

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
SEPTEMBER 11, 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

Mayor Fitch called the meeting to order at 6:09 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Jim Russell, Human Resources Director, 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

PRESENTATION FROM MUSEUM OF GREAT PLAINS AUTHORITY REGARDING  
CAPITAL CAMPAIGN

Janice Drewry Bell, Board Member of Museum of Great Plains Authority, stated the museum is a candidate for a \$4 million grant from the Reynolds Foundation. This grant will allow children and families an opportunity to experience life as it was through the history of the great plains. She stated the opportunity for this grant will only come to us once. In order to get the grant, the city of Lawton has to raise \$800,000. To date they have raised \$600,000 and the McMahon Foundation has been a major part in raising this money. She appealed to the community to help raise the remaining funds. They have been invited to present to the foundation on October 18<sup>th</sup> and they must show that they have a commitment to be as close to the \$800,000 as possible.

Mayor Fitch stated this is a great opportunity for the city to come together. He stated the McMahon Foundation has been very generous and there is a need for the citizens to step up.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF JULY 24 AND AUGUST 28, 2012.

MOVED by Burk SECOND by Shoemate to approve the minutes of Lawton City Council regular meetings of July 24 and August 28, 2012. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Mayor Fitch stated item #10 will be stricken from agenda.

MOVED by Burk SECOND by Shoemate to approve the consent agenda with the exception of item #10. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Gregory and Tina Pufall in the amount of \$1,518.08 (**Res. 12-90**) and Misty and Kevin Tilghman in the amount of \$540.00 (**Res. 12-91**). Exhibits: Legal Opinion/Recommendation, Resolution No. 12-\_\_ and Resolution No. 12-\_\_.
2. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Clayton Houseman. Exhibits: **Resolution 12-92**.
3. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Larry Carr. Exhibits: **Resolution 12-93**.
4. Consider approving an Agreement between the Armed Services YMCA and MOAA Auxiliary and the City of Lawton to fund activities by the Auxiliary designed to foster tourism and promote economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement with Attached Budget.
5. Consider approving an Agreement between the Lawton Philharmonic Society, Inc., and the City of Lawton to fund activities by the Society designed to encourage, promote and foster tourism and economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement with Attached Budget.
6. Consider approving a Second Amendment to Lease Agreement between the City of Lawton, Oklahoma, and T-Mobile Central LLC, and authorize the Mayor and City Clerk to execute the amendment. Exhibits: Second Amendment to Lease Agreement.

7. Consider approving, executing and accepting a proposed second amendment to Article X of the Pension Trust Agreement of December 22, 1970, extending the duration of the Trust Agreement until November 1, 2033, and authorizing the City Attorney to file the same with the County Clerk. Exhibits: Proposed Second Amendment.
8. Consider approving, executing and accepting a proposed amendment and restatement to the Declaration of Trust of the McMahon Auditorium Authority. Exhibits: Proposed Amendment.
9. Consider adopting a resolution canceling the existing lease agreement with the Robert E. Greiner School for the Handicapped of Comanche County, Inc, declaring certain City-owned real property located at 10 SE “B” Avenue to be surplus property, waiving sale by competitive bid, conveying the property to the Robert E. Greiner School for the Handicapped of Comanche County, Inc, conditioning this transfer to the Greiner School on (1) repairing the structures to meet City Code, (2) abating all asbestos, and (3) holding the City harmless, and authorizing the Mayor to sign the quit claim deed. Exhibits: **Resolution 12-94**, Quit Claim Deed and Indemnification and Repair Agreement.
10. Consider approving Council Policy No. 3-2 City of Lawton General Employee Injury Prevention Program, by amending the definitions of “Incident/Accident” and “Preventable”, amending Section I. Safety Incentive Awards, subsection B. by requiring minimum training hours for each risk designation; subsection C. by redefining award items; and section IV. Disciplinary Action, subsection D by preventing an employee from being disciplined twice for the same incident/injury, providing for severability and establishing an effective date of September 27, 2012. Exhibits: Amended City Council Policy No. 3-2 City of Lawton General Employee Injury Prevention Program.

**STRICKEN FROM AGENDA**

11. Consider accepting the waterline, fire hydrants, easement, and maintenance bond in Cache Road Square Shopping Center to serve Furr’s Cafeteria and release the escrow agreement in lieu of completion of the waterline. Exhibits: Location Map. Easement and Maintenance Bond on file in City Clerk’s Office
12. Consider adopting a resolution approving the 2012 All Hazard Mitigation Plan. Exhibits: **Resolution 12-95**, 8/24/12 Oklahoma Emergency Management Approval Letter. Plan on file with City Clerk.
13. Consider authorizing a deposit to the Secretary for the Anadarko Agency- Bureau of Indian Affairs, for two permanent easements & two temporary easements for right of way needed for the South Wolf Creek Trunk Expansion #1 Project #07-2SSES. Exhibits: Letter from the Anadarko Agency requesting the negotiated compensation and Location map.

14. Consider approving plans and specifications for the Goodyear/Cache Road Intersection Project #2012-7 and authorizing staff to advertise for bids. Exhibits: Plans and specifications are on file in the Engineering Division office.
15. Consider adopting Street Light Resolution No. 478 to authorize the installation of street lights at the locations listed in the Resolution. Exhibits: Street Light Resolution No. 478.
16. Consider awarding contract (CL13-009) Sodium Hypochlorite to FSTI, Inc. from Austin, TX. Exhibits: Department recommendation, Abstract of Bids, Price Sheet.
17. Consider approving appointments to boards and commissions. Exhibits: None.

**Lawton Enhancement Trust Authority**

Mary Ann Hankins  
Ward 1  
3602 NW Julie Street  
Lawton, Oklahoma 73505  
08/11/2015

**Building Development Appeal Board**

Larry Adair  
Mechanical Contractor  
15 SW Bishop Road  
Lawton, Oklahoma 73501  
09/14/2014

Arthur Patrick  
Commercial Contractor  
6210 NW Oak Avenue  
Lawton, Oklahoma 73505  
09/14/14

Dan Tucker  
Residential Homeowner  
6916 SW Beta Avenue  
Lawton, Oklahoma 73505  
09/14/2014

**Housing Authority**

Edgar Crawford  
620 SW E Avenue  
Lawton, Oklahoma 73501  
08/24/15

**Mayor’s Commission On The Status Of Women**

Katie Noffske  
Ward 2  
1908 Kinyon Avenue  
Lawton, Oklahoma 73507  
09/14/15

Patsy Hackworth  
Ward 2  
1909 NW Andrews  
Lawton, Oklahoma 73507  
10/10/15

Victoria E Wisnom  
Ward 8  
2605 NW Cedric Circle  
Lawton, Oklahoma 73505  
09/14/15

Shelley Hossenlopp  
Ft. Still  
462 Hamilton Road Suite 120  
Ft. Sill Oklahoma 73503  
09/12/15

**Pension Trust Commission**

Terri Bayones  
212 SW 9<sup>th</sup> Street  
Lawton Oklahoma 73501  
09/28/17

**Stormwater Drainage Advisory Committee**

Don Wooley  
301 NW 82<sup>nd</sup> Street  
Lawton, OK 73505

Chuck Enix  
2301 NE Village Drive  
Lawton, Oklahoma 73507

R. A. Burt  
215 NW 74<sup>th</sup> Street  
Lawton, OK 73505

Ron Nance  
1 SW 11<sup>th</sup> Street  
Lawton, Oklahoma 73507

Councilman Haywood

Councilman Wells

18. Consider approval of payroll for the period of August 20 - September 3, 2012.

ADDENDUM:

1. Consider approving the Second Amended Implementation Agreement for the Lawton Downtown Economic Development Project among the City of Lawton, the Lawton Economic Development Authority, and the Lawton Urban Renewal Authority, and authorize the Mayor and City Clerk to execute the agreement.

Mitchell stated this amended agreement is an update of the original that was passed in 2006. There are several changes. One of the changes are that we have a new retail developer. Originally it was Ruhl & Ruhl and now we have Collett and Associates. There is now a new majority partner for the hotel/conference center, that being Journeyman Construction. There was also a change a few years ago where the TIF district was split into two increments.

MOVED by Burk, SECOND by Haywood to approve the Second Amended Implementation Agreement for the Lawton Downtown Economic Development Project among the City of Lawton, the Lawton Economic Development Authority, and the Lawton Urban Renewal Authority, and authorize the Mayor and City Clerk to execute the agreement. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

NEW BUSINESS ITEMS:

19. Hold a public hearing and consider an ordinance amending Ordinance No. 12-5 to amend the binding site plan for property located at 2007 NW 52<sup>nd</sup> Street. Exhibits: Ordinance No. 12-\_\_, Amended Site Plan, Location Map and Application.

Richard Rogalski, Community Services Director, stated on February 28, 2012, the City Council approved Ordinance No. 12-5 which rezoned approximately 10 acres of land located on the east side of NW 52<sup>nd</sup> Street approximately one-quarter mile north of Quanah Parker Trailway to P-F (Public Facilities District) zoning classification with a binding site plan for development of a nursing home. The developer, Comanche County Hospital Authority, has submitted an application to amend the binding site plan. Section 18-1-1-114.1 of the City Code provides that if a binding site plan is changed significantly, the revised site plan shall follow the same process as a rezoning request. The City Planning Commission held a public hearing and considered this request at its August 30, 2012, meeting. The CPC, by a vote of 8 – 0, with one abstention, recommended approval of the amended site plan. Notice of public hearing was mailed to 55 owners of property within 300 feet of the requested area on August 9, 2012, and proper notice was published in *The Lawton Constitution* on August 14, 2012. There have been no calls or letters against this request.

PUBLIC HEARING OPENED.

John Mackey, representing Comanche County Hospital Authority, stated that since they moved closer to the residential area, it was suggested they bring this request to the council. He stated even though the new footprint moved slightly closer to the neighborhood, the parking area is farther away plus there is a park type atmosphere between the residential area and the nursing home. He stated they will more than meet the landscaping requirements.

Shoemate questioned if this was on school land.

Mr. Mackey stated they bought ten acres of school land. He stated it is a courtyard design so the residents and their families can go outside.

Moses questioned what caused the change in the plan.

Mr. Mackey stated it was more important for the patients to be closer to the nurse's station and this is more of a neighborhood type of design.

Rick Simms, architect for the project, stated the original design was called a “K” plan and is probably the most efficient use of square footage. It has one simple nurse’s station with wings radiating off of that. In this instance they wanted to step up and do a more state of the art neighborhood facility with nursing stations spread out throughout the facility. He stated the main part looks like a block figure eight which will allow residents and family to do laps which will help with rehabilitation. He stated there will also be an eight foot covered porch in the courtyards so that residents and family can walk outside in the shade. He stated on the south side is the memory care unit which is 24 beds set up specifically for memory care residents. He stated they have a civil engineer on board who has done the stormwater calculations and water will be held in the detention ponds for a significant amount of time so that the water going through the ditch on the south side into the street is less than currently exists. He stated the idea is to step up the care for the elderly and provide a top notch facility.

Bellino-Hall questioned if there were walking paths.

Mr. Simms stated yes and the public will be able to use them.

PUBLIC HEARING CLOSED.

MOVED by Zarle, SECOND by Moses to adopt **Ordinance 12-30**, waive the reading of the ordinance and read the title only. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-30

An ordinance amending ordinance No. 12-5 which changed the zoning classification to P-F (Public Facilities District) on the tract of land which is hereinafter more particularly described in section one (1) hereof and approving the revised site plan attached as Exhibit A.

20. Consider an ordinance amending Section 16-5-1-504.1, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2005, by exempting certain cigar packages from the prohibition on glass tube sales, providing for severability, and providing for an effective date. Exhibits: Ordinance No. 12-\_\_.

Jensen stated this ordinance is the first in approximately ten that the council will see in upcoming meetings so that staff can update the city criminal code to match changes in state law last year. In 2010 there was a prohibition created by state law to outlaw certain glass tubes because they were used for drug activity. Now there is an exception in 2011 to exempt cigars that are sold in glass tubes from that prohibition.

MOVED by Shoemate, SECOND by Haywood to adopt **Ordinance 12-31**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-31

An ordinance amending Section 16-5-1-504.1, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2005, which exempts certain cigar packages from the prohibition on glass tube sales, providing for severability, and establishing an effective date.

21. Consider an ordinance amending Section 16-4-1-402.1, Division 16-4-1 Article 16-4, Chapter 16, Lawton City Code, 2005, by increasing the time and distance during and from which funeral picketing is prohibited, providing for severability, and providing for an effective date. Exhibits: Ordinance No. 12-\_\_.

Jensen stated this is another update to state law. In the past you could not picket funerals, specifically military funerals, within 500 feet of the cemetery, mortuary, church or place where the funeral is held. You also could not do so one hour before the service and one hour after the service. Now instead of 500 feet it is 1,000 feet and the period is changed from one hour to two hours before and after the service.

MOVED by Shoemate, SECOND by Zarle to adopt **Ordinance 12-32**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-32

An ordinance amending Section 16-4-1-402.1, Division 16-4-1, Article 16-4, Chapter 16, Lawton City Code, 2005, by increasing the time and distance during and from which funeral picketing is prohibited, providing for severability and providing for an effective date.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Burk stated the council will be receiving a “save the date” card for the Lawton Enhancement Trust Authority Eye Candy Award Banquet which will be held on December 6<sup>th</sup>. He stated the Keep Oklahoma Beautiful Banquet will be held on November 1<sup>st</sup> in Oklahoma City and the City of Lawton has five nominations.

Bellino-Hall stated she received an unsigned letter concerning a trailer on 50<sup>th</sup> Street that is hanging over a sidewalk. She requested that whoever wrote the letter please contact her at her office so that she can talk with both parties and come up with a win/win situation. She stated there has been a lot of concern about the dead trees in Lawton. She stated on Wednesday at 3:00 p.m. the Lawton Enhancement Trust Authority will meet and she will be on the agenda to try and figure out something they can do to solve this problem.

Burk stated he would like the council to give the go ahead to planning staff to look at set back issues. We do not have a way for a citizen to appeal the code.



Rogalski stated the issue at hand was an accessory structure that was being constructed in the rear yard on a corner lot within the fence. On the corner lot, the side yard has a twenty foot setback from the roadway for any structure. The people built it without a permit but it was in their backyard and they thought it was alright. The issue with the appeal process is that the Board of Adjustment is only allowed to vary a setback by 1/3 of the setback amount. They had a twenty foot setback and the whole building was in the setback, so there was not an appeal process, so they are faced with tearing it down or moving it somewhere else. If there was a change in code to allow an appeal process, then the Board of Adjustment would send notice out to all the neighbors in the area and they would have the ability to decide.

Council agreed to allow staff to initiate the process.

Mitchell stated he has had a request from Brad Burgess to have a meeting here next Wednesday afternoon at 2:30 p.m. to talk about design artwork for the overpasses on I-44. He stated it is open to the public.

Moses questioned the location on I-44.

Mitchell stated he believes it is the one on Rogers Lane.

Mayor Fitch stated there may be some redesign on that tri-level.

Mitchell thanked Assistant Chief James Apple for all his work while performing the duties as Acting Chief.

The Mayor and Council convened in executive session at 6:49 p.m. and reconvened in regular, open session at 7:46 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

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

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

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

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

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

Jensen read the title of item #24. No action was taken.

25. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending claim relating to damage to a City of Lawton vehicle, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #25. No action was taken.

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case of Joseph Harper and Vivian Wheeler vs. City of Lawton, CV-12-841-F, and if necessary, take appropriate action in open session. Exhibits: None.

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

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 7:48 p.m. upon motion, second and roll call vote.

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FRED L. FITCH, MAYOR

ATTEST:

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TRACI HUSHBECK, CITY CLERK