

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FERUARY 14, 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 6:13 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Dr. Keith Miles, Central 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

Mitchell introduced Louis Jackson, a 7th grader who spent the day with staff.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF DECEMBER 20, 2011 AND THE REGULAR AND SPECIAL MEETINGS OF JANUARY 24, 2012.

MOVED by Burk SECOND by Shoemate to approve the minutes of Lawton City Council regular meeting of December 20, 2011 and the special and regular meetings of January 24, 2012. AYE: Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood. NAY: None. MOTION CARRIED.

Mayor Fitch introduced the newest council member, George L. Moses, who was sworn in prior to the 5:00 p.m. special meeting.

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.

Wells requested items #7, #9 and #13 be considered separately.

MOVED by Burk SECOND by Tennis to approve the consent agenda with the exception of items #7, #9 and #13. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Ricky and Sara Taliaferro in the amount of \$2,325.53. Exhibits: **Resolution 12-11** and Legal Opinion/Recommendation.
2. Consider the following damage claims recommended for denial: George McKindra in the amount of \$9,890.00, and Susan and John Simmons in the amount of \$2,000.00. Exhibits: Legal Opinion/Recommendation.
3. Consider adopting a resolution approving payment on the judgment in the Workers' Compensation case of William Guthrie in the Workers' Compensation Court, Case No. 2010-10441F. Exhibits: **Resolution 12-12**.
4. Consider approving an Outside Water Sales Contract with Philip and Lisa Tugmon, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.
5. Consider approving an amendment to Council Policy 2-1 on the initiation of civil suits and other legal proceedings, to include adding a provision to regulate the administration of Lawton Code Section 11-5-501 by requiring Council approval in certain instances before proceeding with an action to recover service fees for the costs associated with the deployment of Fire Department assets. Exhibits: Proposed Council Policy 2-1.
6. Consider approving contract with Lawton Community Theatre for three performances of "No One Will Marry a Princess with a Tree Growing out of Her Head!" on Thursday, April 5, 2012. Exhibits: Contract on file in City Clerk's office.
7. Consider approving request from the Arts & Humanities Division to pursue applying for a Local Government Challenge Grant from the Oklahoma Arts Council for FY 2012-13. Exhibits: None.

Wells questioned if the \$5,000 was a request for a new appropriation or was it something they have every year.

Billie Whipp, Arts and Humanities Division, stated this is not a new appropriation, this has been in the budget for the past ten years.

MOVED by Wells SECOND by Haywood to approve request from the Arts & Humanities Division to pursue applying for a Local Government Challenge Grant from the Oklahoma Arts Council for FY 2012-13 AYE: Tenis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

8. Consider ratifying the Affordable Care Act's Health Care Innovation grant application, submitted to the Department of Health & Human Services to potentially fund the purchase of nine (9) Cardiac Monitors/Defibrillators for the Fire Department's use during Emergency Medical Response. Exhibits: None.
9. Consider approving a credit adjustment in the amount of \$6,698.64 for one month's bill to Buddy Green's service account #00010262 for his property located at 230 SE Heather Lane for an undetected, underground leak on the customer's service line. Exhibits: Advance Enterprises, Inc., invoice dated 12/29/2011.

Wells questioned if we are doing anything to detect these leaks earlier and inform the residents of the leak. He stated we have lost 10% of one days pumping because of a leak. It seems to him that since we have new software that reads the meters every hour we could come up with something that would allow us to notify a customer quicker than every thirty days.

Mayor Fitch stated this happened over the holiday weekend and it was caught within about four days.

Wells stated he is not sure it was caught that quickly.

Barbara Curren, Revenue Services Supervisor, stated this was around the holidays and as soon as they received the report after the Christmas holiday they notified Mr. Green and he had already fixed the leak. She stated when they receive the reports of exceptions they have been trying to notify multiple customers of their high consumption so that they are made aware there is a possible problem. They are working with Sensus on the MDM software trying to get more efficient reports, but there are so many supposed leaks reported on that system and they are not sure if they are actual leaks. They don't have the manpower and time to work these reports the way they are now.

Rick Endicott, Finance Director, stated there is a misconception that the MDM system is different than the system when they read it for the actual billing. In order to detect a leak, they could look at things over 100,000 gallons for the day for exception reports that they already get, but they cannot look at 38,000 accounts every hour on the hour. What is done, at the end of the month when a cycle is read, an exception is produced and as best they can, they notify those customers that they think have a leak. He stated they notify a lot more customers than what the council is aware of. With the new system they do have the ability to look at individual customers if they think they have a leak. They can look at their system and see what it is doing over a 24 hour, weekly or monthly period. To look at every account on a daily basis would be impossible because they do not have the manpower to do that. They are just trying to identify the biggest problems. In this situation staff did contact the customer.

Wells stated staff has the file now that has the readings every hour for every customer. Data processing should be able to write a small routine that goes in and reads that file at midnight every night and looks and if a residential has a consumption for three hours in a row between midnight and 6 a.m., most are not up using water so if they have consumption they could have a leak. There are programs that would not require staff to look at it but would give a report.

Endicott stated he respectfully disagrees.

Haywood questioned if they had software that would tell them each morning that things are not correct.

Endicott stated they have software that would tell them if you are using water, either by a leak or if the customer is actually using the water. They have the ability to see something running for 24 hours and this will show up on an exception list, but you have to look at it over a billing period. With 38,000 accounts they can't possibly measure that on a 24 hour basis.

Burk stated he feels the problem is this policy. If they have roughly 30,000 customers, that leak alone cost each customer 22 cents. The rest of the city is paying for this either today or down the road with utility rate increases and it is just not right. People should have responsibility for their service lines and knowing if there is water running down their toilets. We have paid for this as a city for months and months now and the numbers are getting bigger and bigger. He would like to see staff bring back the policy and let council make some adjustments and figure out a more equitable way for all of us.

Endicott stated they have called approximately 10-12 communities and have done extensive research on how other communities handle leak adjustments and they are all over the board. Some pay everything and some don't do anything. We are right in the middle.

Wells questioned if he could meet with IT staff regarding his suggestion.

Endicott stated he is more than welcome anytime.

MOVED by Wells SECOND by Zarle to approve a credit adjustment in the amount of \$6,698.64 for one month's bill to Buddy Green's service account #00010262 for his property located at 230 SE Heather Lane for an undetected, underground leak on the customer's service line. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

10. Consider approving the construction plat for the Replat of Lot 3, Block 1, Bilbrey's East Plaza subject to conditions. Exhibits: Location Map.
11. Consider accepting the left turn lane and maintenance bond for the Dollar General Store located at 6315 W Gore Boulevard. Exhibits: Location Map. Maintenance Bond is on file in City Clerk's Office.

12. Consider a request from the Fairway Villas Condominium Association for acceptance of water lines within Fairway Villas subdivision. Exhibits: Letter from Association
13. Consider approving the construction plat for West Hill, Part 2, subject to conditions. Exhibits: Plat Map.

Wells questioned how they would know if the conditions are ever met.

Richard Rogalski, Community Services Director, stated when a plat gets down to a measurable amount of conditions and they are not catastrophic but technical issues, they bring it forward. Some of these conditions are already done since the consultant has been working on these since it went to the City Planning Commission. When a consultant feels he has all the conditions met, he submits six sets of plan to the planning division and staff makes sure the conditions have been met and that is when the plans are stamped and a pre-work meeting is held. Staff makes sure these conditions have been met.

Wells clarified that someone is ensuring that these conditions are completed.

Rogalski stated staff does a good job with checks and balances on the staff level to make sure all of this is done.

MOVED by Wells SECOND by Zarle to approve the construction plat for West Hill, Part 2, subject to conditions. AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED.

14. Consider re-approving the construction plans for traffic signalization on East Gore Boulevard at the Fort Sill Apache Casino located at 2401 East Gore Boulevard. Exhibits: Site Plan.
15. Consider accepting the Wastewater Improvements Work Package No. 1 Project #2008-11 as constructed by Archer Western Contractors and placing the Maintenance Bond into effect. Exhibits: None.
16. Consider approving the proposed Memorandum of Understanding (MOU) between the City of Lawton and Comanche County Health Department (CCHD) to participate in the planning and transport of medication as part of a Mass Immunization/Prophylaxis Strategy (MIPS), and authorizing the Mayor and City Clerk to execute the agreement. Exhibits: Memorandum of Understanding (on file with the City Clerk).
17. Consider approving a consent document for the assignment of interest from PSA-Dewberry, Inc. to Dewberry-Goodkind, Inc. on City agreements - Nine Mile Creek Sewer Line Project #2008-2, 2008 CIP Street Projects and Santa Fe Bridge Replacement Project #2010-2. Exhibits: PSA Dewberry, Inc. letter dated December 15, 2011, Consent to Assignment. Project Agreements are on file in the City Clerk's office.
18. Consider acknowledging the receipt of a Tier I permit from the Oklahoma Department of Environmental Quality to supply water to Valley View Estates located east of NE 60th

Street and north of NE Cache Road in the SW/4 of Section 24, T2N, R11W, I.M., Comanche County, Oklahoma. Exhibits: Permit to supply water on file in the City Clerk's Office.

19. Consider approving Change Order #1 and accepting the 2008 CIP Residential Streets Phase 3 Project #2010-3 as constructed by A.E. Construction Co. and placing the Maintenance Bond into effect. Exhibits: None.
20. Consider extending the contract City Employee Accidental Death Insurance with Zurich American Insurance Co. of Dallas, TX. Exhibits: Department Recommendation, Price Sheet.
21. Consider extending the contract City Employee Life Insurance with Lincoln National Life Insurance Company of Omaha, NE. Exhibits: Department Recommendation, Lincoln Financial Group letter dated 1/23/12. Contract is on file in the City Clerk's Office.
22. Consider extending (CL11-019) Wrecker Service to Priest Brothers, Inc. Lawton, OK. Exhibits: Department recommendation, contract extension form, price sheet.
23. Consider extending (CL10-035) Mowing & Litter Contract Area: Rogers Lane from I-44 to Hwy 62 W on Ramp; Pump & Lift Stations; Water Treatment Plant/Sludge Lagoons & Lake Ellsworth Dam to Teen Challenge of Oklahoma from Cache, OK. Exhibits: Department recommendation, contract extension form, price sheet.
24. Consider extending (CL11-018) Mowing & Litter Contract Area: McMahon Auditorium & Great Plains Museum Front & Parking Lots to Teen Challenge of Oklahoma from Cache, OK. Exhibits: Department recommendation, contract extension form, price sheet.
25. Consider awarding contract (CL12-024) Patching Material to Quadex, Inc from North Little Rock, AR. Exhibits: Department recommendation, abstract of bids, price sheet.
26. Consider extending (CL11-011) Liquid Aluminum Sulfate to Chameleon Industries of Mesquite, Texas. Exhibits: Department recommendation, contract extension form, price sheet.
27. Consider approving appointments to boards and commissions. Exhibits: None.

City Planning Commission (CPC)

John Jones – Mayor's Appointment
4301 NW Cache Road
Lawton, Oklahoma 73505
01/11/15

Historical Preservation Commission

Deborah Jones
Public
2920 NW Templeton Terrace

Cherry Phillips
Public
6931 NW Eisenhower Drive

Lawton, Oklahoma 73505
01/27/14

Lawton, Oklahoma 73505
01/27/14

Parks & Recreation Commission

Terry Brierton
1314 NW Maple Avenue
Lawton Oklahoma 73507
01/01/14

Eric Sharum
3003 NE Stratford Circle
Lawton, Oklahoma 73507
01/01/14

John C Thompson
2618 NW 77th Street
Lawton, Oklahoma 73505
01/01/14

David Madigan
4330 NW Cache Road
Lawton, Oklahoma 73505
01/01/14

Jason Davis – Mayor’s Appointment
236 SE Sungate Boulevard
Lawton, Oklahoma 73501
01/01/14

Redistricting Committee

Jim Cunningham
810 NW Arlington
Lawton, Oklahoma 73507
Unexpired Term 07/01/12

Traffic Commission

David Means
PO Box 665
Lawton Oklahoma 73502
2/10/15

Randy Somerlott
3018 NE Lancaster
Lawton, Oklahoma 73507
Unexpired Term 04/26/14

28. Consider approval of payroll for the period of January 23 – February 5, 2012.

NEW BUSINESS ITEMS:

29. Hold a public hearing and consider an ordinance closing 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, located approximately at 101 SE D Avenue. Exhibits: Ordinance No. 12-___, Application and Location Map.

Rogalski stated on January 10, 2012, the City Council set the date of February 14, 2012 to hold a public hearing and consider an ordinance closing 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. This request was submitted by Dale Miller, who is the owner of Lots 12 – 16, Block 9, and the unplatted property to the east of the alley adjacent to these lots. The property is located on the south side of SE D Avenue between SE Larrance Street and SE Wallock Street. There is

an existing brick structure on this property which was constructed in the 1960's. Mr. Miller wants the easements closed and vacated to have clear title to the property. In February 2011 the City Council closed the 20-foot alley adjacent to Lots 1 – 11 in this block along with the 5-foot alleys between Lots 1 - 11.

Notice of public hearing was mailed to owners of property within 300 feet of the requested area and to private utility companies on January 13, 2012, and proper notice was published in *The Lawton Constitution* on January 29, 2012. No objections to the requested closure have been received.

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

MOVED by Haywood, SECOND by Shoemate to adopt **Ordinance 12-03**, waive the reading of the ordinance, read the title only. AYE: Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-03

An ordinance closing the 20-foot alley located adjacent to lots 12 – 16, block 9, Industrial Addition and the 5-foot alleys located between lots 12– 16, block 9, Industrial Addition.

30. Hold a public hearing and adopt a resolution declaring the structures located at: 307 S.W. Summit Avenue, 512 S.W. Park Avenue, 804 S.W. 4th Street, 1514 S.W. "G" Avenue, 1810 S.W. 18th Street, 2522 S.W. "G" Avenue, 2811 N.W. Lynn Circle to be dilapidated, detrimental to the health, safety or welfare of the general public and community, a blighting influence, and a public nuisance; directing the owner(s) to abate the nuisance by obtaining a remodel or demolition permit within thirty (30) days; authorizing summary abatement of the nuisance should the owner(s) fail to abate the nuisance; and alternatively authorizing the City Attorney to commence legal action in district court to abate the nuisance if summary abatement is not economically practical. Exhibits: Seven resolutions and summary documents. Supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

307 S.W. Summit Avenue

Anthony Griffith, Neighborhood Services Supervisor, reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since June 2006. Griffith presented photographs of the property.

Moses questioned if the owner was aware that this action is being taken.

Griffith stated thirty days ago staff sent out an initial notice that alerted the owner that staff is considering bringing this structure before the city council. They gave the owner the opportunity to come forward to pull a remodel or demolition permit.

Moses questioned if the owner responded in any way.

Griffith stated no.

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

MOVED by Haywood SECOND by Wells, to adopt **Resolution 12-13** declaring the structure located at 307 S.W. Summit Avenue to be a dilapidated public nuisance. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses. NAY: None. MOTION CARRIED.

512 S.W. Park Avenue

THIS PROPERTY WAS STRICKEN FROM THE AGENDA

804 S.W. 4th Street

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since October 2007. Griffith presented photographs of the property.

Moses questioned if the owners have responded.

Griffith stated staff has spoken to the owner and he has made an attempt to clean the junk and debris from the exterior of the property. They have had issues over the past seven years with this property.

PUBLIC HEARING OPENED.

Eugene Lee, 312 SW H Avenue, stated he lives next door to this property. He stated in 1999 this property was taken off a condemned list so that the owner could remodel and it has been almost thirteen years ago and it looks worse than it did then. He has spoken with neighborhood services and he all he has received is stories. He stated the owner has received \$75,000 in fines and he would like to know why this is happening.

Ronald Williams, attorney for the owner Eddie Barbee, requested a copy of the exhibit which lists the deficiencies. He stated Mr. Barbee has someone lined up to work on the repairs.

Burk stated the council has given Mr. Barbee plenty of time to do these things.

Mr. Williams stated he has been to the property and he understands that it look like a pig sty next to a brand new house. He questioned if they were talking about the garbage that needs to be cleaned up or are they talking about the structure.

Burk stated both.

Wells stated that he is sure that Mr. Barbee has been provided with a list of the deficiencies.

Mr. Williams stated he has not received the list.

Bellino-Hall stated she would like to apologize to Mr. Lee for having to put up with this for 13 years. The council should have handled this sooner.

PUBLIC HEARING CLOSED.

MOVED by Haywood SECOND by Zarle to adopt **Resolution 12-14** declaring the structure located at 804 S.W. 4th Street to be a dilapidated public nuisance. AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle. NAY: None. MOTION CARRIED.

1514 S.W. “G” Avenue

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since January 2008. Griffith presented photographs of the property.

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

Moses questioned if owner has responded in any way during the time this action has taken place. He questioned if there has been anyone living in the structure and has there been any evidence of an attempt to try and correct this problem.

Griffith stated there is some evidence of homeless people living in the structure. He stated they sent out notices both regular mail and certified and they have not heard from the property owner.

MOVED by Moses SECOND by Haywood to adopt **Resolution 12-15** declaring the structure located at 1514 S.W. “G” Avenue to be a dilapidated public nuisance. AYE: Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood. NAY: None. MOTION CARRIED.

1810 S.W. 18th Street

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since December 2005. Griffith presented photographs of the property.

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

MOVED by Haywood SECOND by Zarle to adopt **Resolution 12-16** declaring the structure located at 1810 S.W. 18th Street to be a dilapidated public nuisance. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

2522 S.W. “G” Avenue

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since December 2005. Griffith presented photographs of the property.

Moses questioned if there has been any response from the owners of the property.

Griffith stated there has been no response, but someone did sign for the certified notice.

PUBLIC HEARING OPENED.

Jose Moreno, 408 NW Fort Sill Boulevard, stated he purchased this house to fix it up but he has had health problems. He stated he would need approximately six months.

Mayor Fitch stated if this property is declared dilapidated, Mr. Moreno will have the option to apply for a remodel permit within the next thirty days and staff will monitor the progress he is making.

PUBLIC HEARING CLOSED.

MOVED by Moses SECOND by Shoemate to adopt **Resolution 12-17** declaring the structure located at 2522 S.W. G Avenue to be a dilapidated public nuisance. AYE: Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

2811 N.W. Lynn Circle

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since January 2008. Griffith presented photographs of the property.

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

MOVED by Tennis SECOND by Burk to adopt **Resolution 12-18** declaring the structure located at 2811 N.W. Lynn Circle to be a dilapidated public nuisance. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

31. Consider approving the request of the McMahon Auditorium Authority to retain 100% of the rental fees for the McMahon Memorial Auditorium effective July 1, 2012. Exhibits: None.

Burk stated he brought this request forward after speaking and being involved with the McMahon Auditorium Authority and the things they have done with the McMahon Foundation on the upkeep and the things that are going on with the auditorium. He feels the issue is that they make sure the small things get done inside and that they have the ability to pay for some of the things that they need to accomplish as an authority.

Tom Sutherlin, 154 NW 36th Street, stated he is a member of the McMahon Auditorium Trust Authority. He stated they would like to be able to advance the auditorium and keep it up to date. They are looking at a fee distribution that would allow them to do this plus allow them to leverage matching funds and other opportunities. He distributed a copy of their strategic plan. He stated with hotel/motel tax funds along with the operating budget from the City of Lawton, a new projection system was installed. This allows them to take care of the Fort Sill audience that uses the auditorium for graduations as well as performing artists. This project costs \$47,580. They would like to advance projects that deal with sound equipment, lighting instruments and continue to improve the authority. In order to do this they need some funding and they believe they can maximize this funding and leverage it out.

Burk stated the authority is required to pay for an audit and he hopes to discuss this issue with the City Manager soon. He hopes they can address that issue in the budget this year. The fee the city is receiving is minimal and he would hope that the council would support giving the authority the remainder of the City of Lawton revenue collection starting July 1, 2012.

MOVED by Burk SECOND by Tennis to approve the request of the McMahon Auditorium Authority to retain 100% of the rental fees for the McMahon Memorial Auditorium effective July 1, 2012.

Wells questioned why they are doing this right before budget sessions begin. If they need this they can budget this and take care of it rather than an authority trying to dig up money to do something. The city maintains employees at the auditorium and it is part of the city's budgeting process.

Burk stated the authority members need to know that they will have some funding sources available to do some other projects. He has been at the auditorium when there have been issues such as doors, lights not working and electricity issues. Hopefully they can address some of those issues in a future CIP. They need to know they have that funding source available starting July 1, 2012 and from this day forward, hopefully the city will never come back and ask for those fees.

Wells stated with budget sessions coming up, this is a city facility with city employees, and they should not have citizens who are on the authority worrying about the facility. He feels it is better to wait until budget sessions start. He questioned if they were going to cut something else out of their budget to make up for this \$25,000.

Burk stated they have never funded them totally anyway. He feels this \$20,000 keeps their authority active and lets them have some projects that they can be involved in. They might as well get rid of the authority if they have no money. The intent is for them to be involved and come up with projects that they feel are important. City staff is not always in tune with what is needed. He agrees they need to discuss this in budget sessions when they decide how they will fund them from now on.

Wells questioned the City Managers opinion on this issue.

Mitchell stated he feels if the council approved this, they need to figure out how they are going to make up for the \$20,000. If you are giving up \$20,000 in revenue you need to figure out how you will balance that division. They set aside \$6,800 in capital outlay for the auditorium, so they could offset that \$6,800 and they are looking at \$14,000 or \$15,000 they would have to make up on the other side of the ledger.

Moses questioned if there was a maintenance backlog at the auditorium and is there a dollar value attached to it.

Kim Shahan, Parks and Recreation Director, stated they have dollars associated to the general maintenance but they are trying to address capital improvements.

Moses questioned if they are able to keep up with routine maintenance on the building with the amount of revenue they have been able to retain.

Shahan stated there is \$14,000 in the general maintenance and then the \$6,800 which was added in the capital improvement budget this year.

Wells stated there is \$172,000 in the regular budget that goes to the auditorium.

Shoemate stated the auditorium needs a lot of work and he wants to see them have the funds to operate and run a first class auditorium. He would like to see it addressed in the budget.

Haywood questioned if Mr. Sutherlin would prefer to have it in the budget or approved now.

Mr. Sutherlin stated they would take it either way. He stated the board consists of people who have expertise in performance, equipment and structures and they came in and saw some things that needed to be done and brought up to date. It would be encouraging to them to know that they can proceed with some of these projects. He stated he would like to get a commitment tonight to take back to the authority so they know they have that to work with next year.

Haywood stated they have his commitment.

Bellino-Hall stated they need to go for it both ways and they are a phenomenal board and they have made great improvements.

Wells stated he supports the foundation completely. Those improvements were just turned down by the voters in the CIP election and now they are going to go back door and give them money another way. He feels they need to do this during the budget when everyone can support it.

Mayor Fitch stated the McMahon Foundation has been very gracious to this community and a lot of dollars have been invested in the revitalization of this building and they have given a lot of assets to this community and they need to maintain them. At budget time he feels they need to do some meaningful planning and set aside some funding and fully address this issue.

SUBSTITUTE MOTION by Wells, SECOND by Shoemate to delay the decision until budget sessions are held. AYE: Wells, Shoemate. NAY: Moses, Zarle, Haywood, Tennis, Bellino-Hall, Burk. MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED.

32. Consider adopting an ordinance amending Section 17-3-4-345, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, that will correspond with a recently enacted state law pertaining to the forfeiture of retirement benefits upon the conviction of a crime, providing for severability and establishing an effective date. Exhibits: Proposed Ordinance 12-__ and Senate Bill 347.

Tim Wilson, Deputy City Attorney, stated last year the Oklahoma legislature passed a bill regulating retirement systems for municipalities with certain plans and Lawton has that type of plan. The bill says that in the event that an employee is convicted of a crime relating to their job such as bribery, corruption, forgery, perjury or any other type of crime of that nature, they forfeit their retirement pension. The law also provides for a hearing for the employee. He stated we have a similar provision in our city code for employees but we need to update it to make it comply with state law that was adopted last year. This ordinance was approved by the Pension Trust in January.

MOVED by Burk, SECOND by Shoemate to adopt **Ordinance 12-04**, waive the reading of the ordinance, read the title only, and establishing an effective date. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-04

An ordinance pertaining to personnel policies and procedures amending Section 17-3-4-345, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the termination of benefits, providing for severability, and declaring an effective date.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Endicott stated the six month financial report is encouraging. At 50% of the year the general and enterprise is right at 50%. Water revenue did very well the first half of the year, however he feels we will see a slight decline in water revenue in the next few months. He stated they have seen a decline in the amount of water treated as compared to last year. Sales tax was up approximately 1.13% as compared to the same period last year. Revenue is right at 48.33%. Franchise tax is up over 8% and police fines and bonds are down 13%. All other general fund revenue is up 7%. Water revenue is up 23% over this time last year. A lot of that had to do with a dry summer and the fact the council did raise the per thousand rate, but they did not raise the base rate this past budget year. Sewer revenue is up 7.5%, refuse collection revenue is up a little over 1% and landfill revenue is up 15%. On the expenditure side we are 48% of general fund expenditures and 45% of enterprise expenditures. He does see that revenues have increased because of the new meter system.

Mitchell stated they track uncontrollables very closely like fuel prices, chemical costs and utility rates.

Endicott stated it looks like we will be on target with the fuel budget.

Wells stated that with regard to the vote that was taken tonight with the fees at McMahon Auditorium, that \$20,000 would have repaired some items on our street repair list. We only have so much money and we need to be careful where we are spending it.

Shoemate announced his candidacy for the central district county commissioner position.

Tenis announced his candidacy for the central district county commissioner position.

Burk reported that the contracts were awarded and the equipment has been ordered for the playground in the park project. He stated the playground should be in operation by mid April.

Mitchell reported that the state legislators are convening and staff is tracking a couple of bills that could result in unfunded mandates for the city.

The Mayor and Council convened in executive session at 7:39 p.m. and reconvened in regular, open session at 7:59 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

33. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2012-2013 between the Police Union, IUPA Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session.

Jensen read the title of item #33.

MOVED by Wells, SECOND by Haywood to appoint Larry Mitchell, Tim Wilson, Jim Russell and James Apple as the City's negotiating team for fiscal year 2012-2013 for negotiations with the IUPA Local 24, the local police union and further move to appoint Bryan Long, Kelea Fisher and Sherry Anderson as alternate members of the negotiating team. AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle. NAY: None. MOTION CARRIED

34. 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 #34. No action was taken.

There being no further business to consider, the meeting adjourned at 8:02 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK