

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
DECEMBER 18, 2012 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Mayor Fred L. Fitch
Presiding

Also Present:
Bryan Long, Acting City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Jim Russell, Human Resources Director, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Michael Tennis, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
George Moses, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT: None

AUDIENCE PARTICIPATION: None.

CONSENT AGENDA

Mayor Fitch stated item #8 needs to be discussed separately.

MOVED by Burk SECOND by Shoemate to approve the consent agenda with the exception of item #8. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Dave and Darsha Wilson in the amount of \$7,835.85 (**Res. 12-116**). Exhibits: Legal Opinion/Recommendation.
2. Consider approving a lease agreement between Goodwill Industries of Southwest Oklahoma, Inc. and the City of Lawton for the land and building located at 1203 SW Lee Boulevard, Lawton, Oklahoma, for the purpose of providing a program of rehabilitation

and job training for handicapped persons of Southwest Oklahoma. Exhibits: Lease Agreement and proof of insurance is on file in the City Clerk's Office.

3. Consider amending and approving the Professional Services Contract for Consultant Brokerage services concerning employee health benefits held by Higginbotham Insurance Agency, Inc. extending the contract option for one additional year. Exhibits: Proposed Contract amendment.
4. Consider approving contract with Lawton Community Theatre for three performances of "Cinderella's Mice" on Tuesday, March 26, 2013. Exhibits: Contract on file in City Clerk's office.
5. Consider accepting as a donation the park equipment that has been installed at Elmer Thomas Park known as Playground in the Park and include as a donation the banquet hall chairs for the City Hall from the Lawton Enhancement Trust Authority. Exhibits: None.
6. Consider approving the lease and service agreement with R.K. Black to lease to own a ScanPro 2000 Microform reader & printer. Exhibits: R.K. Black Lease Agreement; R.K. Black Service Agreement.
7. Consider granting an extension of time for the performance bond for Eastlake Addition, Part 3A. Exhibits: None.
8. Consider approving the record plat for Lawton Downtown Center, Part 2. Exhibits: Plat Map.

Mayor Fitch stated a plat was distributed before the meeting. The plat has been approved prior to this meeting, but changes have been made on Lots 6 and 7. Lot 7 is a new tenant that is being added at this time and they have changed the square footage of that land size and shrunk it. The north boundary of Lot 6 has been brought in several feet. He stated this has all been approved but now these lots have been reconfigured to suit the tenant that they have lined up.

MOVED by Wells SECOND by Zarle to approve the record plat for Lawton Downtown Center, Part 2. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

9. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 1,290 linear feet of 8-inch PVC sanitary sewer line, and all appurtenances to serve the Lawton Downtown Center located between NW 2nd Street and Railroad Avenue, Gore Boulevard and Ferris Avenue in the SE/4 of Section 30, T2N, R11W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk's Office.
10. Consider approving contract Amendment #1 with Jacobs Engineering Group, Inc. for additional engineering services for the Bicycle & Pedestrian Plan Phs II and Phs III Project #2010-7. Exhibits: Amendment #1 to Agreement.

11. Consider adopting a resolution for the selection of a consulting engineer to conduct the bi-annual inspections required by the National Bridge Inspection Standards (NBIS) Program. Exhibits: Letter from ODOT and **Resolution 12-17**.
12. Consider accepting permanent easements from Virgil Lee Goodin, Benjiman R. Allison & Gregory G. Allison Successor Trustee's of Allison Living Trust needed for the South Wolf Creek Trunk Expansion #1 Project # 07-2SSES, authorizing the Mayor and City Clerk to execute the easements and authorizing payments for same as listed below. Exhibits: Location map. Permanent Easements are on file in the City Clerk's office.
13. Consider approval of payroll for the period of December 10–23, 2012.

NEW BUSINESS ITEMS:

14. Discuss and consider City Manager job description and outline of recruiting process and take action. Exhibits: City Manager Job Description and Strategic Government Resources Search Services Proposal is on file in the City Clerks Office. (A copy will be distributed at meeting).

Jim Russell, Human Resources Director, stated the final draft of the job description for the City Manager was distributed. He incorporated everyone's comments that were submitted to him. The second document was from Strategic Government Resources (SGR), who are under contract with the City of Lawton. They are the firm that conducted the police chief search. They have given us a proposal on doing a search for a new city manager. He stated typically when SGR conducts the search, the human resources department steps out of the process and does not do any of the search. He stated SGR does offer the opportunity for us to do some of the work and reduce the cost. There is an ala carte type of sheet with items we can look at to reduce the cost. Under tab three on page nineteen it gives you an all inclusive maximum price of \$24,000 for SGR to do the entire search. They would go out nationwide and would handle some of the initial interviewing and scale down the pool of candidates for the final interviews. He stated the human resources department could cut costs by doing the background checks and do some of the negotiating of salary and contract. The advantage of having SGR do the entire process is that it takes away any type of bias or opportunity to speak against his department doing the search for his boss. He is looking for some guidance on how to proceed.

Tenis questioned how much they could save by human resources doing the background checks, etc.

Russell stated it would save approximately \$3,000 - \$4,000.

Tenis stated that really isn't enough savings to have any type of second guessing. He felt they did a good job with the hiring of Chief Smith. He recommended they leave it as is.

Moses stated he feels they need to have a professional firm do the whole thing and have a committee monitor their work. He would like to see the selection criteria and weighting factors that are used.

Wells stated in the years he has been around, all but one year the human resources department actually did the advertising and got the applications in and then the council went through the applications and made the final selection. He does not like the idea that they are going to get in some number of application, whether it be 10 or 100, and they are going to go through them without any guidance, and the council is not even going to be able to look at them, and then they will reduce that down to twelve and conduct interviews and reduce that down to six. The council will then get six finalists without knowing what they kicked out because their criteria was different than what the council wants. He suggested they stick with what the city used to do and that is to have human resources advertise in the municipal leagues for Oklahoma and the surrounding states and national publications. There is no pressure on human resources because all they do is get the applications in and then they give to the council to review and make selections. He noticed there was no salary level set which could be a problem. The final decision is the council's and he feels the council needs to review the applications. It is a question of how they go about selecting those applications and he feels they need to look at the people who are familiar with the way Oklahoma finances. They need someone that is not going to take a couple of years to get familiar with Oklahoma before they can become effective as a city manager here.

Tenis stated their proposal says that if this doesn't work after a selection they have a two year period. He questioned if that would be null and void if they go with the route suggested by Councilmember Wells. He would find it hard to believe they would make a guarantee like that if we take a lot of the control out of their hands.

Russell stated the less control they have the less they will guarantee. Depending on what we take away from them, eventually they would remove that guarantee.

Wells stated that is the way it has been done in the past. It was done in house through human resources and all applications were furnished to the council and the council weighed them and made the final selections. There is no pressure on human resources. He stated you don't know what SGR would kick out and why.

Moses stated he thinks the council would have the option of specifying the criteria that is to be used and the weighting factors on the criteria for making judgments. The council could oversee and supervise that process as a council.

Russell stated the council would be able to list out the priorities and how you want those weighted out.

Moses stated the council would put together the list of criteria they want considered.

Russell stated SGR would collect the pool and they would conduct their initial interviews off the pool. They would have the job description, but the initial interview process will be in their hands.

Moses stated if they get 100 applications they should be able to provide copies to the council and each does their thing.

Wells stated the final six that the council gets are from their selection. It does say that the council could sit in on the interviews, but they interview twelve people and make a final selection of six.

Zarle stated he has been involved in this process and it is a nightmare. In 1993 he was on the committee and they got down to the final six and they brought three people in and it ended up costing \$25,000. You have to fly these people in and you pay all the expenses. It took two or three months and they spent day after day on this process. They need to find someone who knows what is going on in this part of the country. He feels they should look at someone that knows what is going on in this community.

Bellino-Hall stated this group did a wonderful job in the selection of the police chief.

Russell stated there is a little bit of difference between the selection process of the police chief and the city manager. With the police chief he was heavily involved in that process. He reviewed the job applications and resumes with SGR to cut down to the top tier of interview candidates. With the city manager search, SGR is proposing to do everything. The biggest asset with SGR with the police chief search was their nationwide network.

Bellino-Hall stated most of them do not know how to interview and they bring their bias' to the table. She feels they need an outside firm because they have a wide range of places to select from and they know how to do the selection process. She personally feels that the council does not need to be involved in this. The final selection is up to the council, but they need to be able to select the candidates. It does not matter if they come from Oklahoma or not, everyone will have a learning curve. They need the outside firm to do the initial screening.

Zarle stated they did do a wonderful job with the police chief, but this is a different ballgame.

Wells stated the council should be looking at everyone that submits an application. No one else but the council will make that decision.

Mayor Fitch stated the council can set the criteria. If the council wanted to look at the applicants and the council narrows it down to their twelve and SGR narrows it down to their twelve, then we communicate with some agreement and then they come down to six and the council interviews. They would be in agreement with their recommendation, but the council may see something that SGR does not see. He questioned if they would be able to have that kind of flexibility in this process.

Russell stated yes.

Mayor Fitch stated the salary range will be one of the criteria given to SGR.

Russell stated yes.

Wells stated he would not have a problem if the council could see all the applications.

Haywood stated he has been here through the last two city managers. The first time they did get all the applications and the council narrowed it down to the best applicants. He stated they established the criteria before they went out for applications. Once the human resources director turns over the applications, he is out of the picture.

Mayor Fitch questioned if applicants could submit their application in nine sets.

Russell stated they sit down with all of the applications and based off of the council's criteria, they sort them out and put them into categories of their top pick, second, third and then all those that are not qualified at all.

Mayor Fitch stated with their expertise they could narrow it down to 25 and he feels they could feel comfortable starting off with 25 to begin with. It is the council's decision on this. He gets a vote on the final say so.

Burk stated hiring someone is tough. You are going to get some qualified local people. They have to think about how many applications they want to look at. He does not want 100 applications sent to him. They have to look at what that number would be. They can come up with the council's top list and compare it with their list. They need to tell them that we want someone that knows how our government operates.

Haywood stated most people that apply will do their homework and will know what is going on in the city of Lawton.

Moses questioned if, when looking at an applicant, do they operate off of their own unique worksheet or will they work off of a common worksheet with agreed upon criteria and methods for judging each criteria.

Russell stated it would be a common worksheet without criteria.

Moses clarified that each of them will complete a worksheet according to an agreed upon criteria and write their opinions then meet and decide which applicant they want to move forward with or reject.

Wells stated they may score with numerical values.

Haywood stated in the past they interviewed the top three and each member had a question to ask the applicant.

Mayor Fitch stated he feels they are going to have to be heavily involved in the process. This is the future of this community. He feels they can give more input to the company that is going to do this process of how they want it done rather than take their fifty, going to twelve and then going to six.

Wells stated they are talking about \$24,000 maximum, but they are also talking about interviewing twelve candidates. Bringing in twelve people to Dallas to interview. We would have to pay for that. Then we would interview six or three. With this proposal we probably have about \$75,000 in expenses.

Mayor Fitch stated it would be closer to \$50,000. He stated that is why he believes we could come up with the twelve. We could have more input and save a little more money and be more satisfied with the results that we see and people we interview.

Burk questioned if the council can specify that all we want is the top six.

Wells stated he does not like giving someone the authority that we have. The council is charged with picking the next city manager, not some firm in Texas.

Mayor Fitch questioned if they could go through the top 25 applicants or however many are received and then make a recommendation back to them as to who the council would like to interview. There could be only six that you may want to interview.

Wells questioned if we went out and asked for applications.

Russell stated SGR would handle that entire process. If anyone even contacted human resources he would direct them to SGR.

Mayor Fitch questioned if they would want to advertise in a five or six state area and then OML. You could have the applications back in 30 days and then do some evaluation and determine if you want to go with SGR.

Wells stated he would rather see us go through that process.

Russell clarified that human resources would do a local advertisement and if we don't get quality candidates we are looking to go with SGR.

Moses questioned what they gain with going through that process.

Wells stated the council goes through the same criteria and looks at the applicants. He stated they will not move forward with SGR if they find someone from this southwest region. We are talking about all the surrounding states.

Haywood stated he feels if we are going to do this we need to open it up nationwide, not just four or five states.

Burk suggested the put the HR Director more in the loop with SGR to be the liaison with the council in this initial process.

Russell stated he can be as involved as the council wants him to be.

Burk stated they have given Russell the criteria that meets what they want as a city manager in the job description. Then Russell can oversee what they are doing to get to that top 50 or 25. He feels they need to do this nationally.

Wells stated we can still go nationally and still keep it in house this first step. There may be someone local that does not have city manager experience but they may be able to come in and do a fantastic job. They would probably be passed up through the firm in Texas.

Burk stated the qualifications would still be there. There are a lot of business people that could do the job.

Haywood stated we can't even get engineers from the surrounding states, we have to go nationwide.

Zarle stated in the past they received 75 applications and they broke it down into three groups and picked out the choice ones.

Bellino-Hall stated the council does not have the expertise to do that, she feels they need to leave it up to some company that does this all the time and does the back ground checks and qualifications. When it comes down to 25 or 12 that the council can look at, that is the way they should go. If there is someone local that wants to apply that is fine, but if they don't meet the criteria, they can't do the job. This is a complex job and we need people with experience.

Moses stated personnel selection for meeting a job description is always a difficult thing to do especially on the executive level. He agrees with Dr. Bellino in that they need someone to throw the net out there and pull in people according to the criteria that we have laid out in the job description. He feels that Mr. Russell should be involved in how that screening comes about and working with the council and getting guidance. He hates to see us short change ourselves by limiting our search.

Haywood suggested they involve the two new council members in this process.

Mayor Fitch agreed that Dr. Morford and Keith Jackson should be involved because that could be one of the first things they have to vote on when they take office in March.

Burk stated he would like to make the motion to employ SGR with the consideration that the Human Resources Director be the council liaison and set a threshold of \$50,000 for the search.

Mayor Fitch stated they have a deal with them at \$24,000 and some of the things we have suggested should reduce that number.

Burk stated he is talking about if they bring people in and they start this interview process and we have to pay travel reimbursements.

Mayor Fitch questioned where the money is coming from to pay for this. He stated this is going to be a problem.

Burk questioned how much was in council contingency.

Long stated approximately \$30,000.

Mayor Fitch stated there are two more things coming down the pike that want to touch that money.

MOVED by Wells SECOND by Zarle to direct the Human Resources Director to start the process by advertising nationally, get the applications sent in to us and if the council decides it cannot handle it, then we look at SGR.

Mayor Fitch questioned if the council would have to set the salary range.

Russell stated before he actually posts the position he will need a salary range. He suggested that they set up a hiring committee.

Wells stated they could set up a council committee that would review them or the whole council.

Mayor Fitch stated they could have two committees made up of four council members. Each group could look at applications and then they could switch off.

VOTE ONE MOTION: AYE: Shoemate, Tennis, Moses, Zarle, Haywood, Wells. NAY: Burk, Bellino-Hall. MOTION CARRIED.

15. Consider authorizing the staffing of the Legal Assistant I position in the City's Legal Department. Exhibits: None.

THIS ITEM WAS STRICKEN FROM AGENDA.

16. Consider an ordinance amending Sections 22-2-2-222 and 22-3-14-393, Lawton City Code, 2005, by extending the date for the exemption of impact fees in the Downtown Area to applications received and accepted prior to January 1, 2014. Exhibits: Ordinance 12-__.

Richard Rogalski, Community Services Director, stated in January of 2010, there was a modification to the impact fee ordinance. At that time there was an expiration date set for the exemption for the downtown area and when impact fees were originally set up there was an exemption in the downtown area for the downtown projects. He noticed that this impact fee was set to expire on January 1, 2013. The intent was that the project would be done by then and unfortunately there have been some delays. He stated we should be receiving most of the

building permit application within a couple of weeks of January 1, 2013. He has proposed in the code to change that date from 2013 to 2014 and extend that exemption for one more year.

MOVED by Wells, SECOND by Tenis to adopt **Ordinance 12-48**, waive the reading of the ordinance, read the title only. AYE: Shoemate, Tenis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 12-48

An ordinance pertaining to utilities amending Section 22-2-2-222, Division 22-2-2, Article 22-2, and Section 22-3-14-391, Division 22-3-14, Article 22-3, of Chapter 22, Lawton City Code, 2005, by extending the date for the exemption of the downtown area, providing for severability.

17. Consider approving an Ordinance pertaining to Temporary Structures and Uses amending Section 7-12-2-1250, Division 7-12-2, Article 7-12, Chapter 7, Business, Lawton City Code, 2005, by establishing regulations for temporary donation boxes and recycling bins, providing for severability and declaring an emergency. Exhibits: Ordinance 12-__.

Rogalski stated recently it was brought to staff's attention that many new clothing donation boxes had been placed around town. There is currently no code in place that would regulate where and how many donation boxes could be placed at a given location. The proposed ordinance would require a permit for temporary donation boxes or recycling bins, and allow them to be placed only on private property and within zoning districts other than R-1 and R-2, and not adjacent to property zoned R-1 and R-2, regardless of the zoning district. The duration of the permit would be 180 days. Donation boxes or recycling bins which are located on property that is owned or controlled by the owner/operator of the box or bin, and where the owner/operator has a permanent business within a building on the same property would be exempt from the permit requirement. By establishing regulations for such temporary boxes or bins, the City can better insure that the boxes or bins are not placed where they would endanger the public by being too close to a street or within a sight triangle, and if a box or bin were to become unsightly or unsanitary, staff would have record of the responsibly party. He stated a permanent location would be covered as an accessory structure, but these temporary ones just aren't covered. He stated no more than 10% of an existing facilities parking could be used.

(Rogalski distributed a modified version of the ordinance.)

Rogalski stated items #4 and #5 state that if you are applying for a permit for a location for 30 days or less, that could be on a sealed surface or graveled area. Anything longer than 30 days has to be on a sealed surface. On items #6 and #7, we are saying that any of these boxes are permitted for a period of six months, and you are limited to one permit per bin on that location. After six months you have to move it. Each box or bin that you put on the site has to have its own separate permit. There will be permit stickers on each bin. There is one bin allowed per acre. He stated there are exemptions under item B which say that if a bin is located on private property associated with a permanent bin that is at that location, it is exempt. They are really looking at third party bins. Also exempt are recycling bins that are on park property that are part of a contract we have. He stated permanent locations are not part of this code because they go

through the accessory structure code. The following item sets out a proposed \$50 fee which covers our review and inspection fee to see that it has been placed properly. For an accessory structure the fee would be \$60 which is a one time fee. The fee on these temporary structures would be a six month permit for \$50 per bin.

Tenis stated it would make more sense to pay the \$60 for a permanent structure.

Rogalski stated if the bin was going to be permanently there. You would have to have a set aside area for the permanent accessory structure. The temporary requirements are a little more loose.

Bellino-Hall questioned if she decided to put a donation box in the parking lot of her business would they still have to get a permit to do that?

Rogalski stated they would have to get a permit as an accessory structure or for a temporary structure. The property owner is responsible for maintaining it if it is a permanent structure, but in a temporary use the property owner is giving someone else permission to operate a temporary use on their property. That is why we want the permit in their name so we can call them to say there is a mess around your structure or their permit has expired.

Tenis questioned if there were size limitations on these boxes.

Rogalski stated no.

Tenis stated he could see someone putting a boxcar in a parking lot.

Rogalski stated if that became an issue staff would have to modify this code.

Burk clarified that they would have to move that box off that location after six months if they had a temporary permit.

Rogalski stated yes, they would have to find another temporary location or go permanent.

Burk stated, as an example, the bin in the parking lot of the Lawton Constitution that collects newspaper is a third party.

Rogalski stated those should be a permanent structure since they are there all the time. It is no different than someone assembling a shed in their rear yard. It should be permitted as a permanent structure. He stated staff will look at how long they have been there and if it was permitted as part of building expansion, etc.

Burk stated he has received calls for and against this ordinance. One caller told him they were taking donations for a specific group in front of their building. He questioned if they owned the bin, they would not have to permit that bin on their personal property. He stated they are not talking about a third party.

Rogalski stated yes, that falls under that first exemption.

Burk stated that would be no different than Goodwill have their own bins in front of their property.

Bellino-Hall questioned if it mattered if it was for profit or non profit.

Rogalski stated it does not matter in this particular code.

Burk stated if this is approved, they need to make sure that they look at all structures like this, city wide. We are not going to pick on just one company, we are going to look at all these third party structures and make them come into compliance within six months.

Rogalski stated they are going to look at compliance within six months. He stated they are really giving people ninety days. The ordinance will go into effect in thirty days, and then staff would give them another sixty days to comply. He stated staff will still need time to track everyone down. They are just trying to manage this issue and make sure they are placed properly and the owner knows about it.

Mayor Fitch questioned if there is anything in the ordinance that regulates what the box is made out of or the appearance.

Rogalski stated if it becomes a mess, it will be treated as a nuisance.

Mayor Fitch stated a lot of the bins around town are about rusted out and they barely have the name of the organization on them. They are shabby looking. Could we make sure they have a decent paint job on them?

Rogalski stated he knows we will have to tweak this as time goes on.

Haywood questioned if Habitat for Humanity had bins on their own property.

Tom Barrett, President of the Board of Directors for Habitat for Humanity, stated they work with American Recyclers who are a third party for profit organization. He stated they do have a bin on their property that is owned by American Recyclers who also have agreements with other private property owners around town to place bins on their properties with the Habitat for Humanity logo.

Terry O'Neill, Lawton-Fort Sill Manager of American Recyclers, stated he has received permission from all the of the property owners where he has boxes.

Burk stated that is not the issue.

Unidentified woman from Habitat for Humanity, questioned if the third party, which provided bins for them outside their property, have to get a permit.

Burk stated yes if they are a third party.

Mr. O'Neill stated his company gives back to Comanche County. They provide \$12,000 a year for Habitat for Humanity. If they weren't collecting this, it would end up in the city landfill. They make sure their products are resellable. They wash them and take to Houston. The things that aren't resellable they turn into rags and sell them. He stated on March 27th they called the city and spoke with a girl named Christy and asked if they could set up bins. She told them there was no fee for donation bins.

Tenis stated you need rules for this type of issue.

Mr. O'Neill questioned if they were just targeting his company or will they look at the bins in front of Country Mart and Walmart.

Burk stated that is private property and they own those bins. That is not what they are talking about. Some of the bins that Mr. O'Neill has set are very close to being site obstructions and are very close to the road. There has to be some rules on where you set them and how you set them. He questioned how many bins Mr. O'Neill had in Lawton.

Mr. O'Neill stated he had 50 bins in Lawton.

Zarle questioned how many more Mr. O'Neill was going to put in Lawton. He stated he has also seen them in the county.

Mr. O'Neill stated his company wants him to have at least 100 boxes in Lawton, Duncan and the surrounding areas.

Moses stated the question is not the goodness of the work they are doing, the issue is the control for the benefit of the city. He feels having a set of rules is a wise thing to do at this point.

Tenis questioned what happens when someone runs into one of their containers in a parking lot. Who are they going to sue? Is it the city's responsibility?

Mr. O'Neill stated their number is on the front of the box.

Tenis stated there is no debate that American Recyclers does a good job, but there have been 50 put up in the past year. He stated there is nothing to keep another organization from coming in and putting up 50 more. Pretty soon they will be everywhere and they must be regulated.

Moses stated they need to include in their business model the permitting process for when they have to deal with it.

Burk stated they have this issue with dumpsters. They need to have some control over whether or not they are able to maintain the bins. Someone will eventually put out furniture by these bins.

Wells stated he has a problem with the six months. He recommending an annual \$50 fee and if it benefits a non-profit they don't have to move them but once a year.

Rogalski stated this section of the code is under temporary uses. You are allowed to obstruct 10% of your parking area and if it going to be annual, you really shouldn't obstruct your parking lot. If you want an annual fee we would have to tweak this because you can't obstruct your parking lot forever otherwise we might as well reduce the parking requirements.

Burk stated he would like to hear from the people who are from other non-profits in the community.

Captain Debbie Hull, Salvation Army, stated they were concerned when they saw all these boxes going up because they are red, the same colors as the Salvation Army. They had a lot of calls from people who thought they were donating to the Salvation Army. She stated the public they heard from were concerned because it does not stay in this community. They want the proceeds to go to people in need and when it goes to the Salvation Army or Goodwill, they know some of the items will be given away to people in need. She stated they just want to make sure the need in this community is met.

Jarrod McLaughlin, Treasurer of Goodwill of Southwest Oklahoma and North Texas, stated they have a lot of concerns. He stated they hire locals and every single donation they get will help the Lawton community. Every one of those donations is leaving the community.

Moses stated we have a for profit company that is working with a local non profit that is operating in the same market as Goodwill and Salvation Army and there is some confusion to people who are inadvertently giving donations. He stated that is a different issue than control of these boxes. In this ordinance we are dealing with control of any box that takes up donations and that seems reasonable. He does not feel the council needs to be involved in a market differentiation problem.

Mayor Fitch recommended that this issue be tabled and staff look at some variances of the items listed such as item #9.

Burk stated he does not like the fact that these boxes are all the way out near the road and he is concerned where some are located. He suggested that setback requirements be included in this ordinance. He would like to table this issue and he would be willing to help work out something with this problem.

Rogalski stated he needs some clarification on whether the council wants differentiation between for profit and non profit.

Mayor Fitch stated that is not something that the council should be making a decision on.

Burk stated he does not want to get into that issue.

Jensen stated they should not be making any distinction between for profit and not for profit and they should be focusing on what they need to have to recoup our expenses. There will be expenses to deal with in regulating these boxes and it is not going to make any difference if it is Goodwill, Habitat for Humanity or American Recyclers.

Mayor Fitch suggested that all these boxes need to have this extra identification and then each time a box is placed at a particular property there is a number that is issued on that permit. He suggested a \$50 permit annually or a \$50 minimum. Then each box can be identified with the permit number and any problems can be addressed between the city and the owner of the box.

Burk stated they also need to designate the size.

Mayor Fitch stated there also needs to be guidance on the type of container and appearance.

Wells stated he would volunteer to work on this issue.

Mayor Fitch stated Wells, Burk and Zarle have agreed to work on this issue with staff.

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

18. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, by establishing the fee for temporary donation box and recycling bin temporary use permits. Exhibits: **Resolution 12-18**.

THIS ITEM WAS STRICKEN FROM AGENDA.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Burk stated there is event happening on Thursday at 5:30 p.m. in Elmer Thomas Park.

Kim Shahan, Parks and Recreation Director, stated the local radio stations are putting together a vigil based on the recent events in Connecticut. The public is invited to come and express their condolences and people will have an opportunity to write a note which will be sent to that community.

The Mayor and Council convened in executive session at 7:36 p.m. and reconvened in regular, open session at 8:19 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

19. 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. Exhibits: None.

Jensen read the title of item #19.

MOVED by Moses SECOND by Haywood to approve and authorize the Mayor to execute a fiscal year 2012-2013 contract with the IUPA Local 24 providing for among other things a 2 ½% pay raise effective December 24, 2012, a one time \$700 signing stipend per officer and language specifying authorizing drug testing in certain instances and language imposing restrictions on an officers ability to transfer leave. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

20. Pursuant to Section 307B3, B4 and C10, Title 25, Oklahoma Statutes, consider convening in executive session for the purposes of conferring on matters pertaining to (1) 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, (2) a pending action with AEP/PSO regarding responsibility for electric utility relocation costs in connection with the Lawton Downtown Redevelopment Project, and take appropriate action in open session as necessary. Exhibits: None.

Jensen read the title of item #20.

MOVED by Wells SECOND by Tennis to authorize the City Attorney, after a final attempt following months of negotiation is made to reach an acceptable settlement, to file a lawsuit against AEP/PSO if such final attempt remains unsuccessful to resolve all differences relating to the franchise ordinance and agreement between the City and PSO including the responsibility for electric line relocation costs, timely relocation of electric lines and other matters as determined by the City Attorney. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:23 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK