existing internet services and colocation services to complete the Network Design Project; and authorize the City Council and Mayor to execute Service Order Form & Agreements on behalf of the City for same. Exhibits: Proposals from OneNet.
14. Consider adopting a resolution amending the City of Lawton FY 18-19 budget, as amended, by appropriating \$500,000.00 from the CDBG Bank Account (Fund 06) into the CDBG Section 108 Note Payable account (Acct. # 006-0528-P19-00-0400N249). Exhibits: **Resolution No. 19-53**.
15. Consider a resolution: (1) approving the incurrence of indebtedness by the Lawton Metropolitan Area Airport Authority (the “Authority”) issuing its Revenue Note, Series 2019 (AMT), or as further designated (the “Note”), (2) providing that the organizational document creating the Authority is subject to the provisions of the indenture, (3) authorizing the issuance of said Note, (4) waiving competitive bidding with respect to the sale of said Note, (4) approving the proceedings of the Authority pertaining to the sale of said Note, (5) ratifying and confirming a lease agreement, as amended, by and between the Authority and the City of Lawton, Oklahoma, pertaining to certain airport facilities, and (6) containing other provisions relating thereto; and authorize the Mayor to execute the same and any other necessary documents related thereto. Exhibits: **Resolution No. 19-54**, Certificate of City Council Action and TEFRA Approval by Mayor of the City of Lawton, Oklahoma.

16. Consider approving a budget resolution to amend the Waurika Fund by increasing the appropriations by \$60,000.00 to cover the final FY18-19 maintenance and operations payments and to transfer \$100,000.00 from the Enterprise Fund (Wastewater Collections Division) to the Wastewater Maintenance Fund (Wastewater Maintenance Division) to cover the unexpected expenditures in salaries/overtime due to the additional hours worked to cover the sewer repairs. Exhibits: Budget **Resolution No. 19-55**.
17. Consider approving the annual Cooperative Agreement and an Agreement for Limited Funding between the City of Lawton and the City Transit Trust to provide funds for the operation of a public transit system and authorize the Mayor and City Clerk to execute the same. Exhibits: Cooperative Agreement and Agreement for Limited Funding are on file in the City Clerk's office.
18. Consider approving annual contract renewal between the City of Lawton and the following: Lawton CrimeStoppers, Inc. Exhibits: A copy of the contract is located in the City Clerk's Office for review.
19. Consider approving annual contract renewal between the City of Lawton and the following: Comanche County – County Commissioners (Juvenile Detention Center). Exhibits: A copy of the contract is located in the City Clerk's Office for review.
20. Consider authorizing contract with Town of Apache to provide services by the Animal Welfare Division to receive animals for the purpose of adoption, re-homing, sending to rescue, euthanization, or other means of disposal. Exhibits: Agreement.
21. Consider approving agreements for refuse disposal with the following entities, and authorize the Mayor and City Clerk to execute the Agreements: Town of Indianoma and Multiple Community Services Authority. Exhibits: Agreements (On file with the City Clerk).
22. Consider approving and authorizing execution of an Employee Leasing Agreement with Garver, LLC to provide professional services to the Water/Wastewater Department. Exhibits: The Employee Leasing Agreement is on file in the Field Utilities office.
23. Consider accepting the sanitary sewer line, easements and maintenance bond to serve Braum's Ice Cream and Burger Restaurant to be located on the east side of NW Sheridan Road, between NW Lake Avenue and NW Arlington Avenue. Exhibits: Location Map. Maintenance Bond and Easements are on file in the City Clerk's office.
24. Consider extending contract for (RFPCL16-029) ATM Services to Jamark, LLC of Lawton, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

NEW BUSINESS ITEMS:

Mayor Booker stated they need to address item #26 before they approve #25.

26. Hold a public hearing to receive citizen comments and consider adopting a resolution to approve amendments to the Amended Consolidated Plan for FFYs 2016-2020 and authorize the Mayor and City Clerk to execute all documents necessary to implement the plan. Exhibits: Proposed Amendments to the Consolidated Plan for FFY 2016-2020 and Resolution No. 19-__.

Christine James, Supervisor of Housing and Community Development, reported on the amendments to the Amended Consolidated Plan for FFYs 2016-2020. A briefing was presented by James (on file in City Clerk's office).

PUBLIC HEARING OPENED.

Timothy Loftis, 2704 NW 56th Street, stated he would like to address the home next to his parents' house at 1616 SW Jefferson, which is run down. He stated no one has been maintaining the house for years and it is a nuisance to the neighborhood.

PUBLIC HEARING CLOSED.

MOVED by Burk SECOND by Jackson to approve **Resolution No. 19-57**. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

25. Hold a public hearing and consider adopting a resolution to approve amendments to the Annual Action Plan for FFY 2018 and authorize the Mayor and City Clerk to execute documents necessary to implement the plan. Exhibits: Proposed Amendment to the Annual Action Plan for FFY 2018 and Resolution No. 19-__.

James reported on the amendments to the Annual Action Plan for FFY 2018. A briefing was presented by James (on file in City Clerk's office).

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

MOVED by Burk SECOND by Hankins to approve **Resolution No. 19-56**. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

27. Hold a public hearing and consider a resolution amending the Land Use Plan from Residential/Low Density to Commercial, an ordinance changing the zoning from R-2 Two-Family Dwelling District to C-1 Local Commercial District, and a Use Permitted on Review for an automated teller machine on property located at 507 NW Fort Sill Boulevard. Exhibit: Resolution No. 19-__, Ordinance No. 19-__ with Site Plan, Location Map, Application and Draft CPC Minutes.

Richard Rogalski, Community Services Director, stated this request is for Lots 5 and 6, Block 11, North Addition, located at the southeast corner of NW Fort Sill Boulevard and NW Ferris Avenue. The proposed use is an automated teller machine. The property owner is Bedford Mitchell, and the applicant is Arvest Bank. The zoning of the surrounding area is P-F Public Facilities District to the north, R-2 to the south and east, and C-1 Local Commercial District and

R-4 High Density Apartment District to the west. The land use of the surrounding area is Lawton High School to the north, single-family residential to the south and east, and professional offices and single-family residential to the west. The 2030 Land Use Plan designates these lots as Residential/Low Density. The most restrictive zoning district for the proposed use of an ATM requires C-1 Local Commercial District and approval of a Use Permitted on Review (bank and banking facilities are permitted uses in C-2; therefore, the ATM could be allowed as a Use Permitted on Review in C-1 since it is abutting a major street). On April 25, 2019, the City Planning Commission (CPC) held a public hearing on the initial request, which was for C-5 General Commercial District and included a mobile food truck court and an ATM as proposed uses. Prior to the public hearing three letters of opposition to the request had been received. During the public hearing four persons spoke against the request. At the CPC meeting David Madigan with Arvest Bank amended the request to C-1 Local Commercial District with a Use Permitted on Review for the ATM only due to the concerns of surrounding property owners including Lawton High School. The CPC unanimously voted to recommend amending the Land Use Plan from Residential/Low Density to Commercial and changing the zoning from R-2 to C-1 with a Use Permitted on Review for an ATM subject to the site plan being revised to meet City Code requirements. The applicant has submitted a revised site plan which meets the screening requirements from the adjacent residential properties. The site plan includes landscaping amenities such as a fountain with a buffalo sculpture and boulders. The applicant proposes to use the platted alley to the east of these lots as part of the paved drive.

Burk stated the original application was for C-5 where they could have some food trucks in the back part of the lot. He stated there has been a change in leadership at Lawton Public Schools and he believes they need to address this again. He stated in this area there would be three spots available for food trucks and he feels they could come up with a solution and try to get a crosswalk put in that would make sure that kids could cross the road if there was a food truck. He stated Lawton Public Schools has their own police force that could probably man that area during the lunch hour. He stated now the only way they can leave campus is by car and he is not sure that we want a group of kids getting into a car and flying down the road to get something to eat. He feels that their initial plan was outstanding and he feels they were asking for something that was really cool and other cities would jump all over it and we choose to always look at the bad. He does not want to vote for C-1, he would rather table this, talk with Lawton Public Schools, and see if we can come up with a plan for that corner to make sure students can get across the street safely. He feels this is going to be a good thing.

PUBLIC HEARING OPENED.

Jerry Wertz, NW 36th Street, stated he agrees with the potential location for an ATM with the food truck set up. He stated this would give people the option of going to the ATM, withdraw money, and then go to the food truck.

David Madigan, Arvest Bank, 4330 NW Cache Road, stated it was a vision to create something a little different and special at that corner. He stated they spoken with Chuck Wade, legal counsel for Lawton Public Schools, and they were not going to oppose the proposal. The principal for Lawton High personally spoke about some concerns he had, but Lawton Public Schools did not oppose this. He stated if this was going to cause issues with the students at Lawton High they

thought about limiting it to weekends. They are willing to work this out because they do not want to cause any conflict. He does appreciate Council Member Burk's suggestion, but he questioned if the council could go ahead and vote on the C-1 zoning tonight and then make a modification at a later date. He stated they have been working with city staff for 10 ½ months and it would be nice to move it forward.

PUBLIC HEARING CLOSED.

Burk stated that Arvest is wanting to move forward with this and he does not see any reason they cannot approve the C-1 zoning tonight.

Tanner stated he feels they should get it on the books tonight and amend it later. He likes the original plan and that lot has been vacant for years. He stated that just keeping it mowed would be beneficial.

Fortenbaugh stated when he read through the CPC minutes and their reasoning for taking away what Arvest originally wanted on that corner, he stated we are not reinventing the wheel here, there used to be a Braum's across the street and he is sure that the kids went over there at lunch. He supports passing the C-1 zoning, but would like staff to put together the plan with the original C-5 zoning and bring it back to council for consideration.

Rogalski stated they would have to send out notices to the area to approve anything else other than C-1 zoning.

Burk stated he could make a motion to approve C-1 and then staff could come back with C-5 zoning.

MOVED by Burk SECOND by Tanner to approve **Resolution No. 19-58**. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

MOVED by Burk SECOND by Tanner to adopt **Ordinance 19-13**, waive the reading of the ordinance, read the title only. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 19-13

An ordinance changing the zoning classification from the existing classification of R-2 Two-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.

28. Hold a public hearing and consider a change of zoning from C-4 Tourist Commercial District to I-3 Light Industrial District zoning classification on property located at 1101 SE Interstate Drive. Exhibits: Ordinance No. 19-__ with binding site plan, Location Map, Application and Draft CPC Minutes.

Rogalski stated this request is for Lot 1, Block 12, Turnpike Industrial Park containing 1.18 acres. Kenneth Easton, one of the property owners, advised there are no plans for development at this time. The applicant owns property in this area that is zoned I-3 and desires to rezone this lot to I-3 also. The zoning of the surrounding area is I-3 to the north and west, C-4 to the south, and Tribal Trust land and Floodplain District to the east across I-44. The land use of the surrounding area is equipment rental to the north, Easton’s Marine boat sales to the south, vacant to the east, and granite countertop business, printing shop, and cleaning business to the west. The Land Use Plan designates this lot as Industrial. This lot is the only lot zoned C-4 north of the tier of lots abutting Lee Boulevard between I-44 and SE 2nd Street. On May 30, 2019, the City Planning Commission (CPC) held a public hearing on this request. During the public hearing, one person (the applicant) spoke in favor of the request and no one spoke against the request. The CPC unanimously voted to recommend approval of this request and noted that development of this property would be required to follow the process to amend a binding site plan, which will require public hearings.

PUBLIC HEARING OPENED.

Kenneth Easton, 726 NW 46th Street, stated he and his brother purchased this property three years ago and are now in the process of developing the property. He stated this is the only lot in that addition that was not zoned industrial and they would like to tie the whole addition together. They will be developing in the near future.

PUBLIC HEARING CLOSED.

MOVED by Burk SECOND by Jackson to adopt **Ordinance 19-14**, waive the reading of the ordinance, read the title only. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 19-14

An ordinance changing the zoning classification from the existing classification of C-4 Tourist Commercial District to I-3 Light Industrial 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.

29. Hold a public hearing and consider a resolution amending the Land Use Plan from Parks/Open Space to Commercial and an ordinance changing the zoning from P-F Public Facilities District to C-5 General Commercial District zoning classification on property located at 2413 NW Cache Road. Exhibits: Resolution No. 19-__, Ordinance No. 19-__ with binding site plan, Location Map, Application and Draft CPC Minutes.

Rogalski stated this request is for 0.27 acres of land which was previously part of Stephens Park. The property owner, White Buffalo Coffee Bar, LLC, owns the property to the west and desires to expand their parking lot on this property. The zoning of the surrounding area is P-F to the north, C-5 to the south and west, and P-F and C-5 to the east. The land use of the surrounding

area is vacant (formerly Stephens Park) to the north, restaurants to the south, fire station and convenience store to the east, and restaurants and oil change shop to the west. The 2030 Land Use Plan designates this property as Parks/Open Space. Most of the property along Cache Road is designated as Commercial. The City Council had declared Stephens Park as surplus property, and the park was sold. The adjacent property owner purchased the park and needs more parking for the new business, White Buffalo Coffee Bar. The request does not include all of the park area, only the portion that is adjacent to Cache Road and the adjacent business. The site plan indicates there will be 16 parking spaces and the drive for the drive-thru window on this site. The five parking spaces shown along NW Cache Road on the site plan will require a revocable permit from the City Council. City staff did recommend the parking spaces be at least 10 feet from the back of curb to allow space for a future sidewalk, and the site plan does meet that recommendation. A revocable permit was granted by the City Council in 2001 for the existing four spaces along NW Cache Road. On May 30, 2019, the City Planning Commission (CPC) held a public hearing on this request. During the public hearing one person representing the applicant spoke in favor of the request and no one spoke against the request. The CPC unanimously voted to recommend approval of the request subject to two conditions: 1) The applicant obtain a revocable permit for parking on the right-of-way of NW Cache Road; and 2) The applicant install a 6-foot wide sidewalk adjacent to the parking lot along NW Cache Road.

Warren stated they are being required to build a sidewalk to a creek.

Rogalski stated when the first person builds a sidewalk in an area, it looks silly, because there is a sidewalk to nowhere. It is a very short section of sidewalk that will need to be built, but now there is a bus stop there with no sidewalk leading to it.

Burk stated we need to change the requirement that if you build a parking lot, there needs to be a sidewalk. He questioned if there was a sidewalk in front of their existing location.

Rogalski state no.

Burk stated they have parking all the way out to the street.

Burk request staff bring back something about requiring a sidewalk even if there is not a building.

PUBLIC HEARING OPENED.

Denise Enix, 15371 SE Gooden Road, stated she is here on behalf of her business, Lulu's Coffee and Bagel, which is just up the street from the property. She stated she has been a part of this community for ten years and she has owned Lulu's Coffee and Bagel for seven years. She stated economic competition can be unhealthy for small businesses and small business owners. It can drive down prices and even close small businesses. She stated the City sold public property to a private company, they sold Stephens Park to White Buffalo and the issue tonight is to rezone that property. It appears to her that the City is using the zoning ordinance to create or regulate economic competition.

Burk stated that is the world we live in. The park was sold because we have a huge number of small parcels that we will never develop into a park, so the council instructed staff to sell off these parcels. He stated he cannot control what someone else builds on a property that is sold, even if it is sold by the City. Anyone could have bought that property.

Ms. Enix feels that the property could have been used as a park. She questioned if the city involvement is impacting economic competition.

Fortenbaugh stated you have to look at this from both sides. If they were to tell White Buffalo that they could not open a coffee shop there then they would accuse the council of favoring Lulu's Coffee and Bagel. They cannot pick winners and losers, it won't work out.

Ms. Enix stated she is not the only person who thinks there are not enough parks in Lawton, but to sell a park that could have had a splash pad or a dog park. How does a parking lot benefit the citizens of Lawton? There is a lot of pedestrian traffic in this area and it could have been used for pedestrians.

Burk stated he understands Ms. Enix's concern, but she could have bought the property. Anyone had the opportunity to buy that property. We have over 100 parks that we cannot maintain. This property is right next to a creek and he is not sure anyone would want to be there. We are not trying to help one or hurt another, anyone had an opportunity to buy the property. He just feels that is the world we live in.

Ms. Enix stated there is an unwritten small business ethic code that she feels was broken here and she would never do that to another small business. There are other streets, but they had to choose the property right there in her direct traffic. She requested that the council reconsider rezoning this park.

PUBLIC HEARING CLOSED.

MOVED by Burk SECOND by Warren to approve **Resolution No. 19-59**. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Warren. NAY: None. ABSENT: Johnson. MOTION CARRIED.

MOVED by Burk SECOND by Warren to adopt **Ordinance 19-15**, waive the reading of the ordinance, read the title only. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Warren. NAY: None. ABSENT: Johnson. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 19-15

An ordinance changing the zoning classification from the existing classification of P-F Public Facilities District to C-5 General 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.

30. Consider granting a revocable permit for parking and maneuvering to encroach approximately 15 feet into the right-of-way along the north side of NW Cache Road in order to construct a parking lot to serve White Buffalo Coffee Bar located at 2413 NW Cache Road. Exhibits: Application and Site Plan. Revocable Permit is on file in City Clerk's Office.

Rogalski stated this is the companion piece for item #29.

MOVED by Burk SECOND by Jackson to grant a revocable permit for parking and maneuvering to encroach approximately 15 feet into the right-of-way along the north side of NW Cache Road in order to construct a parking lot to serve White Buffalo Coffee Bar located at 2413 NW Cache Road. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Warren. NAY: None. ABSENT: Johnson. MOTION CARRIED.

Burk questioned if the sidewalk was included in this piece.

Rogalski questioned if the motion on item #29 included the sidewalk.

Burk stated they meant for the sidewalk to be included.

Rogalski stated that is what the CPC had asked to be approved but the condition needed to be part of the motion.

Tanner stated since Councilmember Burk made the affirmative motion he can move to reconsider the item.

MOVED by Burk SECOND by Fortenbaugh to suspend the rules and reconsider item #29. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Warren. NAY: None. ABSENT: Johnson. MOTION CARRIED.

MOVED by Burk SECOND by Tanner to approve **Resolution No. 19-59** with the requirement of installation of a six-foot wide sidewalk along Cache Road adjacent to the parking lot. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Warren. NAY: None. ABSENT: Johnson. MOTION CARRIED.

MOVED by Burk SECOND by Warren to adopt **Ordinance 19-15**, with the requirement of installation of a six-foot wide sidewalk along Cache Road adjacent to the parking lot, waive the reading of the ordinance, read the title only. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Warren. NAY: None. ABSENT: Johnson. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 19-15

An ordinance changing the zoning classification from the existing classification of P-F Public Facilities District to C-5 General 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.

31. Consider Change Order #10 to the contract between Flintco, LLC and the City of Lawton for construction of the Public Safety Facility. Exhibits: Change Order #10 - Public Safety Facility.

George Hennessee, Engineering Director, stated Change Order #10 includes several items that have been under consideration and study for approval. PCO 26 will add support beams along Grid Line 17.2 and 19 running approximately five feet south of Grid Line K from columns to the concrete wall to support the upper floors. The beams are required for structural integrity of the building, will cost \$4,054 and add 2 working days to the project. PCO 27 will consider weather delay days from July through September, will add no additional cost, but will add 13 calendar days to the project. He stated when they have a weather delay day, we award a calendar day for that delay. That work day is Monday through Friday but the calendar days are awarded based on a calendar day which includes Saturday and Sunday. When we have a non-work day that occurred during the contract, we do not count that weather day as a delay because it is a non-work day. If we have a delay during a workweek, we do count those and we award a calendar day extension to the contract. This issue has been brought up by several contractors and we might want to address this issue. PCO 29 adds fire proofing in the fire rated wall needed due to a conflict with a beam. The fireproofing is required by code for fire rated wall structures, will cost \$2,795 and add 2 calendar days to the project. PCO 30-R2 will bring the site lighting up to the Down Town Overlay District standards. Though the project is technically across the street from the district, it is desirable to provide amenities that enhance the project to those standards. The cost of the additional lighting is \$13,701 and will add 5 calendar days to the project. PCO 32 provides for fire hose storage in the bay area by adding a HSS column and lintel integrated into the new windows. This provides fire hose storage, will cost \$5,942 and add 4 calendar days to the project. PCO 33 provides re-routing of water mains to the North East service to the building to avoid conflicts with the storm drain lines leaving the structure. This involves some additional water main, valves, fittings and thrust blocking for the new alignment. This re-alignment will cost \$1,932 and add 1 day to the project. PCO 34 adds two support beams in the mezzanine between Grid Line L and Grid Line M for support of the mezzanine floor openings. The cost of these two beams is \$2,582 and adds 2 days to the project schedule. PCO 36 is considers weather days from October through January 2019. It is a no cost item and will add 22 days to the project schedule. PCO 37-R1 will infill two windows on the third floor that were designed behind interior walls for aesthetics. Due to concerns of lintel support, it is recommended to infill these blocked windows with brick at a cost of \$1,826 and add 10 days to the project schedule. PCO 38 is a modification of the exterior furnishings provided in the original bid. The proposed items were to be of a ribbed design, which does not match our Down Town Overlay improvements on 2nd Street, which is a webbed design. The result of the modification is a deduction of \$2,376 and no adjustment in the project schedule. Each of these items have been researched and evaluated to determine the validity of the claim and the possible options to the recommendations. It has been determined the solutions proposed are valid and necessary for the success of the project. The total cost of these items would be \$30,456 and add a total of 61 calendar days to the schedule.

MOVED by Burk SECOND by Warren to approve Change Order #10 to the contract between Flintco, LLC and the City of Lawton for construction of the Public Safety Facility. AYE: Hankins, Jackson, Burk, Fortenbaugh, Warren. NAY: Tanner. ABSENT: Johnson. MOTION CARRIED.

32. Consider awarding (RFPCL19-031) Concession Lease Eastside Park to LaSill Optimist Club of Lawton, OK, and authorize the City Council and Mayor to enter into a Concession Lease Agreement for same. Exhibits: Department Recommendation, Abstract of Bids, Proposal Price Sheet, Concession Lease Agreement.

MOVED by Burk SECOND by Warren to award (RFPCL19-031) Concession Lease Eastside Park to LaSill Optimist Club of Lawton, OK, and authorize the City Council and Mayor to enter into a Concession Lease Agreement for same. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Warren. NAY: None. ABSENT: Johnson. MOTION CARRIED.

STAFF REPORTS

(Johnson returned @ 7:34 p.m.)

Mike Jones, GIS Supervisor, briefed the council on the iHelp Lawton citizens portal.

Diane Branstetter, Finance Director, presented revenue and expenditure highlights for the period ending May 31, 2019. (On file in the City Clerk's office).

Cleghorn presented the City Manager's Report for May 2019. (On file in the City Clerk's office).

The Mayor and Council convened in executive session at 7:47 p.m. and reconvened in regular, open session at 8:00 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

33. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations regarding for a Collective Bargaining Agreement for FY 2019-2020 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.

Wilson read the title of item #33.

MOVED by Burk SECOND by Warren until the City and IAFF local 1882 are able to reach an agreement for a Fiscal Year 2019-2020 contract, I move to adopt **Resolution 19-60** extending the current collective bargaining agreement and three memorandums of understanding related thereto into Fiscal Year 2019-2020, with the exception of: (1) the public safety sales tax incentive set forth in CBA Section 13.10, which shall be suspended until the issue can be resolved through the collective bargaining process; and (2) the provisions within CB Section 14.1 providing for a reduction in a firefighter's merit step and/or disciplinary action for failing to

maintain EMT or AEMT certification, which shall also be suspended. The three memorandums of understating being extended into Fiscal Year 2019-2020 address: (1) the current health insurance benefits, (2) the fire department promotional policy, which is incorporated into the parties' contract, and (3) the 2019 addition of two City holidays. AYE: Hankins, Jackson, Burk, Tanner, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:02 p.m. upon motion, second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK