

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
DECEMBER 15, 2015 – 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 Glen A. Waters, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:03 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Minister Dwayne Hall, Get the Word Out, 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

Wells stated he attended the 77<sup>th</sup> Army Band concert on Thursday evening in conjunction with the McMahon Auditorium's 60<sup>th</sup> Anniversary and a presentation was made to the City of Lawton. He presented a rendering of the McMahon Auditorium to Mayor Fitch.

Mayor Fitch stated the McMahon Foundation has been very good to the Lawton community and they are a tremendous asset.

AUDIENCE PARTICIPATION:

Annette Weisman, 112 Fullerton, questioned the plan for taking care of the traffic problems that already exist and will only get worse when they start moving forward with the construction to widen Rogers Lane.

Ihler stated one of the concerns is the need for a traffic signal at the entry way into Pioneer Park. The plan for that intersection is they will put in a traffic signal to allow people in and out of that area.

Ms. Weisman questioned when that will happen.

Ihler stated they are looking at three to five years. It is driven by the Oklahoma Department of Transportation (ODOT) and we have a match of 75/25% and they will want to finish the interchange at US 62 and I-44 before they move forward with widening Rogers Lane.

Ms. Weisman stated there are big machines there now.

Ihler stated they are relocating the waterline for the construction of a clover on the east side of I-44.

Ms. Weisman stated that intersection is dangerous and she suggested the city put in a temporary light.

Burk stated he has been working on this project for nine years and it has taken ODOT a long time to come up with funding to help with this project. He stated ODOT does not like the idea of a traffic signal because they believe it will cause a problem and back things up. That entire bridge will come first, so we are years down the road but ODOT controls the money and they control what we can do. He does not see us putting up a light there for quite some time.

Ms. Weisman questioned who will be responsible for that intersection. She is willing to make phone calls and visits.

Mayor Fitch stated this is a \$17 million project, not including the clover leaf and it will be at least two years before it gets done.

Ms. Weisman stated they need safety first in this progress for the citizens.

Ihler stated they will provide lanes of traffic for transportation to move through the work area.

Ms. Weisman stated it is not provided now.

Jackson stated the contract for the construction of the project will specify the traffic flow during that time. He stated the engineering department has been working to try to figure out what to do.

#### CONSENT AGENDA

Mayor Fitch stated he has had requests to pull items #1, #3 and #7.

MOVED by Wells SECOND by McGahee to approve the consent agenda with the exception of items #1, #3, and #7. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Bob and Paula Chambers in the amount of \$35,557.48 and Cool-it, Inc., dba Bob Chambers Heat and Air in the amount of \$30,435.63. Exhibits: Legal Opinions/Recommendations.

Kelea Fisher, Assistant City Attorney, stated this claim is regarding a sewer back up that occurred at 2407 SW Lee Boulevard on May 22, 2015. This location is the business property of Bob Chambers Heat and Air. They have received two claims, one by Bob and Paula Chambers individually in the amount of \$35,000 for carpeting, drywall and other clean up costs, and they also filed a second claim by Cool-it Inc., dba Bob Chambers Heat and Air for approximately \$30,000. In that claim they are seeking recovery for personal property. Both claims related to the same incident. They have researched the claim and she continues her strong recommendation for denial. On May 22, 2015, around 2 p.m. wastewater collections received a call stating that a manhole near 2307 SW J Avenue was overflowing. As they were checking that manhole they received an additional call from Bob Chambers and they also indicated that the sewer system was overloading. On that date the city received a small amount of rain which was intense and during a short duration of time. When that occurs, it can overload our sanitary sewer system. She spoke with Mr. Whisenhunt about the issue and it is determined that the rain intensity at 12 p.m., just preceding the phone calls, was what could be considered a 25 year storm event. That exceeds our design storm capacity of our sanitary sewer system and that caused the overload. After we responded to the calls we then determine at some point that pipe segments were collapsed and that was also related to the storm events. Those pipe segments are located seven pipe segments below the Chambers address and twelve pipe segments below their address. FEMA has since issued a declaration of disaster for the city of Lawton for the flooding that occurred from May 5 through June 13, 2015 and that does include these time frames. Her recommendation for denial is based on reasons which are listed in the claims memorandum. The first reason is that the cause of sewer on May 22 was that our sewer system overloaded due to the intense rain. The City is not liable for a claim that results from an act of God. This back up was not due to any negligence on the part of the City. The second reason is because the backup was not caused by any defective or structural defect in our sanitary sewer system. The records reflect that in the past three years there have been no maintenance or defect issues with any of the portions of the main. Mr. Kinslow, attorney for the claimant, request staff look beyond the three year time frame and she did pull records for five years which indicated that there was only one incident in 2011 and it was called in by Bob Chambers Heat and Air for debris that was found in this segment of the main. The debris was cleared and there has been no incident in four years. If we have actual notice of a defective condition or constructive notice of the condition then we may be liable, but that is not the case. Oklahoma Department of Environmental Quality standards only require the City to maintain records for three years. They also submitted a claim to FEMA for those collapsed portions of the main and FEMA only required them to submit three years of maintenance and that suggests that three years maintenance records is suffice to show that our system is structurally sound. She stated the City has sought reimbursement and we have spent \$350,000 to replace those collapsed segments of the main. To pay this claim would be to negate what we have now certified to FEMA that those sections of the main are structurally sound. She stated the Chambers have filed two claims for one event and the Governmental Torts Claims Act provides that the statutory limit for property damage is \$25,000. The Act also states that the claim of any person holding an interest in real property which suffers a loss shall be aggregated with the claims of all other persons holding an interest in that property and that

multiple claimants shall be considered as a single claimant. In other words, they are not allowed to stack claims.

Phillips stated that the information states that the collapse of both of these areas of the main may have contributed to or caused the issues experienced by the claimants on May 22<sup>nd</sup>. She questioned what that meant.

Fisher stated there were two possible causes for their sewer back up on that day. It was either because the system was overloaded or because these segments of the main collapsed. She also has an explanation in the claim about why these segments of the main collapsed. Throughout the month of May when we have these excessive rain events it causes our sewer system pipes to over pressurize and then fracture. They can fracture and collapse at that point or at a later point when we get another damage claim. It could have been the excessive rain on that day or the excessive rain at an earlier point in the month that caused the fracture, then the collapse on that day.

Bellino-Hall questioned if other properties were damaged on that line.

Fisher stated this is the only claim they have received.

Bellino-Hall stated that is unusual that just one person would have problem.

Rusty Whisenhunt, Development and Construction Manager, stated most of the homes up to this location are elevated slabs and this is a commercial business that sits low to the ground. It could have backed into their business without getting into the homes because of the elevation difference of the floor.

Burk questioned if Mr. Chambers was able to apply for help from FEMA.

Bob Chambers, claimant, stated they will not help a business.

Burk questioned if they had flood insurance.

Mr. Chamber stated insurance will only cover \$5,000 for damage.

Fisher stated if the council does deny the claim this is not the end of the line for the Chambers, they can still pursue a lawsuit and they can argue these legal issues in court.

Tanner stated he submitted a name to staff that had reported a problem in the area and he mentioned that this was not the first problem that occurred. He questioned if staff called him.

Fisher stated she did not but she did check because Councilmember Tanner called the City Manager who called Mr. Whisenhunt and they tracked that down as to when that was resolved and that call came in on June 1<sup>st</sup> which was after this incident occurred. It was not brought to their attention before May 22<sup>nd</sup>.

John Kinslow, Attorney for the claimant, 511 SW C Avenue, stated this is two separate properties, one is the real property owned by the Chambers and the other is personal property owned by the tenant. The law allows a \$25,000 limit per claimant, not per incident. There are two claimants, separate property so it is limited to \$25,000 each. He stated there is nothing magical about the three years as their look back. Case law does not say you only have to look back three years. There is evidence that this line is susceptible to clogging and the debris clogged it this time and according to the City, the collapse infiltrated mud and dirt which clogged it this time. The City has notice that it has a problem and was negligent not to correct it. They have provided a credible witness, Mr. Gaylen Motah, Motah Plumbing, which he provided to the City Attorney who was out there on May 15<sup>th</sup> and he noticed there were people working on the other side of the fence who said they were there because there was stoppage in the sewer main. He strongly believes the City was negligent and it caused his clients damage. He requested the City Council grant both claims in the amount of \$25,000 for each claim.

Tanner questioned if Mr. Motah submitted a written statement that city workers were cleaning out a line.

Mr. Kinslow stated he does not have an avadavat, but he did have a statement and he gave that information to Ms. Fisher.

Fisher stated Mr. Kinslow did provide that information and she did track down the information for the dates he provided. Mr. Motah stated the two workers were African American and they were there between 2 p.m. and 3 p.m. Our sanitary sewer workers keep a detailed daily log of every job they go to. They pulled the records for both dates and she spoke to every single worker including the two African American workers and none were in the area or recall speaking to Mr. Motah. She was not able to verify the information given by Mr. Motah.

Jackson stated in all the text of the commentary that has been provided, on numerous occasions it has been stated that the sewer pipes in that area did collapse causing a back up and damage to these business people. There is no way to deny that it happened and he believes they should be compensated.

Wells stated that Mr. Chambers has been his heating and air guy for 35 years and Mr. Kinslow is his personal attorney. He questioned if he needed to abstain.

Jensen stated it is his opinion that Mr. Wells does not need to abstain. He does not determine this to be a conflict of interest.

**MOVED by Jackson SECOND by Tanner to approve a single claim in the amount of \$25,000 (Res. 15-99). AYE: Jackson, Tanner, Phillips, McGahee, Wells. NAY: Morford, Bellino-Hall, Burk. MOTION CARRIED.**

2. Consider allowing the Retired and Senior Volunteer Program (RSVP) to reapply for a 3 year federal grant from the Corporation for National and Community Service (CNCS) in the increased amount of \$40,000.00 for Fiscal Year 2016-2017. Exhibits: None.

3. Consider approving the new sales and use tax agreement with the Oklahoma Tax Commission. Exhibits: Letter with changes – OML. Sales and Use tax agreement on file with City Clerk

Morford stated it should read .5%, not .05%.

MOVED by Morford SECOND by Burk to approve the new sales and use tax agreement with the Oklahoma Tax Commission as amended. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

4. Consider approving donations from local businesses to be used as prizes during the City of Lawton United Way Pledge Drive. Exhibits: List of donations
5. Consider accepting a permanent utility easement for an existing waterline to serve Dairy Queen located at 6312 NW Cache Road. Exhibits: Location Map. Easement is on file in the City Clerk's Office.
6. Consider awarding contract CL16-001 for fire incident reporting software and software implementation to Reporting Systems Inc. (RSI) of Bellingham, Washington. Exhibits: Bid Review & Recommendation, Proposed Contract with Addendums (on file in City Clerk's Office)
7. Consider awarding contract (RFPCL16-006) ATM Proposal, to JAMARK LLC of Lawton OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

Jim Russell, Assistant City Manager, stated this agenda item is for approval of the request for proposal to place ATM's at select locations across the city for the convenience of the citizens who are paying their bills. They went out for bid twice. The first time they only received two returns. He stated a comment was made that the banks did not submit a proposal because they felt the timeline was too short for them to invest the money into the ATM's. They did go out for rebid based on that request and again there were only the two original bidders. The first proposal from ACFN of SW Oklahoma did have a higher return to the City and the second bid with JAMARK did include an additional opportunity for revenue through the use of mobile ATM's for festivals. Comparing the anticipated revenue based on the number of transactions and the additional opportunity for revenue with those mobile ATM's the proposal by JAMARK afforded us an additional \$5,700 annually. Staff recommendation is to accept the proposal by JAMARK LLC.

Wells questioned options 1, 2 and 3 on the abstract of bids.

Russell stated those were with additional transactions and different options they presented.

Wells stated those options were not part of the bid specs.

Russell stated that is correct.

Wells questioned if the mobile ATM's were part of the bid specs.

Russell stated no.

Wells stated in all areas ACFN of SW Oklahoma gives us more money on the buildings than JAMARK. JAMARK threw in that they had mobile ATM's and he does not know if ACFN has mobile ATM's. He suggested they rebid this making the mobile ATM's a requirement if it is available or they give ACFN a chance to say if it is available. It appears that the City would be better off with at least the buildings. He stated JAMARK is going to charge our citizens \$3.49 a transaction and ACFN is only going to charge \$3 on option 1, \$2.75 on option 2 and \$2.60 on option 3.

Russell stated as long as they meet the minimum bid requirements anything additional to that has to be considered with the overall bid package. The mobile ATM's were not part of the original bid package and it was something Mr. Rodriguez thought of on his own.

Wells questioned if Mr. Russell called the other company to see if they could provide mobile ATM's.

Russell stated no. In his opinion it is not considered fair bidding.

Wells stated they want a minimum bid requirement, but when he worked here when they bid additional things they did not look at that as part of the bid packet unless they were going to rebid it and give everyone a chance to bid on those things.

Jackson questioned where the money goes that is collected from the ATM's at the festivals.

Russell stated currently those are brought in by banks and we don't receive any revenue. He stated they have approximately 900 transactions per ATM for a total of 18 per event.

Jackson questioned if the festival receives any funds.

Russell stated they receive no funds from the ATM transactions, they only receive vendor fees.

Burk stated this is a great idea to offset the cost of having so much staff working at these events.

Jerry Wertz, ACFN of SW Oklahoma, 115 NW 36<sup>th</sup> Street, stated the numbers are incorrect. The 300 transactions per machine per month for \$2,812 annually is incorrect. The correct figure for all five locations should be \$875 per month or \$10,500 annually. His bid is for 900 on the low bid and is \$10,800 annually. JAMARK's surcharge to the customer is \$3.49 and his bid is \$2.60. His highest surcharge of \$3 per transaction, then the net per machine per month is \$1,500 or \$18,000 annually. He stated he does have access to a mobile ATM and would be willing to match the 75 cents per transaction and the \$3.49 surcharge to the public at festivals. His mobile ATM is ADA compliant.

Burk stated he believes they need to go back out for bid and ask for exactly what we want and nothing less.

Mark Rodriguez, JAMARK, stated they both bid this at the same time and this is the second time to bid this. He stated his original bid on August 25<sup>th</sup> is almost the exact thing that he sent the second time and he had the opportunity to look at it then and he would have seen that he said he had mobile units because it is in the first bid. In the second bid he gave a little bit more money. He stated his ATM's are also ADA compliant. The bid was done fairly and he just showed that he could do more, which he put in the first bid. He suggested they just let it stand and vote on this issue. They currently have a machine with the City of Lawton and they have a good track record of repairing that machine quickly.

Wells stated when staff thought this was a good idea on the first bid they should have made it part of the specs on the second bid so that everyone was bidding the same thing. He still believes it should go back out to bid with exactly what we want and stop at that point.

MOVED by Wells SECOND by Phillips to rebid.

SUBSTITUTE MOTION by Tanner SECOND by Morford to award contract (RFPCL16-006) ATM Proposal, to ACFN of SW Oklahoma of Lawton, OK.

Burk stated he cannot support approving someone tonight until we bid it one more time and get it right.

Phillips suggested that staff find out what is available for what we want. She feels it is unfair to accept what is not in the RFP.

Tanner stated this will be the third time and it is narrowed down to these two bidders, but the difference is that Mr. Wertz's bid is going to save the citizens who use these ATM's money and the City will receive more money. He feels it will be a waste of time.

Russell stated if they rebid they could have more come in, it is an open bid.

Mr. Rodriguez stated he would match the bid of Mr. Wertz which was 75 cents and 60 cents as well. He would like to have the same opportunity based on an equal playing field.

Jensen stated this needs to be in a rebidding process and not through an RFP. You use an RFP when you don't really know what you want and you get proposals, you don't have clean bid specification. Now that we have information to be considered, they need to solicit a bid, not an RFP. He would not recommend we have a bidding war on the council floor.

Tanner stated he will withdraw his motion.

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

8. Consider extending the Fire Hydrant Contract for Items No. 1-5 to American Waterworks Supply of Norman, OK; Items No. 6 and 7 to Hydroflo, Inc. of Beaumont, TX; and Items No. 8-11 to HD Supply Waterworks of Owasso, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
9. Consider approving appointments to boards and commissions.

**Arts and Humanities Council**

Dory Thomas  
6917 SW Delta Avenue  
Lawton, Oklahoma 73505  
UT 06/30/17

Dr. Matthew Mireles  
506 NW Fairway Villas Place  
Apt #3  
Lawton, Oklahoma 73505  
UT 06/30/17

**Citizens' Committee On Capital Improvement Program (CIP)**

Hossein Moini  
3313 NE Heritage Drive  
Lawton, Oklahoma 73507  
Unexpired Term 10/11/17

10. Consider approval of payroll for the period of December 7-20, 2015.

**NEW BUSINESS ITEMS:**

11. Consider discussing methods to deter pedestrians from crossing Interstate 44 between Gore Blvd. and Lee Blvd. and take appropriate action as necessary. Exhibits: Letter dated September 25, 2013 from the Mayor to ODOT.

Jackson stated there has been a third citizen killed while trying to cross that road. He believes this area is out of control and as long as there is the capability of citizens crossing the road they are going to do it. He stated the businesses do not want a fence, but there is a fence from the Kansas border down I-44 all the way to the Texas border on both sides of the highway. The only time there is not a fence is right there in front of the hotels in Lawton. He feels they need to put up a six foot fence, with no barbed wire, and they need to ask the State of Oklahoma if they would reconsider and put the fence up on both sides of the highway.

Phillips questioned why the state did not put the fencing up before.

Ihler stated as that are developed, the business owners did not want the fence. He did talk to an ODOT representative and they did indicate that they would like to be able to put fencing up along there but they are not going to do it unless they have concurrence from council because of

the concern of the business owners. He stated they did talk with them about vinyl fencing versus chain link fence and maybe have a section where it will be concrete and they said they would work with us on that.

Jackson stated he feels the fence needs to go up as soon as possible and conversation needs to take place with the city, state and the businesses that want to participate and try to figure out an alternative whether it is a walk over or widening the bridge. There needs to be some way for citizens to cross the highway.

Mayor Fitch stated Mr. Ihler will sit down with ODOT and come up with a solution that they will agree on.

Ihler stated they have also discussed with ODOT some funding for a sidewalk coming across the bridge at Gore Boulevard on the south side. After the second fatality they asked them to provide cost estimates for a full walk over at the half mile mark in front of the casino and the cost was approximately \$2 million and they were not going to do that. They did provide a rough cost estimate of \$900,000 to \$950,000 to add a sidewalk on the south side of Gore Boulevard that would be wide enough for a bike path. He spoke with staff and asked them to put together an enhancement grant with ODOT and their representative said that there is a good chance that we submit that grant for enhancement funds in the amount of \$600,000 and that if we have partners that are willing to help fund our share of the \$300,000 - \$350,000 because the more you have willing to participate in your match, the better chance you have in getting the grant.

Burk stated this is his ward and his biggest concern is that we have no way to get back in the second street area because that sidewalk is very dangerous. There is no other way to get across and we have to fix it somehow and ODOT cannot say that is not a warranted expense. He has seen it done in Oklahoma City. We have to have a solution and building a fence is not a solution, people will figure out a way to climb the fence. This does not solve the issue.

Ihler stated ODOT has said that they are not willing to fund the walkover at the half mile mark. They could help provide support as we submit the grant for the crossing at Gore Boulevard on the south side of the bridge, but they also want to put the fence up. They are willing to talk to us about a mow strip to eliminate some of the weeds.

Burk questioned if we would make the Comanche Casino take down their fence.

Mayor Fitch stated no, that is a decorative fence.

Jackson stated this is a good opportunity to put up the fence and Mr. Ihler has laid out a proposal from ODOT to take care of the funding to widen the bridge.

Phillips questioned if there was lighting so that you could even see a fence on the other side.

Jackson stated if you can't climb one fence you can't get to the other side.

McGahee stated the best solution would be to widen the bridge because there are people that walk over that bridge that are not even going to the casino. Maybe we can work with the casinos

or hotels to provide a shuttle up to the walkway which would prevent people from wanting to climb the fence.

Tanner questioned if it is the City's responsibility or the State's responsibility that pedestrians get across I-44.

Jackson stated it is not either one, that is just the way it has happened.

Tanner stated it is the State's freeway and it should be their responsibility.

Jackson stated that Mr. Ihler has offered up a great opportunity to have a matching grant process to get this done.

Burk questioned if a decorative fence is good enough for Councilmember Jackson.

Jackson stated yes, as long as people can't get through it or over it.

Bellino-Hall stated people will get over any fence at any time.

Tanner stated there already is a fence on the west side and just to get that fence redone would be worth something. He feels they should let ODOT pay for the fence if they are willing to do that.

Wells questioned when ODOT could come up with the funding.

Ihler stated they did not discuss a time frame.

MOVED by Jackson SECOND by Morford to ask ODOT to put up 6-foot fences on both sides of I-44 and direct staff to pursue an enhancement grant application and enter into a conversation with the casinos to participate in a plus match for this grant to widen the bridge on Gore and I-44. AYE: Morford, Jackson, Tanner, Phillips, McGahee. NAY: Bellino-Hall, Burk, Wells. MOTION CARRIED.

12. Consider awarding a Professional Services Contract for Consultant Brokerage services concerning employee benefits to National Financial Partners Corporate Benefits (NFP), of Oklahoma City, OK. Exhibits: Proposed Contract.

Chase Massie, Human Resources Director, stated the City of Lawton utilizes an insurance broker to deal with our insurance contracts as well as to keep us in compliance with the Affordable Care Act Laws. They need an insurance broker that will represent us in the market so they can negotiate contracts on our behalf. The current contract is with Higginbotham and it runs out at the end of this month. They went out to bid in November and received four proposals and conducted interviews with two agencies. After those interviews the staff has recommended NFP and the reason was based on their experience level with larger cities. They currently handle the City of Tulsa, Altus and Muskogee. They are the largest insurance broker in the state of Oklahoma and they have 35 team members at the headquarters in Oklahoma City. They believe

that NFP will get us the best contract possible. He stated he was asked to contact both finalists, NFP and Insuraca, and give them the opportunity to speak to the council.

Whitney Huffman, Insurica of Lawton, stated she would like to talk about some misconceptions that have been developed about Insurica. She stated they are one of the best agencies in the state and more than well equipped to handle the City of Lawton's employee benefit needs. (Ms. Huffman reviewed a series of slides regarding information on Insurica which are on file in the City Clerk's office). She stated the City has entrusted the property insurance needs to Insurica for more than 20 years. She stated they respect the RFP process but wanted to make sure the City Council had an opportunity to understand the kind of agency they have in Lawton and to understand that the money that is housed inside of the contract with the City of Lawton stays in the city of Lawton.

Phillips questioned the term "servicing the account".

Ms. Huffman stated it is day to day account service managing a large number of people on a medical plan.

Phillips questioned if they assist the employee.

Ms. Huffman stated they make sure the employees have the knowledge they need to make appropriate decisions for themselves. They also have claims advocates to make sure that claims are resolved in an effective and timely manner.

McGahee questioned if the claims advocates will be in Lawton.

Ms. Huffman stated both, depending on the issue, they could be in Lawton or in Oklahoma City.

Tanner stated that the city staff claims that NFP is going to be able to negotiate a better deal with Blue Cross/Blue Shield, but the information given states that they will give everyone the same rate.

Ms. Huffman stated Blue Cross/Blue Shield is saying that they give no preferential treatment regardless of how much volume they have with Blue Cross/Blue Shield.

Burk stated he has always supported the fact that we think local first and he is going to make the motion that they approve Insurica as the insurance company.

Ms. Huffman stated there is money negotiated already in place for the existing contracts with Higginbotham, so Insurica will be compensated in the exact same way. They will not be charging the City any additional fees over what is currently negotiated with the contracts in place today.

Brady Ayala, Benefits Specialist with NFP, stated they do have more municipality business in the state of Oklahoma and there is a reason they hired NFP, because of what they are able to do. He stated Blue Cross/Blue Shield works with a lot of different agencies and they want to stay

very politically correct. Blue Cross/Blue Shield is not necessarily making the rates, the City of Lawton is a self funded group and they pay claims. The claims portion of what the City pays is a huge part of the dollars that you spend. They will charge the same thing to administer the plan, it is the stop loss and other discounts you are receiving at the different hospitals. It comes down to who has the experience to be able to help with those negotiations and they have the experience and the staff. They are a huge company nationally and they are able to negotiate and it does matter. When they call Blue Cross/Blue Shield they are going to take their phone call because they are their number one agency in the state and they will be there when they need something done. Their employee advocates are in Oklahoma City and the employees will get to know those people. They have experience with our reserve issue. They had a group they took over two years ago. They were a major municipality with over 500 employees and their reserves were hurting. They came in and took over and had a five year plan. They implemented some things in year one and actually increased the benefit to the employees and added more provider access. Within that first year and a half they have gone from a \$500,000 reserve to a \$1.9 million reserve.

Tanner questioned who processes these claims. Is it NFP or Blue Cross/Blue Shield. Who is responsible for keeping the cost down for the employees. It is Blue Cross/Blue Shield, they are the ones processing the claims. We don't pay the broker anything, Blue Cross/Blue Shield pays the broker. No matter who we hire, it will cost us the same.

Mr. Ayala stated not at all because they are processing the claims and moving the money. The question is who is representing the City when they are talking to Blue Cross/Blue Shield.

Tanner stated Mr. Ayala is saying that Blue Cross/Blue Shield is going to do a better job for us because they want to do a better job for you.

Mr. Ayala stated he is going to make sure that Blue Cross/Blue Shield is doing what they need to be doing, that is his responsibility, and he is also going to be looking at the full marketplace. Blue Cross/Blue Shield works for Blue Cross/Blue Shield. He knows how the programs work at Blue Cross/Blue Shield and he understands plan design and what to do to have a minimal impact or increase benefits for the employees and still be able to save one. He would essentially be the one designing the plan and doing the negotiating. All Blue Cross/Blue Shield is doing is paying claims. The question is what contract are they paying off of and he may be able to negotiate a deal with local hospitals or clinics for better discounts. The contracts and the negotiating is what he and his team are going to do.

Bellino-Hall stated all contracts with Blue Cross/Blue Shield are not the same. They are saying that he is the best person to negotiate a Blue Cross/Blue Shield contract for this city. He stated they have more experience in doing that and have more contacts and in the long run they will be saving us money.

Tanner stated that is the claim that is being made but it is not the actual way that it is. He stated David Towe has been doing this stuff for thirty eight years and Mr. Ayala has been doing this for a decade. Who has more experience at negotiating?

Bellino-Hall stated Mr. Ayala has negotiated with many more municipalities, more companies and has a broader experience negotiating with Blue Cross/Blue Shield.

Ms. Huffman stated that Dustin Brand, a part of their team, came from the internal operation of Blue Cross/Blue Shield receiving the negotiation from the consulting side of this business so she does not know what better experience you can get. Dustin comes from 20 years of benefits consulting experience on top of the 38 years David Towe brings in this industry. They are bringing Lawton dollars going back to the Lawton community with a team of people who are more than qualified.

Mr. Ayala stated they have established that they are not just a Lawton company so a majority of those dollars will be leaving Lawton and going to other places. They also have attorneys and actuaries that will be involved and they also have more self funded clients and municipal clients. They are a very complicated outside of the box organization and the way healthcare is going the cost of everything is rising. They do business outside of the box and find ways to negotiate and put together a better contract for the employees of the City of Lawton.

Wells stated up until six or eight years ago we did not have a broker and we went out for bids. He stated all Blue Cross/Blue Shield is doing is paying our claims, they are not going out trying to find us bargains, our broker is the one who does that and then turns the plan over to Blue Cross/Blue Shield to administer. He questioned if that was correct for both companies.

Mr. Ayala stated yes. Blue Cross/Blue Shield does have networks that negotiate contracts but they have a number of them. They have a number of networks and it's doing an analysis to figure out which one will be the best fit and where are your dollars being spent and how they are being spent.

Phillips stated these networks are with the hospitals.

David Towe, Insurica, stated he is the property and casualty insurance agent for the City. He stated he saved the City \$20,000 the past contract period because of his efforts. In doing this, the new carrier had a different commission schedule, so while the City saved \$20,000, it cost his agency \$10,000. The decision was made based on what was best for the client. He has insured Comanche County Memorial Hospital for over 20 years and who better to talk to the CEO or anyone at that hospital about trying to negotiate preferential rates than the agent that has been servicing their business as long as he has. They are about serving the City and if there is a problem you just go three blocks down the way to his office.

Jackson state there are two fine brokers sitting here that have made a great presentation and he feels the council needs to make an educated decision on this.

Mr. Ayala stated he has nothing but respect for Mr. Towe, but that is property and casualty versus health insurance, it is two very different things. He stated this is what they do.

Phillips requested that staff tell the council why they decided on this recommendation.

Massie stated both companies are very good, but for staff it comes down who is going to get the best contracts, the best deal and who is going to think outside the box for a city our size. He stated NFP has other major cities under their belt and they have more experience with their local agents that we will be dealing with in the health industry, not the property industry. They want the very best for our employees and they feel that NFP will get us the best contracts.

McGahee stated she is all for working with local businesses. She questioned Ms. Huffman about the handout referring to the 100 largest brokers for U. S. business. She asked her to explain the numbers.

Ms. Huffman stated it is a listing of the 100 largest brokers for U. S. business. A lot of the top agencies are publicly traded companies, so they have financial backing from other sources. The fact is that a home grown state agency is making this list through their aggressive investments for their clients without any financial backing.

Bellino-Hall questioned how many Blue Cross/Blue Shield contracts has Insurica done.

Ms. Huffman stated they represent more than 1,500 benefit clients and the numbers on Blue Cross/Blue Shield are about \$44 million in premiums that they managed.

Bellino-Hall questioned how many they do locally. She questioned if they have contracts with any companies in Lawton.

Ms. Huffman stated yes. She stated one is Fort Sill Apache Casino.

Burk stated the information says Insurica represents 22 municipalities. He questioned if this was for health insurance.

Ms. Huffman state yes it is for benefits.

Massie stated staff has done their due diligence and have made a lot of reference calls and talked to a lot of people and he encouraged the council to keep in mind the size of these cities. He stated 22 is a great number, but they are looking at cities that are comparable to Lawton. It is much different when you are negotiating benefits for Lawton versus Elgin or Sterling.

Phillips questioned the difference in cost for brokering.

Massie stated it is the same cost for the city. It is going to be negotiated in the rates. It is going to be a commission based on the contract they negotiate. We are going to pay our administrative fees to Blue Cross/Blue Shield or whoever the carrier is, and then a piece of those are going to go back to the insurance broker for the negotiation of the contract.

McGahee questioned if the difference in the cost will be what the employees pay.

Massie stated it will be in the administrative fees.

Mr. Ayala stated as far as the cost that either agency will receive, they are taking over the current contracts effective January 1<sup>st</sup>, so the current contracts will still be in place until June. They start working now for those July 1 contracts. The fee will be the exact same, but the savings comes in the claims and they can effect that 10% and it will make a substantial difference.

Burk stated basically he is talking about the reserve, he is not talking about what the employee pays.

Mr. Ayala stated he is because that goes straight into that reserve.

Burk stated he is talking about the reserve and that is where the savings would be incurred and that is what Mr. Ayala is promising.

Mr. Ayala stated part of his goal is to dramatically increase that reserve in the first two years.

Tanner stated in his dealings with insurance companies and how they save money is they just reduce what they cover. It might save the City some money but it will probably be at the cost of reduced coverage for the employee.

Mr. Ayala stated a lot of people do that if you don't get outside the box. He stated when they worked with the City of Muskogee and they kept all the benefits the same the first year and he renegotiated the contracts and put a guarantee on his fees, and he will do that with the City of Lawton. He said that year one he would save them \$280,000 and he saved them over \$600,000 and he kept the benefits exactly the same, he just renegotiated the contracts and made some network adjustments and capitalized on better discounts. In year two they have control of the group for a year so he was able to dig into the claims and see exactly where the dollars were being spent and they incentivized people to go into a specific network and instead of having an 80% coinsurance they moved it to 90%. Instead of having a \$3,000 out of pocket, they dropped it to \$2,000. They improved their benefits. They just did a year end analysis and they are saving 15% more than they did last year.

Tanner stated the way he is looking at it, he may save the City money, but the employees are going from a gold covered plan to a bronze covered plan. You can get a cheaper rate, but it is at the cost of the benefits.

Mr. Ayala stated he did the exact opposite. He improved the benefits and the employees can save money. That is what they do every day.

Bellino-Hall stated if our reserves go down the employees have to make up for some of that. Mr. Ayala stated he has increased the reserves for other cities.

Burk stated he wished Mr. Ayala would give them a guarantee.

Mr. Ayala stated he will give a similar guarantee he gave to the City of Muskogee. When he did that guarantee he was able to do an analysis of where the money was being spent and he stated he would put up 50% of his commission at risk if he doesn't hit this metric. If he doesn't save

the City of Lawton money and he doesn't do what he is telling you he is going to do today, then he will give back 50% of what we are essentially paying him through the carriers. He will put his money where his mouth is.

Dustin Brand, Insurica, stated he has been doing this for 20 years and he started his career with Blue Cross/Blue Shield so he built these plans from the ground up and he has worked for the largest global consultant in the world. When you are behind on your reserves there is going to be pain in getting those reserves built back up. It is going to cause the City to pay more and the employee to pay more. You don't build your reserves and enhance your benefits. The City of Tulsa is the marquee that has really sold NFP to the City of Lawton, but that account is not worked by Mr. Ayala and he is not on that team.

MOVED by Bellino-Hall SECOND by McGahee to award a Professional Services Contract for Consultant Brokerage services concerning employee benefits to National Financial Partners Corporate Benefits (NFP), of Oklahoma City, OK.

Tanner stated that Mr. Ayala is a good salesman and he can see why staff has bought into his salesmanship. They are not renegotiating anything at this point, they are going to inherit a contract that was already negotiated by Higginbotham. He is going to believe that our local agency is more than capable of negotiating a deal with Blue Cross/Blue Shield as this NFP brokerage can do.

AYE: Bellino-Hall, Burk, McGahee, Wells, Fitch. NAY: Morford, Jackson, Tanner, Phillips.  
MOTION CARRIED.

13. Consider adopting a resolution implementing a new pay plan which combines the former general employee union pay plan and non-union pay plan into a single plan, creates revised titles for certain positions and repeals all previous general employee pay plans, effective January 4, 2016. Exhibits: Resolution No. 15-\_\_.

Wells stated up until the state passed a law saying that cities of 30,000 or more could have unionized general employees, the City of Lawton had one pay plan for all general employees. During that period of time when the law was in effect, management split the pay plan and basically the lower paid employee with the City of Lawton that were going to be unionized employees, their pay plan was reduced significantly over what previously in effect so they would have room to negotiate. They turned around and changed to five different pay plans for general employees and the lowest ranked employees were hurt the worse by the difference in pay plans. When the union was voted down after state law changed, they never went back and changed the pay plans. Since about 2006, the lower ranking employees have not gotten the same benefits as other employee groups or other general employees. He applauded the City Manager and HR Director for bringing this back under one pay plan. He hopes the Council will support this.

Burk stated he is embarrassed by our low wages and starting pay. He is embarrassed they have allowed this to get so out of control. He feels they need to look at a way to get pay up for city employees and fix it now.

Wells stated staff has done the best they can do for this year.

MOVED by Wells SECOND by Burk to adopt **Resolution No. 15-99**. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

14. Consider adopting a resolution implementing a three percent (3%) cost of living adjustment (COLA) for all general employees effective January 4, 2016. Exhibits: Resolution No. 15-\_\_.

Wells stated this is another example of good management by the City Manager and our HR Director. Some employees have not had a pay raise since 2011 and their health insurance premiums have increased 40% or 50% since that time and they have frozen merit increase two out of the past three years, so there may be employees taking home less money than they did in 2011. Staff has delayed the hiring of positions for this year to come up with the money to cover this COLA for this year. Next year there may have to be some cuts and hopefully they can do this through attrition and not by actually terminating any employees. He hopes the council believes this is a good idea.

Tanner stated it bothered him every year when they negotiate these contracts with the police and fire and leave out the general employees.

Jackson stated when they started negotiations with police and fire, most on the council immediately asked the City Manager to try and find the money for a pay increase for the general employees. He stated they have asked him to continue looking to help out some more.

MOVED by Wells SECOND by Burk to adopt **Resolution No. 15-100**. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

15. Consider an ordinance pertaining to Personnel Policies and Procedures amending Section 17-1-6-163, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, by allowing general employees to use accrued leave to supplement their pay while receiving temporary total disability payments, providing for severability and establishing an effective date. Exhibits: Ordinance 15-\_\_.

Massie stated when employees go out on workers comp they get 90 days of 100% pay with on the job injury (OJI). After the 90 days they go on temporary total disability (TTD). For that TTD, right now they only get 70% of pay and they are forced to write a check to the City to cover their health insurance because we are not allowing them to use their paid leaves. This would allow the employees to use their sick leave, and if they run out of sick leave to use their vacation, to supplement that 30% allowing them to draw their insurance.

MOVED by Burk SECOND by Phillips to adopt **Ordinance 15-36**, 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 15-36

An ordinance pertaining to personnel policies and procedures amending Section 17-1-6-163, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2005, allowing general employees to use accrued leave to supplement their pay while receiving temporary total disability (ttt), providing for severability and establishing an effective date.

16. Consider an ordinance pertaining to Personnel Policies and Procedures amending Section 17-1-1-102, Division 17-1-1, Article 17-1, Chapter 17, Lawton City Code, 2005, amending the definition of “Immediate Family” applicable to sick/bereavement leave by adding “spouse’s grandparents” to the definition, providing for severability and establishing an effective date. Exhibits: Ordinance 15-\_\_.

Massie stated this would redefine the immediate family in the event an employee’s spouse’s parents pass away it would allow them to take bereavement leave.

MOVED by Jackson, SECOND by Burk to adopt **Ordinance 15-37**, 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 15-37

An ordinance pertaining to personnel policies and procedures amending Section 17-1-1-102, Division 17-1-1, Article 17-1, Chapter 17, Lawton City Code, 2005, authorizing an amendment to the definition of “immediate family” applicable to sick/bereavement leave by adding spouse’s grandparents to the definition, providing for severability and establishing an effective date.

17. Consider and approve an amendment to Section 5-5-508, Article 5-5, Chapter 5, Lawton City Code, 2005, relating to use of revenues collected from animal related fees and citations, authorizing (1) a fee for administrative processing of animals; (2) use of the revenues collected for the costs of administration and adoptions along with licenses to be used solely for improvements to the animal shelter /facilities and activities of the animal welfare division; and (3) and use of other animal related fees for refunds upon the return of adopted animals. Exhibits: Ordinance 15-\_\_. **STRICKEN**
18. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code 2005, relating to animals, by adding an administrative processing fee and reducing/increasing other fees related to adoptions, impoundments, etc., and establishing an effective date. Exhibits: Resolution 15-\_\_. **STRICKEN**

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Phillips stated she attended the Generals luncheon and it was encouraging to hear from the General and his commitment to being in Lawton and working with Lawton.

Tanner stated he attended the groundbreaking for Apache Casino Convention Center. He stated they need to be sure to add to the contract with NFP that he has given us a 15% guarantee.

Jackson stated he attended the 60<sup>th</sup> anniversary of the McMahon Auditorium and the 77<sup>th</sup> Army Band concert.

Ihler thanked the Mayor and Council for supporting the general employees.

Mayor Fitch personally thanked Mr. Ihler and Mr. Massie for doing a great job with coming up with a solution which was voted on tonight.

The Mayor and Council convened in executive session at 8:38 p.m. and reconvened in regular, open session at 9:13 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

19. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the Employment Agreement of Frank V. Jensen as City Attorney, and in open session take action as necessary. Exhibits: None.

Jensen read the title of item #19.

MOVED by Wells, SECOND by McGahee to approve a 3% pay raise. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

20. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the evaluation review of Jerry Ihler, City Manager, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #20. No action was taken.

Wells stated the council is extremely pleased with the job Mr. Ihler and Mr. Jensen are doing.

There being no further business to consider, the meeting adjourned at 9:15 p.m. upon motion, second and roll call vote.

\_\_\_\_\_  
FRED L. FITCH, MAYOR

ATTEST:

\_\_\_\_\_  
TRACI HUSHBECK, CITY CLERK