

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 12, 2021 – 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
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 Paul Craig, Lawton Christian Center, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Mary Ann Hankins, Ward One
Keith Jackson, Ward Two
Linda Chapman, Ward Three
Allan Hampton, Ward Five
Sean Fortenbaugh, Ward Six
Onreka Johnson, Ward Seven
Randy Warren, Ward Eight

ABSENT: Jay Burk, Ward Four

PROCLAMATION:

White Cane Safety Day

Mayor Booker proclaimed October 15, 2021 as White Cane Safety Day. He presented the proclamation to members of the Lawton Council for the Blind and the Lions Club.

National Code Compliance Month

Mayor Booker proclaimed October 2021 as National Code Compliance Month. He presented the proclamation to Neighborhood Services and License and Permit staff.

REPORTS: MAYOR/CITY COUNCIL

Hampton stated they were able to go into the display cases in old town hall and get some artifacts. They are also working with the chamber on historical tours to offer those visiting Lawton. He thanked those for volunteering for this effort.

AUDIENCE PARTICIPATION: None

CONSENT AGENDA:

Mayor Booker stated they are striking item #6 and items #9 and #10 will be considered separately.

MOVED by Warren SECOND by Fortenbaugh to approve the consent agenda with the exception of items #9 and #10 and striking item #6. AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider approval of the minutes of the Lawton City Council regular meeting of September 28, 2021.
2. Consider the following damage claim recommended for approval: Comanche County in the amount of \$2,895.00. **Resolution 21-191**
3. Consider adopting a resolution approving the joint petition settlement and making payment in the workers' compensation claim of Matthew McKinney. **Resolution 21-192**
4. Consider adopting a resolution approving the joint petition settlement and making payments in the workers' compensation claim of Matthew McKinney. **Resolution 21-193**
5. Consider adopting a resolution approving the joint petition settlement and making payments in the workers' compensation claim of Robert Bay. **Resolution 21-194**
6. Consider appointing the Finance Director or the Interim Finance Director (whomever is currently leading the Financial Services Division when council considers this matter) as the ex-officio Treasurer and Disbursing Agent for the Lawton Water Board. **STRICKEN**
7. Consider designating the City's Human Resources Director, or the Interim Human Resources Director, to serve as the authorized agent of the City in matters pertaining to the defined contribution retirement plan for eligible employees and authorize the Mayor and City Clerk to execute the Authorized Agent Notification Form.
8. Consider authorizing the use of 2015 CIP funding in an amount not to exceed \$75,000.00 for the replacement of the Collier's Landing boat dock and road/parking lot improvements and; upon completion of the project, authorize the Mayor and City Clerk to accept and execute a reimbursement grant from the Oklahoma Department of Wildlife Conservation (ODWC) in the minimum amount of \$37,000.00 with said reimbursement to be credited back to the 2015 CIP fund.
9. Consider acknowledging receipt of the National Flood Insurance Program Community Rating System Flood Insurance Assessment.

Fortenbaugh encouraged citizens to acquire flood insurance.

MOVED by Fortenbaugh SECOND by Warren to acknowledge receipt of the National Flood Insurance Program Community Rating System Flood Insurance Assessment. AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

10. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures at SW 27th Street, between SW 'J' Avenue and Lee Boulevard near Cleveland Elementary School.

Hampton stated Cleveland School sits in front of 27th Street which is now a main thoroughfare. It has a lot of traffic in the morning, and he feels this speed table will make things a lot safer.

MOVED by Hampton SECOND by Chapman to adopt **Resolution 21-195** authorizing the installation and/or removal of traffic control measures at SW 27th Street, between SW 'J' Avenue and Lee Boulevard near Cleveland Elementary School. AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

11. Consider approving Amendment No. 1 and accepting the 2017 Ad Valorem Street and Roads Program (Residential), Phase I-E - SW 7th Street - Project #2017-07 as constructed by AE Construction, LLC and placing the Maintenance Bond into effect.
12. Consider approving the construction plat for Eastlake Addition, Part 3D, subject to conditions.
13. Consider approving appointments to boards and commissions.

Redistricting Commission

Ron Jarvis- Ward 1
3605 NW Julie Street
Lawton, OK 73505
Term Expires 07/01/2026

John Purcell- Ward 4
3006 NE Muse Circle
Lawton, OK 73507
Term Expires 07/01/2026

Darren Medders- Ward 6
7512 NW Stonegate Drive
Lawton, OK 73505
Term Expires 07/01/2026

Historical Preservation

Ryan Studebaker- Public Rep
2512 NE Kingsbriar Place
Lawton, OK 73507
Unexpired Term 01/27/2022

Kent Jester
1125 NW Elm Avenue
Lawton, OK 73507
Term Expires 9/10/2023

BUSINESS ITEMS:

14. Receive a report from Crawford and Associates on internal audits conducted on the Parks and Recreation Department and the Public Works Department (Streets/Traffic Division).

Frank Crawford, Crawford and Associates, discussed the internal audit report on audits conducted on the Parks and Recreation Department and the Public Works Department Streets/Traffic Division. (Report is on file in the City Clerk's office). He stated their next target is the City's procurement process.

Fortenbaugh stated there is a lot of cash circulating around and he questioned if there might be a recommendation in the future to get away from using cash and start using credit cards more.

Mr. Crawford stated it would be ideal to move to a cashless component, but there are certain functions and elements of the City that deal in cash, especially in the courts and parks and recreation. There will always be people paying with cash. He stated they will make sure that there will be a control process that will ensure and minimize the risk that the money will go missing.

Cleghorn stated we recently revised our cash handling policy, and we are also transforming the way we collect revenue with the Tyler implementation. We want as many opportunities as possible to use credit and debit cards.

15. Receive a presentation from EST, Inc., and consider accepting the Conceptual Alignment and Feasibility Report for the Extension of Goodyear Boulevard from the West Industrial Park to US Highway 62, and directing staff to negotiate a contract with EST, Inc. to develop construction documents to complete the project.

Richard Rogalski, Deputy City Manager, stated when they looked at this project years ago there was no money for it or any prospects for any money. Since that time, we have industrial TIF districts and a rejuvenated LEDC and we also have the 2019 CIP that funded industrial development. He stated it took all these things together in order to get where we are today. He stated On June 9th, 2020, the Lawton Metropolitan Planning Organization (LMPO) approved a contract with EST, Inc. to develop a Conceptual Alignment and Feasibility Report for the

Extension of Goodyear Boulevard from the West Industrial Park to US Highway 62. EST, Inc. produced a “Universe of Alternatives” which were brought before the Transportation Technical Committee and the Transportation Policy Board for review, consideration, and scrutiny. From the feedback provided, to include considerable input from our industrial partners, EST developed a preferred alternative that was selected by the LMPO on April 27th, 2021. EST has since produced the Final Report for the conceptual alignment, which was approved by the LMPO on October 5, 2021. The Oklahoma Department of Transportation has indicated support for this project, to include possibly partnering with the City to fund the construction. It would be beneficial for the City Council to consider accepting this final report and directing staff to negotiate with EST to develop a contract for the preparation of construction documents (plans, specifications, and bid documents). This contract would be brought to the City Council as soon as possible for approval.

(Johnson exited the meeting @ 2:34 p.m.)

Amanda Newberry, EST, Inc., presented the final copy of the Conceptual Alignment and Feasibility Report for the Extension of Goodyear Boulevard from the West Industrial Park to US Highway 62. (On file in the City Clerk’s Office)

Rogalski stated they are asking for acceptance of this concept. He stated the LMPO has taken it as far as it can go, and he is recommending that council direct staff to start negotiating with EST for an actual design contract to get real construction plans.

MOVED by Chapman SECOND by Warren to direct staff to negotiate a contract with EST, Inc. to develop construction documents to complete the project. AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Warren. NAY: None. MOTION CARRIED.

16. Consider an ordinance creating Sections 20-5-501 through 20-5-509, Article 20-5, Chapter 20, Lawton City Code 2015, by creating regulations for small cell wireless facilities, creating submittal requirements and who administers the revocable permit for council consideration, creating requirements for construction and maintenance of the facilities, providing for severability, and establishing an effective date.

Charlotte Brown, Code Plans Supervisor, stated over the past couple of years, there have been multiple inquiries about installation of above-ground small cell communications facilities. These facilities are required to deliver 5G coverage in areas that are difficult to serve. Due to the number of facilities needed to provide adequate coverage, they are primarily installed within the public right-of-way. While Chapter 20 does provide for the issuance of a revocable permit for underground communications cable and pipelines to be installed within city right-of-way, it does not currently address above ground small cell towers and facilities. Telecommunication towers located on private property are addressed in Chapter 6 of Lawton City Code. This ordinance allows for small cell wireless facilities to be constructed on the right-of-way within the City of Lawton with a revocable permit issued by City Council, provided that they can meet certain requirements, such as a minimum of 10 feet from a sanitary sewer main, shall be located on the opposite side of the roadway or other public way from a public water main, no facility shall impede an existing or proposed sidewalk, no more than 50 feet in height, and the adjacent

property owner shall provide written permission for the small cell wireless facility to be located adjacent to their property. The ordinance also allows for exceptions to be granted by City Council if the requirements are found to be infeasible. The ordinance also sets an annual use fee required in order to continue to be placed in the right-of-way.

MOVED by Warren SECOND by Hampton to adopt **Ordinance 21-27**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days after passage AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 21-27

AN ORDINANCE CREATING SECTIONS 20-5-501 THROUGH 20-5-509, ARTICLE 20-5, CHAPTER 20, SMALL CELL WIRELESS FACILITIES PERMIT, LAWTON CITY CODE, 2015; BY CREATING THE ARTICLE, CREATING REGULATIONS FOR SMALL CELL WIRELESS FACILITIES, CREATING SUBMITTAL REQUIREMENTS AND WHO ADMINISTERS THE REVOCABLE PERMIT FOR COUNCIL CONSIDERATION, CREATING REQUIREMENTS FOR CONSTRUCTION AND MAINTENANCE OF THE FACILITIES, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

17. Consider a resolution amending Appendix A, Schedule of Fees and Charges, by creating the application, review, inspection, and annual use fees for a small cell wireless facility permit.

Brown stated this resolution is a companion to the previous agenda item and creates the fee for the application, review, inspections, and annual use fees for the small cell wireless facility permits.

MOVED by Warren SECOND by Hankins to adopt **Resolution 21-196** amending Appendix A, Schedule of Fees and Charges, by creating the application, review, inspection, and annual use fees for a small cell wireless facility permit. AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Warren. NAY: None. MOTION CARRIED.

STAFF REPORTS:

18. Receive an update on the City of Lawton Capital Improvement Projects.

Joe Painter, Engineering Director and Rusty Whisenhunt, Public Utilities Director presented projects funded under the CIP. (A copy of the presentation is on file in the City Clerk's office)

(Johnson returned to the meeting @ 2:50 p.m.)

The Mayor and Council convened in executive session at 3:25 p.m. and reconvened in regular, open session at 4:44 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

19. Discussed the pending damage claim of Russell Green, dba, Waterstone Properties, LLC.

Ratliff read the title of item #19. No action was taken.

20. Discussed the pending action in United States District Court titled City of Lawton v. Engie Services, U.S., Inc. f/k/a OpTerra Energy Services, Inc., CIV-21-455-R.

Ratliff read the title of item #20.

MOVED by Warren SECOND by Chapman move to approve a professional services agreement between the City of Lawton and Darrell Harris Inc. at the rate of \$250 per hour for the purpose of assisting City's legal counsel in analyzing the City's damages, and if requested, prepare a report and testify concerning the same, to include if necessary a response to Engie's counterclaim for monetary damages. AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

21. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action in relation to the District Attorney's new policy regarding internal LPD investigations, and if necessary, take appropriate action in open session.

Ratliff read the title of item #21.

MOVED by Hamton SECOND by Warren to direct the City Attorney to formally respond to the District Attorney's office regarding the new policy on internal LPD investigations AYE: Hankins, Jackson, Chapman, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

22. Pursuant to Section 307C.11, Title 25, Oklahoma Statutes, consider convening in executive session for purpose of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business.

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

There being no further business to consider, the meeting adjourned at 4:48 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK