

Meeting of 2001-10-15 Special Meeting

MINUTES
LAWTON CITY COUNCIL SPECIAL MEETING
OCTOBER 15, 2001 1:30 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBERS

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 Gary Jackson, Assistant City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk

The meeting was called to order at 1:45 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT: Randy Bass, Ward One
 James Hanna, Ward Two
 Glenn Devine, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: None.

BUSINESS ITEM:

1. Consider ratifying the sublease agreements between the Lawton Water Authority and the Medicine Park Public Works Authority for the areas known as the Ranger Cabin and the Public Works Facility and approving the Letter Agreement with the Town of Medicine Park and the Medicine Park Public Works Authority in regards to the Water Treatment Plant Expansion Project. Exhibits: Letter Agreement; Sublease for the area of the Ranger Cabin; Sublease for the area of the Public Works Facility. (See Water Authority Agenda)

MOVED by Hanna, SECOND by Purcell, to accept the Water Authority action. AYE: Bass, Hanna, Devine, Purcell, Moeller. NAY: Baxter, Shanklin. ABSTAIN: Haywood. MOTION CARRIED. (Haywood passed on initial roll call.) For the record, the Water Authority action was to approve the agreements, except on the Letter Agreement to strike the words "subject to concurrence of the sublessee" on page three, paragraph seven.

COMMENTS/REPORTS

Mayor Powell said each member received correspondence from the City Manager regarding two developments which were going to require that pavement be torn out. He said it should not get this far along in our inspection system before we ask anyone to tear out a bunch of pavement; we must have rules and regulations but should not let it get this far and then have work torn out. Mayor Powell said he spoke with the developers and the City Manager, and asked Baker for an update.

Baker said he received calls from both developers requesting relief; there are two subdivisions where the testing on the pavement strength did not meet regulations. Vincent said this is not on the agenda. Mayor Powell said it is under reports. Vincent apologized.

Baker said there are pavement sections that do not meet our pavement standard of 3500 psi; we have communicated that to the developers and told them they must tear out those sections and replace them before the plat can be approved by the Planning Commission and City Council. He said our standard is pretty stringent, there are other cities that have a 3000 psi standard; ODOT has a 3000 in some cases and a 4000 in other cases; the American Concrete Institute has a provision that if the sample meets 85% of the standard and no one sample is less than 75% then the engineer can make the decision that it is acceptable. Baker said curing of concrete is not an exact science and tests will vary over a period of time. He said the ODOT standards say an engineer can accept

something less than the standard and impose some type of charge or penalty on the contractor; our standard is inflexible, absolute, there is no provision in the code to waive it in any way. Baker said he was looking at it and Council expects him to enforce the City Code; Council has also made it clear they want him to use common sense and be reasonable so he is looking at it to see if there is any relief he can provide. He said obviously we do not want substandard pavement in our new subdivisions, but then again, is our standard too strict. Baker said he had asked Ihler to check a few other cities and report back to him, and place an item on the October 23 agenda not to waive anything for these two subdivisions, but to decide what standard is desired because the standard is in the code. He said the choices would seem to be to stay with the 3,500 standard, go to a 3,000 standard, do you want anything in the code to provide some flexibility like ODOT has in its standards or like the ACI provides for. Baker said he is looking at the two subdivisions to see if there is any room for any flexibility.

Hanna asked how much it will cost the City ten years from now if we go below standard and the street fails. Baker said one of our engineers suggested that if it is close to 3000 that we would accept it with a five year maintenance bond, instead of a two year maintenance bond; however, in 10 or 15 years, the City could incur a cost if there is a failure of that concrete and the citizens would end up paying for it.

Mayor Powell said his argument was not accepting a lesser quality, far be it from that. He said his argument was how you get from here to there and all this is bad and no one knows anything about it. Mayor Powell said he did not want the citizens to pay for something in the future that was accepted that was inferior, however, he would qualify that and say if our standards are higher than the State's then we need to look at that. Shanklin said we have a group that wants to make it so impossible to be able to do anything in this town that this is where we are.

Moeller said when this is brought back she would like to see whatever is done to be correlated with types of soil samples because you can put the same thing on two different bases and one will fail and the other will not, so that should be considered. Baker said our specs now for the base take that into consideration and we will keep that in mind.

Purcell said he would like to hear how we got to this point, and the second question is, we have 3500 and is it a new standard. Baker said it is not new, but to his knowledge, we have never had a pavement section fail the standard on a subdivision; this is the first time it happened and it happened on two subdivisions and the concrete came from two different sources. Purcell asked what will happen if we go to 3000 and then it does not meet that standard; we have always been able to meet 3500 so what is different this time that they could not meet it.

Bass asked how long the standard has been 3500 psi for Lawton. Jerry Ihler, Public Works Director, said it was about the late 1980's, and it ties to the old ODOT standard.

Baxter said the test results show on the first day it was 3088, then the second day's core sample was 3401. He asked if it could be 3600 if we got back on the eighth day; do we have to take the sample within one or two days from the time it is done. Ihler said the procedure is when the contractor lays a section of street pavement, they will grab three cylinders, if it is a block long they might pick one at each end of the block and they will pull three cylinders from each location; cylinders are taken to Standard Testing and the requirement for the 3500 psi is at the end of 28 days, they will put that cylinder in a machine that will put pressure on it and whatever pressure causes it to crack and break open is the strength of the concrete, so there is no way an individual can tell, as far as allowing it to get to that point, you do not know what the strength of the concrete is until the Standard Testing group breaks the cylinder and shows the strength.

Ihler said with regard to Baker talking about the standard being 3500 psi and has been for some time in Lawton, Engineering sent over a recommendation that if possible to accept the 85% of the 3500 psi which is basically 3000 except that anything that broke below that should be removed and replaced. They take the cylinders at different locations, and it was his understanding that some of the locations were fine or above 3000 or 3800, and they were not poured on the same day and it would have been a different batch. The problem that created this, through hearsay, was that there were two separate concrete plants that got bad batches of cement from a supplier is what we have been told. Moeller asked if we know the test numbers on the other addition. Ihler said he had not been in the subdivision area for several years and did not know.

Mayor Powell said his problem and concern, anyone who has anything to do with money realizes this, the developer has all the money tied up and the concrete company that brought it out, then the concrete supplier, so all this time, the interest is accumulating on the subdivision which cannot be accepted until this is accepted so the developer is holding the pot, has money going out the window and nothing coming in when in fact he is not at fault in any manner whatsoever so there has to be a degree of sympathy somewhere and he emphasized he was not asking for anything lesser than for someone else to have to pay for somewhere down the road. He asked if we are higher on our requirements than the State. Ihler said on some cases yes, and on some cases no, the State analyzes the soil conditions, their pavement section is a standard for 3000 psi; a lot of it depends on what is below that for subgrade and base. Our section is six inches of rock, six inches of concrete in a subdivision; 82nd Street strength was 4000 because of the soils in the area, and it is seven inches of concrete, underneath that is four inches of econo-crete, which is a low grade concrete, then under that they have 10-13 inches of rock, and under that there is 8 inches of

lime treated subgrade, so it depends. Ihler said how we arrived at 3500 is that we emulated what ODOT used to be at the time the standard was put together 10-15 years ago, and it has been 3500 since that time, and ODOT, about two years ago, then created a 3000 standard and a 4000 standard, and the 3000 is what they typically use for pavement sections, however, a lot of that is reinforced and our sections are not reinforced concrete, we do not require steel in ours.

Mayor Powell said parking lots were being put in with six inches of concrete and no iron, and we do not even inspect them. Ihler said the subdivision street section does not require steel other than doweling the curb and gutter.

Baker said this is a good example of something in the code that is an absolute and nothing to provide for flexibility and adjustment and we are obligated to enforce the code but we also need to see if the standards are reasonable and if we are the most stringent community in the state and if we are holding our contractors to higher standards and if that is fair and reasonable. He said in the industry there is provision for flexibility but ours is an absolute which puts you in a corner and you try to get out of it and be fair to the people in the industry but you also want to enforce the City Code so it is sometimes a difficult situation to be in.

Mayor Powell asked how much was being asked to be torn out. Baker said about 400 feet, or one block, in Brentwood, and MacArthur is also about a block. Shanklin said he did not know that we should deviate from our standards, although they may be a little high, but if Council is really interested in this, Moeller should go to 18th and Lindy and look at the fine line between 17th to 18th and from 18th on and you will see that the concrete poured there is on 1115, nothing over 11 foot wide or 15 foot long, and that street is as good today as it was when it was poured, or 13th Street in front of Roosevelt Stadium shows the same thing. Shanklin said the other portion is cracked because it was poured in two sections but staff would not agree with him on that and he had taken Bigham all over Lawton and they found some in Lawton View on a hill that had crumbled but if you really want to do it right, you will look at what has happened and what historically will work in Lawton, but we don't recommend that now. Shanklin said we got into it on the 1000 block of Arlington; there are four sections there because he challenged them on it and they came back and cut down the middle and one on each side so now we have four and some of it breaks within the next day, and if we are going to do some of it, we should do all of it. Ihler said he wanted to go on record as saying he did agree with Shanklin; what he is talking about is the saw cut joints and he is correct if you have a section that is too large, it will break up; if you go with a smaller section and have more saw cut joints, the purpose of the joints is to control the cracking, and then you will not have it breaking up.

Moeller said she agreed and said Eisenhower Village is a good example of where within ten years, ballpark, Chaucer is the main street and it failed; it was a brand new addition and within ten years the whole street failed and it has never been worth anything since.

Ihler said we went through a very in-depth analysis, a committee of Planning Commission members, contractors, design engineers and City staff looked at the street standards in 1994 or 1995 and developed the Modified ASHTO street standards which are in effect today, and it took 12-18 months for everyone to agree that this is the street standard we should use.

Purcell said if it is too high, we should address it, but if we go to 3000 and someone gets 2500 will we say the 3000 is too high so we should let this one get by with 2500, and where does it stop. Mayor Powell said he would respond by saying our standard is higher than the State's. Purcell said then we need to lower it. Mayor Powell said that was what he was saying and that Purcell's would not become relevant from the standpoint that there is nothing we can aim at there, but here if we have 3000 and 3500 it seems to make sense, the State lays more concrete than we do. Shanklin said the concrete will eventually get to 10,000 or 12,000 with age; the longer it is there the harder it gets so he did not know why you had to test it the next day or when you pour it.

Mayor Powell said his concern was he hoped we would look at it and he was concerned for those guys spending all that money out there and then get hung up in a snag and people pointing fingers at each other.

The following comments are inserted verbatim:

"Mayor Powell: This past Saturday at approximately 5:15, wife come and got me down in a ditch weed eating and everything and had a call from the Paragon Apartments. They had been without water since 1:00 that morning. I called the young lady and I went over there and Mr. Glenn Devine was there doing the work, which is fantastic, glad it was somebody I knew, had the pipe exposed, the leak and everything, and I said Glenn, do you need any help, and Glenn, would you tell the story so I make sure I don't misquote you?

Devine: Ah, it's just, when you get into a situation like that, especially on nights and weekends, you can't find materials but we did get a hold of the City and the City furnished us a repair clamp to get the water back on. We got it back on about 7:00 that night.

Mayor Powell: When I got there, and you correct me if I'm wrong, I said Glenn, have you contacted anybody and he

said yes, I contacted the dispatchers and that some person, that person, we will not name the name, came by and would return, would come back, how long ago has that been, 30 to 40 minutes, is that correct?

Devine: 45 minutes or so.

Mayor Powell: About 45 minutes or so. I then tried to call Mr. Baker and he wasn't in, it's the normal procedure that I go, and I then called the dispatcher and was following up on Mr. Devine's call after I sat there for another 15 minutes, nobody appeared, and then I called the dispatcher and she said well let me talk to the person that did talk with that person that come by, and so got that person on the phone and everything and said that they had talked to this person that had come by and saw Mr. Devine and as soon as they had dinner, they was going to come and furnish him the part, or come back by, which I assume furnish him the part. We waited another 15 or 20 minutes after that, then I called, since I couldn't get Mr. Baker, I called Mr. Ihler and he said Mayor, I'll take care of this, and that's it. My point is this, we are servants, the ten commandments of good government, and we have got the Paragon Apartments without water and been without water since 1:00. United Supermarket had been without water since 1:00 and then several apartments across north Cache Road, is that right, Glenn, was without water. Now you ain't got time to have dinner. We got to get that water back on and that was it. I appreciate what Jerry did, what he did, I don't know and it's none of my business, but I just think the message needs to get out there that we are public servants and we are to take care of our people and that's it and I'm going to venture to say that gosh, it could have been 2,000 people without water out there and certainly Glenn did everything, he didn't even want to do the job but he did it.

Devine: There wasn't anybody else to do it. I had to do it by myself.

Mayor Powell: He did it and I'm not going to ask for any response on that. It's simply a problem we've got and needs to be corrected.

Just last week, Planning Commission, Todd Wyatt called me at home 4:00 last Wednesday afternoon, the City wanted 25 acres out there in some division they got going out there, Barbara, in your area, and I said Todd, I'll talk to Mr. Baker in the morning and the next morning I talked to Bill and Bill said Mayor, I've talked to Mitchell on this, we got everything worked out. Well, after the Planning Commission meeting Todd came by and it was a junior high football game that I was at and everything, and everything all right, Todd? No, it didn't, we had to have our attorney down there, and it was revealed by the attorney that everything was misread, they didn't, the City didn't even need the 25 acres even though they was willing to give up, the brothers were willing to give up this easement to that and everything but the point being in this it costs money to get an attorney down here when in fact it appears to me if in fact we were trying to get that 25 acres down there and an attorney brought it to our attention and we didn't need it, then I don't understand that and here are three things right here that's happened in the last six days, the one of them as Mr. Ihler has explained it, you know, I understand that completely, but these other two things I don't understand at all. It kind of leads me to believe and I will tell you right now the ten commandments of good government are not my ideas but I did ask that they be hung up down here and I think somebody hasn't got the message. I didn't mean to labor you with a bunch of stuff but I think we've got some problems that need to be addressed. If I can be on call 24 hours a day, and I am, I think these people getting paid a lot more money than I do can do the same thing.

Hanna: They're on salary, they ought to be on call."

There being no further business to consider, the meeting adjourned at approximately 2:18 p.m. upon motion, second and roll call vote.