

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
APRIL 24, 2012 – 6:00 P.M.  
NEW CITY HALL  
COUNCIL CHAMBERS/AUDITORIUM

Mayor Fred L. Fitch  
Presiding

Also Present:  
Larry Mitchell, City Manager  
Frank V. Jensen, City Attorney  
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Mike Ellis, Calvary Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

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

ABSENT: None

PRESENTATION OF APRIL 2012 CITIZEN OF MONTH TO JERMAINE WILKERSON,  
SSGT, US MARINE CORP.

Lucy Laird, Mayor's Commission on that Status of Women introduced Jermaine Wilkerson as the citizen of the month for April 2012.

Mayor Fitch presented a Certificate of Commendation from the Mayors Office.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR  
MEETINGS OF APRIL 10, 2012.

MOVED by Wells SECOND by Burk to approve the minutes of Lawton City Council regular meeting of April 10, 2012. AYE: Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Moses requested item #7 be considered separately.

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

1. Consider the following damage claim recommended for approval: Goodwill Village West Apartments in the amount of \$783.50. **Exhibits: Resolution 12-35, Legal Opinion/Recommendation.**
2. Consider the following damage claim recommended for denial: Laray and Darla Lemons in the amount of \$2,500.00. Exhibits: Legal Opinion/Recommendation.
3. Consider accepting the water lines and easements within Fairway Villas subdivision. Exhibits: Letter from Association, Location Map. Easements are on file in City Clerk's Office.
4. Consider accepting the sanitary sewerline, water line, easement, and maintenance bonds to serve Switzer's Locker Room located at 2701 NW 38<sup>th</sup> Street. Exhibits: Location Map. Easements and Maintenance Bonds on file in City Clerk's Office.
5. Consider acknowledging receipt of Tier I permits from the Oklahoma Department of Environmental Quality for the construction of 2,979 linear feet of 8-inch waterline, 3,668 linear feet of 8-inch sanitary sewer line, and all appurtenances to serve West Hill Addition, Part 2, located north of SW Lee Boulevard, east of SW 82nd Street in the SW/4 of Section 32, T2N, R12W, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's Office.
6. Consider authorizing the City Manager to accept a transfer of Special Appropriations Act Project (SAAP Grants Fiscal Year (FY) 2010 grant from Lawton Fort Sill Chamber of Commerce to fund water and wastewater infrastructure improvements in the city. Exhibits: Letter From EPA dated March 13, 2012, Email Correspondence from Chamber dated April 3, 2012, Acceptance Letter dated April 3, 2012.
7. Consider rejecting bid proposals for the Police CID Building Project #2012-2 due to insufficient funding. Exhibits: None.

Moses stated the lowest bid was roughly within \$2,000 of the balance that they had to spend. He questioned if there was a procedural or legal rule that prevents us from descoping the contract to accommodate that \$2,000 difference so that we could accept the minimum bid or do we have to go out for new bids.

Wells stated he read that a little differently. They got \$91,000 and that bid is actually under by \$2,000.

Chief James Apple, Lawton Police Department, stated this is a Burns Grant through the federal government that they have received every year. The bid on the building, when it was originally submitted in the grant in 2009, was in the neighborhood of \$65,000 for a turnkey building. The turnkey when it went out for bid was \$138,000. It has to be a turnkey as specified in the original grant. We cannot subtract anything from it and we cannot supplement the grant. He has submitted a letter of request to reallocate the funding for other equipment so we don't lose the \$91,000 and it is in the process of going through the legal channels in Washington to be approved.

MOVED by Wells SECOND by Moses to reject the bid proposals for the Police CID Building Project #2012-2 due to insufficient funding. AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED.

8. Consider extending contract (CL11-035a) Manhole Lining Materials-Calcium Aluminate Cement to The Strong Company of Pine Bluff, AR. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
9. Consider extending contract (CL11-035b) Manhole Lining Materials-Portland Cement Based to Quadex, Inc. of North Little Rock, AR. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
10. Consider extending contract (CL11-026) Alternate Daily Cover to LSC Environmental Product, LLC of Apalachin, NY. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
11. Consider extending contract (CL10-037) Employee Assistance Program (EAP) to Deer Oaks EAP Services of San Antonio, TX. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
12. Consider awarding contract (RFPCL12-014) Concession Operations, Eastside Community Park to LaSill Optimist Club of Lawton, OK. Exhibits: Department recommendation, Lease & Non-Exclusive Concession Operation Agreement, Proposal Price Revision sheet.
13. Consider approval of payroll for the period of April 2-15, 2012.

NEW BUSINESS ITEMS:

14. Hold a public hearing to consider the Consolidated One-Year Action Plan for FFY 2012, receive input from citizens, and provide input for development of the plan. Approve the plan and pass Resolution #12-\_\_\_\_\_ authorizing the execution of the plan and authorizing the Mayor and City Clerk to execute the implementing documents necessary

to implement the Consolidated One-Year Action Plan for FFY 2012. Exhibits: A copy of the Consolidated One-Year Action Plan for FFY 2012 (Draft) is on file at the City Clerk's Office. A copy of the resolution is attached.

Tenis requested that this item be tabled. He stated he received the recommendation the day before and he feels that he has not had time to look at the applications.

Moses stated he agrees because it is a lot of paper to get through.

Tenis questioned if this will put staff in a bind.

Tim Libby, Assistant Director of Housing and Community Development, stated he will be in a bind with the public hearing. He suggested they hold the public hearing tonight and receive the input from the citizens and then make the decision at the May 8<sup>th</sup> meeting.

#### PUBLIC HEARING OPENED.

Charlie Baer, Christian Family Counseling Center, stated their program provides professional outpatient mental health counseling services for low income at no fee. He stated Oklahoma ranks number one in the nation per capita for people with mental disorders. He stated we lose billions of dollars each year in terms of decreased productivity from depression. This year they helped 30 individuals and families through this program and 72% of those they help are for depression. Oklahoma ranks number nine in the nation for suicide rate. We lose more young people each year to suicide than homicide. Oklahoma ranks number three in the nation for divorce rate. Divorce is the principal cause of poverty in Oklahoma and the single best predictor of teen suicide. He stated they are helping hold marriages together and they do a lot of work with people with divorce recovery. He stated they requested \$30,000 for the next year and the City Planning Commission (CPC) is recommending \$15,000 which will enable them to provide 300 hours of counseling at no fee which will accommodate 20 individuals or families.

Moses questioned if they received other sources of funding.

Mr. Baer stated for this particular program, the city provides \$50 a session and they leverage that with outside donations which make up 40% of their budget. This is only a portion of the no fee work that they do that is funded through this program. They bring in about \$270,000 a year in donations.

Virginia Spencer, Great Plains Improvement Foundation (GPIF), stated they operate the C. Carter Crain Shelter. She introduced their new director, Sarah Head, who will be replacing Betty Caldwell who will now be the house manager. She stated they have been thankful for the funds they have received in the past and she hopes they will continue to support them in their endeavors to serve the homeless clients in Lawton. She stated they are the only shelter in southwest Oklahoma who takes families, individuals, single mothers and single fathers with children. She stated their clients stay for a period of 5-6 weeks and if they are making progress they will extend their stay if necessary to help them get into housing.

Haywood stated that all of the organizations represented here tonight are doing some wonderful things and he thanked them for all the work they do for the community.

Leah Stout, Program Director of Marie Detty New Directions, stated in November 2010, they had 83 overnight stays and in November 2011 they had 727 overnight stays. Their numbers are increasing significantly. They are one of a few shelters in Oklahoma that will take boys who are over the age of 12 with their mothers. Last year they helped almost 1,300 victims of domestic violence and sexual assault. They can also offer emergency shelter for male victims of domestic violence and sexual assault. She stated they respond to sexual assault exams 24/7 and they work with those victims for several years as they go through the court process. When they come into their program their clients receive shelter, clothing, case management and they want them to be independent when they leave.

Anika Safi, New Directions, stated so many women are hurting and it is wonderful to have a place for them to go to and get their victory over the mental torment and physical abuse that they receive. She stated it takes victims a long time to come and get help and these doors are always open. She stated this program changes lives as well as generations.

Howard Kuchta, Family Promise of Lawton, Inc., stated they have been operating for two years in Lawton. He stated the program is designed for homeless children and their families. They move families into transitional or permanent housing so they are able to sustain themselves on their own. He stated they are an affiliate of a larger national network. There are 180 of these networks around the United States. He stated they are a network of churches that provide lodging from 30-90 days. They are largely funded by individuals and they did have a start up grant from United Way.

Marcia Frazier, Teen Court, stated 69% of the cases they processed last year were from low income households and 60% of those were from single households. Right now they are targeting first offenders and holding them accountable and educating them so they can keep them out of the system.

Christina Erman, Roadback, Inc., stated they are the substance abuse provider for the indigent of this community. They have been serving this community for 42 years. They service in excess of 500 individuals every year. Substance abuse has been rated the number one problem in this community.

Haywood questioned how much money they were awarded last year.

Ms. Erman stated \$17,000.

**PUBLIC HEARING CLOSED.**

Libby stated he would at least like to address the portion of this item that covers how the grading system works so that the council will understand the change they made in response to the concerns of the council last year. He stated the scoring system is still 25 points, but on the first question when they used to grade it, people in the top were receiving less money than those who had a lower

priority. By changing the system they are insuring that at least the top ten priorities will receive the only consideration and no one else will receive any points on that first question.

Moses questioned where the priorities come from.

Libby stated every five years they are required to provide HUD with a consolidated five year plan that the City adopts showing how we are going to spend our funding for the next five years. In this plan the City selected housing and maximizing the 15% every year for our public service organizations.

Moses questioned how the priorities are established.

Libby stated they go out into the public and hold neighborhood meetings and then have a series of meetings with the City Council to discuss, chapter by chapter, the priorities within that plan. He stated drug and alcohol was the number one priority. Anyone addressing those issues will receive ten points. Only the top ten will receive funding. He stated there is \$102,413 available. He stated they had to make the funding distribution level fair. They take the money they have and provide percentages of those funds and where you place in the grading system. If you have the highest number of points you will receive 22 ½% of the funds which is \$23,043. This does not work if someone has requested less than that funding level. He stated the #2 organization only requested \$12,000, that left them \$8,483 to redistribute among the remainder of the applicants. He used the same funding distribution formula.

Wells stated the numbers don't show up that way.

Libby stated he did round the number to the nearest round number.

Haywood questioned if this funding will be available next year.

Libby stated from what he has seen from the President's budget, there is the exact same funding level as this year. He stated Senate is recommending approximately \$200 million over what was given last year, which would result in a slight bump.

Wells questioned how the #7 organization ends up with 100% funding.

Libby stated that is how the grading fell out.

Wells stated by the time you get to #7 there should be very few funds remaining.

Libby stated #7 would be recommended for \$2,560 plus 2 ½ % of the \$8,000 and they he rounded to the nearest whole number. In next years budget they would drop them out because they are not a priority.

Wells stated on the chart it shows they are requesting \$8,000 and in their application it only shows they are requesting \$3,000.

Libby stated that is a typo.

Wells stated the formula seems to skew the percentages. Number #1 and #2 both got 100% of what they asked for and #3 got 46%, #4 got 50%, #6 got 65%, #7 got 100%. He stated this seems strange.

Libby stated it doesn't really matter what they asked for, they will get this percentage of the entire funding. He stated they are saying that #1 will get more points than anyone else and it doesn't matter how much they are asking for, they will receive 22 ½% of whatever funding is available. The scoring system is weighted so that the #1 is going to get the largest percentage of the funds available regardless of what they ask for. That was the biggest problem last year.

Moses stated he understands the methodology and he is not sure what he is supposed to do with the booklet.

Libby stated they have provided the key portions of the application which is the base application and the budget of each organization.

Moses questioned if they are supposed to have a number in mind for each organization at the next meeting based on the algorithm or based on an adjustments to the algorithm.

Libby stated they need to look at if they agree with his numbers.

Haywood stated in the past years they have had a lot more money to split up.

Burk stated since he has been on council they have never approved the staff recommendation. He does like the funding mechanism and what staff has done. He stated last year they had so many concerns about the number one priority getting the weight it needed. He stated they all want to give everyone what they requested, but they just can't.

Mayor Fitch stated it seems that some organizations are getting more dollars than they should, but it seems that a top priority is only getting 50%. They may be forcing money on someone when they don't have a plan of action.

Libby stated if the request came to him for \$12,000 that tells him that is how much of our funding that they need to make their program work for next year.

Wells stated these are all worth while organizations, but he would rather see everyone take some kind of cut instead of cutting some of them as much as we are. There are two organizations getting 100% of what they asked for and other organizations that are getting less than 50% of what they asked for. He feels there should be a more fair way to distribute the money so that everyone is getting hit a little bit.

Burk stated the council set the five year plan and said what the number one community unmet need was which was alcohol and drugs. To him they have to fund that and that has been taken care of.

Libby stated this is completely objective and it turns out that by following the system that is what they are able to recommend and they are providing the weight to the number one and they were able to give them all the money they needed. The first two priorities they provided 100% and the third priority was a smaller number.

Wells stated that Councilmember Burk stated the council set the priorities. He thought the points were awarded based on the application and then staff scores the application. If someone wrote a good application they received more points.

Burk stated the whole idea was that the council set the priority based on the community meetings that were held by staff.

Wells stated if an organization had not written a good application they would not have gotten that much money. We are saying if you can write well, you have a better application and get more points.

Haywood stated that last year Mr. Libby said that Roadback did not write a good application, but this year this application was good.

Libby stated this year he sat down with them and went over their application and fixed the areas that were weak. He offers that to all of the organizations.

Mayor Fitch stated no action will be taken on this item and the item will be placed on the agenda for May 8<sup>th</sup>.

15. Consider approving an Ordinance pertaining to Business, amending Section 7-1-1-106, Division 7-1-1, Article 7-1, Chapter 7, Lawton City Code, 2005, by clarifying that all licenses expire one year from issuance date unless otherwise specifically stated and amending Section 7-24-2-2415, Division 7-24-2; and Section 7-24-3-2431, Division 7-24-3, both in Article 7-24; and Section 7-25-1-2504, Division 7-25-1, Article 7-25, all in Chapter 7, Lawton City Code, 2005, by establishing an expiration date of April 30th for all taxicab vehicle, taxicab drivers, and wrecker licenses, providing for severability.  
Exhibits: Ordinance No. 12-\_\_\_\_\_.

Mayor Fitch stated all of the licenses would expire on one day.

MOVED by Wells, SECOND by Haywood to adopt **Ordinance 12-11**, waive the reading of the ordinance, read the title only. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-11

An ordinance pertaining to business, amending Section 7-1-1-106, Division 7-1-1, Article 7-1, Chapter 7, Lawton City Code, 2005, by clarifying that all licenses expire one year from issuance date unless otherwise specifically stated and amending Section 7-24-2-2415, Division 7-24-2; and Section 7-24-3-2431, Division 7-24-3, both in Article 7-24; and Section 7-25-1-2504,

Division 7-25-1, Article 7-25, all in Chapter 7, Lawton City Code, 2005, by establishing an expiration date of April 30 for all taxicab vehicle, taxicab drivers, and wrecker licenses, providing for severability.

16. Consider an ordinance amending Sections 15-1-101, 15-1-102, 15-1-107, 15-1-111, 15-2-201, 15-2-203, 15-2-204, 15-2-206, and 15-2-208, Chapter 15, Lawton City Code, 2005, modifying the definition of a nuisance, modifying the description of certain public nuisances, adding potentially damaging tree limbs and failing retaining walls as public nuisances, modifying the language and process for the abatement of trash and/or weeds on properties with the City of Lawton, and providing a process for notification of rental property managers as part of the abatement process. Exhibits: Ordinance No. 12-\_\_\_\_\_.

Richard Rogalski, Community Services Director, stated recently the City Council directed staff to work with a subcommittee consisting of Councilmen Burk, Tennis, and Wells to prepare a code amendment that would address the problem of tree limbs extending beyond the property on which the tree grows such that they cause damage to a neighboring home or accessory building and also the problem of failing retaining walls between lots, as these matters tend to be blighting on Lawton's neighborhoods. As the committee worked through the affected sections of code, certain other changes were made for the sake of clarification and more closely following state statute. He stated that any tree limb that is extending from a certain property over to the neighbors property and is overhanging on a building or within 12 inches of a building is considered a nuisance and code officials can issue a warning or citation. He stated also said that a retaining wall that is at least more than 12 inches tall and is leaning more than 15 degrees from the vertical towards the lower side is now considered a public nuisance. He stated they also address whose retaining wall it is by locating the property line and if more than 75% of the base of the wall is on an individual property, it is their wall. If it is split, it is considered a common wall and will be addressed by both property owners.

Moses questioned if the police department participated in the revision to clarify things. He questioned if this was enforceable and can the police issue a citation with some clear guidance.

Wells stated this is enforced by the Neighborhood Services Division.

Burk stated the committee worked hand in hand with Tony Griffith, Neighborhood Services Supervisor.

Moses stated that this will get any dispute to a court and get it resolved.

Tennis stated he brought this issue up because he had personal experience with this problem as well as residents in his ward. He stated it is not fair when his neighbor lets his tree ruin the top of his neighbors house and he is responsible for trimming his tree. This will be easily enforceable.

Moses questioned if this should be a legal matter as opposed to a nuisance.

Tenis stated this will prevent elderly people from having to go to court over something that someone should be responsible enough to take care of.

Wells stated that Neighborhood Services could issue a citation and this could end up in Municipal Court.

Rogalski stated another thing they added for clarification is the parking of a vehicle and obstructing a sidewalk. He stated an amended version of the ordinance was distributed which outlines a method to deal with special circumstances or hardships which would give the administrative officer power to grant a ten day extension with a written agreement. He stated they also added the ability for rental property managers to register with the City of Lawton. Often time the best person to address the issue prior to abatement is the property manager who is under contract with the owner. He stated the fees associated with this issue are addressed in the next item.

Dwight Tanner, Jr., 613 W. Gore. (Mr. Tanner was asked to leave the Council Chambers)

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

(Title read by City Attorney)

Ordinance 12-12

An ordinance amending Sections 15-1-101, 15-1-102, 15-1-107, 15-1-111, 15-2-201, 15-2-203, 15-2-204, 15-2-206, and 15-2-208, Chapter 15, Lawton City Code, 2005, modifying the definition of a nuisance, modifying the description of certain public nuisances and adding potentially damaging tree limbs and failing retaining walls as public nuisances, modifying the language and process for the abatement of trash and/or weeds on properties with the City of Lawton, and providing a process for the notification of rental property management companies as part of the abatement process; and providing for codification and severability.

17. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, to establish fees for the registration of rental properties. Exhibits: Resolution No. 12-\_\_\_\_\_.

Rogalski stated this is the companion item to item #16 where it sets a fee for the registration of rental property.

MOVED by Burk, SECOND by Tenis to adopt **Resolution 12-36** amending Appendix A, Schedule of Fees and Charges, Lawton City Code, to establish fees for the registration of rental properties. AYE: Shoemate, Tenis, Bellino-Hall, Burk, Moses, Zarle, Haywood. NAY: None. ABSENT: Wells. MOTION CARRIED

18. Consider adopting an ordinance amending Section 23-6-610, Article 23-6, Chapter 23, Lawton City Code, 2005 that removes the term “by the police” from the section

pertaining to the impoundment of vehicles parked on private property; providing for severability and establishing an effective date. Exhibits: Ordinance No. 12-\_\_\_\_\_.

Tim Wilson, Deputy City Attorney, stated this is a clean up ordinance. Staff noticed that this section of the code states that when a vehicle is on private property and a complaint is made it may be impounded and removed by the police. That is not the practice of the police department. They do not routinely remove vehicles from private property. He stated this will change to comply with practice.

MOVED by Zarle, SECOND by Burk to adopt **Ordinance 12-13**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood. NAY: None. ABSENT: Wells. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-13

An ordinance pertaining to vehicles and traffic amending Section 23-6-610, Article 23-6, Chapter 23, Lawton City Code, 2005, by removing the term “by the police” from the section pertaining to the impoundment of vehicles parked on private property; providing for severability and declaring an effective date.

19. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, pertaining to Chapter 7, Business, changing the annual license fee for Indoor Shooting Ranges to meet with Oklahoma Statue, Title 63, Chapter 30, Section 705. Exhibits: Resolution No. 12-\_\_\_\_\_, Oklahoma Statue, Title 63, Chapter 30, Section 705.

Rogalski stated in 2005 the fees were set for licensing a shooting range at \$100. Recently they were looking through state statute and realized the maximum tax that can be charged is \$20. He stated we have never had an application.

MOVED by Burk, SECOND by Shoemate to adopt **Resolution 12-37** amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, pertaining to Chapter 7, Business, changing the annual license fee for Indoor Shooting Ranges to meet with Oklahoma Statue, Title 63, Chapter 30, Section 705. AYE: Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Shoemate. NAY: None. ABSENT: Wells. MOTION CARRIED

20. Consider a resolution providing preliminary approval for the issuance by the Lawton Economic Development Authority of its “Tax Apportionment Bonds or Notes, Series 2012 (Taxable) (Lawton Downtown Increment Districts Project)” in one or more series; approving the development of agreements by and with the Lawton Economic Development Authority; authorizing negotiated sale; and other matters relating thereto. Exhibits: Resolution No. 12-\_\_\_\_\_ and LEDA Resolution.

Dan Bachelor, Center for Economic Development Law, stated redevelopment projects are very difficult to undertake because they have to deal with the recreation of an older, declining or blighted area of the community. This takes vision, planning, perseverance, continued political

commitment and thoughtful judgment as you take difficult steps. He stated in the case of the Lawton Downtown Redevelopment Project, just as we were beginning to see prospects of redevelopment, we experienced a global recession and the economic world changed. He stated the Lawton Economic Development Authority (LEDA) has authorized and approved an updated redevelopment agreement for the hotel/conference center and we have prospects of a significant office participant in the project. The LEDA also approved and authorized an amended retail redevelopment agreement with Collett and Associates, based in Charlotte, NC. It is a distinguished and financially reputable and successful retail development firm. They are committed to the Lawton market and this places us within shooting distance of our objectives. This is the point in time that we need to continue the race and they key element is to preliminarily authorize the tax increment and related financing that will be necessary to enfold of the financing pieces of this project. Those financing pieces are refinancing the project debt of the LEDA that they estimate will require up to \$14 million, but the actual projected need for the LEDA refinancing is \$13.5 million. Approximately \$5 million of TIF related debt will involve the support that has been committed to the hotel. Approximately \$15 million is necessary to generate the retail, but over half of that is significantly consumed by the disproportionately high site clearance, utility relocation and site improvements costs which have been imposed upon this project and the other portion with development financing assistance to make this a competitive project. The balance of the preliminary authorization of \$37.5 million represents \$3.5 million for contingencies, reserves and cost of issuance. This is a preliminary authorizing resolution, but it directs them to go forward and put together the financing pieces that enable this project to move forward. Out of these financings this will lead to a second resolution which will specifically authorize the LEDA to refinance its current \$12 million debt so it can cover the interim cost between the today and the date of the first dispositions of properties, which under the phasing, the first dispositions for the hotel/conference center development will occur on August 1, 2012. The land proceeds from that sale will be in excess of \$1.5 million. Significant portions of the financing are repaid by land disposition proceeds and other revenues that are generated by the project. The portion that will actually constitute the tax increment financing pieces will be less than \$20 million. He has estimated \$18 million. The project plan creating the TIF to support these redevelopment efforts authorize up to \$50 million in TIF financing. When they generate major development like this project the next priority must be to capitalize on that development because when you have new investment going into an area, you want to support and generate the additional new investment that could be generated next door to it. It becomes a major first step in a series of steps which will generate a tremendous redevelopment of the core of the city of Lawton. He stated the existing \$12 million debt of the LEDA is a debt that was incurred because the lenders had great faith in the City of Lawton. The source of repayment occurs because the project comes together, so the moral obligation is the obligation to carry forward with putting the project pieces in place and this is how you achieve the object and that achieves the repayment of the debt. The pieces are coming together and it is time to take the next step. They are not imposing any new taxes on the citizens of Lawton, you are not imposing a legal obligation to pay these future tax increment debts that will be incurred. The pledge will be repayment solely from those new revenues generates by the project, there is not an obligation to tap other assets nor will there be an obligation for the City of Lawton. It is very hard to get the first development pieces started, but once you get it moving they accelerate.

Moses questioned who accepts the risk and the shortfalls for the TIF piece. He questioned if it was the developer.

Mr. Bachelor stated it depends. It ties to the structure of the financing. What is proposed here is that the retail developer will give us the level of commitments of the stores, the square footages, the level of development, cost of construction to assure those completions, the obligation to the stores to open, and when those obligations are sufficiently legally strong, you are able to package those commitments and project a reliable tax increment revenue stream. With those commitments that give it reality, we are able to sell those tax increment bonds or notes and place them in return for a payment. Once they have been sold to a third party, the risk is on the holder of the notes. The developer would directly carry the risk, but indirectly in order to make those notes or bonds sellable on that basis, the level of commitments provided by this developer have to be sufficient to give reality to the revenue stream. Those notes or bonds will typically be sold with some kind of initial funded reserve and with a coverage ratio, if a certain annual payment is required on these notes, the projected revenues will have to be larger than the amount necessary to pay the note and it is that difference that is called the coverage. The purchaser of these notes or bonds will look for a coverage ratio of 10%, 15%, 20% and maybe even 25% in excess of the amount necessary to make the annual payment.

Moses stated the buyer of the note assumes the risk of shortfalls.

Mr. Bachelor stated that is correct and they will make sure the obligations are sufficiently strong and that the revenue stream is real.

Bellino-Hall clarified that this will just give them permission to go ahead to put the package together, this does not give them permission to actually do the package.

Mr. Bachelor stated that is correct.

MOVED by Burk, SECOND by Moses to adopt **Resolution 12-38** providing preliminary approval for the issuance by the Lawton Economic Development Authority of its “Tax Apportionment Bonds or Notes, Series 2012 (Taxable) (Lawton Downtown Increment Districts Project)” in one or more series; approving the development of agreements by and with the Lawton Economic Development Authority; authorizing negotiated sale; and other matters relating thereto. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED

21. Consider a resolution approving the execution and delivery by the Lawton Economic Development Authority of a new refunding 2012 Economic Development Capital Improvement Note in the amount of not to exceed \$14,000,000 in aggregate amount outstanding at any one time for the purpose of replacing and adding to the existing similar line of credit note originally entered into in 2007 to finance redevelopment activities; establishing the maturity date; confirming prior actions of the City, the Lawton Economic Development Authority and the Lawton Urban Renewal Authority; and other matters relating thereto. Exhibits: Resolution No. 12-\_\_\_\_ and LEDA Resolution

Mr. Bachelor stated this is a subsidiary resolution which authorizes the LEDA to obtain the interim financing necessary to move from where we are today to the point of delivery of the property. This interim financing is absolutely critical to take the timely steps to deliver the site and do the things necessary in working with the retail redeveloper and the hotel/conference center redeveloper. While the face of the resolution authorizes a debt up to \$14 million, it is his estimate that we are really looking at \$13 million or an increase of about \$1.5 million from the present outstanding indebtedness of \$12 million. The purpose of this resolution is to put in place the extended financing to enable the LEDA to perform its obligations under these redevelopment agreements and get to the point of delivery of the property later this year.

Wells questioned the maturity date.

Mayor Fitch stated the maturity date will be established working with the banks. They have us on 90 day renewals at this point and once we move some property and then reduce some of the debt, we will be looking at a longer period of time or even remove that with the sale of the bonds.

Mr. Bachelor stated the objective here would be to have a timeframe that is long enough to permit the retail redevelopers to get enough finalized commitments in place and the retail project far enough down the road that we would then have that strength of financing that will enable us to totally refinance and pay off this existing debt of LEDA.

Bellino-Hall questioned if this was the debt from Arvest Bank that we need to refinance.

Mayor Fitch stated it is from three banks.

Bellino-Hall questioned how we are going to refinance, is it through selling the notes?

Mr. Bachelor stated there are two steps. There is this interim refinancing that would be an extension of the existing note with some additional borrowing authority to enable LEDA to get from now to its dates of performance later this year. Then when the retail development and commitments are sufficiently solid and in place, at that point we would totally refinance this interim debt. In the meantime what is obligated to pay this interim debt are two things, the land disposition proceeds arising from the sale and transfer of title of the property as it is transferred to be redeveloped and that will leave a margin that will be paid by issuance of some tax increment bonds or notes that he discussed earlier.

**MOVED** by Burk, **SECOND** by Tennis to adopt **Resolution 12-39** approving the execution and delivery by the Lawton Economic Development Authority of a new refunding 2012 Economic Development Capital Improvement Note in the amount of not to exceed \$14,000,000 in aggregate amount outstanding at any one time for the purpose of replacing and adding to the existing similar line of credit note originally entered into in 2007 to finance redevelopment activities; establishing the maturity date; confirming prior actions of the City, the Lawton Economic Development Authority and the Lawton Urban Renewal Authority; and other matters relating thereto. AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Burk announced that this weekend is Trash Off and it starts at 8:00 a.m. on Saturday. He reported that the grand opening of the playground in the park will be held on Saturday, May 5<sup>th</sup> at 10:00 a.m.

Zarle stated the contractors mowing the roads are doing a fabulous job this year.

Haywood requested that staff vacate the area between 8<sup>th</sup> and 9<sup>th</sup> Streets between Lee Boulevard and Washington. He stated Dollar General will hold their grand opening on April 28<sup>th</sup> and we had told the Church of Christ that we would vacate that alley.

Rogalski stated the council action would be to close the alley and then there would be a separate action in district court to vacate if needed. Closing the alley will allow them to curb it off and put a fence at the end. They are concerned that when the Dollar General opens there will be a lot of cross traffic through their parking lot down that alley. He stated he has spoken with members from the church and he gave them an application but they have not returned it. He stated council can ask staff to do this administratively.

Haywood stated he would make that request.

Wells stated that Goodyear opened up a recycling center that is open to the public. He stated a recycling firm out of Pryor has opened this up.

Mayor Fitch stated when he was in Washington, D.C. last week he met with staff from three of the senators who are sponsoring the Main Street Fairness Act which has to do with the collection of sales and use tax on internet items nationwide. The estimated loss at the national level is \$23 billion. The estimated loss in the state of Oklahoma due to those sales is \$296 million. He has addressed this issue with the congressional delegation from Oklahoma.

Mitchell stated the council has received the financial report and if they have any questions they can contact staff.

The Mayor and Council convened in executive session at 8:05 p.m. and reconvened in regular, open session at 8:59 p.m. Roll call reflected all members present excluding Burk.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

22. 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 22. No action was taken.

23. Pursuant to Section 307B3 and C10, Title 25, Oklahoma Statutes, consider convening in executive session for the purposes of conferring on matters pertaining to economic development, including the purchase/transfer of property, incentive proposals, and financing in connection with the Lawton Downtown Redevelopment Project and other development projects under consideration in the City, and take appropriate action in open session as necessary. Exhibits: None.

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

There being no further business to consider, the meeting adjourned at 9:01 p.m. upon motion, second and roll call vote.

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FRED L. FITCH, MAYOR

ATTEST:

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TRACI HUSHBECK, CITY CLERK