

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MAY 8, 2012 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Mayor Fred L. Fitch
Presiding

Also Present:
Larry Mitchell, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Paul Hossenlopp, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Byron Elmore, Calvary Assembly of God, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Michael Tennis, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
George Moses, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT: None

PROCLAMATION FOR SENIOR CORPS WEEK

Mayor Fitch proclaimed the week of May 7-11, 2012 as the 3rd Annual Senior Corp Week and presented the proclamation to members of the Senior Corp Volunteer program.

PRESENTATION OF ARTWORK FROM TOM BIGGS

Billie Whipp, Arts and Humanities Administrator, introduced Tom Biggs who gifted an original piece of art to the City of Lawton.

AUDIENCE PARTICIPATION:

Mike Wilson, 3329 SW Salinas Drive, stated the city is repairing some sewage lines in his neighborhood and they are tearing down the back of people's fences and there are no plans to restore the fences. Most of those people are retired on fixed incomes and they don't have the money to replace their fences. He understands there is an easement, but he assumed that most of those fences were built with a permit, which means they were put there with the City's

knowledge and approval. If the City says it is okay to do something, then it needs to be okay to do it. He gets that they need to tear the fence down to work on the sewer line, but they need to put it back.

Haywood stated that they had a neighborhood meeting and this was explained to the residents that the City does not put the fence back up. He stated they do not do this anywhere in the city limits. Haywood stated that he will be putting his own fence back up.

Mr. Wilson stated he understood that the ordinance was passed in 2007, but the fence has been there since 1965, well before any ordinance.

Mitchell stated that he would guess that was well before any ordinance requiring a permit for a fence. The City would not issue a permit for a fence to be placed in an easement.

Mr. Wilson stated when he called the City offices they were able to tell him when the fence was put up.

Mitchell stated it would not be a city permit.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Fitch stated items #8 and #9 need to be considered separately.

MOVED by Burk SECOND by Shoemate to approve the consent agenda with the exception of items #8 and #9. AYE: Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Fred and Chikako Holloway in the amount of \$430.58 (**Res. 12-40**) and Keith and Ashley Slager in the amount of \$2,386.37 (**Res. 12-41**). Exhibits: Resolution No. 12-___, Resolution No. 12-___ and Legal Opinions/Recommendations.
2. Consider the following damage claims recommended for denial: Jamie Claborn in the amount of \$257.21 and Butch and Erin Clark in the amount of \$4,253.12. Exhibits: Legal Opinions/Recommendations.
3. Consider adopting a resolution approving payment on the judgment in the Workers' Compensation case of Keenan Davis in the Workers' Compensation Court, Case No. 2010-06764K. Exhibits: **Resolution No. 12-42**.
4. Consider accepting a donation of \$700 from the Friends of the Library for a Summer Reading Program presented by Joe Hayes, professional storyteller, on June 13th at 11am and 1:30pm. Exhibits: None.

5. Consider accepting a donation of \$700 from the Friends of the Library for a Summer Reading Program presented by Monty Harper, professional children’s songwriter and musician, on June 27th at 11am and 1:30pm. Exhibits: Contract on file with the City Clerk’s Office.
6. Consider accepting a donation of \$650 from the Friends of the Library for a Summer Reading Program presented by Chester’s Party Barn, professional clown and magician, on June 6th at 11am and 1:30pm. Exhibits: Contract on file with the City Clerk’s Office.
7. Consider authorizing a licensing agreement between Ingram Book Company, Inc. and the City of Lawton for the purpose of providing electronic access to library patrons and to provide downloadable book content through the MyiLibrary website portal. Exhibits: MyiLibrary Online Access Agreement.
8. Consider approving an operation’s agreement between the City of Lawton, Oklahoma and the YMCA - Young Men’s Christian Association of Lawton, Oklahoma, in the management of the Miracle Field League sports complex and concession facility in Elmer Thomas Park. Exhibits: Operational Agreement.

Jensen stated there are three proposed amendments to this agreement with the YMCA. One relates to a longer term agreement which is necessary for an operation like this.

Kim Shahan, Parks and Recreation Director, stated this project has been in existence since 2007. He stated the Miracle Field is a baseball complex for the disabled children of our region. The contract is for the YMCA to operate the league and the concession operations for the first three years and then have three extensions for a total of 12 years to operate the facility.

Kelea Fisher, Assistant City Attorney, stated there are two other changes to the contract that was submitted. One is the insurance provision requiring the City to insure the complex. They have removed that provision since the City is self insured. The second change is regarding the Miracle Field Sports Committee and clarifying their yearly reporting requirements to this council.

Moses questioned the personal injury liability of the people who run the park and also to the City.

Ms. Fisher stated there is a provision in the contract that requires the YMCA to have insurance of \$1 million for multiple claims arising from a single incident, \$125,000 per claim of bodily injury and \$25,000 per claim of property damage.

Jensen stated the City of Lawton is going to be listed as a co-insurer on that policy, so we are covered.

MOVED by Burk SECOND by Zarle to approve an operations agreement as amended between the City of Lawton and the YMCA for the management of the Miracle Field League sports

complex and concession facility in Elmer Thomas Park. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

9. Consider adopting a resolution, amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, amending youth softball and youth baseball fees to include the cost of being sanctioned leagues , providing an effective date of July 1, 2012.
Exhibits: Proposed **Resolution 12-43**.

Mike Dudley, 1006 B Avenue, stated when this program was initiated the idea was for every kid in this town to play baseball. If they raise these fees just to sanction teams, they will lose a lot of kids. He stated it would average out to about \$18 a kid to play ball and with what the booster will cost they will be taking a bunch of kids out of the program. If this is raised and the sanction goes on with all this, his grandsons will never play baseball in the city of Lawton. The City of Lawton has been down this road of sanctioning ball teams before. He is not sure if they will require insurance on teams during the regular league play or whether it is the tournament teams that go to the national tournaments. He stated the insurance is about \$225 a team and someone has to pick up that cost. If the teams have to pick this up it is just an additional \$225 that is tacked on to what it will cost that kid to play. He stated there are problems with kids these days and maybe just a baseball program will save one or two of them.

Shahan stated the Parks and Recreation Commission made a recommendation for a \$30 fee increase for a team to be able to be under the government of the USSSA organization. The intent was to give the teams the opportunity to participate in state and national events. The Parks and Recreation Commission are listening to the coaches of the organization of the league and this is their request. The additional \$30 is a team fee so that they will be under that sanctioning agency.

Burk stated he knows as the executive director of Lawton All Sports, they felt this was important a few years ago because they had so many teams that were unable to play at the next level. He stated the numbers are so low they may only have four or five teams in a league. You can only play each other so many times. This is something that has been brought forward and all of the coaches agree that this is a good thing and they want to go to other local ball fields and we need them to come here. We need those tax dollars. He stated this is a fee that the teams are going to have to absorb.

MOVED by Burk SECOND by Moses to approve **Resolution 12-43** amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, amending youth softball and youth baseball fees to include the cost of being sanctioned leagues , providing an effective date of July 1, 2012. AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED.

10. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 580 linear feet of 8-inch waterline, and all appurtenances to serve Furr’s Cafeteria located in Cache Road Square Shopping Center at 3807 NW Cache Road in the SE/4 of Section 22, T2N, R12W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk’s Office.

11. Consider adopting a Resolution of Necessity for real property acquisition for the SE 45th Street Reconstruction (Between Lee Blvd to Gore Blvd) Project #2006-12. Exhibits: **Resolution 12-44**. Resolution 12-_____ with Exhibit “A” is on file in the Engineering Division Office.
12. Consider approving the Contribution-In-Aid-Of-Construction (CIAC) Agreement with the AEP-PSO and adopting Street Light Resolution No. 476 to install three (3) 40 foot wood poles, twelve (12) 400 Watt High Pressure Sodium Vapor Flood Lights and underground wiring at the new Sewer Rehab yard located at 2421 SW 6th Street. Exhibits: Contribution-In-Aid of-Construction (CIAC) Agreement with AEP PSO and Street Light Resolution No. 476.
13. Consider awarding contract (CL12-040) 36” Closed Profile, PS 46, PVC Pipe to Oklahoma Contractor’s Supply of OKC, OK. Exhibits: Department recommendation, Abstract of Bids, Price Sheet.
14. Consider awarding contract (CL12-039) Bunker/Turnout Gear to Casco Industries Inc. of OKC, OK. Exhibits: Department recommendation, Abstract of Bids, Price Sheet.
15. Consider awarding contract (CL12-041) Concrete Repairs to A.E. Construction Company of Lawton, OK. Exhibits: Department recommendation, Abstract of Bids, Price Sheet.
16. Consider awarding contract (RFPCL12-015) Concession Operations, Ahlshlager Park to Lawton Evening Optimist of Lawton, OK. Exhibits: Department recommendation, Lease & Non-Exclusive Concession Operation Agreement, Price Sheet.
17. Consider approving appointments to boards and commissions. Exhibits: None.
18. Consider approval of payroll for the period of April 16-29, 2012.

NEW BUSINESS ITEMS:

Bellino-Hall requested that item #25 be addressed next due to the consideration of the audience members.

Mayor Fitch stated there are a lot of things to go through and he felt it would be beneficial for everyone to see what the council goes through every other Tuesday.

Wells stated he concurs with Councilmember Bellino-Hall and he requested the item be moved ahead.

25. Discuss the application of Hunt Properties, Inc. for retail economic development assistance for the Lawton Marketplace project proposed for 82nd and Quannah Parker Trailway and consider whether to follow the Lawton Economic Development Authority’s recommendation to deny the application, or instead provide direction to the City Attorney to prepare a sales tax rebate agreement subject to approval by the City Council. Exhibits:

Application of Dave Cassman from Hunt Properties, Inc. for Proposed Lawton Marketplace and LEDA Project Manager's Analysis of Application.

Bellino-Hall requested Mr. Cassman come forward and address the council.

Dave Cassman, Hunt Properties, thanked the audience members for attending and expressing their support. He stated the site plan represents 275 square feet of retail space. He stated this project is import for revenue for the city, jobs for the community and improvement of quality of life in Lawton. They are projecting that phase one of the project would generate \$67 million in sales the first full year. The sales tax revenue the city would enjoy would be \$2.8 million annually. There would also be ad valorem tax generated by the project. He stated when they started this project in 2008, there was approximately 3% unemployment. Today the unemployment rates stands at 8%. He stated when phase one is complete, 400 new jobs will be generated, which would equate to a 1% decrease in the unemployment rate. As far as public improvements they would be proposing upgrading the Cache Road intersection including turn movements and turn lanes on west side. The intersection southbound on 82nd Street will provide for dual left hand turn lanes on 82nd Street from Cache Road up to Quanah Parker would be widened to include a fifth lane. They would be putting in a new signal at Gray War and there are also improvements to be made on the turn lanes for southbound 82nd Street off of Quanah Parker and turn lanes and median cut on Quanah Parker. This project has been here two other times and the offsite improvements they are requested to make are above and beyond things that have been asked before and he doesn't have an explanation why those additional improvements are there. There are existing problems out there and Jim Glover Chevrolet was not asked to fix existing problems or make these improvements. His proposal to the City is simple, Hunt Properties will construct and improve all of these public improvements and they will pay for the costs associated with it, including engineering and soft costs. They are asking the City to allow them to recoup costs through a small portion of the sales tax generated by the project. They are asking that the reimbursement amount be 1% of the taxable sales for five years not to exceed \$2.5 million. On his application he asked for 1.5% over ten years, which will assure them of recouping their investments, but city policy is 1% for five years and that is acceptable to them. He stated other developers have come back in and asked for more money, but they will not be coming back and this is the deal they are asking for. They can close on this project in mid-July. The construction can start shortly thereafter. He feels this is a fair proposal.

Bellino-Hall questioned what will happen if they do not make the \$2.5 million in five years.

Mr. Cassman stated they will have to eat the difference. He stated all they are asking for is some compensation to pay for those offsite improvements.

Moses stated that is the highest number he has ever seen for unemployment around here. There are three factors that bother him with the tax revenue analysis. He questioned why national averages are a good number to use for Lawton, Oklahoma. The second factor has to do with the period of time that tax revenues from other retailers in town would be absorbed in the development and reported out but the net to the city would be somewhat less for a period of time. The third factor has to do with the period of time where this development would pull in retailers from outside the city limits that would add even more possibly, why did they not consider those

last two factors as important in doing this analysis because it seems that even for a five year period it would be important to see those dynamics to make sure that the payments could be made or the tax credits would be sufficient to offset the cost. He stated he still does not agree with that 8% unemployment number.

Mr. Cassman stated most projects today have some sort of public assistance. The studies they do are very consistent and the sales per square foot numbers that he is using are very conservative numbers and this type of analysis has been routinely accepted in other markets where they have done this type of work. Most of the retailers on their list are not in this market.

Moses stated the question is not new retailers, he is talking about stores that already exist here that will lose sales and they will not be able to record revenue. He is interested in how you address the dynamics of the loss in sales to other retailers.

Mr. Cassman stated those sales will be offset by the increase in the trade area. In a city of this size you would expect to have more retail come into this city. He stated Ardmore has a pull factor of 1.2 and Lawton is around 1, which means Lawton is barely keeping people here. Any other large city of this size should have these retailers.

Moses stated it is obvious we need more retail. His question has to do with how do the dynamics of the evolution of the project support these numbers given the two factors he has already mentioned.

Mr. Cassman stated there may be some transfer out of existing stores here but it will be offset by enlarging the trade area.

Wells stated it doesn't matter where a project goes in, anytime a new store opens it is going to draw business from some other stores in town.

Moses stated initially they are not going to generate the kind of money they hope to in the first year and it is going to take some period of time until they get to the levels they are talking about. He questioned if the national averages reflect start up revenue per square foot.

Mr. Cassman stated he feels Target will do better than that. He worked for them for eleven years doing this same work.

Moses questioned if Hunt Properties guarantees that no additional money will be sought after.

Mr. Cassman stated he will not be coming back to the City. If this passes tonight they will be finished with this.

Moses questioned why it would be illegal for Target to come here alone.

Mr. Cassman stated they could not proceed independent. The contract for the land is with Hunt Properties and the Schuttes. All the plans belong to Hunt, so legally there is no way that Target can step in, they do not have that right.

Haywood stated in the back of the property is a sewer line that is not too far from the creek. If you go across that creek the property taxes would go to Cache School District. He stated Mr. Cassman has done a wonderful job getting people together although he may not vote with him tonight because of certain reasons.

Bellino-Hall questioned how much money Hunt Properties has spent putting this project together.

Mr. Cassman stated well over a million dollars. They have been working on this for four years and they have done a lot of work with the retailers. He stated he is not aware of another project like this in the region and they should feel very fortunate that these retailers are sticking with them on this project.

Zarle clarified that they will not start this five year collection period until Target starts their retail sales.

Mr. Cassman stated they cannot collect any revenue or offset any of their costs until they start. If they can get this thing going all of these retailers will be open starting about the third week of July 2013.

Burk stated he does not believe there is anyone on the council that does not want Target or the development. He flew out to Sugarland, Texas to see the projects by New Quest. One of the things he was told when they voted on the \$5 million to help that project was the sewer line was not in. He is shocked by the accusations that the City has tried to hold up the process because there was no sewer line out there when he came on the council five years ago. One of the things the council worked on was to find a way to put that \$1.8 million sewer line in. There has been a commitment. When he met with Mr. Cassman he asked what he needed and Mr. Cassman said not one red cent. Thirty to sixty days ago was the first time he heard about the \$2.5 million. He questioned what had changed.

Mr. Cassman stated when they first started this project they got the plans for Wolf Creek from the City. They started basing their estimates on those plans. The City did not require the widening of 82nd Street from Cache Road to Quanah Parker and they are having to do improvements on the south end and upgrading that entire intersection and they are not even building down there. If they can work together to do this it is much better for all of them. He will fix the problems out there and for years to come the City will not have issues with road widening and turn lanes.

Haywood stated the state built that road and now they know that they should have put in five lanes. All of the lanes we build in the future will have five lanes.

Tenis stated he had that same conversation with Mr. Cassman and was told he did not want anything, and now he does. He would not be voting for this if it went in someone's pocket and disappeared, but this is for the public and we are all going to be able to see it and use it.

Eventually we are going to have to do these improvements and it is going to cost a lot more than \$2.5 million.

Burk stated he was told by the last developer that Target would not come back to Lawton for ten to fifteen years. He does not know where that came from, but he has a hard time believing that Target does not want to be in this community. He questioned if Mr. Cassman had said that Target would not come back for years.

Mr. Cassman stated during the time of the prior developer, Target was building 150 stores a year. Today they may build 12 new stores a year. It is the offsite infrastructure costs that start messing with the economics of the project.

Bellino-Hall stated some of the money for that sewer line came from impact fees.

Wells stated the sewer line was not just for that site, it is to open up the whole west side.

Burk stated the council is for moving the city forward, but just cautiously and making sure they do the right thing. No one is against Mr. Cassman and the development.

MOVED by Wells SECOND by Zarle to approve the application of Hunt Properties, Inc. for retail economic development assistance for the Lawton Marketplace project proposed for 82nd and Quannah Parker Trailway and direct the City Attorney to prepare a sales tax rebate agreement subject to approval by the City Council.

Moses stated we do need expanded retail and volume. Target and the retailers it attracts will be good for 82nd Street. He stated the problem is how they do this where the city is now with the other development. Originally he felt the two projects were strictly dependent and that if one goes the other will go down. He has become convinced that they are not as dependent as he originally thought. He does believe that proceeding with the 82nd street project will induce more risk downtown beyond what is already there. He would like to see Mr. Cassman proceed with the development at the same time the downtown project is going. He has read the LEDA assessment and he agrees. He has not heard anything that convinces him that Mr. Cassman cannot do that project on his own nickel.

Bellino-Hall stated she feels we need both projects and the city will support both projects.

Mr. Cassman stated there are so many other retailers that are not on their plan and they don't have room for them. He would be very surprised in the downtown project does not get going. They need to start building some synergy. You cannot find another city of 100,000 that does not have the lineup of tenants that he shows. If you don't start building somewhere it will not happen.

Wells stated once you get one national retailer in here you will have all the other ones looking at us.

Moses stated he feels that Mr. Cassman can do this project on his own nickel.

Wells stated there is a motion and second on the floor and he would like to call for a vote.

Mayor Fitch stated he would like Mr. Bachelor to address the council.

Dan Bachelor, Economic Development Center for Law and the attorney for LEDA, stated this is a terrific time to find a community that is in a position to begin to claim significant opportunities. He is speaking out of his obligation as development counsel for the Lawton Economic Development Authority and his sole work is working with communities that are seeking to achieve the same kinds of objectives and most of the time communities have too little choice of opportunity. Now the challenge is how best to claim that opportunity and what gets the greatest return for the community. The city of Lawton can have two developments but the issue is how you allocate and apportion the resources to achieve those results. Based on the priorities for public funding that have previously been established by this city council, the project proposed by Hunt Properties does not meet any of the significant priorities for public support as reflected in that public policy which was adopted by this council. That policy gave highest priority to projects that would redevelop blighted areas, enterprise zones and urban renewal areas. This council can, under various circumstances, vary from this policy, but the responsibility lies with the council. Under LEDA recommendation and the prior policy, the priorities were not met. The downtown redevelopment project is a military growth impact project which is unique. There is a significant need for improvement in the quality of life with respect to the retail facilities and other commercial and residential developments in the heart of the city of Lawton. There are economic impacts that range far beyond the simple aspects of retail sale. There is good reason why this council has established this project as a priority. This project also achieves the redevelopment of a blighted area. You also have a commitment for a hotel/conference center that will create a synergism with the proposed retail development which will work together to nourish each other. Because those components are there, we have high interest in the development of a commercial office building as a home for a division of a defense contractor that will provide employment opportunities. If you focus your resources you get a much greater return on your development. He stated the council needs to look at what the longer range implications are, understanding that because the downtown project is a military growth impact project, when you have committed \$10 million to the downtown project, you get \$10 million in matching funds. There is no other project in the state of Oklahoma that qualifies as a military growth impact project. The \$2.5 million for public improvements is not that much different from the little over \$2 million in offsite improvement costs that were projected for the NewQuest project several years ago. He stated there is a statement with respect to the projected tax revenues about the percentage of these sales that is new to the economy. When you introduce a new store the sales are strong and most of the sales will be from the existing markets. The greater the appeal, the greater the outreach. The same would be true for the downtown project because the City of Lawton has a vacuum in its retail market and there will be more sales there as well. They need to question what is the comparative addition to the Lawton retail market from these two locations. One would think that located closer to the interstate highway would have a larger region in your market than locating on the west side. He believes that both projects are desirable for the city of Lawton, but it does affect the calculation of how much new revenue is being brought to Lawton. In making the decision on what to commit to what project he would think it would be vitally important with any recommendation that you have an

independent financial impact report about the various returns and payoffs that are generated by the public investments that are made. He stated his recommendation is to take into account the financial obligations you have already undertaken, the future costs you are committed to incur, look at the respective payoffs, the allocations, the real numbers about how much new revenue a given project will generate for the community, take a reasoned recommendation, expose it to the public, then you should act on it. This is our moment of opportunity and they should not waste it.

Bellino-Hall stated this project is ready to come out of the ground. The 2nd Street project needs to happen, it has a different feel to it. It has a hotel/convention center and office buildings, it is a different type of project and we need to support it because we have a lot of money in that project. This is the project that will help 2nd Street come out of the ground.

Mayor Fitch stated he has been working on the downtown project for over five years and it is an involvement of over 200-250 people and about eight different organizations within this community. It was a vision of what we could do to improve this community. Everyone should be ashamed of the north entry of this community. The two previous developers on the west side were not successful and they wanted a lot of money from the community. He stated they have borrowed \$12 million from three local lending institutions because they had faith in what they were doing. They saw that they needed to create a TIF district to utilize the tax based gains from ad valorem and sales tax to keep developing our downtown. They have plans of going south of Gore and several defense contractors are interesting in building there and creating more jobs. This is something we want and linger for growth for this community. None are opposed to the west 82nd Street project and no one is opposed to the \$2.5 million. What he is opposed to is that they have a vision and they had the faith and commitment from three local lending institutions to loan them \$12 million to build this downtown. They have a new developer on track and the hotel/conference center has finished their new market tax credits and they will be ready to close on that property August 1st. The commercial office building is also looking to close in that same time frame. He stated in the first phase, Collett and Associates wanted to get 175,000 sq ft. They have moved that to 210,000 sq ft of which they have eight LOI's, three have been converted into agreements, three will be going before the CPR in the next two to three weeks and they have three more LOI's that they are working on and they are working with a prominent restaurant person out of Oklahoma City. We have the ability to go to 350,000 sq ft for the second phase. He stated with this TIF district we will be able to expand this downtown area. Mr. Collett's vision is to move west of 2nd Street and encompass 2nd, 3rd up to 4th from Ferris down to Arlington in a total build out of approximately 600,000 sq ft. They are looking at generating \$8 million a year out of that project. The project on the west side is \$2.7 million. What gets us at \$8 million is that we are able to recapture two cents of every state sales tax dollar which has never been done in the state. He stated this will give this city tremendous growth and we have to make a responsible financial decision and make sure we don't jeopardize our \$12 million and the ability to capture state sales tax dollars for the betterment of this community.

Bellino-Hall stated she was told that the City has no contractual agreement for the \$12 million, but mainly a moral obligation.

Mayor Fitch stated that is correct. A moral obligation is the way it was made because they had faith in the community leaders that were involved in this process and the vision they had and that they would move forward and not divert funds to another area and they have made that in good faith. But we still owe that money morally.

Bellino-Hall stated that she understood that we were going to try to float \$33.5 million in bonds to support the 2nd Street development. She understood that revenue off of 2nd Street is going to have to go back to pay those bonds.

Mayor Fitch stated what was approved at the LEDA and council meetings was \$37 million. We have a \$50 million TIF district and we are able to capture \$25 million in ad valorem and \$25 million in state and city sales tax and that is off of a base increase of valuation of the property and the sales tax as it were collected in the twelve block area of \$173,000 annually. You build \$150 - \$160 million worth of property down there and the ad valorem tax increases tremendously. Because we are addressing a blighted area, we are able to capture that gain in order to extend further growth within the TIF district and it goes into infrasture, streets, sewers and improvements of that nature. We cannot do that any other area in town. It almost doubles the amount of money that we are able to bring back into this community. He does not want to see them jeopardize what we have going and what we have planned and cheat this community out of not getting some funds they are entitled to.

Wells stated it sounds like Mr. Collett has letters of intent and agreements signed and that project is moving ahead. Right now they have a piece of land out west that had no ad valorem or sales tax and he is saying he can start the development in July and within six or eight months after that have sales tax coming in to pay back a portion of the public utilities, that is not coming out of our pockets, we are not giving anything other than sales tax. It should have no affect on the 2nd street project.

VOTE ON MOTION: AYE: Bellino-Hall, Burk, Zarle, Wells, Shoemate, Tennis. NAY: Moses, Haywood. MOTION CARRIED.

Mayor Fitch stated the City Council has voted to not recognize the motion that has come out of the LEDA. Now they need to direct staff to proceed.

Wells stated that was included in his motion to direct the City Attorney to come up with the agreement and bring it back to council at the next meeting.

The Mayor and Council recessed at 7:54 p.m. and reconvened in regular, open session at 8:09 p.m. Roll call reflected all members present.

19. Consider authorizing application of the 2012 Department of Justice Edward Byrne Memorial Assistance Grant (JAG) – Local Solicitation and hold a public hearing reference same. Exhibits: None.

Acting Chief James Apple, Lawton Police Department, stated this request is for the submission of an application for the 2012 Edward Byrne Memorial grant. They apply for the grant every

year. The grant is divided 80/20 with the Comanche County Sheriff's Office. The total amount this year is \$85,551 of which our portion will be \$68,440.

Shoemate questioned what kind of equipment they will purchase with this money.

Apple stated the major items are the mobile data terminals for the cars along with night vision binoculars and vandalism deterrent systems for graffiti.

Wells questioned if this was associated with the grant for the CID building.

Apple stated that was the same grant but it was from 2010 and he is still in the process of working with the federal government to reallocate those funds for equipment.

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

MOVED by Wells, SECOND by Zarle to authorize application of the 2012 Department of Justice Edward Byrne Memorial Assistance Grant AYE: Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood. NAY: None. MOTION CARRIED

20. Hold a public hearing and consider an ordinance closing the 5-foot alley between Lots 11 and 12, Block 9, Industrial Addition and the adjacent 20-foot alley located approximately at 101 SE D Avenue. Exhibits: Ordinance No. 12-__, Application and Location Map.

Richard Rogalski, Community Services Director, stated in February 2011 the City Council closed the 20-foot alley adjacent to Lots 1 – 11 in Block 9, Industrial Addition along with the 5-foot alleys between Lots 1 – 11, and on February 14, 2012, the City Council closed the 20-foot alley adjacent to Lots 12 – 16, Block 9, Industrial Addition and the 5-foot alleys between Lots 12 – 16, Block 9, Industrial Addition. Dale Miller, the owner of Lots 12 – 16, Block 9, and the unplatted property to the east of the alley adjacent to these lots, has now submitted an application to close the 5-foot alley between Lots 11 and 12 and the adjacent 20-foot alley. As this portion of the platted alley was between the two prior requests, it was overlooked by the property owners.

Mayor Fitch stated those alleys have never been used as alleys.

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

MOVED by Haywood, SECOND by Wells to adopt **Ordinance 12-14**, waive the reading of the ordinance, read the title only. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-14

An ordinance closing the 5-foot alley between lots 11 and 12, block 9, Industrial Addition, and the abutting portion of the 20-foot alley.

21. Approve the FFY 2012 Consolidated One-Year Action Plan and pass Resolution 12-__ authorizing the execution of the plan and authorizing the Mayor and City Clerk to execute the implementing documents necessary to implement the Consolidated One-Year Action Plan for FFY 2012. Exhibits: A copy of the Consolidated One-Year Action Plan for FFY 2012 (Draft) is on file at the City Clerk's Office. A copy of the resolution is attached.

Tim Libby, Assistant Director of Housing and Community Development, stated the first priority which is Roadback received all they requested at \$25,000, the second priority which is Teen Court received all they requested which was \$12,000 and the remaining funds of \$6,526 was redirected and put towards New Directions and that brought their total to \$24,418. The remaining applicants were adjusted. He stated giving each applicant a certain percentage of what they requested seemed less important than trying to provide the maximum amount of funding that they could provide. He briefed the council on the HOME program and the CDBG program. He stated with the CDBG program we got cut just over \$100,000 from last year. We got cut 32% in the HOME program, which was a little less than \$160,000. There was no program income last year and there is no money this year to continue the emergency repair program. They also have a request from Parks and Recreation to assist in repairing the facility at Patterson Center and he was able to come up with \$37,000 in this years budget and they were able to recommend \$12,000 for a new roof at Roadback.

Haywood questioned what would happen if we didn't have the money for the loan on 2nd Street.

Libby stated we would default on the loan. The section 108 is a loan guarantee. The City would either pay it back from CDBG or they would have to pay it back out of general fund. He stated the City received a \$1 million Brownsfield Economic Development Initiative loan and \$500,000 went toward the demolition of the Coca-cola building and the other \$500,000 is a loan lost reserve for the section 108 and we are going to draw that money down this summer and that will go into a loan lost reserve account and stay there to be used to pay down the section 108 loan. He stated the HOME program normally requires 25% matching and we do not have to do that because we are considered a city in severe fiscal distress. Once that is waived by HUD and we are not considered in fiscal distress, we have \$1.06 million reserved to pay that match for the future years. He stated they have set aside \$45,000 for Habitat for Humanity who will build five low income houses with prior year funds that were approved in the 2010 budget.

Moses questioned in what federal budget year were these monies included.

Libby stated these funds come from HUD from fiscal year 2012.

Burk stated staff did a great job in making the changes suggested by the council.

Bellino-Hall stated they may want to look at outcome studies in the future as far as if these programs are doing what they should be doing.

Libby stated every year he is required to provide the outcomes to HUD who then sends them on to Congress. He will usually brief the council the first meeting in September.

MOVED by Wells, SECOND by Haywood to adopt **Resolution 12-45** approving the FFY 2012 Consolidated One-Year Action Plan and authorizing the execution of the plan. AYE: Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED

22. Consider an ordinance amending Section 6-1-5-186, Landscaping, of the Lawton City Code adding the requirement to provide landscaping with building permits for parking areas and declaring an emergency. Exhibits: Ordinance 12-__.

Rogalski stated on November 29, 2011, the City Council adopted Ordinance No. 11-53 establishing landscaping requirements. In administering the new regulations, staff found that the new language had inadvertently left out the requirement for landscaping within parking areas if the building permit does not include an actual building. Staff has prepared an ordinance which will require new parking areas or the expansion of existing parking areas to provide the same amount of landscaping as they would if associated with a building. As the City Planning Commission (CPC) was heavily involved in drafting the landscaping ordinance, the CPC discussed this proposed amendment on April 26, 2012. The CPC recommended adoption of the attached ordinance.

MOVED by Burk, SECOND by Shoemate to adopt **Ordinance 12-15**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-15

An ordinance amending section 6-1-5-186, landscaping, of chapter 6, lawton city code, 2005, adding the requirement to provide landscaping with building permits for parking areas ; providing for severability; and declaring an emergency.

23. Consider adopting an ordinance amending Sections 17-3-4-335, 343, 346, 347, 349, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the consolidation of liabilities and assets, existing plan, restrictions on benefits to conform to IRS requirements, optional forms of retirement benefits, death benefits, and rollover to another plan or IRA. Exhibits: Ordinance 12-__.

Tim Wilson, Deputy City Attorney, stated periodically the IRS adopts regulations that affect our retirement plan. Recently they adopted regulations interpreting two fairly new laws, the Pension Protection Act of 2006 and the Heroes Earnings Association Relief Act of 2008. These laws require us to make adjustments to our plan to stay in compliance. The revisions were put together by our pension attorney at McAfee and Taft. The amendments do not change the benefits of the current employees and how their pension is calculated. These changes were presented to the pension board two weeks ago and were approved unanimously.

MOVED by Wells, SECOND by Zarle to adopt **Ordinance 12-16**, waive the reading of the ordinance, read the title only and declaring an effective date. AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-16

An ordinance pertaining to personnel policies and procedures amending Sections 17-3-4-335, 343, 346, 347, 349, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the consolidation of liabilities and assets, existing plan, restrictions on benefits to conform to IRS requirements, optional forms of retirement benefits, death benefits, rollover to another plan or IRA; providing for severability and declaring an effective date.

24. Consider accepting the street, sanitary sewer and storm sewer improvements and easements to serve the Fort Sill Apache Casino located at 2401 East Gore Boulevard and waiving the maintenance bond and engineering inspection fee requirements. Exhibits: Location Map.

THIS ITEM WAS STRICKEN FROM AGENDA

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Moses stated there is a lot of panhandling that goes on in the city and he will usually refer people to local churches. He stated there should be a central location that you can send a person who needs help.

Jim Russell, Human Resources Director, stated a person can dial 211, which is the United Way nationwide agency and they can put a person in contact with any kind of help they may need.

Moses stated because of the drought, there are a ton of dead trees in ward five. They are going to rot out and we are going to start having some serious accidents. They need to find a way to get these trees down.

Bellino-Hall stated she has noticed that problem also and a lot of the homeowners are elderly and low income. She suggested they volunteer on weekends because it is very expensive to hire a tree service.

Burk thanked those who attended the opening of the playground in the park.

Mitchell introduced Kristen Herr, the new Library Director. He reminded everyone of the budget workshop on May 9th at 1:30 p.m.

The Mayor and Council convened in executive session at 8:51 p.m. and reconvened in regular, open session at 9:12 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Patricia Wisdom and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 26.

MOVED by Bellino-Hall, SECOND by Burk to approve the damage claim on January 6, 2012, by Patricia Wisdom in the amount of \$125,000. AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle. NAY: None. MOTION CARRIED

27. Pursuant to Section 307B3 and C10, Title 25, Oklahoma Statutes, consider convening in executive session for the purposes of conferring on matters pertaining to economic development, including the purchase/transfer of property, incentive proposals, and financing in connection with the Lawton Downtown Redevelopment Project and other development projects under consideration in the City, and take appropriate action in open session as necessary. Exhibits: None.

Jensen read the title of item 27. No action was taken.

There being no further business to consider, the meeting adjourned at 9:14 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK