

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 8, 2022 – 2:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

Also Present:
Michael Cleghorn, City Manager
John Ratliff, City Attorney
Traci Hushbeck, City Clerk

Mayor Booker called the meeting to order at 2:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Jesus Velazques, The Impact Center, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Mary Ann Hankins, Ward One
Kelly Harris, Ward Two
Linda Chapman, Ward Three
Jay Burk, Ward Four
Allan Hampton, Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven

ABSENT: Randy Warren, Ward Eight

REPORTS: MAYOR/CITY COUNCIL:

Hampton stated the opening of the new Farmer's Market will be Friday at 2 p.m. He stated Southwest Oklahoma Trail Fest will be held June 17 – 19, 2022.

Fortenbaugh complimented staff for all their hard work during the storm last week.

Mayor Booker thanked all the street crews for their hard work.

AUDIENCE PARTICIPATION:

Albert Rivas, 25 NW 53rd Street, stated that the majority of people his age are at working right now and how are they going to encourage younger people to become involved in the council when they have meetings at 2 p.m. He feels that 6 p.m. meetings need to come back. When the majority of constituents are at work during the day, it makes the council not as accessible as they should be. He stated he will continue this request at every council meeting.

CONSENT AGENDA:

Mayor Booker stated items #2 (Rodriguez claim) and #3 will be considered separately and item #6 will be stricken.

MOVED by Burk SECOND by Hankins to approve the consent agenda with the exception of items #2 (Rodriguez claim), #3, and striking #6. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

1. Consider approval of the minutes of the Lawton City Council regular meeting of January 11, 2022.
2. Consider the following damage claims recommended for approval: Marcos Rodriguez, dba MRod LLC, in the reduced amount of \$368.40 and Carlene King in the reduced amount of \$972.92 (**Resolution 22-48**).

Kelea Fisher, Deputy City Attorney, presented the facts of the claim. She stated it is her recommendation to approve the claim in the reduced amount of \$368.40.

Mark Rodriguez, 1930 NW Ferris, stated he is concerned about the way this was handled. He stated this comes down to customer service and he feels that he could have been treated better by multiple departments. He suggested they look at the Disney model for customer service.

MOVED by Burk SECOND by Hankins to approve the damage claim of Marcos Rodriguez, dba MRod LLC, in the reduced amount of \$368.40. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

3. Consider the following damage claim recommended for denial: Tammy Cook in the amount of \$812.26.

Fisher presented the facts of the claim. She stated it is her recommendation to deny the claim because the Streets Division had no prior notice of any complaints or calls about potholes on SE Interstate Drive. She stated there was a complaint filed by another citizen two days after Ms. Cook states that she hit the pothole, and a crew went out and filled all the potholes they could find. She stated Ms. Cook did not make a report within 24 hours.

Tammy Cook, 27365 State Highway 115, stated she did not know of the damage until Friday, and she called the City and was told what she needed to do. She stated it was reported before she called.

Fisher stated that someone did call on October 22nd, but the damage to Ms. Cook's car occurred on October 20th.

Harris questioned if it was standard policy that if nobody saw it or it wasn't reported that it would be denied.

Fisher stated that is what the code section states. She is in no way doubting that this occurred. The requirement that the City have prior notice is state law. The City cannot be the insurer of safe travels, and in order for us to pay claims or be held negligent for potholes or defects in our roadway, we have to have known about the defect before or we should have known about the defect. With this claim there was no prior notice.

Burk stated if the claim is denied, Ms. Cook could take this to district court. We have to abide by state law.

Ms. Cook stated she called it in as soon as she found it and someone else had called it in before her and the potholes had been filled.

Fisher stated the primary basis for the denial is lack of notice.

MOVED by Burk SECOND by Hankins to deny the damage claim of Tammy Cook in the amount of \$812.26. AYE: Hankins, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. ABSTAIN: Harris. MOTION CARRIED.

Harris stated he abstained because he has known Ms. Cook for a very long time, and he feels it would not be appropriate to vote on this claim.

4. Consider adopting a resolution approving the joint petition settlement and making payment in the workers' compensation claim of Ramon Ortega. **(Resolution 22-49).**
5. Consider approving and executing a new Water Sales Agreement with Pecan Valley Water District (formerly Pecan Valley Water Association).
6. Consider accepting a deed to the private road near the intersection of SW 67th Street and West Gore Boulevard in Lawton from Darryl D. Dunn and Christine J. Downs (current owners) and amending the budget to accept \$7900 in repair costs as part of a settlement agreement, and dismissing the lawsuit regarding the road (CJ-2021-473) with prejudice to all parties. **STRICKEN**
7. Consider approving a resolution amending the City of Lawton FY21-22 budget, as amended, by appropriating \$25,000.00 received from the Comanche County Commissioners to the Library Division's Library Books account for library-related purchases. **(Resolution 22-50).**
8. Consider approving a memorandum of understanding with the Tillman County Sheriff's Office and the City of Lawton authorizing the utilization of the Lawton Police Department's Training Facility to train their new officers in the Council of Law Enforcement and Training's Basic Academy (CLEET) and authorize the Mayor and City Clerk to execute the memorandum.

9. Consider approving Amendment No. 5 to the 2017 Ad Valorem Street and Roads Program (Residential), Phase I - Project No. EN1707P1 with Freese and Nichols, Inc. to provide additional services for splitting the Phase II into two (2) separate sub-projects.
10. Consider awarding a construction contract to MTZ Construction, Inc. for the On-Call Citywide Sidewalk - Project No. EN2107.
11. Consider rejecting all proposals for (RFPCL22-024) Landfill Compactor Lease-Purchase Agreement
12. Consider awarding RFPCL22-003 Utility Billing & Invoice Mailing Services to Data Prose of Coppell, TX.
13. Consider awarding CL22-023 Fluorosilicic Acid to Pencco, Inc. of San Felipe, TX.
14. Consider awarding CL22-025 Electro Fusion Polyethylene Pipe Fittings to Rainmaker Sales Inc. of Shawnee, OK.
15. Consider approving appointments to boards and commissions

Historical Preservation Commission

Cherry Phillips
6931 NW Eisenhower Drive Lawton, OK 73505
Term Expires 01/27/2024

Lakes and Land Commission

Mark Scott
4330 NW Cache Rd
Lawton, OK 73505
Term Expires 1/23/2025

Donald Smith
1101 NW 75th Street
Lawton, OK 73505
Term Expires 01/23/2025

Traffic Commission

Mayoan Santana
3030 NE Stratford Circle
Lawton, OK 73507
U/T 04/23/2023

Mayor’s Commission on the Status of Women

Vera Oldham- Central County Commissioner Rep
302 NW 32nd Street
Lawton, OK 73505
02/08/2025

Lawton Economic Development Authority (LEDA)

Councilman Randy Warren
6513 NW Columbia Avenue
Lawton, OK 73505
Council Term

Youth and Family Affairs Committee YFAC)

Council Member Mary Ann Hankins
3602 NW Julie Street
Lawton, OK 73505
UT 02/23/2024

Jeff Elbert
7605 SW Delta Avenue
Lawton, OK 73505
03/09/2025

Employee Advisory Committee (EAC)

Council Member Kelly Harris
1917 NW Cherry Avenue
Lawton, OK 73507
Council Member Liaison- No expiration date

Museum of the Great Plains

Ryan Studebaker
2512 NE Kingsbriar Avenue
Lawton, OK 73507
UT 06/30/2023

BUSINESS ITEMS:

16. Hold a public hearing and to consider a change of zoning from the C-3 Planned Community Shopping Center District to the C-5 General Commercial District zoning classification. The property is located at 7220 NW Sun Blvd, Lawton, OK 73505.

Kameron Good, Planner I, briefed the council on the rezoning application.

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

MOVED by Burk SECOND by Chapman to adopt **Ordinance 22-07**, waive the reading of the ordinance, read the title only. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

Mayor Booker stated that the ordinance was not read as part of item #16 so a motion is needed to reconsider so the ordinance can be read.

MOVED by Burk SECOND by Hankins to reconsider agenda item #16. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

MOVED by Burk SECOND by Chapman to adopt **Ordinance 22-07**, waive the reading of the ordinance, read the title only. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

The City Attorney read the ordinance from item #17 instead of Ordinance 22-07. The council voted to reconsider item #16 so that the correct ordinance could be read.

MOVED by Burk SECOND by Chapman to reconsider agenda item #16. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh. NAY: None. ABSENT: Johnson. MOTION CARRIED.

MOVED by Burk SECOND by Chapman to adopt **Ordinance 22-07**, waive the reading of the ordinance, read the title only. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh. NAY: None. ABSENT: Johnson. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 22-07

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION FROM THE EXISTING CLASSIFICATION OF C-3 PLANNED SHOPPING COMMUNITY SHOPPING CENTER 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; AUTHORIZING CHANGES TO BE MADE UPON THE OFFICIAL ZONING MAP IN ACCORDANCE WITH THIS ORDINANCE.

17. Hold a public hearing and to consider a change of zoning from the R-1 Single-Family Dwelling District to the C-1 Local Commercial District zoning classification and a change to the 2030 Land Use Plan from Professional Office/Transition to Commercial located at 3323 and 3321 NW Cache Road, Lawton, OK 73505.

Good briefed the council on the rezoning application. He stated the City Planning Commission met on January 13, 2022, and recommended approval subject to changing the opaque screening from 6' to 8', providing the proper amount of landscaping point for the required tree buffer, and making the exit onto 34th street a left turn only.

Hankins clarified that this was all drive-thru with no seating.

Good stated there is an outdoor patio for seating.

Hankins questioned if CPC was satisfied with the flow of traffic through the drive thru.

Good stated yes, it has the proper spacing. He stated they were concerned about the lights and that is why they recommended the 8-foot fence.

Fortenbaugh requested that Good explain the historic overlay.

Good stated there is historic overlay on the neighborhood to the north, but it does not reach this property.

Chapman questioned the hours of the business.

Good stated they will close at 8 p.m. in the winter and 9 p.m. in the summer.

PUBLIC HEARING OPENED.

Randy Foster, Architect representing the applicant, briefed the council on the business, HTeaO. He stated to accommodate the CPC recommendation, they are looking at a 6-foot metal fence which will look better, and the light will not be coming through. They have priced an 8-foot fence, but they are not sure that it is in budget. They will be adjusting the light and will look at speaker locations.

Suzanne Crawford, 3320 NW Atlanta, stated they presented a petition to the CPC protesting this rezoning. She stated this will substantially increase the traffic on Atlanta. This business is a drive in. She stated the business will be visible from the alley, even with a 6-foot fence. The lighting and noise would make it very unpleasant.

PUBLIC HEARING CLOSED.

Hankins stated Cache Road is getting developed and the houses behind this area are very nice but the road is getting bad, particularly at that intersection. She stated this will be difficult as this area develops.

Fortenbaugh stated he feels they should accept all of the recommendations from the CPC. He stated they need to look at this area to determine how to improve the traffic flow and decrease accidents. He cannot believe it is still 45 mph.

Johnson suggested they place a speed bump there until some of these changes can be made.

Burk stated eventually Cache Road will be all commercial and all of those residential homes will be gone. He stated he will make the motion to include all of the CPC recommendations to include the 8-foot fence.

Hampton questioned how they will prevent a bottleneck in the drive thru access.

Mr. Foster stated they have two lanes and a bypass lane, and the pattern of traffic is counterclockwise.

Harris stated he is worried that traffic will be blocked on Cache Road during high volume moments.

Mr. Foster stated that is the reason for the double lane drive thru. He stated they have done many studies on que spaces. They don't want anything to back up.

MOVED by Burk SECOND by Fortenbaugh to adopt **Resolution 22-51** changing the 2030 Land Use Plan from Professional Office/Transition to Commercial and **Ordinance 22-08** changing the zoning from the R-1 to C-1 and to include all of the recommendations from CPC, to include the 8-foot fence, waive the reading of the ordinance, read the title only. AYE: Harris, Burk, Hampton, Fortenbaugh, Johnson. NAY: Hankins, Chapman. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 22-08

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION FROM THE EXISTING CLASSIFICATION OF R-1 SINGLE-FAMILY DWELLING DISTRICT TO C-1 LOCAL COMMERCIAL DISTRICT ZONING CLASSIFICATION ON THE TRACT OF LAND WHICH IS HEREINAFTER MORE PARTICULARLY DESCRIBED IN SECTION ONE (1) HEREOF; AUTHORIZING CHANGES TO BE MADE UPON THE OFFICIAL ZONING MAP IN ACCORDANCE WITH THIS ORDINANCE.

18. Consider temporarily suspending City Council Policy 1-6, Council Rules and Procedure, to allow reconsideration of an ordinance pertaining refuse collection procedures.

Mayor Booker stated he requested this item be put back on the agenda because we need an ordinance that is consistent with what we are doing.

MOVED by Burk SECOND by Harris to temporarily suspend City Council Policy 1-6, Council Rules and Procedure, to allow reconsideration of an ordinance pertaining to refuse collection procedures. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. MOTION CARRIED.

19. Consider an ordinance pertaining to refuse procedures, amending Section 22-1-4-141, Division 22-1-1, Article 22-1, Chapter 22 and Sections 22-4-1-401, 22-4-1-403, 22-4-1-404, 22-4-1-405, 22-4-1-406, 22-4-1-407, 22-4-1-410, 22-4-1-412, and 22-4-1-415, Division 22-4-1, Article 22-4, Chapter 22, Lawton City Code 2015, revising and adding definitions and revising procedures for the collection and disposal of refuse, trash, and Bulky Waste, providing for severability and establishing an effective date.

Larry Wolcott, Public Works Director, stated this ordinance was discussed in July 2021 and January 2022. He stated concerns were raised regarding fees that were associated with the ordinance. Staff has revised the ordinance and removed service fees for relocation of carts and removing fees for overloaded carts. Carts found to be in violation would be tagged to provide educational opportunities for that account holder. No change had been and is not being proposed for disabled or physically limited house side service. House side service for these qualifying accounts will continue to be provided at the same rate as curbside service. Elective premium house-side service for able bodied, non-physically limited household was proposed to be removed from the ordinance, but this revised ordinance retains that elective service and in the companion item the fee schedule revises the fee for that premium service to help cover the actual cost to provide. Other aspects of the ordinance that remain the same are once weekly collection for residential cart service and once monthly for bulky waste collection; revising residential cart removal time to 8 A.M. the morning following collection days; providing methods for out-of-cycle collection for carts and bulky waste; establishing an additional charge for bulky waste set out in excess of four (4) cubic yards and setting a limit of eight (8) cubic yards; allowing for bulky waste to be set at the curb up to three (3) days prior to the designated collection date; and specifying that refuse left at properties without active utility accounts will be abated as a nuisance or other remedy allowed by law.

Mayor Booker clarified the cost associated with these services will be addressed in the next agenda item.

Hampton questioned if the physically limited was different from the elderly.

Wolcott stated regardless of age, if you have a physical limitation you get the house side service.

Fortenbaugh thanked the staff for handling all of the objections from citizens and the council.

MOVED by Burk SECOND by Chapman to adopt **Ordinance 22-09**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 22-09

AN ORDINANCE PERTAINING TO REFUSE PROCEDURES, AMENDING SECTION 22-1-4-141, DIVISION 22-1-1, ARTICLE 22-1, CHAPTER 22 AND SECTIONS 22-4-1-401, 22-4-1-403, 22-4-1-404, 22-4-1-405, 22-4-1-406, 22-4-1-407, 22-4-1-410, 22-4-1-412 AND 22-4-1-415, DIVISION 22-4-1, ARTICLE 22-4, CHAPTER 22, LAWTON CITY CODE, 2015, REVISING AND ADDING DEFINITIONS AND REVISING PROCEDURES FOR THE COLLECTION AND DISPOSAL OF REFUSE, TRASH, AND BULKY WASTE, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

20. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, removing the optional house-side residential cart collection fee for non-disabled, establishing fees for refuse cart relocation, premium cart collection, overloaded cart collection,

short-term container service, premium bulky waste collection, and excess residential bulky waste collection, and establishing an effective date.

Wolcott stated this is the fee schedule to go along with the ordinance that was just passed. He stated the title states they are removing the optional house side residential cart fee, but they are actually revising that fee. The fee schedule in the resolution is correct.

Hampton stated there was little change in these fees. He stated the city is looking much cleaner.

Harris questioned what will happen if a citizen puts their bulk trash out three weeks early.

Wolcott stated they will be tagged and educated on their schedule. If they put it out outside of their schedule, they are essentially requesting an out of cycle premium bulky waste collections, so that fee would apply to that account.

Burk stated the bulky waste in his area has really gone down. He reported they will still hold Trash Off in the spring for citizens.

MOVED by Chapman SECOND by Harris to approve **Resolution 22-52**. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

STAFF REPORTS: None

The Mayor and Council convened in executive session at 3:17 p.m. and reconvened in regular, open session at 6:39 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

21. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending claim regarding Republic Paperboard LLC, and if necessary, take appropriate action in open session.

Ratliff read the title of item #21.

MOVED by Fortenbaugh SECOND by Burk to authorize the staff to secure professional environmental and treatment services from Garver LLC under the existing contract. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

22. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss an action relating to litigation against the manufacturers and distributors of opioids in an effort to hold them accountable for their marketing practices alleged to have caused public nuisance and monetary damages suffered by municipalities, specifically, the City's pending litigation as part of In Re: National Prescription Opiate Litigation MDL No. 2804, and if necessary take action in open session.

Ratliff read the title of item #22. No action was taken.

23. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Michael Cleghorn as City Manager, and in open session take other action as necessary.

Ratliff read the title of item #23.

MOVED by Burk SECOND by Harris to approve a 5% pay increase and adjust the ICMA 457 contributions to a 50% split of the maximum amount allowed by law. AYE: Hankins, Harris, Chapman, Burk, Hampton, Fortenbaugh, Johnson. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 6:42 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK