

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 28, 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 Appleby, First Christian Church of Lawton, followed by the Pledge of Allegiance.

ROLL CALL

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

ABSENT: None

PRESENTATION:

**RECEIVE THE ANNUAL UPDATE OF THE HOTEL/MOTEL TAX FUNDED
ACTIVITIES FOR FY 2020-2021 FROM THE LAWTON ECONOMIC DEVELOPMENT
CORPORATION.**

Brad Cooksey, President of the Lawton-Fort Sill Economic Development Corporation, briefed the council on economic development activities.

PROCLAMATION: Hispanic Heritage Month

Mayor Booker proclaimed September 15 through October 15, 2021 as Hispanic Heritage Month. He presented the proclamation to members of the Race Relations Commission.

REPORTS: MAYOR/CITY COUNCIL

Chapman thanked staff for getting repairs started at the museum.

Hampton stated he met with a committee to discuss historic tours. They were able to retrieve some artifacts from old town hall.

Johnson stated the application deadline for funding from the Youth and Family Affairs Committee is September 30th.

AUDIENCE PARTICIPATION:

Charlie Leto, III, 4002 NW Ozmun, discussed with the council the discrimination of vaccinated versus non-vaccinated people and how this is affecting citizens and their jobs.

CONSENT AGENDA:

Mayor Booker stated the Morales claim on item #2 will be discussed separately and the Galilee Missionary Baptist Church claim on item #2 will be stricken from the agenda.

MOVED by Warren SECOND by Burk to approve the consent agenda with the exception of item #2 (Morales Claim) and striking item #2 (Galilee Missionary Baptist Church claim). AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

1. Consider approval of the minutes of the Lawton City Council regular meeting of September 14, 2021.
2. Consider the following damage claims recommended for denial: Frank Walker, on behalf of the YMCA in the amount of \$24,567.39, Wayne Willis, on behalf of Galilee Missionary Baptist Church in the amount of \$12,940.00 (**STRICKEN**), Delores McFarland in the amount of \$433.43 and Martin Morales in the amount of \$1,750.00.

Kelea Fisher, Deputy City Attorney, briefed the council on the facts of the Martin Morales claim. She is recommending denial of the claim.

Martin Morales, 3407 SW Crestview Drive, stated his vehicle was fine until he hit a bump on Cache Road and now it is not.

MOVED by Burk SECOND by Warren to deny the claim of Martin Morales in the amount of \$1,750.00. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

3. Consider approving Council Policy 1-1, Employee Travel, dated September 28, 2021 to replace Council Policy 1-1, Employee Travel dated October 10, 2006.

4. Consider approving a resolution amending the City of Lawton FY21-22 budget, as amended, by appropriating \$16,755.00 from the General Fund to the Streets Division’s Construction, Improvements, and Additions account for the completion of the Farmer’s Market parking lot. **Resolution 21-185**
5. Consider approving a resolution amending the City of Lawton FY21-22 budget, as amended, by appropriating \$3,665.73 from the General Fund to the Police Uniform Division’s Maintenance Material-Motive Equipment account. **Resolution 21-186**
6. Consider renewing a professional services agreement with BKD, LLP (BKD) for the City’s annual auditing services for FY 2020-2021, including the City’s required single audit of expenditures from federal financial awards.
7. Consider approving a resolution that ratifies the National Incident Management System (NIMS) as the continuing incident management system at the City of Lawton and designating Comanche County Emergency Management Director Clint Langford as the new Local Point of Contact (LPOC) for NIMS compliance. **Resolution 21-187**
8. Consider directing staff to review the current approval and siting process of memorials and tributes such as statues, monuments, pavilions, gardens, fountains, trees, etc. and to develop a formal process for the endorsement.
9. Consider accepting a Temporary Construction Easement from The Jim & Kay Johnson Trust for right of way needed for the W. Gore Blvd Reconstruction from SW 67th ST to SW 82nd ST, Project #2012-08, and authorizing the Mayor and City Clerk to execute the document(s).
10. Consider accepting a Permanent Roadway and Utility Easement from Michael Todd Wyatt, Mitchell Scott Wyatt, Johnna Kay Parks, and Shana Leigh Wyatt Horton, for right of way needed for the W. Gore Blvd Reconstruction from SW 67th ST to SW 82nd ST, Project #2012-08, and authorizing the Mayor and City Clerk to execute the document(s) and authorizing payment for the same.
11. Consider approving Amendment No. 1 to the Contract for Right-of-Way Acquisition Services - West Gore Blvd. (82nd ST to 67th ST) - Project No. 2012-08 with Smith-Roberts Land Services, Inc.
12. Consider approving plans and specifications for the Larrance Street Drainage Improvements (SW B Ave to SW D Ave) - Project #2014-06A and authorizing staff to advertise for bids.
13. Approve Amendment No. 1 for the Project No. 2020-04A City Hall Renovation with MA+ Architecture, LLC.
14. Consider extending the current contracts with BlueCross BlueShield (BCBS) for the purpose of providing health care insurance coverage for City of Lawton retirees over the age of 65 for an additional year, as authorized by the contract.

15. Consider extending contract for (RFPCL16-034) Banking Services to IBC Bank of Lawton, OK for an additional 90 days.
16. Consider approving a bid with Air Solutions, LLC for the City HVAC Maintenance Contract (CL22-002) effective September 30, 2021, and authorizing the Mayor and City Clerk to execute the contract.

BUSINESS ITEMS:

17. Consider approving a Resolution fixing the amount of Street Improvement General Obligation Bonds, Series 2021, to mature each year; fixing the time and place the bonds are to be sold; designating a paying agent/registrar; approving the preliminary official statement and distribution thereof; ratifying and confirming a continuing disclosure agreement; authorizing the clerk to give notice of said sale as required by law and fixing other details of the issue.

Cleghorn stated this is our fifth issuance of our street bonds. This issuance will be approximately \$3.2 million. He stated we are ready to move forward with more street projects.

MOVED by Burk SECOND by Warren to approve **Resolution 21-188**. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

18. Consider approving an Agreement for Economic Development Assistance - Retail [i.e. Sales Tax Rebate Agreement] with Cache Properties LLC, including any floor amendments that may be made thereto, to assist with the cost of public improvements associated with the development of Phase One the Mathis Center on the property located at 4800 NW Cache Road and authorize the Mayor and City Clerk to execute the agreement.

Tim Wilson, Deputy City Attorney, stated at its June 17, 2021, meeting, the Lawton Economic Development Authority reviewed and voted to accept and forward to the City Council with LEDA's approval an application for Economic Development Assistance - Retail, submitted by Cache Properties LLC, to assist with the cost of public improvements associated with the development of Phase One of the Mathis Center on property located at 4800 NW Cache Road, to include a 76,000 square foot furniture store consisting of an Ashley Homestore, Mathis Sleep Center, and Mathis Furniture Outlet. On July 27, 2021, the City Council voted to approve the application and directed the City Attorney to draft an agreement for Council consideration. Since Council acted at its July 27 meeting, the Developer has provided supplemental information that is included in the proposed Sales Tax Rebate Agreement. The proposed Agreement, which incorporates the supplemental information, includes language that does not limit the 76,000 square foot furniture store building to the three originally named stores. Rather, the proposed Agreement identifies as Phase One Stores for the 76,000 square foot building as "those retail stores branded under the Mathis Brothers family of retail stores (e.g., Mathis Outlet or Mathis Sleep Center) or another nationally recognized home furnishing retail brand (e.g., Ashley Homestore or La-Z-Boy Furniture Store), each of which is operated and managed by Mathis Brothers." Because (1) the original application the Developer submitted identified the anchor

tenant as Mathis Brothers Furniture and (2) the proposed Agreement defines Phase One Stores as being stores either branded under the Mathis Brothers family of retail stores (e.g., Mathis Outlet or Mathis Sleep Center) or another nationally recognized home furnishing retail brand (e.g., Ashley Homestore or La-A-Boy Furniture Store), each of which to be operated and managed by Mathis Brothers, this change fits within the parameters of the initial application. The Chair of LEDA has also been advised of this. The other terms of the proposed Agreement remain unchanged. If approved the Developer will contract and pay all costs associated with Phase One construction, supporting appurtenances in Phase One, and the off-site infrastructure improvements, and in turn receive an annual rebate of one-half (1/2) of the two percent (2%) sales tax collected that is apportioned to the City's General fund from sales tax generated and collected: (a) from the construction of Phase One [i.e. Phase One 76,000 square foot building, supporting appurtenances to said building, and the off-sight infrastructure improvements - traffic signal, water and sewer) during the Initial Construction Period [up to 24 months], and then (b) from qualifying Phase One stores to be located in the Phase One 76,000 square foot building during the Retail Sales Period [up to seven years], with said rebate not to exceed \$750,000.

Warren stated the repayment schedule is the same regardless of what stores will be there.

Wilson stated yes, the only time the developer is entitled to the rebate is with one of the phase one stores. He stated once that 76,000 square foot building opens, that sales tax rebate period for sales in the building is seven years.

MOVED by Burk SECOND by Hankins to approve an Agreement for Economic Development Assistance - Retail [i.e. Sales Tax Rebate Agreement] with Cache Properties LLC. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

19. Hold a public hearing and consider approving the Consolidated Annual Performance and Evaluation Report (CAPER) for Federal Fiscal Year 2020, for submission to HUD, and authorize the Mayor to sign all necessary documents required to submit the approved CAPER.

Gary Brooks, Interim Director of Housing and Community Development, reported on Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs' activities and accomplishments during the program year July 1, 2020 through June 30, 2021. (On file in the City Clerk's office)

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

MOVED by Hankins SECOND by Johnson to approve the Consolidated Annual Performance and Evaluation Report (CAPER) for Federal Fiscal Year 2020, for submission to HUD, and authorize the Mayor to sign all necessary documents required to submit the approved CAPER. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

20. Hold a public hearing and consider an ordinance to amend Chapter 18, Lawton City Code, 2015, that amends Sections 18-1-1-106, 18-5-1-503, 18-5-8-580, 18-5-8-581, 18-5-9-591, 18-5-9-592, 18-6-10-602, 18-6-11-612, 18-6-12-623, 18-6-12-624, 18-6-13-635, 18-6-13-636, 18-6-14-646, 18-6-15-658, 18-6-16-671, and 18-6-18-692, Chapter 18, Lawton City Code, 2015, by adding definitions and establish zoning requirements for medical marijuana growing, processing, and dispensary facilities, providing for severability and allowing floor amendments.

Richard Rogalski, Deputy City Manager, stated the current definition of a “Medical marijuana processor” in Chapter 18 of the Lawton City Code was approved in 2018 with Ordinance No. 18-30. The definition groups include all types of processing activities into one definition. Medical marijuana processing can be broken up into several different activities with varying degrees of impact on adjacent properties. When compared to other cities’ definitions such as Tulsa, Oklahoma City, and Norman our code has become outdated.

The ordinance proposes the definition of “Medical marijuana processor” be modified to break up processing into four different tiers:

- Tier I processing would allow processing by mechanical means, such as grinding to make “pre-rolled” marijuana cigarettes, “joints” and “blunts.” Tier I medical marijuana processor does not include extraction processes of any kind.
- Tier II processing would allow all Tier I processing activities with the addition of cooking and baking. Tier II processing does not include extraction processes of any kind.
- Tier III processing would allow all Tier II and Tier I processing activities with the addition of medical marijuana concentrate extraction processes that use only non-flammable substances.
- Tier IV processing would allow any type(s) of medical marijuana processing, consisting of all extraction processes including flammable chemicals such as butane, alcohol, propane, and ethanol.

The A-1 zoning district would now permit Tier I processing when associated with a growing facility located on the same property. Tier II and Tier III processing would require a Use Permitted on Review when associated with a growing facility located on the same property. Indoor and Outdoor grow facilities are already permitted when located a minimum of 1,000 feet from any non-agriculturally zoned property. This change would allow for an indoor grow to be a Use Permitted on Review when located within 1,000 feet of any non-agriculturally zoned property.

The C-1, C-2, C-3, C-4 and CBD zoning district would permit Tier I processing when associated with a dispensary located within the same building and all processed materials are sold on site. Tier II processing would require a Use Permitted on Review when associated with a dispensary located within the same building and all processed materials are sold on site.

The C-5 zoning districts would permit Tier I and Tier II processing when associated with a dispensary located within the same building and all processed materials are sold on site. The C-5 zoning district will continue to allow Tier III processing as a Use Permitted on Review when associated with a dispensary located within the same building.

Tier III processing is a permitted use in all Industrial zones, but Tier IV processing is only a permitted use in I-2, I-3, and I-4 Industrial Zoning District.

This concept was brought to the City Planning Commission for discussion on August 26, 2021 and they like it. CPC will hold a public hearing on September 16, 2021. Notice of the public hearing was published in *The Lawton Constitution* on September 1, 2021.

Burk questioned what happens to all the people who have processing and have been given approval by the City at this point. Are they grandfathered in?

Rogalski stated they would all be grandfathered in by the zoning.

Burk questioned at what tier?

Rogalski stated at whatever tier they got approved.

Burk stated he does not see that in the code where it says that will happen. He stated under C-5 grow indoor and you go under processing Tier one, it says permitted, you get a processing tier one mechanical, but number five says that all processing materials are sold on site. He stated that is a problem.

Rogalski stated only as a permitted use.

Burk questioned why it would say sold on site. That would mean they can only sell it to that dispensary. We are putting them in a spot where they can only sell to themselves.

Rogalski stated in C-5 you can process and sell it offsite. That use permitted on review give you full processing and indoor growing rights. With this you can just go ahead and start doing this mechanical processing because this is lower intensity. If you want to sell offsite, you come down with a use permitted on review and you have that full right. There is processing as it related to the store itself. It is actually creating more rights for that lower issue and doesn't take anything away from the larger.

Burk stated when people start calling and saying they already have their processing facility what do they have to do?

Rogalski stated nothing.

Burk questioned where it says that in this code.

Rogalski stated it does not say it in this code, but it says it in an old section of legal nonconformities. It says that if you are already doing it, you can do it forever unless you stop doing it for three years, then you lose that right. The only thing they do not allow in C-5 is the volatile chemical processing. We want that to be in industrial.

Burk stated he likes the concept, it gives people the ability to do processing on site and that will help some of the smaller sites.

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

MOVED by Burk SECOND by Warren to adopt **Ordinance 21-23**, 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, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 21-23

AN ORDINANCE PERTAINING TO PLANNING AND ZONING AMENDING SECTIONS 18-1-1-106, 18-5-1-503, 18-5-8-580, 18-5-8-581, 18-5-9-591, 18-5-9-592, 18-6-10-602, 18-6-11-612, 18-6-12-623, 18-6-12-624, 18-6-13-635, 18-6-13-636, 18-6-14-646, 18-6-15-658, 18-6-16-671, AND 18-6-18-692, CHAPTER 18, LAWTON CITY CODE, 2015, BY ADDING DEFINITIONS AND ESTABLISH ZONING REQUIREMENTS FOR MEDICAL MARIJUANA GROWING, PROCESSING, AND DISPENSARY FACILITIES, PROVIDING FOR SEVERABILITY AND ALLOWING FLOOR AMENDMENTS.

21. Hold a public hearing and consider an ordinance changing the zoning of the property located at 1925 West Gore Blvd Suite A, Lawton, OK 73505 from the C-1 Local Commercial District to the C-5 General Commercial District zoning classification with a binding site plan, and also consider a request for a Use Permitted on Review for medical marijuana processing (non-chemical) in conjunction with a dispensary.

Rogalski stated the CPC voted for denial because they felt this was spot zoning. The applicant said that if the prior code passed that is all they needed. He stated they still need to go through the process of the public hearing.

Chapman stated she has an opposition letter and she questioned if anything in this code has anything to do with a daycare center.

Rogalski stated this new code does not address any of that, it simply allows certain rights along with a dispensary. When the law was put into place there was a distance from a dispensary to the door of a school, but they did not address day care centers. The OMMA is the one who measures that distance so if they give them a license that means it was included. Our codes do not address any of these things.

Burk stated it is key to remember that we don't license medical marijuana. We don't give a license for grows or processing, that is all OMMA, we have no control over it. They check out their requirements for the state and that is it.

Mayor Booker stated item #20 approved their limited processing without changing their zoning.

Rogalski stated yes, it would allow just the tier one automatically without changing the zoning. He stated they do need to open the public hearing to allow citizens to speak.

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

Fortenbaugh questioned the zoning on this property to the east and west.

Rogalski stated it is C-1 to the east, west and south and R-1 to the north.

MOVED by Hampton SECOND by Fortenbaugh to deny the rezoning. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

22. Consider approving an ordinance, including any floor amendment related thereto, pertaining to Public Health and Safety, renaming the title of Chapter 8 of Lawton City Code from “Civil Defense” to “Public Health and Safety”; amending Sections 8-1-101, 8-1-102, 8-1-103, 8-1-104, 8-1-105, 8-1-106, 8-1-107, 8-1-108, 8-1-110, 8-1-112, 8-1-113, 8-1-114, 8-1-115, 8-1-118, 8-1-119; repealing and reserving Sections 8-1-109, 8-1-111, 8-1-116, 8-1-117; creating Sections 8-1-122 and 8-1-123, Article 8-1, Chapter 8, Lawton City Code, 2015; updating the provisions of the chapter to include revising the scope of said chapter, updating definitions to include adding the definition of “Emergency Management”, removing references to “Civil Defense”, adding other definitions, adding a section on cybersecurity and an emergency operations center, and bringing several sections into compliance with the Oklahoma Emergency Management Act of 2003; providing for severability and establishing an effective date.

Ratliff stated while dealing with the aftermath of the historic winter weather event in February of this year, Chapter 8 of Lawton City Code 2015 was identified by key leaders in the city as being woefully out of date. This revision of the code is needed in order to align the city code with the Emergency Management Act of 2003 and to ensure city officials/employees are operating the same terminology that their state and federal level counterparts are operating under. This revision also deletes antiquated terminology like “civil defense forces” and “civil defense activities” and replaces those words with terms used in the state statute. Additionally, new sections are being added to address (1) cybersecurity and emergency communication while operating under a proclaimed state of emergency, and (2) the establishment of an Emergency Operations Center.

MOVED by Chapman SECOND by Hankins to adopt **Ordinance 21-24**, 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, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 21-24

AN ORDINANCE PERTAINING TO PUBLIC HEALTH AND SAFETY, RENAMING THE TITLE OF CHAPTER 8 OF LAWTON CITY CODE FROM “CIVIL DEFENSE” TO “PUBLIC HEALTH AND SAFETY”; AMENDING SECTIONS 8-1-101, 8-1-102, 8-1-103, 8-1-104, 8-1-105, 8-1-106, 8-1-107, 8-1-108, 8-1-110, 8-1-112, 8-1-113, 8-1-114, 8-1-115, 8-1-118, 8-1-119;

REPEALING AND RESERVING SECTIONS 8-1-109, 8-1-111, 8-1-116, 8-1-117; CREATING SECTIONS 8-1-122 AND 8-1-123, ARTICLE 8-1, CHAPTER 8, LAWTON CITY CODE, 2015; UPDATING THE PROVISIONS OF THE CHAPTER TO INCLUDE REVISING THE SCOPE OF SAID CHAPTER, UPDATING DEFINITIONS TO INCLUDE ADDING THE DEFINITION OF “EMERGENCY MANAGEMENT”, REMOVING REFERENCES TO “CIVIL DEFENSE”, ADDING OTHER DEFINITIONS, ADDING A SECTION ON CYBERSECURITY AND AN EMERGENCY OPERATIONS CENTER, AND BRINGING SEVERAL SECTIONS INTO COMPLIANCE WITH THE OKLAHOMA EMERGENCY MANAGEMENT ACT OF 2003; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

23. Consider an ordinance pertaining to collection services for unpaid utility bills, creating Section 22-1-1-105, Article 22-1, Chapter 22, Lawton City Code 2015, authorizing the City to enter into a contract with a collection agency for the provision of collection services for debts and accounts receivable, which includes unpaid utility bills, to refer utility bill indebtedness to the collection agency for collection, and authorizing the collection agency to collect a fee in an amount not to exceed thirty-five percent (35%) of the indebtedness, and establishing an effective date.

Fisher stated items #23 through #27 deal with the same topic. She stated that Title 11 Oklahoma Statutes Section 12-138 provides that the governing body of a municipality may enter into a contract with a collection agency for the provision of collection services for debts and accounts receivable including, but not limited to, unpaid fees, penalties, interest, and other sums due the municipality. This ordinance establishes the City’s ability to enter into such a contract and to collect unpaid utility bills in accordance with and as allowed by state statute. The state statute further provides that the collection fee may not exceed 35% of the total indebtedness referred by the municipality to the collection agency for collection. This ordinance establishes the same percentage limitation. She stated when they started this project they had over \$200,000 in outstanding utility bills and it is estimated that municipal court have \$11 million in outstanding penalties and costs.

Burk stated he thought we always had a collection agency.

Mardi Repasy, Revenue Services Supervisor, stated we had a contract with United Adjustments and another company underbid them and eventually that contract was not extended. United Adjustments came back without a contract, but the owner died of COVID and his wife was unable to continue the service.

Cleghorn stated that was just on the utility side, we have never had a contract to collect for court costs. The company they are looking at for this contract is a legal firm that specializes in this type of collection. He stated the company can add a fee on top of what they are owed us. The City will still get what they are owed, or at least as much as they can collect.

Hampton questioned if this would cover residential and industrial.

Fisher stated it will cover any delinquent bill we have for utility services.

MOVED by Burk SECOND by Warren to adopt **Ordinance 21-25**, 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, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 21-25

AN ORDINANCE PERTAINING TO COLLECTION SERVICES FOR UNPAID UTILITY BILLS, CREATING SECTION 22-1-1-105, ARTICLE 22-1, CHAPTER 22, LAWTON CITY CODE, 2015, AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH A COLLECTION AGENCY FOR THE PROVISION OF COLLECTION SERVICES FOR UNPAID UTILITY BILLS IN AN AMOUNT NOT TO EXCEED THIRTY-FIVE PERCENT (35%), PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

24. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, by authorizing the addition of a collection fee in an amount not to exceed thirty-five percent (35%) for debts and accounts receivables including, but not limited to, unpaid fees, penalties, interest, and other sums due to the City for unpaid utility bills and establishing an effective date.

Fisher stated this is a resolution that places this fee in the fee schedule.

MOVED by Burk SECOND by Hankins to approve **Resolution 21-189**. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

25. Consider approving an ordinance pertaining to collection services for court penalties, costs, fines, and fees creating Section 9-1-135, Article 9-1, Chapter 9, Lawton City Code, 2015, authorizing the City to enter into a contract with a collection agency for the provision of collection services for court penalties, costs, fines and fees in municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the Court, providing for severability and establishing an effective date.

Fisher stated this item establishes a collection service for court penalties, fees and costs in accordance with the state statute.

MOVED by Warren SECOND by Burk to adopt **Ordinance 21-26**, 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, Johnson, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 21-26

AN ORDINANCE PERTAINING TO COLLECTION SERVICES FOR COURT PENALTIES, COSTS, FINES AND FEES CREATING SECTION 9-1-135, ARTICLE 9-1, CHAPTER 9,

LAWTON CITY CODE, 2015, AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH A COLLECTION AGENCY FOR THE PROVISION OF COLLECTION SERVICES FOR COURT PENALTIES, COSTS, FINES AND FEES IN MUNICIPAL COURT IN WHICH THE ACCUSED HAS FAILED TO APPEAR OR OTHERWISE FAILED TO SATISFY A MONETARY OBLIGATION ORDERED BY THE COURT, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

26. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, by authorizing the addition of a collection fee in an amount not to exceed thirty-five percent (35%) for unpaid court penalties, costs, fines and fees in municipal court cases in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court and establishing an effective date.

Fisher stated this resolution creates the fee in the fee schedule.

MOVED by Burk SECOND by Johnson to approve **Resolution 21-190**. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

27. Consider approving a professional services agreement for collection services between the City of Lawton and Perdue, Brandon, Fielder, Colling & Mott, L.L.P.; and authorize the Mayor and City Clerk to execute the agreement.

Fisher stated this item authorizes the contract with the collection agency. Both the court and utility services division have selected this law firm. She stated this law firm has a good understanding that they must follow the fair debt collection practices act as included in the information packet. This firm represents more than 2,100 local governments across seven states and 30 municipalities in Oklahoma. The rate for the collection fee for utility debt will be at 35% and a negotiated fee of 30% for the outstanding municipal court debt.

Warren stated this is the citizen's money and they have a responsibility to make sure that it gets collected.

MOVED by Burk SECOND by Hampton to approve a professional services agreement for collection services between the City of Lawton and Perdue, Brandon, Fielder, Colling & Mott, L.L.P.;. AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

STAFF REPORTS:

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

The Mayor and Council convened in executive session at 3:34 p.m. and reconvened in regular, open session at 4:13 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

28. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the status of an ongoing investigation concerning pension calculations, and, if necessary, take appropriate action in open session.

Ratliff read the title of item #28.

MOVED by Warren SECOND by Burk concerning the calculation issues that have been identified in the ongoing investigation, move to have pension attorney John Papahronis of McAfee & Taft file an application with the IRS requesting: (1) any calculations resulting in overpayments of what was due to retirees be grandfathered in up to a certain future date [e.g. the date of the IRS application or some other reasonable date], then have the monthly benefit adjusted over a graduated period of time [e.g. like a 1/12th reduction per month over a year] until the correct monthly amount is reached and then pay the correct amount per month for said retirees thereafter; (2) any calculations resulting in underpayments of what was due to retirees be adjusted to the correct amount and paid accordingly; and (3) address in the application any calculation issues the pension attorney deems appropriate, to include but not limited to calendar year and fractional month calculations.

Wilson stated that the motion includes the requirement that any past due amounts paid that would be due to the underpays be caught up also.

Warren stated he would amend his motion to include the requirement that any past due amounts paid that would be due to the underpays be caught up also.

VOTE ON MOTION: AYE: Hankins, Jackson, Chapman, Burk, Hampton, Fortenbaugh, Johnson, Warren. NAY: None. MOTION CARRIED.

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

Ratliff read the title of item #29. No action was taken.

There being no further business to consider, the meeting adjourned at 4:15 p.m. upon motion, Second and roll call vote.

STAN BOOKER, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK