

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 24, 2021 – 2:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Stan Booker, Mayor

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

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

ROLL CALL

PRESENT: Mary Ann Hankins, Ward One
Keith Jackson, Ward Two
Linda Chapman, Ward Three
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven (Arrived at 2:42 p.m.)
Randy Warren, Ward Eight

ABSENT: Allan Hampton, Ward Five
Jay Burk, Ward Four

PRESENTATIONS:

PROCLAMATION FOR 911 REMEMBRANCE DAY

Mayor Booker proclaimed September 11, 2021 as the 20th Anniversary of 911 Remembrance Day. He presented the proclamation to Bruce Dwyer, Girl Scouts of America, and the Military Order of the Purple Heart.

CERTIFICATE OF RECOGNITION TO ELECTRONICS DIVISION

Rogalski recognized Electronics Division Staff for their outstanding performance.

STATE OF THE CITY ADDRESS - MAYOR STANLEY BOOKER

Mayor Booker read highlights from the State of the City speech. The entire speech is posted on the website.

REPORTS: MAYOR/CITY COUNCIL: None

AUDIENCE PARTICIPATION:

Bruce Dwyer requested that on September 11th, a flag be placed on the site for the 911 memorial.

CONSENT AGENDA

Mayor Booker stated items #9, #10 and #27 will be stricken from the agenda. Items #2 and #3 will be considered separately.

MOVED by Warren SECOND by Fortenbaugh to approve the consent agenda with the exception of items, #2, #3, #9 and #10. AYE: Hankins, Jackson, Chapman, Fortenbaugh, Warren. NAY: None. MOTION CARRIED.

1. Consider approval of the minutes of the Lawton City Council regular meeting of August 10, 2021.
2. Consider the following damage claim recommended for approval: Chris Collins, dba A-Team Carpet Cleaning in the reduced amount of \$1,219.74.

Kelea Fisher, Deputy City Attorney, stated since staff has entered the claim they have received an updated estimate and have increased the recommendation to \$2,383.47.

MOVED by Warren SECOND by Hankins to approve **Resolution 21-162** approving the damage claim of Chris Collins, dba A-Team Carpet Cleaning in the reduced amount of \$2,383.47. AYE: Hankins, Jackson, Chapman, Fortenbaugh, Warren. NAY: None. MOTION CARRIED.

- 3 Consider the following damage claims recommended for denial: Steven McReynolds in the amount of \$27,500.00, and Malinda Burton in the amount of \$11,000.00.

Fisher presented the facts on both claims because they were related to the same incident. She is recommending denial of both claims because the Lawton Police officers did not cause the damage to either claimants' property and the Oklahoma Supreme Court has established a very clear standard when it comes to emergency responders and pursuits and unless a court can find that those officers acted in reckless disregard of the property or the safety of others, then a court will not find that those officers have acted negligently. There is no evidence that they met that high standard.

Steven McReynolds, 2302 SW Pennsylvania Avenue, stated Mr. Rogers took out his fence, several cars and a 55-gallon drum of oil. With the oil spill, the Oklahoma Department of Environmental Quality has been on his back to get it cleaned up. The excavation fee alone was \$11,250. That is the issue with this scenario.

Chapman questioned if Mr. McReynolds had insurance that would cover the cost.

Mr. McReynolds stated he does not.

Fisher stated Mr. Rogers, who was driving the vehicle, has been charged with several felony charges in district court and the claimants can seek restitution through the victim's compensation fund through the district attorney's office or they can pursue a civil suit against Mr. Rogers.

Mr. McReynolds stated he is seeking restitution from Mr. Rogers, but his driveway is a hazmat zone which is exposed to his children.

Warren stated as much as he would like to pay this, they have a responsibility to all the citizens of Lawton. He requested that legal staff help the claimants file for restitution with the district attorney's office. They can always go to court.

MOVED by Warren SECOND by Hankins to deny damage claims of Steven McReynolds in the amount of \$27,500.00, and Malinda Burton in the amount of \$11,000.00. AYE: Hankins, Jackson, Chapman, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

4. Consider accepting a donation of \$225.00 from Arvest Bank as part of a drawing opportunity for citizens that is incorporated into the community-wide Solid Waste Collection Educational Campaign, administered by City staff.
5. Consider approving an Agreement between the Lawton Economic Development Corporation and the City of Lawton to fund activities designed to encourage, promote and foster economic/industrial development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement.
6. Consider approving an Agreement for Limited Services between the Lawton Enhancement Trust Authority and the City of Lawton to fund beautification activities designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement.
7. 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 and to foster economic development as it pertains to supporting business development and legislative and governmental affairs in the City, and authorize the Mayor and City Clerk to execute the Agreement.
8. Consider approving a request to enter into a memorandum of understanding with the Chickasha Police Department 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) which has been authorized by formal board action.

9. Consider approving an agreement for Economic Development Assistance- Retail submitted by Cache Properties LLC, to assist with the cost of public improvements associated with the development of the Mathis Center on property located at 4800 NW Cache Road and authorize the Mayor and City Clerk to execute the agreement. **STRICKEN**
10. Consider approving staff to contract with a local vendor to paint an aquatics themed mural on the exterior of the Mattie Beal aquatics center (municipal pool). **STRICKEN**
11. Consider approving a resolution amending the City of Lawton FY21-22 budget, as amended, by appropriating \$18,500.00 from the Special Revenue Fund (Fire Training Court Costs) to Fire Training’s Computer Supplies account for the purchase of Chromebooks. **Resolution 21-163**
12. Consider approving a resolution amending the City of Lawton FY21-22 budget, as amended, by transferring Ten Thousand and 00/100 Dollars (\$10,000.00) from the Solid Waste Division Overtime account to the Drainage Maintenance Division Overtime account for the purpose of supplementing solid waste collection operations. **Resolution 21-164**
13. Consider adopting Street Light Resolution No. 501 to authorize the installation/removal of street lights at the locations listed in the Resolution.
14. Consider approving Change Order No.1 for the 2017 Ad Valorem Street and Roads Program (Residential), Phase I-D -NW 78th Street and SW Oakcliff Avenue - Project No. 2017-07.
15. Consider acknowledging receipt of two Tier 1 permits (No. SL000016210521, WL000016210522) from the Oklahoma Department of Environmental Quality for the construction of sanitary sewer and water lines to serve the Lawton Airport Industrial Park, Part 2, Comanche County, Oklahoma.
16. Consider extending (RFPCL20-023) Merchant Services to Tyler Technologies, Inc. of Yarmouth, ME.
17. Consider awarding contract (CL21-034) Waterline Fittings and Valves to Core and Main LP of Owasso, OK.

BUSINESS ITEMS:

18. Consider approving an agreement with the law firm Floyd & Driver PLLC to assist city with regulatory requirements associated with funds the city receives in connection with the American Rescue Plan Act of 2021, to include considering any floor amendments to the agreement, and if desired, select the level of assistance desired and authorize the execution of the agreement.

Tim Wilson, Deputy City Attorney, stated they received communication from Floyd Law Firm, which is our bond counsel. They submitted a proposal regarding the funds we are receiving under the American Rescue Plan Act (ARPA). This money has some regulatory implications, and they are offering difference levels of assistance.

David Floyd, Floyd Law Firm, briefed the council on the three levels of service. This is a great opportunity to capitalize on some federal money to accomplish some projects.

Johnson stated this is very comprehensive, and she feels this would keep us out of trouble. She questioned the accessibility of the firm in confirming what we can use the funding for.

Mr. Floyd stated they will be accessible anytime they have questions. Their firm is located in Norman and they will be happy to come down for meetings when needed. They would want to review any submissions or projects the City will spend funds on. They will be very involved at any level of service.

Johnson questioned if they were assisting any other municipalities with this funding.

Mr. Floyd stated they are not assisting any municipalities, but they are assisting several counties and the rules for expenditures are the same as municipalities.

Warren questioned if they would be able to help coordinate with the state on projects they may be doing so we can work hand in hand with those individuals.

Mr. Floyd stated yes, and they are waiting on some clear guidance from the state on how those funds will be spent. They will be able to let us know if there is anything regional going on and if we can be involved.

Ratliff stated our finance department is really engaged with the Tyler software implementation, so they really feel that this additional level of auditing is needed.

Warren questioned if there was a staff recommendation on which level we need.

Ratliff stated they are recommending Tier Three.

MOVED by Chapman SECOND by Fortenbaugh to approve an agreement with the law firm Floyd & Driver PLLC for the Tier Three level. AYE: Hankins, Jackson, Chapman, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

Warren questioned if they could bring this contract back at some point if they want to change to Tier Two.

Mr. Floyd stated yes.

19. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Residential Low Density and Residential High Density to Commercial and an ordinance changing the zoning from the R-1 Single Family Dwelling District and the R-3 Multiple Family Dwelling District to the C-5 General Commercial District zoning classification and a request for a Use Permitted on Review to construct a fence within the front yard setback on property located at 2107 NW Pollard Avenue.

Rogalski stated this request is for Lots 3-6, Block 6, Part One Sheridan Addition, located at 2107 NW Pollard Ave. The proposed use is a shop. The property owner is Nick and Jessica Beckmann. As shown on the site plan submitted with the application, the applicant proposes to construct an accessory building (not open to public) and a security fence. Section 6-1-5-186.5A of the Lawton City Code requires a tree buffer, in addition to the 6-foot screening fence. The building plans included the required tree screen between this tract and the R-1 property to the west. Notice of public hearing was mailed to 40 owners of property within 300 feet of the requested area on July 21, 2021 and proper notice was published in The Lawton Constitution on August 2, 2021. No calls for or against have been received. On August 12, 2021, the City Planning Commission held a public hearing on this request to modify the Land Use Plan, rezone request and the request for a Use Permitted on Review for a fence located within the front yard setback. The CPC voted 7-0 to recommend approval to the City Council.

Warren questioned if anyone spoke against the rezoning.

Rogalski stated no.

Hankins stated she has spoken with the owners of this business and they are interested in improving that area along Sheridan. She feels this is a positive move.

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

(Title read by City Attorney)

Ordinance 21-22

MOVED by Hankins SECOND by Johnson to adopt **Resolution 21-165** amending the 2030 Land Use Plan from Residential Low Density and Residential High Density to Commercial and **Ordinance 21-22** changing the zoning from the R-1 Single Family Dwelling District and the R-3 Multiple Family Dwelling District to the C-5 General Commercial District zoning classification and a request for a Use Permitted on Review to construct a fence within the front yard setback on property located at 2107 NW Pollard Avenue, waive the reading of the ordinance, read the title only. AYE: Hankins, Jackson, Chapman, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 21-22

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION FROM THE EXISTING CLASSIFICATION OF R-1 SINGLE FAMILY DWELLING DISTRICT AND R-3 MULTIPLE FAMILY DWELLING TO C-5 GENERAL COMMERCIAL 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.

STAFF REPORTS:

20. Receive an update on the City of Lawton Capital Improvement Projects - Joe Painter, Engineering Director. **STRICKEN**

Kristin Huntley, Acting Finance Director, presented revenue and expenditure highlights for the period ending July 31, 2021. (On file in the City Clerk's office).

The Mayor and Council convened in executive session at 3:01 p.m. and reconvened in regular, open session at 4:00 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 the pending damage claim of Russell Green, dba, Waterstone Properties, LLC. and, if necessary, take appropriate action in open session. **STRICKEN**
22. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Meyoshia Gray and, if necessary, take appropriate action in open session.

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

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Duane Murray and, if necessary, take appropriate action in open session.

Ratliff read the title of item #23. No action was taken.

24. 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, and if necessary take action in open session with regard to a claim asserted by the City of Lawton as deemed appropriate. Specifically, discuss the City's pending litigation as part of the In Re: National Prescription Opiate Litigation MDL No. 2804, including the impact of the following subsequent bankruptcy filings: Case No. 19-23649, Chapter 11, filed in the U.S. Bankruptcy Court Southern District of New York, styled In Re: Purdue Pharma L.P., et al., Debtors, on the City's litigation; and Case No. 20-12522, Chapter 11, filed in the United States Bankruptcy Court for the District of Delaware, styled In Re: Mallinckrodt PLC, et al., Debtors, on the City's litigation; and if necessary, take action in open session.

Ratliff read the title of item #24.

MOVED by Fortenbaugh SECOND by Chapman concerning the Chapter 11 bankruptcy filed in U.S. Bankruptcy Court for the District of Delaware, styled In Re: Mallinckrodt PLC, et. al, case number 20-12522, move to authorize the attorney handling our opioid litigation to vote on behalf of the City as he deems appropriate concerning the approval or disapproval of the proposed bankruptcy plan. AYE: Hankins, Jackson, Chapman, Fortenbaugh, Johnson. NAY: Warren. MOTION CARRIED.

25. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending action, to include potential litigation, regarding an easement for private road located near the intersection of NW 67th Street and West Gore Boulevard, said easement specifically being located on a tract of land south of Home Zone, west of the United States Post Office, and east of several businesses located in the platted addition known as Allison's Corner, and, if necessary, take appropriate action in open session.

Ratliff read the title of item #25.

MOVED by Warren, SECOND by Fortenbaugh to direct staff to file an emergency condemnation for this property. AYE: Hankins, Jackson, Chapman, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending claim or action regarding the condition of Northeast 25th Street, and, if necessary, take appropriate action in open session.

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

27. Pursuant to Section 307 B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending conflict of interest investigation under City Code Section 17-2-13-274, and if necessary, take action in open session. **STRICKEN**

There being no further business to consider, the meeting adjourned at 4:05 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK