

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 28, 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 Dr. Norma Quinn, Centenary Methodist 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 BY DR. TODD BRIDGES AND DR. JUAN LOPEZ

Dr. Bridges and Dr. Lopez presented a briefing to the council on the Oklahoma Mission of Mercy event which will be held in Lawton on February 1-2, 2013 at the Great Plains Coliseum.

PRESENTATION ON VETERANS HOMELESS COUNT

Jervis Jackson, Director of Continuun of Care briefed the council on the Point In Time Count which will be held on September 11, 2012.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF AUGUST 14, 2012.

MOVED by Tennis SECOND by Wells to approve the minutes of Lawton City Council regular meeting of August 14, 2012. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Mayor Fitch stated item #14 will be stricken from agenda.

MOVED by Burk SECOND by Shoemate to approve the consent agenda with the exception of item #14. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Barbara Laughy in the amount of \$550.00. Exhibits: Legal Opinion/Recommendation, **Resolution No. 12-82**.
2. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of David Wiggins. Exhibits: **Resolution No. 12-83**
3. Consider authorizing the City Attorney to accept the sum of Two Thousand Six Hundred Seventeen and 25/100 Dollars (\$2,617.25) for settlement of the City's subrogation interest in the personal injury case of Richard Baxter. Exhibits: None.
4. Consider adopting a resolution acknowledging termination of the contract between the City of Lawton and Department of Army, accepting the Keathley United States Army Reserve Center and all improvements thereto, and Authorizing the Mayor to sign the necessary documents. Exhibits: **Resolution No. 12-84** and Federal Governments Notice of Cancellation.
5. Consider approving an Assignment and Assumption of and First Amendment to the Sales Tax Rebate Agreement for Lawton Marketplace at 82nd and Quanah Parker Trailway, and authorize the Mayor and City Clerk to execute the amendment. Exhibits: Assignment and Assumption of and First Amendment to Sales Tax Rebate Agreement, Lawton Marketplace.
6. Consider approving the renewal of the annual agreement between the Center for Creative Living Corporation and the City of Lawton for services to senior citizens. Exhibits: Center for Creative Living Agreement.
7. Consider approving the renewal of the annual agreement between the Delta Nutrition Project and the City of Lawton. Exhibits: Lease Agreement.
8. Consider approving the renewal of the annual lease agreement between the City of Lawton and the Crossroads Youth and Family Services Center, Inc., dba, Crossroads Head Start/ Early Head Start. Exhibits: Lease Agreement.

9. Consider approving the annual agreement between the Lawton Mobile Meals, Inc and the City of Lawton for the specific purpose of preserving the health and welfare of homebound elderly and/or disabled citizens of Lawton, Oklahoma. Exhibits: Mobile Meals Agreement.
10. Consider approving Agreement for Limited Services with the Museum of the Great Plains. Exhibits: Agreement for Limited Services.
11. Consider accepting the donation from the Lawton Literacy Council to be designated for Literacy projects. Exhibits: Lawton Literacy Council letter & Minutes to City Council.
12. Consider authorizing a license agreement for the Public Library’s use of RDA (Resource Description & Access) software. Exhibits: RDA Toolkit License Agreement.
13. Consider accepting the annual service/maintenance agreement authorizing Novalco to maintain the Library’s automatic sliding doors. Exhibits: Novalco, Inc. Service/Maintenance Agreement.
14. Consider approving Council Policy No. 3-2 CITY OF LAWTON GENERAL EMPLOYEE INJURY PREVENTION PROGRAM, by amending the definitions of “Incident/Accident” and “Preventable”, amending Section I. Safety Incentive Awards, subsection B. by requiring minimum training hours for each risk designation; subsection C. by redefining award items; and section IV. Disciplinary Action, subsection D by preventing an employee from being disciplined twice for the same incident/injury, providing for severability and establishing an effective date of September 27, 2012. Exhibits: Amended City Council Policy No. 3-2 City of Lawton General Employee Injury Prevention Program. **THIS ITEM WAS STRICKEN**
15. Consider granting a permanent easement to Comanche County for additional right-of-way on NW Miller Road in the Northeast Quarter of Section Thirty-six, Township Four North, Range Thirteen West, I.M., Comanche County, Oklahoma. Exhibits: Location Map. Easement on file in City Clerk’s Office.
16. Consider approving the temporary loan of a utility vehicle (pick-up truck) from NatGasCar LLC (17000 Saint Clair Avenue, Cleveland OH 4410) to the City of Lawton Equipment Maintenance Division for a period of two (2) to three (3) weeks and authorizing the Mayor and City Clerk to execute the Temporary Loan of Motor Vehicle Agreement. Exhibits: Agreement (On file at City Clerk’s Office).
17. Consider adopting a Resolution of Necessity for real property acquisition for the SE Flower Mound Sewer Line Upgrade Project #2012-5. Exhibits: Location Map and **Resolution No. 12-85**. Resolution 12-_____ with Exhibit “A” is on file in the Engineering Division Office.

18. Consider extending contract (RFPCL11-001) Annual Audit-Employee Retirement Fund with Eide Baily of OKC, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
19. Consider extending contract (CL12-008) Degreaser with Mid-American Research Chemical Corp. of Windthorst, TX. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
20. Consider awarding contract (CL13-006) Nomex Uniforms to Casco Industries of Oklahoma City, OK. Exhibits: Department recommendation, Abstract of Bids, Price Sheet.
21. Consider extending contract (CL11-002) Nuisance Abatement-West Side with Lawn Wizards of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
22. Consider extending contract (RFPCL12-001) Collection of Overdue Utility Bills with United Adjustment Corporation of Kentland, IN. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
23. Consider extending contract (CL12-007) Liquid Oxygen with Airgas USA, LLC of Tulsa, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
24. Consider extending contract (CL12-006) Sulfuric Acid with Brenntag Southwest of Sand Springs, OK . Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
25. Consider awarding contract (CL13-008) Cement Kiln Dust to Silver Star Construction Co. from Moore, OK. Exhibits: Department recommendation, Abstract of Bids, Price Sheet.
26. Consider approval of payroll for the period of August 6-19, 2012.

ADDENDUM:

1. Consider setting the date of October 9, 2012, to hold a public hearing and consider closing and vacating certain streets, alleys, and easements in the Downtown Redevelopment Project area. Exhibit: Location Map

Richard Rogalski, Community Services Director, stated as the downtown project has been rolling along and the acquisition has been rolling along there is an anticipation of acquiring the last remaining properties. In that anticipation, this item is to set the date for a public hearing thirty days in advance, on October 9th, to actually do the closing that would be associated with that acquisition.

MOVED by Burk, SECOND by Zarle to set the date of October 9, 2012, to hold a public hearing and consider closing and vacating certain streets, alleys, and easements in the Downtown Redevelopment Project area. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

NEW BUSINESS ITEMS:

27. Hold a public hearing and consider an ordinance closing the portion of the alley between Lots 1 and 12, 13 and 14, Block 4, McClung Addition, located in the 800 block on the south side of SW Lee Boulevard and consider accepting public utility easements. Exhibits: Ordinance No. 12-__ and Location Map. Utility Easements are on file in City Clerk's Office.

Rogalski stated this is an administrative request to close the alley immediately east of Lot 1, Block 4, McClung Addition, located in the 800 block on the south side of SW Lee Boulevard. The abutting property owners on both sides of the alley have expressed an interest in the closing of the alley. The recently constructed Dollar General Store has paved a portion of the alley and is using that portion as a driveway. The Church of Christ at 8th and Lee have also expressed an interest in closing the alley due to a concern that vehicles traveling to the Dollar General Store would use the alley and the Church parking lot as a shortcut. This request would close only the north half of the alley, the south half of the alley would remain open to allow access from the east-west alley in this block to SW Washington Avenue. On June 14, 2011, the City Council approved the closing of the north 5 feet of the east-west alley as requested by Dollar General.

No objections to the closing of the alley have been received.

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

MOVED by Haywood, SECOND by Burk to adopt **Ordinance 12-28**, waive the reading of the ordinance and read the title only. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-28

An ordinance closing as a public way a portion of the alley adjacent to lot 1, block 4, McClung addition located in the 800 block of SW Lee Boulevard, more particularly described in section one hereof and retaining all remaining easements rights.

28. Hold a public hearing and consider an ordinance closing the right-of-way of SW Tulane Avenue between SW University Drive and SW 27th Street. Exhibits: Ordinance No. 12-__, Application and Location Map.

Rogalski stated this item is to consider an application submitted by Cameron University to close the right-of-way of SW Tulane Avenue between SW University Drive and SW 27th Street. This right-of-way is basically a gravel drive located south of Cameron Village. Cameron wants to close this right-of-way for future development of the campus. There are no public improvements

within this right-of-way. The Cameron Urban Renewal Project Plan, which was adopted by the City Council in 1967, provided that Tulane Avenue within the Cameron campus would be closed and vacated. This request is in conformance with Council Policy 5-1 which provides that Council may approve closings if part of a previously adopted redevelopment plan.

Moses stated this 27th Street business is starting to nag him. He stated he does not object to closing SW Tulane, but he is concerned about the plans by Cameron for 27th Street from Gore to Elsie Hamm Drive. He stated it looks like 27th Street is developing into an arterial street and it is highly used by people going from west Gore towards Lee. He is getting a lot of complaints about the traffic, but his bigger concern is the safety implications of the type of development that Cameron does on the west side of 27th relative to the residential side that hasn't been abandoned or changed in their zoning on the east side. He knows they are working on a parking area for the north end and he is very concerned about how they will handle the safety issues for pedestrians crossing that street. On the south end he hopes that Cameron is mindful to the amount of traffic that is developing along 27th Street going down to the railroad. He is concerned about the safety and the issues that citizens are raising about the amount of traffic and how fast it's going and how we control that.

Shoemate stated there is going to be a lot of traffic at any university.

Moses stated the traffic is going to happen, but he is concerned about our ability to handle the safety considerations as the traffic develops. The crossings from this parking lot are going to be very important.

Wells stated people use this street as a cut through between Gore and Lee and they speed in front of the grade school. Traffic signals may be an enforcement to get the speed under control down through there.

Moses stated that change in speed limit from 35 down to 25 is not always observed. That creates a serious issue in front of that school.

Haywood stated that sidewalks are needed from Lee all the way to Gore.

Moses stated he is looking at Cameron to be mindful as a partner to handle the safety concerns of the development.

Rogalski stated 27th Street is an important road for our traffic circulation in the area. He stated this parking lot is the first development on the east side. The university is putting in a cross walk with the lighted flashing signs. He stated he did participate with Cameron in the master planning process and that was a big item discussed as the university grows.

Moses stated the traffic is getting heavier and he does not want this to drop off as far as the safety concerns when this traffic builds up.

Burk questioned if a survey had been done by the Traffic Commission to see about possibly lowering the speed limit.

Moses stated he would ask that we all be proactive on this issue because the citizens are concerned.

Burk suggested that Moses take this issue to the Traffic Commission and request that they do a study of that area to see what needs to happen.

Shoemate stated he thought the council agreed to lower that speed on 27th Street.

Mitchell stated an upcoming project on the 2012 CIP is an engineering study to look at that intersection of Gore and 31st and 27th and potentially combining those and you may end up with a major arterial on 27th Street.

PUBLIC HEARING OPENED.

Glenn Pinkston, Vice President of Business and Finance at Cameron University, stated they have had a number of discussions concerning the safety and the traffic. In their parking plans, at a minimum they are putting up flashing lights and they will work with the city in painting and marking the crosswalks. They have also recognized the need to help their students and people travel down Elsie Hamm. They have plans on putting in a sidewalk along the north side of Elsie Hamm from 27th down to University Drive and take it north on University. They will extend that to a LATS bus stop they put in a year ago. Further up on 27th on the west side are also sidewalk lined. He stated they have the same concerns and they will do everything they can to address them for everyone's safety around the campus.

PUBLIC HEARING CLOSED.

MOVED by Moses, SECOND by Zarle to adopt **Ordinance 12-29**, waive the reading of the ordinance and read the title only. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-29

An ordinance closing the right-of-way of SW Tulane Avenue between SW University Drive and SW 27th Street, more particularly described in section one hereof.

29. Consider adopting a resolution approving a new Note of the Lawton Industrial Development Authority in the amount of not to exceed \$2,500,000 in aggregate amount for the purpose of replacing the existing note in the same amount and providing permanent financing of improvements to the downtown historical preservation site of the original Lawton High School to be used for City and conference purposes; waiving competitive bidding; approving documents including an Agreement of Support with the Authority; and other matters relating thereto. Exhibits: Resolution 12-__ and Agreement of Support.

Mayor Fitch stated this is the permanent financing to replace the bridge loan that we had with McMahon Foundation and Arvest Bank. This was for the completion of Phase IV of City Hall and the collateral was the property at 67th and Rogers Lane. When that property sells they will pay this note. This item will put that note on permanent financing through LIDA. They have budgeted \$250,000 for the initial payment which is due September 14th.

Mitchell stated the initial payment is \$200,000 because interest is due on the existing loan with Arvest. He stated they will make the initial payment of \$200,000 to Liberty Bank and then there will be nine equal installments for the balance of the note until such time we sell the property and then they will pay off the loan.

Haywood announced that Councilmember Tennis was voted the Chairman of Lawton Industrial Development Authority.

Wells stated they should be thankful to the McMahon Foundation for all the support they give to the City.

Mitchell stated this loan will remove McMahon's security they pledged for the current loan.

MOVED by Wells, SECOND by Haywood to adopt **Resolution 12-86** approving a new Note of the Lawton Industrial Development Authority in the amount of not to exceed \$2,500,000 in aggregate amount for the purpose of replacing the existing note in the same amount and providing permanent financing of improvements to the downtown historical preservation site of the original Lawton High School to be used for City and conference purposes; waiving competitive bidding; approving documents including an Agreement of Support with the Authority; and other matters relating thereto AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

30. Consider a resolution authorizing the Mayor to execute a mortgage instrument concerning certain tracts of real property owned by the City of Lawton and located in the vicinity of NW 67th Street and Rogers Lane, and upon occurrence of certain conditions cause the mortgage instrument to be delivered to Liberty National Bank of Lawton, Oklahoma as security for the payment of that certain Lawton Industrial Development Authority remodel of the Original Lawton High School Bond Anticipation Note, Series 2012. Exhibits: Mortgage Document, Release of Mortgage Document and Resolution No 12-__.

MOVED by Wells, SECOND by Haywood to approve **Resolution 12-87** authorizing the Mayor to execute a mortgage instrument concerning certain tracts of real property owned by the City of Lawton and located in the vicinity of NW 67th Street and Rogers Lane, and upon occurrence of certain conditions cause the mortgage instrument to be delivered to Liberty National Bank of Lawton, Oklahoma as security for the payment of that certain Lawton Industrial Development Authority remodel of the Original Lawton High School Bond Anticipation Note, Series 2012. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Tenis stated he would encourage citizens to become more active in the community. There are a lot of organizations that need volunteers. He stated it was brought to his attention that when they vote, people at home can't see the vote.

Shoemate stated the new Fort Sill Apache hotel is first class. He encouraged everyone to go out and see it.

Wells suggested they use some funds out of the council contingency account to support the dental event in February. He stated it is a wonderful opportunity for this community.

Mayor Fitch stated they can put that item on for the next meeting as an executive session item to discuss where those funds might come from.

Wells requested staff check the monitors to make sure they are all working.

Mayor Fitch requested that two council members volunteer to sit on a Stormwater Advisory Council.

Wells and Haywood volunteered.

Mayor Fitch stated on Thursday he and Rick Smith will have a meeting with seven local banks to discuss the downtown project. Three of the seven local banks are already involved in this project and the other four have expressed interest in participating in the project.

Mayor Fitch stated there is an item on executive session regarding a claim from Robert Truitt. He stated Mr. Truitt would like to speak to the council.

Robert Truitt, claimant, stated on March 31st he happened to be in a spot where two Sergeants were trying to apprehend a guy who was making meth and also in possession of counterfeit money. He got away from the two sergeants and they tazed him, he fell down and the tazer wire broke. He ran and the officer yelled at him to stop him, and he tackled him and held him down. During all of this he ended up getting cracked ribs, dislocated finger and four stitches. He went to the hospital and he waited over four months for some response to his request for help with his hospital bills. On May 15th he filed a tort claim and he was contacted on the final day and was asked if he would sign papers giving staff a couple more weeks to investigate. He is just asking for what is right to help him with his hospital bills.

The Mayor and Council convened in executive session at 7:23 p.m. and reconvened in regular, open session at 8:14 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

31. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Robert Truitt and if necessary, take appropriate action in open session. Exhibits: None.

Mayor Fitch read the title of item #31.

MOVED by Burk, SECOND by Shoemate to approve the damage claim of Robert Truitt in the reduced amount of \$1,347.95 and authorize the City Attorney to prepare and execute the necessary documents for settlement of this claim. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

32. Pursuant to Section 307B.(1) and (4), Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled International Union of Police Associations Local 24 and International Association of Firefighters Local 1882 vs. City of Lawton, FMCS Case No. 10-56365-8, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #32. No Action was taken.

33. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2012-2013 between the Police Union, IUPA Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #33. No Action was taken.

34. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session for the semiannual performance employee review of Traci L. Hushbeck as City Clerk, and in open session take other action as necessary. Exhibits: None.

Mayor Fitch read the title of item #34. No Action was taken.

35. 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 stated the council did not convene in executive session on item #35.

There being no further business to consider, the meeting adjourned at 8:18 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK