

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 10, 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 Gene Escoe, Trinity Baptist Church, 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 NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK

Mayor Fitch proclaimed April 12 – 18, 2012 as National Public Safety Telecommunications Week.

AUDIENCE PARTICIPATION:

Cathy Caccioppoli, 308 NW 32nd Street, Executive Director of Lawton Philharmonic, briefed the council on the current activities of the Lawton Philharmonic.

Steve Robinson, 11 NW 44th Street, stated his client filed a tort claim with the City as the result of an incident where a City of Lawton backhoe trailer ran through his clients building. He stated the summary of bills is \$130,000. The City Council approved \$25,000. He requested the council reconsider the \$25,000 and pay the entire bill. He stated it is unfair for his client, Mr. Cornish to have to pay the remainder of the \$105,000 for no fault of his own.

Mayor Fitch stated the item is not on the agenda so the council cannot take any action.

Jensen stated the City Council did receive a briefing on this claim in executive session and legal staff advised the council regarding the law on property damage claims. The maximum liability the law permits is \$25,000 and staff recommended the council follow the law. He stated we are now in litigation on this matter and staff is recommending the case go through the judicial process. He stated it will not come back to the council unless directed by a council member in which they would have to suspend the rules and reconsider the item. He stated staff recommendation is to follow the limitations of the governmental tort claims act.

Mr. Robinson requested the council suspend the rules in this specific case. He stated the law sets a minimum responsibility for the City and the law mandates that you pay your responsibility. He stated they disagree with the amount of the limit and there is no rule that says you cannot pay 100% of the claim. They are asking for the council to do the right thing. He stated they have done everything they can to mitigate their damages.

Jensen stated everyone on the council saw the provision when the claim was presented in executive session. Under the governmental tort claims act the maximum amount of liability for a property damage claim is \$25,000. He recommended they let this go through the judicial system and let Judge McCall decide the case.

Mike Cornish, claimant, stated he wished the council would consider the message they are sending to all of these business that they are trying to recruit on 2nd Street. He stated he just wants a fair shake and they should do what is right.

Dwight Tanner, Jr., 613 W. Gore, stated he was reading the newspaper article about water restrictions. He is in favor of water conservation but he is concerned that the penalties be clarified. He stated the first offense would be a fine up to \$750 and you could be thrown in jail for 60 days. He feels this is too harsh and suggested the fine go down to \$50.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF NOVEMBER 29, 2011 AND MARCH 27, 2012.

Moses stated he was not on council during the November 29, 2011 meeting and requested the items be voted on separately.

MOVED by Wells SECOND by Zarle to approve the minutes of Lawton City Council regular meeting of November 29, 2011. AYE: Tennis, Bellino-Hall, Burk, Zarle, Haywood, Wells, Shoemate. NAY: None. ABSTAIN: Moses. MOTION CARRIED.

MOVED by Wells SECOND by Moses to approve the minutes of Lawton City Council regular meeting of March 27, 2012. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

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.

MOVED by Wells SECOND by Haywood to approve the consent agenda. AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Union Baptist Church in the amount of \$1,688.00 (**Res 12-32**) and Dorothy Richardson in the amount of \$3,300.74 (**Res 12-33**). Exhibits: Resolution 12-____, Resolution 12-____ and Legal Opinions/Recommendations
2. Consider the following damage claims recommended for denial: Bob and Delores Mansell in the amount of \$15,000.00, Pamela Bonnell-Mihalish in the amount of \$99.95 and Alvin and Bessie Jasper in the amount of \$500.00. Exhibits: Legal Opinions/Recommendations.
3. Consider approving the professional services agreement with Tom A. Frailey to serve as legal advisor to the Personnel Board on an “as needed” basis when the City Attorney has a conflict of interest, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement on file in the City Clerk’s Office
4. Consider accepting a grant of \$1,000 from the Oklahoma Humanities Council to support the 2012 Let’s Talk About it, Oklahoma Book Discussion. Exhibits: None.
5. Consider reviewing a request to temporarily suspend the 2012 annual boathouse fees due to low water levels at the City lakes for selected boathouse space sites deemed to be unusable by the Parks and Recreation Director and take appropriate action, if necessary. Exhibits: Schedule of Fees.
6. Consider accepting three mobile homes from Dean Robbins which are all located at Fisherman’s Cove on Lake Ellsworth. Exhibits: Titles held in Parks and Recreation Department Files.
7. Requesting permission to submit grant for a cooperative agreement with the Oklahoma Department of Wildlife Conservation state office to expand pedestrian concrete sidewalk fishing access to the north side of Lake Helen in Elmer Thomas Park and build a new roadway, boat ramp, restroom and two parking lots at Fisherman’s Cove on Lake Ellsworth and replace boat/fishing docks at Ralph’s Resort and Edgewater Park on Lake Ellsworth to include a fishing and boat dock replacement at Robinson Landing on Lake Lawtonka. Exhibits: None.
8. Consider approving a credit adjustment in the amount of \$685.89 for two months’ bills to Shane Barker’s service account #00050101 for the property located at 1213 NW Williams Avenue for an undetected, underground leak on the customer’s service line. Exhibits: Chasteen Plumbing invoice dated 01/12/2012.
9. Consider approving a credit adjustment in the amount of \$1,557.35 for two months’ bills to MonteVista Rehabilitation & Skilled Care’s service account #00051450 for their

- property located at 7604 NW Quanah Parker Trail for an undetected, underground leak on the customer's service line. Exhibits: Perry Mechanical Contractors invoice dated 02/09/2012.
10. Consider approving a credit adjustment in the amount of \$663.93 to Edward Patterson's service account #00027606 for the property at 906 NW Fort Sill Boulevard for unexplained high consumption. Exhibits: Notarized Statement from Michael Johnson.
 11. Consider approving a credit adjustment in the amount of \$1,488.67 for two months' bills to Terry Shaw's service account #00030849 for his business property (Monkey Business) located at 212 SE Wallock Street for an undetected, underground leak on the customer's service line. Exhibits: Work Order from Solid Plumbing dated 12/08/11 and Invoice from Solid Plumbing dated 1/16/12.
 12. Consider approving the record plat for Lawton Downtown Center, Part 1. Exhibits: Plat Map.
 13. Consider revising Council Policy 10-2 "Water Pumping From Lake Ellsworth to Lake Lawtonka" adding a section allowing discretion in implementing the Policy during drought conditions. Exhibits: Council Policy 10-2.
 14. Consider revising Council Policy 10-4 "Water Pumping From Waurika Reservoir to Lake Ellsworth" changing the elevation level of Lake Ellsworth for which pumping will be suspended during the transfer of water from Lake Waurika to Lake Ellsworth and adding a section allowing discretion in implementing the Policy during drought conditions. Exhibits: Council Policy 10-4.
 15. Consider approving contract Amendment No. 1 to the March 14, 2011, contract with CH2M Hill Engineers, Inc., for engineering services to evaluate causes and remedies to a regulatory notice of violation associated with the sludge lagoon system for the Medicine Park Water Treatment Plant. Exhibits: Amendment to the Agreement.
 16. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on: Westbound NW Sherwood Drive at the intersection of NW Sherwood Drive and NW Robinhood Drive; eastbound and westbound NW Denver Avenue near NW 31st Street; and on the west side of NW 35th Street from NW Ferris Avenue to the northern boundary of Adams Elementary School. Exhibits: **Resolution No. 12-34**, Traffic Commission Minutes and Traffic Issue Requests.
 17. Consider extending contract (CL11-029) Lawton Arts & Entertainment Magazine to Peregrine Corporation of Lawton, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
 18. Consider awarding contract (CL12-032) Heavy Wrecker Service to Alford's Truck & Wrecker of Lawton, OK. Exhibits: Department recommendation, abstract of bids, price sheet.

19. Consider extending contract (CL11-031) Rock Hauling to A.E. Construction of Lawton, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
20. Consider extending contract (CL11-032) Fire Hydrants to Oklahoma Contractors Supply of Oklahoma City, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
21. Consider extending contract (CL11-024) Footwear (Safety, Athletic & Walking) to Woodward's Department Store of Cyril, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
22. Consider awarding contract (CL12-033) Thermoplastic Material and Epoxy Primer/Sealer to Ennis Paint Inc. of Ennis, TX. Exhibits: Department recommendation, abstract of bids, price sheet.
23. Consider awarding contract (CL12-031) Extrication Tool w/Pump and Hose to Okie Extrication of El Reno, OK. Exhibits: Department recommendation, abstract of bids, price sheet.
24. Consider extending contract (CL11-037a) Mowing & Litter Area Lee Blvd Medians and Right of Ways from ¼ West of I-44 to Channel 7 TV Tower and one (1) block East of Sheridan Rd. to NW 67th St. to UCI Services Group Inc. of Lawton, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
25. Consider extending contract (CL11-037b) Mowing & Litter Area Gore Blvd Medians from Railroad St. to 17th St. and from NW 34th St. to NW 52nd St. Gore Blvd Medians and Right of Ways from Railroad St. to NE 45th St. to Teen Challenge of Cache, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
26. Consider extending contract (CL11-037c) Mowing & Litter Area NE Flowermound Rd. Right of Ways from Rogers Lane to Bishop Rd. to Hardage Landscaping of Lawton, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
27. Consider awarding contract (CL12-034) Cationic Polymer to BASF Corporation of Suffolk, VA. Exhibits: Department recommendation, abstract of bids, price sheet.
28. Consider approval of payroll for the period of March 19 – April 1, 2012.

NEW BUSINESS ITEMS:

29. Consider a means of notifying the citizens of the City of Lawton of their new ward and precinct boundaries and polling places, and identify a funding source to affect said notification. Exhibits: New Ward Map and Precinct Map.

Richard Rogalski, Community Services Director, stated on February 28, 2012 the Redistricting Commission signed a resolution changing the boundaries of the existing eight (8) Wards. He stated there also has been some relocation of polling places as well. He stated all of the legal requirements of the notification were met by the Redistricting Commission, so this would be a courtesy notification. Upon motion of the commission they have suggested that council determine the best method to notify the citizens of Lawton of these changes. Since the commission has no funding, the City of Lawton would have to fund the expenses. The commission has suggested the possibility of placing a letter with the two (2) maps inside the water bill as a means of notification.

Tenis questioned what was done ten years ago.

Mitchell stated he does not think we did any formal notification.

Moses stated he was on the commission during this census and the last census and he does not believe anything was done during the last census. He believes that the Election Board Secretary handled all notifications. He stated there were not as many people displaced last time by the splitting of precincts. This year there are 8,000 plus people who will have to go to a different polling place. He stated it was strongly felt by the commission that if we didn't get some notification out to people this time there would be people who could not find the proper voting place. They need to take some positive action to notify those people.

Tenis stated the most popular option was to have the water department put some type of notification in the bill. He questioned if staff had looked into this option.

Rick Endicott, Finance Director, stated they have put the new map on the website and they have discussed doing a mailer. He stated they could not print the map on the water bill so they would have to stuff the map in with the bills. He is not sure of the cost. They could put a short message on the bill about the redistricting but it would be very limited.

Shoemate suggested that every councilmember schedule meetings at the new precincts and notify their constituents through the media.

Wells stated the only ones they need to think about this year for the upcoming election are wards 1 and 2.

Mayor Fitch stated there is also a mayoral election this year.

Wells stated he picked up some parts of ward 6, but they will still vote in the same place but they will have separate machines for wards 6 and 8. They have not moved precincts per say, so he is not sure how many people fall into that category.

Rogalski stated half of the changes to the wards were a result of precinct line moves and the other half was trying to balance population. There are a lot of cases where people who used to be in precinct 32 are now in precinct 31. He stated 30% of the population got moved around in some way. He stated the county does have a requirement to notify precinct changes but there is

no way they would do that for the wards as well. With precinct moves you also have polling places moved.

Moses questioned if this recommendation has been coordinated with the election board secretary.

Rogalski stated he has not spoken with her about a common notification but he could speak with her to see how they are handling this issue and if they can link the two. He stated staff has been providing her with precinct maps.

Endicott stated they could utilize the council contingency fund to fund a brochure once they figure out which cycles they would use. If they only notify those who it would affect then it may not be that costly.

Mayor Fitch stated that once the election board has all of the adjustments made within their computer, he would think they could provide a mailing list of the ones who are affected. That would reduce it to the number of registered voters.

Rogalski stated they will send notice to all registered voters. He stated it would be very difficult to parcel these out.

Mayor Fitch questioned if the precincts for the county are the same as precincts for the city.

Rogalski stated yes.

Wells suggested they notify for ward boundaries over a three year period rather than try to do it at one time.

Mayor Fitch stated there is a mayoral election this year.

Wells stated the county will notify those people, but where the wards actually changed, there will be people who may have voted in ward 1 and now vote in ward 2. The mayoral election will be the same as the state and national elections. The county will notify those who have their precinct actually moved where they vote. Our concern is the wards.

Moses stated there are residents that live in precinct 9 that live in ward 6 and ward 8.

Wells stated they all vote in the same place. The only thing that will change will be that there will be one machine for ward 8 voting and one for ward 6 voting.

Moses stated there are 8,000 people out there that are going to be affected by ward elections. We need to make sure those people understand where they are supposed to go to vote. With split precincts in ward elections it will be confusing.

Wells stated for the ward elections he sees no reason to notify residents in wards 3, 4, 5, 6, 7 or 8 this early because there will be a large change over in a years time. They should notify the residents closer to their actual ward elections.

Mayor Fitch stated there are people in ward 4 that are now in ward 2.

Wells stated those people need to be notified.

Burk stated we have to notify them now.

Wells stated that regarding those that will not have to be notified until the next election year, if you notify those houses now, by next year you will have a change over in population and you will have to notify them again anyway.

Burk stated we can do a lot of things on Facebook and he suggested we put a little flyer inside each utility bill and that will at least go out to 30,000 different places. He does not feel this is going to cost that much. We make sure that we have something in the paper and on our website. We need to do everything we can.

Endicott stated he does not know how much it will cost until he sees the flyer.

Mayor Fitch suggested Wells and Burk sit down with staff and get this resolved.

Endicott stated that staff can work this out as long as they are allowed to use council contingency funds for the cost of the mailing because they do not have that in their budget.

Mayor Fitch suggested that staff explore three or four various options and put some costs to those options and bring those back to council.

Wells stated the print shop should be able to print some type of simple flyer.

Mayor Fitch stated that staff will also get with the election board and found out exactly what they are doing to notify registered voters. Maybe we can partner and save us both some money.

Mitchell stated he feels the best way to do this is to send a notice out to every registered voter and let them know what their new precinct number is. If they reproduce these maps on an 8 x 10 sheet you will not be able to read it.

Burk stated you just need to let the resident know that they could be in a changed area. This is their responsibility to find out.

Mitchell stated we are posting the new map everywhere we can.

Mayor Fitch stated the media will also work with us.

MOVED by Wells SECOND by Moses to table. AYE: Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Hossenlopp stated on May 4th there will be an installation change of command between General Halverson and General McDonald.

Wells stated with regards to water conservation, they need to think about the whole water supply to include Waurika Lake.

Haywood announced there is a new bank in ward 7, the old IBC bank is now Fort Sill City National Bank.

Burk stated there are a lot of lights out all across town, especially on Cache Road. He stated none of the lights are working on east Gore and from Flower Mound to SE 45th.

Mitchell stated if you would let him know the location he can send a note to PSO. He stated we don't have a night crew that goes out and checks street lights.

Burk stated someone needs to go out and check the lights. There are a lot on Cache Road and he has been getting a lot of complaints.

Haywood stated he works with PSO and he places ribbons on the light poles that are out. Anyone can call PSO and they will come out and fix the lights.

Wells stated all of the lights in town are not metered so we pay a set rate whether they are on or off.

Tim Hushbeck, AEP/PSO, stated they get calls about the lights that are above the stop lights and those are the responsibility of the City of Lawton. He stated they also are not responsible for those lights on the interstate. He stated citizens can also report lights on line.

Burk stated it really looks bad especially on the major thoroughfares if the lights aren't on.

Mitchell stated the preliminary budgets should be distributed to council around May 1st and a tentative budget workshop is scheduled for May 9th at 1:30 p.m.

Wells stated he had recommended that they hold a pre-budget workshop and some other council members indicated they thought that was a good idea. He has been recommending this for three years and we have never had a pre-budget workshop.

Mitchell stated they could have one next week.

Wells stated staff has gone so far in preparing the budget it would not do much good at this point.

Mayor Fitch stated a lot is going on and they are staying busy behind the scenes and trying to do things for the betterment of this community.

Shoemate announced that the water park will open this year.

Haywood stated that all over the United States people are talking about Quanah Parker and the things he did for his people. He stated Lawton needs to take advantage of this.

Shoemate stated the owners of the McDonald's near Walters are installing a monument and inside there will be murals of Kiowa, Comanche and Apache Chiefs. Travelers will be able to learn about tribal history.

Mayor Fitch stated there is an opening on the Engineering Selection Committee and Councilmember Haywood has agreed to fill that position.

The Mayor and Council convened in executive session at 7:01 p.m. and reconvened in regular, open session at 9:10 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

30. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action involving the School House Slough Concession Lease and the requested extension thereof, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 30. No action was taken.

31. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Larry Mitchell as City Manager, and in open session take other action as necessary. Exhibits: None.

Mayor Fitch read the title of item 31.

MOVED by Moses, SECOND by Haywood to approve a contract with an increase in salary of 4%. AYE: Bellino-Hall, Burk, Moses, Haywood, Fitch. NAY: Wells, Shoemate, Tennis, Zarle.
MOTION CARRIED

32. 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 32. No action was taken.

There being no further business to consider, the meeting adjourned at 9:13 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK