

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 13, 2016 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Samuel Curtis, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Reverend Brandon Dollarhite, Centenary United Methodist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Cherry Phillips, Ward Six
V. Gay McGahee, Ward Seven
Doug Wells, Ward Eight

ABSENT:

None

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO NANCY ELLIOTT

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Nancy Elliott.

PRESENTATION FROM DEWBERRY ARCHITECTS, INC. PROVIDING STATUS REPORT ON PUBLIC SAFETY FACILITY

Jim Healey, Sr. Project Manager, and Bruce Henley from Dewberry Architects, updated the council on the status of the public safety facility. (Presentation is on file in the City Clerk's office)

STATE OF THE CITY ADDRESS BY MAYOR FRED L. FITCH

Mayor Fitch read highlights from the State of the City speech. The entire speech is on file in the City Clerk's Office.

AUDIENCE PARTICIPATION:

Judy Neal, 504 Fort Sill Boulevard, stated she is the chairman of the Lawton Arts and Humanities Council. She invited the council to the International Festival which will be held September 23 – 25, 2016. She thanked the council for their support every year.

Morris Smith stated he spent six nights in the city jail on a traffic ticket on a stop sign that did not exist. The prosecutor refused to send an officer to check and see if there is a stop sign there and then he would never have had to spend six nights in jail. He stated Chief Smith and the City Manager have been very understanding to him. He stated the problem is communication and being able to say I made a mistake. His civil rights and due process of law have been violated. While in jail he told the jailer that he wears sacred garments and he was told to take them off. He was humiliated in that jail. He is asking the council to help him get it right.

Sarah Whittington, 1045 SE Alta Lane, stated she is here to speak about the 2012 CIP local street reconstruction on K Street. Her child goes to the daycare at the residence of Maria Ruiz who resides at 4603 SW K Street. She stated Ms. Ruiz was informed the project would take 6-8 weeks. The project began the week of March 14, 2016 and as of today, K Street is still under major construction. The City of Lawton has contracted with AE Construction and the contractor had 300 consecutive days from the date the contract was entered into, which was July 14, 2015, to complete this project. This would have put the end date at May 26, 2016. She has been in contact with engineering staff and the contractor was made aware that they were out of compliance with their contract. On May 23, 2016, the City Engineer authorized additional funds in the amount of \$45,200 and a 30 day contract extension because existing sewer lines were discovered beneath the road that were not shown on the plans. The only excuse that has been given has been weather, but the project should have been completed prior to any of the inclement weather we experienced since the project began. There have been countless dry and warm days in which nothing was done. The contractor agreed to complete the project within 300 consecutive calendar days and agreed to pay liquidated damages in the amount of \$2,000 for each consecutive calendar day thereafter. Based on this, AE Construction should be paying back the City thousands of dollars. Residents have not been able to use their driveways and have been forced to park down the street from their homes since March. She stated Ms. Ruiz has lost clients due to the ongoing construction. She hopes that this project will become a priority and that the council will comprehend the impact this is having on the citizens who deal with this on a daily basis.

Ihler stated that Ms. Whittington is right and that this project has not gone well and he feels that the contractor is overextended and he has taken on more than he can handle within the time frame he has. He requested that the council remember these complaints when they come to the council at the end of the project and that they do enforce the liquidated damages. He stated staff has been pushing the contractor and they feel the contractor has the message and he has been working on K Avenue and he will continue to move forward.

Barbara Tomley, 21 NW Kimberly Way, stated her grandchild attends that daycare and the ground around the area is very uneven. Her husband uses a cane and they pick up their

grandchildren and many times it was very muddy. She stated there are elderly people that are crossing the street.

Maria Ruiz stated this is not only about her business, but there are five families on that street.

Mayor Fitch stated this matter is being addressed and it will be addressed even more severely in the future.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JULY 26, 2016.

MOVED by Burk SECOND by Jackson to approve the minutes of Lawton City Council regular meeting of July 26, 2016. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated item #10 will be addressed separately. Wells requested item #17 and Jackson requested item #1 be considered separately.

MOVED by Wells SECOND by McGahee to approve the consent agenda with the exception of items #1, #10 and #17. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Southwestern Bell Telephone Company dba, AT&T Oklahoma in the amount of \$1,861.05 (**Res. 16-67**), Southwestern Bell Telephone Company dba, AT&T Oklahoma in the amount of \$4,593.79 (**Res. 16-68**) and Glendale McBee in the amount of \$575.00 (**Res. 16-69**). Exhibits: Legal Opinions/Recommendations, Res. 16-___, Res. 16-___ and Res 16-___.

Jackson stated all the years he has been on the council this is something that has always bothered him. When AT&T and Southwestern Bell lay their lines, most of the time they will lay their lines on top of our water lines or to the side so when we go in to dig up and work on our lines we usually tear up their telephone lines and he does not think it is fair. He is not going to vote to pay them.

Afsaneh Jabbar, Director of Water/Wastewater, stated staff has been in negotiations with AT&T for the past 3 months and have devised a plan that if they are on top of our water lines or within 5 feet of our line they will not file a claim. These two claims happened prior to the agreement so the claim had already been filed.

Burk stated he agrees and it is a constant problem and he is not going to support paying these claims.

Phillips questioned when the new agreement will start.

Jabbar stated they have reached an agreement.

Phillips questioned if this will be the last claim.

Jabbar stated yes, unless we cause damage to a line farther out than 5 feet.

Jensen stated there is no written agreement signed by anyone. For this first claim the line was properly marked and they exposed the line and we knew where it was. We don't like paying these claims. There is no agreement that his staff knows about.

Jabbar stated they have made an agreement that they will not file a claim anymore if it is within 5 feet of our line.

Phillips questioned what would happen if we don't pay these claims.

Jensen stated they have an option to file a lawsuit against us after the claim has been denied.

MOVED by Jackson SECOND by Burk to approve the claim of Glendale McBee in the amount of \$575.00 (**Res. 16-67**) and deny the claims of Southwestern Bell Telephone Company dba, AT&T Oklahoma in the amount of \$1,861.05 and Southwestern Bell Telephone Company dba, AT&T Oklahoma in the amount of \$4,593.79. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee. NAY: Wells. MOTION CARRIED.

2. Consider the following damage claim recommended for denial: Robert and Nancy Arbuckle in the amount of \$7,800.00. Exhibits: Legal Opinion/Recommendation.
3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in making payment on the judgment in the Workers' Compensation case of Robert Puccino in the Workers' Compensation Court of Existing Claims, Case No. 2014-01001Q. Exhibits: **Resolution No. 16-68**.
4. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Arthur Griffin. Exhibits: **Resolution No. 16-69**.
5. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Brent Davis. Exhibits: **Resolution No. 16-70**.
6. Consider approving a First Amendment to Sublease Agreement between the Lawton Water Authority, the City of Lawton, Oklahoma, and T-Mobile Central, LLC, and authorize the Mayor and City Clerk to execute the amendment. Exhibits: First Amendment to Sublease Agreement is on file in the City Clerk's Office.

7. Consider approving a request for the City of Lawton to Co-sponsor the Open Streets Lawton event to be held on October 29th, 2016, within the downtown area to include the provision of necessary services as appropriate. Exhibits: None.
8. Consider accepting an engagement letter for technical accounting and consulting services with the firm of Crawford & Associates, P.C., and provide guidance to staff as appropriate. Exhibits: Engagement Letter with Crawford & Associates, P.C.
9. Consider accepting Fiscal Year 2016-2017 supplemental grant funds in the amount of \$3,500.00 from the Federal Corporation for National and Community Service (CNCS) for the Retired and Senior Volunteer Program (RSVP). Exhibits: Federal CNCS Notice of Grant Award.
10. Consider approving Elmer Thomas Park standard lease agreement with Carson & Barnes Circus for two performances Monday and Tuesday, October 10–11, 2016, and consider waiving certain fees associated with the circus performances due to the circus being co-sponsored by Holiday in the Park and upon Carson & Barnes' agreement to pay Holiday in the Park a portion of ticket sales. Exhibits: Standard Elmer Thomas Park lease agreement on file in the City Clerk's office.

Michael Tennis, Chairman of Holiday in the Park, stated Holiday in the Park has gotten with Carson & Barnes circus and in the original agreement they asked the City to waive certain fees. What were not included were the fees under Article A-7-8 which deals with circuses, carnivals and amusement rides. He is requesting that the City also waive these fees. He stated they should collect about \$3,000 for Holiday in the Park, which is about the same as the City would have collected.

Burk stated this is a great event and Holiday in the Park was designed to raise money to offset expenditures to replace lights and have different events in the park. He would like to see the council waive the fees and amend the contract.

Jensen stated they will need to make a floor amendment as part of the motion.

MOVED by Burk SECOND by Jackson to approve an Elmer Thomas Park standard lease agreement with Carson & Barnes Circus and waive the fees listed in Article A-7-8 for Circuses, carnivals and amusement rides.

Tanner stated the fees they are waiving are going to Holiday in the Park.

Burk stated this is a fundraising event for Holiday in the Park and instead of them having to pay this money...

Tanner questioned if they were waiving the fees for Holiday in the Park, not the circus.

Burk stated yes.

Phillips questioned if the city crews will clean up after this event.

Jack Hanna, Parks and Recreation Director, stated there is a \$1,000 cleaning deposit that is refundable if they leave the site as they received it.

Burk stated these fees would cut into the money that Holiday in the Park would make off of this event. They are using the money to relight the big tree in the park. He stated they shouldn't have to pay fees to raise money to help our community. He stated they really have exclusive rights in a lot of our contracts so that when they have events at the holiday house, every dollar that comes out of there goes to Holiday in the Park to make them sustainable.

Wells stated it is not Holiday in the Park paying these fees, it is the circus. In lieu of paying these fees, they will give Holiday in the Park 5% of ticket sales.

Hanna stated that is correct. By waiving the fees for the circus, this will keep us in the loop of their route every year.

Mr. Tennis stated that typically the money collected for the fees would go in the general fund and they would lose out, they would do all the work and get nothing.

VOTE ON THE MOTION: AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

11. Consider approving an agreement between the Board of Education of Lawton Public Schools for and on behalf of Douglass Learning Center, a Lawton Public School facility, 102 E. Gore Blvd., Lawton, OK; and City of Lawton for use of the Patterson Center, located at 4 NE Arlington Ave, as an evacuation site for Douglass Learning Center. Exhibits: Memorandum of Agreement.
12. Consider a request to rename and rededicate the south end of the Kathy Newcombe Park in the Fields and Dunning addition from 12th Street and Ferris Avenue to 12th and Cherry Avenue to the Walker Family Park. Exhibits: Letter, Ross Hankins, Parks and Recreation Commission Chairman and Proposed Park Site Map.
13. Consider accepting \$57,500.00 which was authorized by the Highland Cemetery Board of Trustees from their Highland Cemetery Perpetual Care Fund, and approve allocating said amount into the City of Lawton Cemetery Care Fund for the purchase of cemetery equipment, landscape, and maintenance items. Exhibits:
14. Consider authorizing staff to prepare and issue a Request for Proposal for a Repair Parts Management Program in support of the City's fleet of vehicles and equipment. Exhibits: None.

15. Consider awarding a requirements contract for the Emergency Sewer Line Replacement SSES 16-2 Requirements Contract to Krapff Reynolds Construction Company to be utilized for repair and replacement of collapsed sewer lines resulting in emergency conditions (remaining projects from the May, 2015 Federal Declared Disaster Flooding event and future emergency projects) and authorizing the use of the Emergency Reserve Fund in the amount of \$400,000 for those remaining projects from the May, 2015 Federal Declared Disaster Flooding event. Exhibits: The Construction Contract and Bid Tabulations are on file in the Sewer System Technical Division's Office.
16. Consider waiving tipping fees allowing Unified Lawton Grows Lawton, Inc. ("Unified Lawton") (a 501(c)(3)) State of Oklahoma and Federal Internal Revenue Service approved Not-for-Profit organization to dispose of trash and building debris from the old Dunbar School at the City Landfill without charge. Exhibits: None.
17. Consider approving Amendment No. 5 to the March 14, 2011 agreement with CH2M Hill Engineers, Inc. for professional engineering design services, to evaluate design options and to make recommendations for rehabilitation and replacement of equipment and for repair and reconstruction of spillway for Lawtonka and Ellsworth dams. Exhibits: Amendment to the agreement is on file in the City Clerk's office.

Wells stated that we are saying in here that it is because of the flooding, are we going to eventually take this cost plus any repair costs we have and turn it in to FEMA to see if we can get reimbursed?

Ihler stated we have already submitted preliminary costs to FEMA. This all happened in the May 2015 flood where the gates and spillway were damaged and we have submitted to FEMA a couple of times on this particular area and we will be submitting a request for funding. FEMA will usually not pay for design.

MOVED by Wells SECOND by Jackson to approve Amendment No. 5 to the March 14, 2011 agreement with CH2M Hill Engineers, Inc. for professional engineering design services, to evaluate design options and to make recommendations for rehabilitation and replacement of equipment and for repair and reconstruction of spillway for Lawtonka and Ellsworth dams. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

18. Consider awarding contract (RFPCL17-001) Annual Audit – City Retirement Fund to Finley & Cook, PLLC, CPA's of Shawnee, OK. Exhibits: Department Recommendation, Proposal Packets on file with Financial Services.
19. Consider extending contract (RFPCL13-051) Maintenance of Public Grounds to Bedrock Nursery of Lawton, OK on a month-to-month basis, not to exceed three (3) months, ending November 30, 2016. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

20. Consider approving appointments to boards and commissions. Exhibits: None.

Robert W. Kindt
2302 NW Ivanhoe Place
Lawton Oklahoma 73505
09/10/2021

21. Consider approval of payroll for the periods of August 15 – September 11, 2016.

NEW BUSINESS ITEMS:

22. Consider directing staff to: (1) develop for future council approval a defined contribution pension plan similar to that of a 401(K) plan to go into effect at some point in the near future for general employees hired after that point, and, in connection with developing such a plan, (2) prepare an ordinance modifying the current defined benefit plan's funding requirements to ensure it remains solvent for the indefinite future. Exhibits: Dean Actuaries June 23, 2016 report titled "Impact of DC [Defined Contribution] Plan Alternatives on ERS [Employee Retirement System] Funding."

Wells stated he has attended the Employee Advisory Committee (EAC) meetings and a vast majority of the employees would like to keep the current system. The Pension Trust Committee also held a meeting and looked at the actuary study and they voted to keep the current system but said if they do go to the DC plan, they make sure the ordinance says that the 6% or more be put into the current retirement system that the City would be saving off of the new employees until the new retirement system is 100% funded. The actuary study basically said that we could stay with the current plan with the changes they made and sometime in the future, about 25 years, the plan would be self sufficient if all the assumptions are met. By going to the DC plan and putting the 6% into the current retirement plan, the current retirement plan would be self sufficient a little quicker than staying under the current plan. He stated the council members have probably received some emails from employees and you get the feeling that they don't want to change. He has also had some emails and calls from employees that say they do want to change. He stated some have said that the council always talks about keeping the police, fire and general employees equal on everything and since the police and fire are state systems, they would like to keep the City the same. They are not equal right now. Police and fire both have a 75% cap on their retirement, 30 years, 75% is the highest they can go. General employees are not capped, if a person works longer they can get more of their pay than just the 30 years, 69%. The police and fire do not pay social security, so that saves the City 6.25% on every fireman and policeman. The police and fire and hopefully all the new officers hired since 1986, when they do retire as police or fire and then become eligible for social security, even if they have their 40 quarters working other jobs after they left the city, they are going to have an offset on their social security and will be reduced by some amount. At the City, the employee currently pays 6.25% into social security and 6.30% into the pension system and the City contributes 10% to the pension system for a total of 22.5% and the City's social security is another 6.28% which is total cost for every general employee at 28.8% towards retirement of those employees because they actually get two retirement systems, social security and the City's pension system. With the police department the City pays 13% and the employee pays 8% for a total of 21%, so it is 7% less than

what we are paying for the City employees. For the fire department the City pays 14% and the employee pays 9% for a total of 23%. He stated one statement that was brought up was that our current system will lead towards better hiring and retention of employees. He stated that statistics show that the younger generation don't plan on staying anywhere for more than four or five years. He stated the committee is recommending we change to a vested type plan where the City puts in 3.5% and the employee is required to put in 3.5% and if they stay two years and then leave they would get 25% of the City's contribution back plus all of their 3.5%. If they stay four years they would get 50% of the City's 3.5% back plus their contribution. At six years they would get 75% back plus their contribution and at eight years they would be fully invested and they would get 100% of the City's contribution plus their contribution, plus any money those have made through investments. The money would be invested by a professional organization. He stated they need to understand that the stock market fluctuates and since this program has been in effect, one year it has been up 14%, last year it was down 2.65%. Overall since the five years this has been in effect, it is at 5.9%. The actuary said it has to be at 6.5% to be self sustaining for the future. The actuary said that for seven years, the City needed to contribute an extra \$500,000 a year above what we currently contribute and we have not had the funds to do that. By changing the plan, we stop building a liability for the City to meet and the citizens to meet. We take care of the people that are currently in the system and guarantee their pension system, but we don't gain any additional liability. The new system would be a self funded system with the City paying 3.5%. The committee's recommendation is to direct staff to start the implementation of a 401(K) system to go into effect by June 30, 2017 at the latest.

Jackson clarified that this will not affect any current employees, only new employees.

Wells stated yes.

Judy Franco, Chairman of the Employee Advisory Committee, stated on behalf of the general employees she represents, she is requesting that the council deny this item. She stated that employees want to keep the current plan for future employees.

McGahee questioned why the employees want to keep the current plan in place for future employees.

Ms. Franco stated it is a benefit for our future employees, it is something for them to invest in. That is why she came to the City, to have that retirement that is guaranteed for the rest of her life.

Mayor Fitch stated if you keep the current system for all employees and new hires you are adding more possible negative liability to the future. By not changing the plan it could have an adverse effect on the current employees because you are adding more liability to the pension plan.

Ms. France questioned why they could not increase the employee's percentage rate.

Wells stated he does not think employees want less take home pay. This way new employees actually end up with 6.5% more in their paycheck. We just raised insurance rates by 10%. He stated the important thing is the long term liability. Across the country cities and states are

declaring bankruptcy or changing pension systems and private companies have given up their pension plans all together and are being run by the federal retirement corporation board out of Washington, D. C. with a max on what they will pay to retirees. For the citizens, we owe them a responsibility not to continue increasing the possible liabilities that the City might have to make up or cut the benefits that we are saying we are going to pay employees.

Tanner stated he volunteered to be on this committee because we need to have the money to pay employees when they retire. He stated he has read the 2014 audit and he was curious how far in debt is the City of Lawton, not including what we owe the general employees, the part that is unfunded. There are some unfunded liabilities that go along with the police and fire even though we pay that to the state. We are approximately \$30 million underfunded there. We have paid some of the bond debt off, but it is \$152 million, so you add \$60 million to that and Lawton has a pretty big debt. We can't keep feeding the system. In 2012, the trend for the retirement fund, we paid out more than we paid in. In 2013 it was the same thing. In 2014 it was the same. The trend is that we continue to pay in less and spend more. We can't keep feeding a system that probably will go bankrupt. According to the 2014 audit, we have 771 employees vested in this retirement plan, out of that 244 have already retired and we know that we are approximately \$30 million unfunded. This \$30 million could turn into \$40 million or \$50 million. Right now we kind of know where we are at and if we keep adding more general employees into this plan, his concern is that we are not going to be able to pay our current obligations. Every dime that the City saves with this new 401(K) plan goes directly into the current general employee retirement fund to keep it solvent. He feels they need to go with this new proposal to keep the current plan solvent.

McGahee stated the concern of the EAC is that this seems to cut benefits. She questioned if this was a better plan than what is in place now.

Wells stated this protects the current employees under the current plan. The actuary said it would get it level quicker. He stated four or five years ago the fix that was put in place took care of all general employees that were working at that time, but it changed it for new hires and their retirement will actually be 30% less than the older general employees. This plan takes care of all the general employees that are there for the future. Most companies and a lot of cities are going to these types of plans. It only makes sense to stop increasing the liability so we can insure that the employees we have left in the current system have their pension guaranteed.

Burk stated he has had to fight with this in his own business with trying to figure out how to fund retirement and health care. He sees what general employees make hour to hour and it is truly embarrassing and we wonder why we can't fill positions. He believes that the committee has worked hard to come up with a solution to make the current general employees whole and to make sure they are covered. He stated if they do this plan for future employees they need to figure out a way to increase the pay rate for those employees that are coming on, especially in the trade positions. They need to find a retirement solution that will help with making the millennials want to come to work here.

Bellino-Hall questioned if the new plan was portable and do they take the City's portion.

Wells stated it would depend on when they left. If they left after 8 years they would get the total portion of the City's contribution plus their 3.5%.

Bellino-Hall stated this sounds like a better deal because most young people will move on.

Wells stated with the current system, the employee becomes vested after 10 years and they would get both the City's money and their money. They have to roll it over into a 401(K) if they leave before retirement or they pay a tax penalty.

Phillips stated they have to recognize that if the new employee leaves, a lot of times they leave because of better benefits and that bothers her. She is concerned about this situation because if people only stay 2-4 years then we have to spend money to retrain new people coming in, over and over again. She has a lot of doubts about this.

Wells stated we have a 20%-25% turnover rate now and have had that for years. To him the benefits here are up to 30 days leave a year. We have 40 hours of flex leave and 12 days of sick leave. There is no private business that gives that kind of time off to employees. They will also still have a retirement system that is portable. Younger people don't plan on working anyplace for a long period of time anymore.

Tanner stated these benefits are just future promises and it's not a benefit if we can't afford to pay you and that is what this is all about. To make good, in the future, on our current promises.

Tim Wilson, Deputy City Attorney, stated he has been involved with the pension system for at least 10 years. He has been the attorney that has been assigned to the pension trust meetings and he has watched over the years as there have been issues with the pension system. He stated five years ago they took a big step and made changes to the benefit package and also increased the employee and employer contributions. They did that by negotiating with the general employee union at that time. They did this following the actuary's recommendation that over time, 25 years or so, assuming the conditions are met, that the plan would become self funded. It is progressing on a tract that should take it to where it is going to be funded. The plan is on average meeting its annual returns. He stated the move to go to a change is premature in that the plan itself is for the most part stable at 60 something percent funded, where it has been for several years. It will take time for it to fix itself if we keep the current system because the employees on the old plan will have to retire and pass away and the Tier 2 employees that get the lesser benefit will get paid out at a lesser rate. He feels this is premature and if they see the problem is getting worse, this is something they can bring back to look at. He stated the committee raises the issue of portability, but the employees that vest at 10 years will generally want to stay and they want that benefit of a defined benefit plan with a guaranteed retirement knowing they will get that certain amount. The biggest difference would also be a potential for retention. The older employees tend to stay for the defined benefit plan and they have your knowledge base and you do not want to lose that. In the future that knowledge base will not have that same desire to stay and you could lose those senior employees who can take that money and go elsewhere. He stated when comparing the defined contribution plan versus the defined benefit plan you are looking at who absorbs the risk. Under a defined benefit plan the risk is pooled over many people over a long period of time and the risk is on the city side. Under

a defined contribution plan, that risk is in each individual. They have to invest it and if the stock market goes bad, those individual accounts go bad. He feels defined benefit plan is better able to absorb that risk over a longer period of time. He stated with a defined contribution plan they are looking at an account which might have several hundred thousand dollars that these employees will have to live on for the rest of their lives. What type of retirement plan are we going to be providing for our new employees? Police and fire have a defined benefit plan and he would ask that the council leave the general employees defined benefit plan alone. He stated in preparation for this meeting he went back and looked at the trust document which has been in place since 1970 and it has been serving the citizens and the employees of the City of Lawton for the past 45 years and his position is to leave it alone for now and continue to monitor it and if we see a problem we can always bring this back and look at it.

Wells stated the new employees in past five years may not know that they are doing the same job as the person next to them but they will retire at 30% less.

Wilson stated the newer employees may not know the difference between the two retirement systems.

Wells stated those in the union were voting to keep their system in place at the same benefit level. He would bet that 70%-80% of the new employees don't realize that they will retire at 30% less.

Bart Hadley, Chairman of the Pension Trust, stated he sent the council a letter stating the position of the pension trust and although they are not in favor of this change, the primary goal is to ensure the solvency of the current plan and if council decides to go with that plan, the trust is asking that we follow the actuary's guidance and the committees current recommendation that an equivalent of 6.5% of the future employees salary would continue to be deposited into the current defined benefit plan because without that level of funding of a sustained period of time it will negatively affect our current plan. They need to do all they can to ensure that it doesn't change.

Tanner clarified that Mr. Hadley is talking about the 6.5% that the City pay in and matches the savings that we have if they vote in this new 401(K) plan where the new hires will have 3.5% taken out of their pay and the 6.5% left over that the City would put into the current retirement plan.

Hadley stated currently the City pays 10% of an employee's salary into the defined benefit plan. Under the proposed plan, the City would contribute 3.5% for all future employees and match their mandatory contribution into their 401(K) and that remaining 6.5% savings for the City would then continue to go into the defined benefit plan, because without that it could bankrupt the retirement system that we currently have.

Wells stated the motion is that we include in the incorporating documents that it stay funded at that level until the pension is 100% funded. He stated the actuary said 6% and the committee is recommending 6.5%.

Hadley stated that is for an indefinite period as well and the committee has made a recommendation that the intent would be to continue that 6.5% funding level until the defined benefit plan is 100% funded, and at that point they could consider reducing it.

McGahee stated that under the proposed plan, new employees might be getting even less than all current employees.

Hadley stated if employees are going to plan for the future they would need to contribute more than the mandatory 3.5%. They will be able to contribute as much as they want up to the IRS limits.

Wells questioned the average return with OMRF. He stated it is better than the 6.5%.

Chase Massie, Human Resources Director, stated this would bring 2.8% more home in the pockets of the employees.

Phillips questioned the cost to do all this work.

Massie stated that OMRF is non profit and there is no fee.

Phillips questioned the cost to develop this plan.

Wilson stated to implement this plan they will need to make some language changes in chapter 17 of the city code which would need to be reviewed by the pension attorney, which would be some cost. They would need to add a new division in the retirement section that would deal with the defined contribution plan.

MOVED by Wells SECOND by Morford to direct staff to develop for future council approval a defined contribution pension plan similar to that of a 401(K) plan to go into effect at some point in the near future for general employees hired after that point, and, in connection with developing such a plan, prepare an ordinance modifying the current defined benefit plan's funding requirements to ensure it remains solvent for the indefinite future. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Wells. NAY: None. Phillips, McGahee. MOTION CARRIED.

Wells stated he had mixed emotions on this as a former general employee who retired. If he was still a general employee he would be saying what the employees are saying, but as a council member he has a different responsibility.

23. Consider an ordinance pertaining to Personnel Policies and Procedures amending Section 17-2-11-232, Division 17-2-11, Article 17-2, Chapter 17, Lawton City Code, 2015, by incorporating language from Section C-8-6 of the city charter and repealing inconsistent code language so as to make the nepotism provisions in city code consistent with the charter, providing for severability and establishing an effective date. Exhibits: Ordinance 16-__ and Charter Section C-8-6.

Massie stated this will eliminate confusion between the city code and the city charter. The city charter supersedes the code and the way they are written now, they consistently get employees asking questions which leads to confusion. This will take the language from the charter and place it in the city code. They will look at this policy altogether during the next charter change discussion.

MOVED by Wells SECOND by McGahee to adopt **Ordinance 16-26**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-26

An ordinance pertaining to personnel policies and procedures amending Section 17-2-11-232, Division 17-2-11, Article 17-2, Chapter 17, Lawton City Code, 2015, by adding language from the city charter and repealing contradictory language to allow for the charter and the city code to be consistent, providing for severability and establishing an effective date of thirty days from today.

ADDENDUM:

1. Consider awarding (CL17-003) Manhole Coating Product to Corgill Construction, Inc. of Greenwood, AR. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

Jensen stated there is a change to be made on the floor regarding insurance.

Ihler stated it was originally bid and did not require insurance and then they contacted everybody that bid and they did provide insurance.

Jensen stated we are going to amend the contract to say that insurance is required as part of the motion even though they have already provided insurance. It has to be a requirement.

MOVED by Wells SECOND by Jackson to award (CL17-003) Manhole Coating Product to Corgill Construction, Inc. of Greenwood, AR to include the insurance requirement into the contract. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells stated he would remind the citizens who shop online that it takes the sales tax away from the city government and if we don't get sales tax we cut services or raise utility rates. He stated this is a very critical issue.

Phillips stated she attended the Cops and Kids event on Saturday and it is a great event. She thanked staff for their support.

Tanner stated he has had some complaints about street lights being out on 2nd Street between Ferris and C Avenue.

Ihler stated he is not sure that the City changes those out but he will verify that with PSO.

The Mayor and Council convened in executive session at 8:49 p.m. and reconvened in regular, open session at 9:07 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

ADDENDUM:

2. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending claim involving the Oklahoma Tax Commission's July 18, 2016 denial of the City's Multiple Injury Trust Fund rebate request for tax year 2015, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of the addendum.

MOVED by Wells SECOND by Jackson to authorize the City Attorney to file a written protest with the Oklahoma Tax Commission over the July 18, 2016 denial of the City's multiple injury trust fund rebate request. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending grievance arbitration titled International Union of Police Associations (IUPA), AFL-CIO, Local 24 & Mary Lile vs. City of Lawton, FMCS # 160125-52572-6, and take action in open session, if necessary. Exhibits: None.

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

There being no further business to consider, the meeting adjourned at 9:09 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK