

Meeting of 2001-10-23 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 23, 2001 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 Gary Jackson, Assistant City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
 LTC Anthony Puckett, Ft. Sill Liaison

The meeting was called to order at 6:35 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

ABSENT: Michael Baxter, Ward Eight

AUDIENCE PARTICIPATION:

Charles Nolan, 1514 Lincoln, spoke about the importance of little league sports and supporting activities such as this and others that will keep kids away from drugs and crime. He explained his daughter's problems in obtaining a permit for a haunted house due to a requirement for a sprinkler system. Mr. Nolan's daughter further explained her fund-raising efforts for uniforms for little league sports and said the proceeds from the haunted house were to be used for this purpose. She said she was also told she could not conduct car washes as fund raisers because it would take away from local businesses, and expressed frustration at the City blocking her efforts to raise funds for such a worthy purpose.

Mayor Powell offered the use of his car wash on Saturday from 10 a.m. to 2 p.m. to assist in fund raising efforts and said appropriate staff members would visit with the Nolans about the haunted house. He assured them that those in City government also felt it was important to assist children. Hanna said he was the Nolan's representative and would have tried to assist if they would have contacted him. Purcell said the charitable car wash issue was due to EPA regulations rather than local businesses.

CONSENT AGENDA :

Separate consideration was requested for Items 1, 8, 9 and 12.

MOVED by Shanklin, SECOND by Haywood, to approve the Consent Agenda items as recommended with the exception of Items 1, 8, 9 and 12. AYE: Haywood, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Timothy & Jennifer Davis; and Holy Cross Lutheran Church. Exhibits: Legal Opinions/Recommendations.

Vincent asked that the Davis claim be denied and that the Holy Cross Lutheran Church claim not be considered at this time; it will be brought back at a future meeting.

MOVED by Purcell, SECOND by Hanna, to deny the Davis claim. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

2. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Gerald Chatman; Ron J. Crow; Timothy & Jennifer Davis; Robert & Cruz Seda; and Tina Thompson. Exhibits: Legal Opinions/Recommendations. (Resolution Nos. 01-153, 01-154 and 01-155) Chatman - \$49.90; Thompson - \$50.00.

(Title) Resolution No. 01-153

A resolution authorizing and directing the City Attorney to assist Ron J. Crow in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Four Hundred Eighty-Three Dollars and 18/100s (\$483.18).

(Title) Resolution No. 01-154

A resolution authorizing and directing the City Attorney to assist Timothy and Jennifer Davis in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Four Hundred Ninety-Three Dollars and 57/100s (\$493.57).

(Title) Resolution No. 01-155

A resolution authorizing and directing the City Attorney to assist Robert and Cruz Seda in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Two Hundred Twenty-Six Dollars and 05/100s (\$1,226.05).

3. Consider approving Amendment #1 to Retainer Agreement for Legal Services between the City of Lawton and Neil S. West and authorize the Mayor and City Clerk to execute the agreement. Exhibits: None. Action: Approval.

4. Consider approving Amendment #1 to Retainer Agreement for Legal Services between the City of Lawton and Susan Zwaan and authorize the Mayor and City Clerk to execute the agreement. Exhibits: None. Action: Approval.

5. Consider an amendment to a Retainer Agreement for professional and legal services with McAfee & Taft and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Agreement. Action: Approval.

6. Consider granting two permanent easements to Southwestern Bell Telephone Company for the installation of equipment stations to be located in Patterson Park and Stephens Park, accept a total payment of \$16,000 and authorize the Mayor and City Clerk to execute the easements. Exhibits: None. Action: Approval.

7. Consider approving plans and specifications for the construction of McMahan Auditorium Re-roofing #2000-9 and authorizing staff to advertise for bids. Exhibits: None. Action: Approval.

8. Consider approving Change Order No. 1 for the NW Lindy Avenue Street Reconstruction Project #2000-33 with Kent Waller Construction Co. Exhibits: None.

Bass asked if the City was being asked to pay an additional \$25,000 for this project. Jerry Ihler, Public Works Director, said yes, part of another block would be added using the same unit costs from the original bid; the adjacent area was found to be badly deteriorated and it will cost much less to add reconstruction to this contract than to bid it as a separate, small project.

MOVED by Bass, SECOND by Moeller, to approve Item 8. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

9. Consider approving a contract amendment with ZIA Corporation for additional engineering services for the Robinson's Landing Fuel System Removal and Closure Project #2001-12. Exhibits: Amendment to Agreement; Purchase Order.

Shanklin asked what was being done in this item. Ihler said when the fuel tanks were removed, gasoline was found that had leaked into the ground. Reports were submitted to the Oklahoma Corporation Commission and as a result of the leaks, remediation is required. An application has been submitted to the indemnity fund to cover all costs, less \$5,000 deductible that will be required from the City. Shanklin asked how much dirt is being removed. Ihler said four monitoring wells will be required, as well as soil borings and additional geotechnical samples as required by OCC. Shanklin asked if we know if the gasoline got 20 feet down or if it got into the water supply. Ihler said the extent is not known but he did not believe it had created a problem with the water supply.

MOVED by Shanklin, SECOND by Devine, to approve Item 9. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Bass. NAY: None. MOTION CARRIED.

10. Consider accepting the 2000 CIP Waterline Replacement Project #2000-13 as constructed by Krapff-Reynolds Construction Company and placing the Maintenance Bond into effect. Exhibits: None. Action: Approval.

11. Consider approving the construction plat for Wyatt Acres Addition, Part 13, subject to condition. Exhibits: Plat Map. Action: Approval. "Background: Wyatt Acres Addition, Part 13, is located on Wyatt Lake Drive at the southern end of Wyatt Lake. This proposed subdivision consists of nine single-family residential lots on 4.54 acres. The developer is Wyatt Development Company, and the consulting engineer is Landmark Engineering. On 10/11/01 the CPC approved the construction plat subject to approval of ODEQ. The CPC granted variances to Section 21-503, Easements, for all proposed easements less than 25 feet in width for this subdivision."

12. Consider a Lease Agreement between the City of Lawton and Voice Stream PCS I, LLC for Antenna Space on Water Tower. Exhibits: None.

Shanklin asked if \$1,200 per month for five years was a sufficient amount to receive for a lease of this nature. Doug Wells, MIS Director, said the City has two other similar leases at \$1,000 per month, and other cities had leases at \$600 to \$700 per month, so he felt this was a good price.

MOVED by Shanklin, SECOND by Devine, to approve Item 12. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Bass, Hanna. NAY: None. MOTION CARRIED.

13. Consider approval of filing of release of liens for the following properties which were demolished by the owners following Council action to condemn: 810 SW Magnolia Avenue, 1210 SW A Avenue, 1825 SW Monroe Avenue, 703 NW Bell Avenue, and 405 NW 13th Street. Exhibits: None. Action: Approval.

14. Consider accepting an environmental grant from Sam's Club Foundation and placing it in a special account. Exhibits: None. Action: Approval.

15. Consider approving request by Susan Smith, Edison Elementary School, for use of costumes and props used in "Oklahoma Opening". Exhibits: None. Action: Approval.

16. Consider approving request by Beth Stuckey, MacArthur Junior High School, for use of costumes and props used in "Oklahoma Opening". Exhibits: None. Action: Approval.

17. Consider entering into a contract with Mr. & Mrs. Ronald J. Holmstrom and Mr. Mark Glenn for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contracts. Exhibits: None. Action: Approval.

18. Consider a resolution approving action taken by the Lawton Water Authority authorizing issuance, sale and delivery of the Authority's promissory notes to the Oklahoma Water Resources Board; ratifying and confirming a certain lease agreement, as amended; and containing other provisions related thereto. Exhibits: Resolution No. 01-156.

(Title) Resolution No. 01-156

A resolution approving action taken by the Lawton Water Authority authorizing issuance, sale and delivery of the Authority's Promissory Notes to the Oklahoma Water Resources Board; ratifying and confirming a certain lease agreement, as amended; and containing other provisions related thereto.

19. Consider approving the following contract extensions: A) Building Supplies and Materials with Comanche Lumber Company, Inc.; B) Rental of Portable Restrooms with ARA Equipment Rentals; C) Cellular Telephone Service with US Cellular. Exhibits: None. Action: Approval.

20. Consider awarding contract for Machine Shop and Welding Services. Exhibits: Recommendation; Bid Abstract. Action: Award contract to L & L Machine Shop.

21. Consider awarding contract for Metal Products. Exhibits: Recommendation; Bid Abstract. Action: Award contract to Larrance Steel.

22. Consider approval of appointments to boards and commissions. Exhibits: Memo.

Human Rights & Relations Commission (all terms to expire 9/30/03)

Carl Wright, White Rep.; Sally Herzig, Asian Rep.; Candida Guzman, Hispanic Rep.; Josefina Toves, Asian Rep.

23. Consider approval of payroll for the period of October 15 to 28, 2001. Exhibits: None.

24. Consider approval of Minutes of Lawton City Council Meetings of October 9 and 15, 2001.

UNFINISHED BUSINESS:

25. Consider the following damage claim recommended for denial: Calvin and Yvonne Hale. Exhibits: Claims

Memorandum/Recommendation.

Vincent said this was tabled at the last meeting because of statements regarding pictures being available. He said the film did not develop properly and recommended approval of the claim by resolution in the amount of \$1,955.

MOVED by Devine, SECOND by Moeller, to approve the Hale claim in the amount of \$1,955 and approve the resolution. AYE: Purcell, Shanklin, Moeller, Haywood, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 01-157

A resolution authorizing and directing the City attorney to assist Calvin C. and Yvonne Hale in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Nine Hundred Fifty-Five dollars and 00/100s (\$1,955.00)

Moeller asked how long ago they stopped using the "Y" connections to sewer mains. Devine said it was probably about 20 years ago when they stopped using the concrete tile pipe and went to PVC.

26. Consider recommended changes to the employee health plan and authorize changes to the plan. Exhibits: None.

Chuck Bridwell, Human Resources Director, said the Employee Health Committee reconsidered this matter and recommended an 8.5% increase in premiums with no change in benefits. He said this is not likely to fully solve the funding problem and additional changes may be needed by spring of next year.

Purcell said he received an e-mail that the committee had made a different recommendation with regard to prescription drugs, then held another meeting where all members were not present and made a recommendation to increase by 8.5%. He asked if the Employee Advisory Committee also gets to consider such recommendations. Bridwell said the Health Committee's recommendations go to himself and the City Manager, and explained that four of the committee members are appointed by the EAC Chairman, two firefighter members are appointed by the Fire Union President, and two police members are appointed by the Police Union President, and one retiree is a member.

Purcell asked if about 50% of the employees have dependent coverage. Bridwell said 379 employees carry it. Purcell asked if only those employees would carry the expense of the 8.5% increase while the others would not see an increase at all. Bridwell said yes. Purcell said he could not agree to that recommendation unless it was really what the employees wanted.

Bass asked if the retirees would also be charged the additional prescription drug costs and if they would pay anything extra. Bridwell said under this recommendation, there would be no change in the prescription drug costs, only the premium rate increase. Devine said retirees do not get a cost of living increase and Bridwell disagreed. Devine said general employees are supposed to get a 3% pay increase later on but it will already be absorbed by this second increase in insurance premiums. Baker said the increase is 8.5% of the premium rather than 8.5% of the salary, so it is about \$16 a month if they have dependent coverage.

Moeller asked if the increase applies only to those with dependent coverage. Bridwell said the City pays 100% of the premium for employees and the City pays one-half of the cost for dependent coverage. Moeller asked how it would effect the retirees. Bridwell said the contributions from retirees and COBRA participants would also increase by this amount.

Hanna asked if employees with multiple dependents pay the same cost as those with one dependent. Bridwell said yes. Hanna asked if that was fair. Bridwell said he could not say, and the medical costs for children may be less in some cases than for other dependents, but they could look at establishing a charge based on the number of dependents being covered.

Purcell asked if the City pays one-half of the premium costs for retirees and Bridwell said no. Purcell said it will be an additional \$30 per month for retirees with dependent coverage.

Denise Flusche, City employee at the Library, said she was a member of the Employee Advisory Committee and asked that Council not approve the proposed 8.5% premium increase. She said the EAC members were not given information about the previous proposal to raise premiums and change benefits and the Health Committee had not made the information known to the employees. The EAC was given information about a later proposal to increase dependent rates, change the co-insurance and a revised plan for prescriptions to pay \$8 for generic or 15%, whichever was greater; \$20 for brand name where generic was not available or 25%, and \$30 for brand name when generic was available or 35%. The co-insurance rate would go up to 85% for PPO and 60% for non-PPO. She said she distributed this plan to the employees she represents, as did others, but the Health Committee did not distribute any information. Flusche said the Health Committee met last week and three out of nine were absent;

the fire representative was replaced by the union president, and they voted four to three to drop the revised plan she just outlined in favor of an increase for those who pay dependent coverage. She said the 8.5% increase would not be required to be paid by all employees, but only by those with dependent coverage, so 41% of the employees will pay for all of it.

Flusche expressed concern over the lack of funds in the medical insurance plan. She said a plan like this should have \$750,000 to \$1 million on hand; it has \$157,000 so there is a need for more than tonight's proposal will generate. She said those with dependent coverage may seek insurance elsewhere, and that would further limit the income to the plan. Flusche said she felt the second revised plan would be the most fair because it would spread the increase among those paying for dependent care and those using the plan's assets for prescriptions and medical fees, and it would be more reliable in acquiring the needed increases.

Baker recommended approval of the 8.5% increase to allow additional funding for the plan, and then explore other alternatives, but noted the need at this time to raise additional funding to be able to pay medical claims of the employees and dependents. He said bid packets are being prepared to be sent to insurance carriers and that could be an option also.

Purcell asked if the biggest problem is the sharp price increases in drug costs. Bridwell said aside from the catastrophic illnesses, we are taking a tremendous hit on the brand name drugs. Moeller asked if they had done comparison shopping between pharmacies or perhaps using mail pharmacies. Bridwell said there are different costs at each pharmacy but Pharmacy Providers of Oklahoma is the largest pharmacy benefit manager in Oklahoma, in other words, they have contracts with every pharmacy in Lawton, and if you call a pharmacy and ask for a price on a certain drug, that will not be the cost we pay under this plan. Bridwell said there are some fairly deep discounts from average wholesale price. Moeller asked if there was no way to save on the drug side of this. Bridwell said prior to the pharmacy benefit program, we paid 80-20 out of the general health plan; we designated some PPO pharmacies and found that was not what employees liked because they had to go to those pharmacies and did not think they were being treated fairly and some of the pharmacies would not bill the health plan. Bridwell said he thought the current situation with Pharmacy Providers of Oklahoma is probably the best situation.

Moeller asked if retirees get a cost of living adjustment. Bridwell said police and fire retirees receive adjustments based on increases received by active duty fire and police; general employee retirees have their adjustments reviewed once every two years based on one-half of the CPIU in Dallas-Fort Worth. Moeller said employees receiving lower salaries could be severely impacted by increasing premiums for dependent coverage, where those receiving more would better be able to pay the increase.

John Thomas, Employee Advisory Committee Chairman, said he understood the concerns of those involved and did not have a good answer to the problem. He said he was concerned that he had appointed members to the Health Committee and those members did not pass along information about the proposed changes. Thomas said the fund is low and something has to be done, but you cannot satisfy everyone.

Vincent said the City is required to offer uniform rates due to the COBRA coverage provided when employees leave the City and continue their insurance coverage, paying their own premiums.

MOVED by Devine, SECOND by Shanklin, to deny the item.

Purcell asked what else would happen. Shanklin said they should meet again and bring back something that is more agreeable to those paying the costs. Bass said they should seek to make everyone happy or at least understand the situation. Mayor Powell said they had heard dissatisfaction and lack of representation and communication, so in the motion we are sending a message to go back to the table and come back with the best solution for everybody concerned.

Devine restated his motion to deny it or send it back to them where they have all nine representatives to discuss it and bring something back at the next meeting. Shanklin said they had seven of nine and the committee vote was four to three so that was pretty good and he would second the restated motion.

VOTE ON MOTION: AYE: Shanklin, Moeller, Haywood, Bass, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

27. Consider the City's concrete pavement specifications and provide direction to staff. Exhibits: None.

Mayor Powell asked on the new landfill scales where the specifications were to be 5000 psi but it broke at 4500 psi, did the City accept it with conditions. Ihler said the first time the contractor was required to remove and replace it; the second time had the same standard which was 6000 psi and it was within 90% of that so staff recommended accepting it with an additional five-year maintenance bond. Mayor Powell said it was accepted at less than what

the specifications required but conditions were attached to it and it was accepted. Ihler agreed.

Mayor Powell said the background shows the psi required by various cities, and Ardmore shows 3500 psi but word had come to him that Ardmore required 3000 psi so he talked to a person in their engineering section today and it is 3000 psi. Ihler explained staff's efforts to obtain the information and agreed the information first received was in error; Ardmore officials today said their standard is 3000, however, they typically require what the designer designs and they have designed their standard pavement at 3500 psi and depending on the soil conditions they may even require reinforcement. Mayor Powell said the gentleman told him outside of cities themselves, someone designs streets and they recommend 3500 psi and Ardmore concurs with the 3500 psi, however the City of Ardmore themselves versus what the book says is 3000 psi. Ihler agreed. Ihler said he was also asked to check with Oklahoma City and got a FAX from them showing it is 3500 psi.

Ihler said the staff recommendation on street standards is to remain at 3500 psi. He said staff contacted Lawton Transit Mix, Dick Cox at Standard Testing since he is very familiar with the soil conditions, and Al Jung at Landmark Engineering. Lawton Transit and Standard Testing recommended 3500 psi. Jung recommended 3500 psi but if it is below that to provide a flexibility, which is what they had included in the recommendation, to keep it at 3500 psi but have a mechanism that would allow a tolerance of 85% of that 3500 psi and if it is below 3500 psi, and within that 85%, our recommendation would be to accept it with an additional maintenance bond for a five-year period.

Mayor Powell said quite a few of the cities have a workable solution such as what Ihler mentioned but ours is locked in.

Devine said they got a letter from Larry Wolcott saying it requires paving testing at 3500 and if it is less than 85% it should be removed and replaced, and he liked that. He asked if that was correct in what he was reading, and said it says paving was placed on a particular site, paving was placed in two pours, on the first day's pour the concrete strength was 3074 psi which was 88% of the 3500; the strength of the cylinders taken on the second day was 2916, which was 83% of the 3500. Cores were also drilled and tested from both cores which resulted in an average of 3088 psi which is 88% of the first day of the 3401 which is 97 so both of his pours were under the 3500 but both were above the 85%. He said that tolerance would give a guideline, as long as it meets that 85% of the 3500 psi we will still get a quality concrete street. Ihler said they feel that 85% of the 3500 is workable.

Baker said all of our engineers, including Wolcott, have recommended we be able to accept this at 85%, and Devine was reading from a draft of a memo from Larry Wolcott to Planning, but after he wrote that draft, a meeting was held and Wolcott was advised there was nothing in the Code to allow that flexibility so that is where we are at now. Baker said Wolcott was willing to do it and our engineers do not seem to have a problem with that but the City Code contains the standards without any flexibility and that is why we are here tonight, to see if Council is interested in some flexibility; if it was up to Wolcott and our engineers, this would have already been a done deal but we do not have the authority to waive the code and that is where we get into difficulty.

Shanklin said the staff recommended action is to send it back to the City Planning Commission, and the key issue is whether we want to consider a less stringent standard and he did not think we did but we wanted the flexibility that had been stated by Mr. Wolcott who wrote the letter to accept the 85%. He asked the cost difference between the 3000 and 3500 psi concrete. Ihler said for a block, based on the number of square yards, the cost difference is about \$300. Shanklin said he was trying to get out that the concrete people are not trying to short change the City on the quality of the concrete. Ihler said he did not think so.

Purcell said if you stay at 3500 and have to be within 85%, is that now acceptable with an increased bond, is that correct. Ihler said yes, with a five-year bond. Purcell said he did not want something where each one would be different; if it is automatic if you approve it at 85%, that is super, but if it is 85% in another case, we will not approve it, we are not asking that. Ihler said no, we are not. Purcell said 85% or greater would be approved across the board but if it is less than 3500 you have to put up at five-year bond. Ihler said if it is within that 85%; if it is 83% then it is remove and replace. Purcell said he did not have a problem with that but when we get to something that is 83%, we will not want to make them remove and replace it and we would be in the same predicament. Shanklin said if it was 83% maybe they could put up a seven or ten year bond, but if it is 70% it comes out, but at 83% that is shaving it too much.

Mayor Powell asked if someone who does this daily for a living would like to speak to the issue.

Frank Walker, Atlas-Tuck Concrete, said they are not trying to change the specifications and if the City wants 3500 that is fine, or 3000, but we are one of the only cities on this list that has no remedy or solution for low strength investigation and what we were told is that it is a yes-no question, does it meet 3500 and we have to have some kind of remedy; all of the other communities do and Tulsa accepts down to 2500 psi. Walker said if you want to stay at 3500 you are only talking \$2 per yard so that is not what they were here for, they are here because they need some kind of remedy on a low strength investigation and Lawton apparently has nothing in their code and they were seeking direction in that regard.

Devine asked why the concrete that was delivered did not meet the 3500 psi when that is what was requested.

Dober Bingaman, Region Technical Manager for Honan for Texas-Oklahoma, said he had been in concrete for 22 years, has a BS in management chemistry and four certifications from various concrete fields. He said concrete is not an exact science and there are other factors besides compressive strength to consider in roadways or anything that will be exposed to the weather. Concrete that will be exposed to the weather contains air entrainment which is an additive that entrains microscopic air bubbles into the concrete to prevent water from penetrating the concrete and later freezing causing the concrete to crack. There are two issues in dealing with outside concrete - the strength and the durability and if you put air entrainment in concrete it gives the water inside the concrete some place to expand to when it freezes; normal water that goes into the concrete will not penetrate the microscopic air bubbles but when it freezes and you build up hydrostatic pressure, the water will freeze and expand to the empty spots and it has a place to move without cracking the concrete. Bingaman said air entrainment and strength move in opposite directions and for each percent of air entrainment, strength goes down about 4%. The State of Oklahoma requires 6% air entrainment on their class A 3000 psi concrete; for every percent above 6%, the strength will go down and that is what happened on these two jobs. All of the material in the concrete, the sand, the rock, the cement, everything met ASTM specifications; the air entrainment was a bit high.

Bingaman said he had both the Brentwood and MacArthur jobs analyzed petrographically at CTL labs in Chicago, which are the most noted in the world, and both of them show the concrete is of good sound quality but the air content was slightly high. He said it is great durability concrete, which is really what you want on residential roads. Bingaman said he did not care whether 3000 or 3500 psi was used and knew if it was over 2500 psi for a road that you would be fine, noting the lesser compressive strength of asphalt, and said it is good to have strength but you also need durability. He said the chemistry of this cement was well within specifications but it had to move slightly in sodium and potassium, those levels were elevated by a tenth or so, and as the alkali comes up in cement, which is what sodium potassium is called, then it takes lesser of the air entraining add mixture to entrain the concrete.

Bingaman said we do not have a bad situation here, we have strength that is a little lower than 3500 psi, but we have a little more air which will make the concrete very durable to a freeze-thaw cycle. He said he had no problem with the specification of 3500, or 3000, and 2500 will suffice, but the specification of 3500 is fine, it is just when you have a problem where the strength does not meet 3500, you need a remedy instead of tearing out good concrete. Bingaman said we always look at 28 days as the time to test the strength on concrete and there is nothing magical about 28 days, that is just a number, and he had researched this in many books over the last month, 28 days was chosen by a group of people who got together for no scientific reason but first so you would have a time period so you could say 28 days is here, a lot of the strength is gained, let's move on with construction. Many tests done by the Portland Cement Association throughout history have shown that concrete can more than double in its life of what the 28 day strength is, so it is not uncommon for a 3500 psi concrete to have 7000 psi in 10 or 20 years. Pavement does not have to have as high a strength because it is being supported by a sub-base throughout the whole road. Structural concrete strength is more important where you have piers that are supporting bridges or buildings, but a road is not supporting anything, the sub-base itself is actually doing it.

Shanklin said if we are not going to send it to the Planning Commission, use the key issue does the City wish to provide a flexibility and direct staff to come back with the revised standards for concrete and the flexibility with the maintenance bond. Mayor Powell asked if that was in the form of a motion and Shanklin said yes. Devine said he would second the motion and asked where it should stop, even though it is below the 3500 standard or even below the 85% staff recommended. Bingaman said on the last set of cores, one of the jobs was 125 psi less than 3500 and the other one is about 255 less, so both of them are well within the 85% already. Devine said if we get into a situation, staff needs the ability to send these testings in before we require these people to tear the concrete out which is thousands of dollars. Mayor Powell asked if this has to go to Planning Commission since it is in Chapter 21. Bigham said yes.

MOVED by Shanklin, SECOND by Devine, to send this to the City Planning Commission for consideration and recommendation to the Council.

Purcell asked the developers, if it is 3500 psi or 85% with an extra bond, that is fine, but what if it is 83% or 82% or 79%, where do we stop. He asked the developers to respond because they would be the ones that would have to tear it out.

John Jones, Parks-Jones Development, said typically the contractor puts the bond up; in this case, the concrete suppliers are also involved. He said he has \$100,000 in paving in MacArthur Park, when you do that and you get concrete that is good and serviceable, there should be something, maybe if it is 80% maybe a little longer bond or whatever it takes, there should be provisions in the ordinance for some flexibility. Purcell asked if Jones agreed or should write that in the ordinance. Jones said it should be written in the ordinance, and 85% would be good and maybe a second step is also needed if it is not 85%, then what if it is 80%, maybe a little longer bond or whatever to come along with that but maybe a couple of steps you can do this with rather than ripping out \$100,000 worth of paving. Purcell said that was his point because if you do not do those other steps, it will be 85% and someone will

come in with 83% of the 3500 and we will be back in the same predicament but if it is between 80% and 85%, it is still good but you put up a longer bond. Shanklin said we are going to add that.

Baker said if it is clearly the Council's intent to make some changes here, he planned to administratively go ahead and make decisions on these subdivisions so we will not hold up the platting process because by the time it goes to the Planning Commission and comes back to Council, they are looking at 45 days on Brentwood and that is in process so if it is Council's intent, he would take some action on these two.

Mayor Powell said he wanted to emphasize how this started was not to lessen anything but why did we wait x amount of days before notification was given to them and now we are asking them to tear out all of this concrete that is very expensive; we do not want to put anything on the citizens that they do not deserve but at the same time he felt there was a loop in there some place and he had spoken with Baker about it several times.

VOTE ON MOTION: AYE: Moeller, Haywood, Bass, Devine, Purcell, Shanklin. NAY: None. OUT: Hanna. MOTION CARRIED.

28. Consider authorizing staff to submit formal request to the Oklahoma Department of Transportation to add right turn lanes to improve the intersection of SE 45th and Lee (State HY-7).

Purcell said the road shoulder on Lee is used by many people to make a right hand turn, which causes problems for those in the correct lane making a right hand turn because cars are blocking them on the shoulder. Purcell said the shoulder needs to be constructed as a right hand turn lane.

MOVED by Purcell, SECOND by Bass, to authorize staff to submit a formal request to ODOT to add right turn lanes to improve the intersection of SE 45th and Lee. AYE: Haywood, Bass, Purcell, Shanklin, Moeller. NAY: None. OUT: Hanna, Devine. MOTION CARRIED.

29. Consider approving a resolution determining it is in the best interest of the Mayor and Council to continue the membership of Mr. Rick Strickland as an active member of the City of Lawton Parks & Recreation Commission. Exhibits: Resolution No. 01-158.

Shanklin said he appointed Mr. Strickland when he lived in Ward 5, he has since moved to the west side of the City and he would like to stay on the Parks & Recreation Commission through his term. He said he felt Mr. Strickland was knowledgeable and would make a productive member.

MOVED by Shanklin, SECOND by Haywood, to adopt Resolution No. 01-158.

Moeller asked what ward Strickland moved to and Shanklin said he thought he moved to Moeller's ward. Moeller asked how long the appointment was for and Shanklin said about a year and a half was left. Purcell said Strickland would still be the Ward 5 representative. Shanklin agreed.

VOTE ON MOTION: AYE: Bass, Purcell, Shanklin, Moeller, Haywood. NAY: None. OUT: Hanna, Devine. MOTION CARRIED.

(Title) Resolution No. 01-158

A resolution determining that it is the best interest for the Mayor and City Council to continue the membership of Mr. Rick Strickland as an active member of the City of Lawton Parks & Recreation Commission.

30. Receive a Financial Report for the First Quarter of the fiscal year. Exhibits: Report.

Steve Livingston, Finance Director, said the budget is supported by the past year's carry over; \$3,555,000 was budgeted as carryover but the actual carryover was \$3,169,000, so \$358,000 that was included as a resource in the budget did not materialize from what had been planned and that will have to be made up through revenues and hopefully the revenues will help out in that way.

The general fund revenues for this period are about 6% above last year, meaning we are about 5% above our budgeted number because we did budget sales tax to grow at 1%. Sales tax is received on the 10th of the month and in October, sales tax was below the prior year's October, which was for August sales, about 1.5%. The cumulative for the first four months is about 4.5% above the same period last year, and that is still pretty good considering the economy in general. He said some local retailers had told him September sales were very bad, 20-30% down. November and December are big collections months and hopefully the area will regain some confidence and increase spending. Sales tax is 66% of the general fund budget.

When gasoline prices are up, the sales tax is up because sales tax is collected on the electric and natural gas charges and those costs were up about 18% during the same period a year ago; franchise tax is up 18%. There is also a sales tax on utilities and those were up 18% so that was a fairly big factor. Food and apparel sales were up.

Franchise tax represents 8% of the general fund budget. Police fines and bonds are up 14%, and that is about 10% of the general fund budget.

The enterprise fund includes water, sewer and refuse, and water revenue was up 1.9% above the same period last year. It was budgeted to be up almost 2%, and last year was a really high collection year. September was wet so water sales will likely be down from last year but for the first quarter, water revenues are up. It looks like we can make the budget if we continue this course.

In expenditures, the lapse was budgeted at \$750,000 which is the most that has ever been estimated in lapse in salaries created by turn-overs and delay in hiring and hiring new employees at lower grades, which creates a natural savings which has been carried over from budget to budget in the past. In the first six pay periods, which is what is represented by this quarter, we feel we may be able to make the lapse but it is really going to be close so we are kind of holding our breath there.

The other item still being dealt with is the increase in health costs, and \$200,000 will likely be required from the City in this regard, depending on the decision on premiums and benefits. There was a \$30,000 unexpected bill from Waurika for a water line break. The premium on insurance was \$20,000 over the budgeted amount and we are trying to make that up within the budget. It is not unusual for one thing to be up and to find a savings on something else to make it up.

Last year at this time there was concern about petroleum costs and the budget includes an average gallon cost for diesel and unleaded fuel of \$1.15; today's bid on the gasoline was 67 cents, which is a significant reduction over what was budgeted; two weeks ago the bid was about 72 cents, it is a fairly volatile situation, but if petroleum costs stay down, there will be a savings in this area.

Devine noted in September there was \$750 from off track betting and \$1,735 from the animal shelter.

Purcell asked if the numbers shown include the lapse or if the numbers include 100% employment all year. Livingston said the \$750,000 has been reduced from personal services in the department budgets; if they stay fully employed and at the level of pay those employees had when the budget was done, they will be short some amount of money.

31. Consider receiving a presentation from the Public Works Department regarding the current status of projects for the 2000 Capital Improvements Program. Exhibits: None.

Ihler said the overall value for the sum of the sales tax collection is estimated at \$45.5 million; the overall value for the ad valorem tax is \$25.9 million. The Medicine Park Water Treatment Plant is in both the sales tax and the ad valorem tax. Three road projects are dependent upon funding from ODOT. As a result of the cost of the Water Treatment Plant Project, \$4 million in water line repairs will be deferred until the end of the program to see if funding will be available. Ihler's presentation is summarized as follows:

Sales Tax Projects:

Medicine Park Water Treatment Plant - Council awarded a contract on September 20 to VanHorn Construction for \$34,618,865 and we are awaiting the building permit.

Landfill Cells 2 & 3: Project completed and accepted by Council on April 24, 2001; total project cost was \$2,522,920. Shanklin asked how much we saved from projected construction cost. Ihler said probably \$500,000, we were thinking of \$3 million for the construction of cells 2 and 3; there was an additional \$2 million for the master plan required to carry us 30 years into the future and the actual design for construction of the next cells for the next ten-year period as well as all testing and DEQ requirements for the future landfill. We also had the maintenance facility. Baker said the maintenance facility is a major cost and until we are sure we will have a permit for that new site, we do not want to go out for bids and let a contract to build that maintenance facility; we do not want to build a \$1 million facility and then not get a permit, so we have that on hold until it comes along further.

Water Pump Station #1: Feeds the industrial tower on Cache Road and Goodyear Blvd. serving the West Industrial Park. The EDA grant was disapproved. Ihler said design will continue and they hoped to be able to construct in the spring.

Flower Mound from Gore to Rogers Lane - ODOT project; Robert B. Hendrick is doing preliminary design; it is in the ODOT five-year pool, competing with other communities for funding. A December 2002 bid letting was requested but it is not known if that can be met due to availability of funding but ODOT will try to do what they can to accommodate it.

East Side Park - Four youth baseball fields to supplement those that were removed as a result of the construction of Central Junior High. C.H. Guernsey has completed the plans and bid opening will be held next Tuesday.

Gore Boulevard from 67th to 82nd Street - ODOT project; MGR is doing preliminary design. This is not in the five-year plan, however, ODOT has given approval to begin the design and assigned a project number, and it will be added to the five-year plan and will compete with other roads across the state.

Central Junior High - Project is administered by Lawton Public Schools and we provide monthly transfers.

Economic Development - In June 2000 Council appropriated \$250,000 to help fund the National Army Museum of the Southwest. On November 7, 2000 Council appropriated \$187,000 to help fund infrastructure improvements to serve the Silver Line Plastics Corporation facility; the water line and street for that project have been completed.

Ad Valorem Tax Projects:

Water Distribution Project 2000-12 - S.M. Burk was the contractor; over four miles of water line is being installed and cost is in the neighborhood of \$1 million. Shanklin noted a cage was not shown in the picture of the employee being in a hole. Completed sections are in Mission Village, the Industrial Park to serve Silver Line Plastics; Sullivan Village; Hunter Hills, \$60,000 was funded from 1995 CIP to provide a water line to serve the soccer fields on the east side of McMahon Park and that is complete; 21st Street and E and F Avenue to support Sherry's Dance Studio and the surrounding area is complete. The only remaining work is in Rolling Meadows; the line was installed on Pollard and 43rd Street but Floyd, Williams, 44th, 45th, and Lincoln remain and work should be completed right after the first of the year.

Water Distribution Project - Over five miles of water line, project cost around \$1.2 million. Boundaries of the project were Cache Road on the north, Gore on the south, 11th on the east and Sheridan on the west. That project was accepted tonight.

38th Street - ODOT project; Hendrick is designing; July 2002 bid letting was requested and those schedules will probably slide as a result of funding that is available. It is in the five-year pool.

Fire Station #5: GBA Architects is working on the design. Four properties were acquired and restrictive covenants were addressed. The CPC will consider rezoning in the near future. Coordination meetings were held with the utility companies and waiting for the site plan to be complete so we will know which utilities have to be relocated.

Ihler said \$2.8 million under 1995 CIP was appropriated and reviewed those projects as follows: Flower Mound Road from Lee to Gore is an ODOT project with the City; \$1.3 million; Thursday is the utility meeting to discuss relocation then the next step is plan in hand, and once that is done with ODOT, things should move along fairly quickly. On the residential streets, a construction contract was awarded to T & G for 75th & Crystal Hills for \$400,000 and work should start the first week of November, weather permitting. SW Wendy, preliminary design is on going. The storm warning sirens have been installed. On the skateboard park, a public meeting will be held November 8 with the architect, American Ramp Company, to meet with the youth and get their input with regard to the design. McMahon Park Improvements are on-going; the trail around the park; working on design of the lighting system to light the two ball fields and to light some fields at Ahschlager Park. McMahon Auditorium Roof Project authorized going to bid tonight. \$30,000 was sent to Lawton Community Theatre, so the City's part of that is complete.

Baker asked if construction is anticipated next summer on Flower Mound from Lee to Gore. Ihler said the bid letting date is August next year, and construction should start in the fall. Mayor Powell said regarding the right of way, we would be dealing with the Land Commission on the west side. Ihler said on the east side is the church and a couple of other property owners but not a whole lot of people, so if we can get the property acquisition expedited, it would move the project forward. Purcell said depending on when they got the heavy trucks through on the construction they were then going to begin on the road. Mayor Powell said there is so much work to be done out there that it still will not interfere with building construction. Shanklin asked if the road would be finished when the VA Center is opened and Mayor Powell said it could not be finished by that time.

Haywood asked when the meeting was planned on the skateboard park and response was November 8 at the Multi-Purpose Center.

Addendum Item:

1. Consider waiving Council Policy 1-6, Paragraph 5E and if approved reconsider the proposed leases with the Medicine Park Public Works Authority and the Letter Agreement between the LWA and the City of Lawton and the MPPWA and the Town of Medicine Park and take appropriate action. Exhibits: See Lawton Water Authority Addendum for Letter Agreement as proposed by Medicine Park.

MOVED by Shanklin, SECOND by Haywood, to waive Council Policy 1-6. AYE: Bass, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: Hanna. MOTION CARRIED.

MOVED by Shanklin, SECOND by Haywood, to adopt the plan as has been designed, the letter, to proceed ahead with our water treatment plant. AYE: Devine, Shanklin, Moeller, Haywood, Bass. NAY: Hanna, Purcell. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

LTC Puckett said the Octoberfest will be held this Friday at 4 p.m. at Fort Sill at the Officers' Club and the public is invited; tickets are available at the door.

Shanklin said Neighborhood Services did an excellent job in helping clean up the central corridor; they did demolish 1306 B, 1608 Ferris and 11th and Douglas. He said we are out of money for this purpose and he hoped in the future those who have the ability to pay would do so before we spend our funds or wait a year to get it back and we should take them to court. Vincent said suit was filed today on two of the properties that Council had authorized and others would be filed next week.

Shanklin said the drainage crews are still doing a good job and he suggested they look at 21st and F where Squaw Creek runs behind Doe Doe Park because it is a dam and he had pictures of it, although it is very flat and may not hurt anything.

Devine said Council previously considered an item about charging for services such as putting up bleachers, restrooms and so forth. He suggested Council look at that issue again before deciding to charge people like Arts For All, and noted the services could be provided at a lesser cost to the City if temporary help or school kids were hired to do this. Baker said we are trying to identify the dollar value of the service and the item will have to come back to Council before any charges are assessed.

Bass said he and Hanna are still getting hammered about Cache Road at their neighborhood meetings, there is still a prostitution problem and it needs to be addressed.

Hanna said tomorrow is the day for the hearing at the Supreme Court and he hoped some could attend. Vincent said it will be in a small room.

Baker said the problems on Cache Road are being given priority and he would get back with the Police Department; other departments are being involved with conducting safety and fire inspections. He said it appeared progress was being made for a while but understood they had moved further north.

Vincent said this afternoon Judge Smith signed the vacation and closure order on the property at Medicine Park so we now have legal title to all of the property around the water plant.

Haywood asked that the prostitution problem not be returned to Ward 7. He said the police are doing a good job in Lawton View and the streets are pretty clear.

Jackson said Governor Keating appointed the Governor's Security and Preparedness Executive Panel made up of State agency heads and some local officials; Mayor Powell was invited and Jackson attended on his behalf today, along with officials from Oklahoma City, Tulsa, Enid and Ponca City. Governor Keating enacted an executive order to pull together public and private resources to be as prepared as possible for any emergencies due to the terrorists attacks on September 11 and public concerns. The next meeting is October 31. They are not public meetings, they were enacted within the executive branch. Mayor Powell said he spoke with the Governor's office several days ago about some other kinds of help we can get, and Jackson attended the OML meeting on this topic and he appreciated his attendance at the meeting today.

Mayor Powell said on the clean-up committee, he had talked with the Chamber of Commerce and they want to be a part of it. His secretary is getting the names and addresses of all the civic clubs and we will send them letters. He had talked with Dr. Bellino and others who really want to be a part of it and this will be fruitful very shortly.

Hanna said with the National Guard being activated, the police department is being drawn down drastically and asked if appropriate steps were being taken. Baker said he met with the Chief and Deputy Chief this afternoon and an impact report is being updated; we are going to have to come up with some options such as providing additional funding for overtime or adding officers but it takes about seven months to get an officer on the street because of all the training. The other option is to look at the scheduling and that is never popular; we are on a four-day ten-hour schedule and you could have more people out in the field at any time if you went back to a five-day eight-hour schedule, but that would not be popular with the officers and that is just one option. Baker said he would share the updated report with Council and we need to determine what we are going to do to address it.

Hanna asked if there was a reserve force available with the police. Baker said we do not have a reserve force; we have the Sentinel Program. Devine asked why the reserve force was abolished and Baker said he did not know.

BUSINESS ITEMS:

32. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claims of Derek Q. Bazile and Rodney D. Turner against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

33. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the Workers' Compensation case of Danny Goynes in the Workers' Compensation Court, Case No. 2001-3137 J, and take necessary action in open session. Exhibits: None.

34. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the Workers' Compensation case of Robert N. Yarbrough in the Workers' Compensation Court, Case No. 95-9375 Q, and take necessary action in open session. Exhibits: None.

35. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending grievance of the International Union of Police Associations (IUPA), Local 24 and Officer Diane Jones and take necessary action in open session. Exhibits: None.

36. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the City's claim associated with the case styled Delisa Nevaquaya vs. American Home Products, Case Numbers CJ-98-656 and CJ-98-666, District Court of Oklahoma County, and if necessary, take appropriate action in open session. Exhibits: None.

37. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the continued employment of Bill Baker as City Manager, and in open session, consider approving an Employment Agreement with Bill Baker as City Manager and authorize the Mayor and City Clerk to execute the agreement. Exhibits: None.

MOVED by Moeller, SECOND by Bass, to convene in executive session to consider the items listed on the agenda and recommended by the legal staff. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Bass, Hanna. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:40 p.m. and reconvened in regular, open session at approximately 9:55 p.m. with roll call reflecting all members present except Baxter.

Item 32: Vincent said Council convened in executive session as shown on the agenda item title. He recommended a motion to deny the claims of Derek Q. Bazile and Rodney D. Turner.

MOVED by Shanklin, SECOND by Bass, to deny the claims of Bazile and Turner. AYE: Shanklin, Moeller, Haywood, Bass, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

Item 33: Vincent reported Council convened in executive session as shown on the agenda item title. He recommended a motion to authorize the legal staff to enter into joint petition settlement negotiations and return a settlement resolution in the Workers' Compensation case of Danny Goynes.

MOVED by Shanklin, SECOND by Bass to authorize the legal staff to enter into joint petition settlement negotiations and return a settlement resolution in the Workers' Compensation case of Danny Goynes. AYE: Moeller, Haywood, Bass, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

Item 34: Vincent reported Council convened in executive session as shown on the agenda item title. He recommended a motion to authorize the legal staff to enter into joint petition settlement negotiations and return a settlement resolution in the Workers' Compensation case of Robert Yarbrough.

MOVED by Purcell, SECOND by Moeller, to authorize the legal staff to enter into joint petition settlement negotiations and return a settlement resolution in the Workers' Compensation case of Robert Yarbrough. AYE: Haywood, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

Item 35: Vincent reported Council convened in executive session as shown on the agenda item title. He recommended a motion to authorize the City Attorney to initiate litigation in the District Court of Comanche County against Diane Jones and the International Union of Police Associations, Local 24, for the purpose of having the court determine the arbitrability of a grievance filed by Ms. Jones and Local 24 regarding Ms. Jones being placed on administrative suspension without pay, and having the court stay the arbitration pending an arbitrability ruling.

MOVED by Hanna, SECOND by Bass, to authorize the City Attorney to initiate litigation in the District Court of Comanche County against Diane Jones and the International Union of Police Associations, Local 24, for the purpose of having the court determine the arbitrability of a grievance filed by Ms. Jones and Local 24 regarding Ms. Jones being placed on

administrative suspension without pay, and having the court stay the arbitration pending an arbitrability ruling. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Item 36: Mayor Powell reported Council had met in executive session as shown on the agenda item title and suggested it would be appropriate to consider a motion to continue negotiations.

MOVED by Purcell, SECOND by Hanna, to continue negotiations in the case styled Delisa Nevaquaya vs. American Home Products. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Item 37: Mayor Powell reported Council had met in executive session as shown on the agenda item title.

MOVED by Shanklin, SECOND by Bass, that we not renew Baker's contract and that his contract and all of its numbers on severance pay be acknowledged and to appoint temporarily the Assistant City Manager as the Acting City Manager.

Purcell said about five months ago he was accused of making up things, starting a flap that was not true, accused of lying and now we see what is really going on. He said he would let the citizens decide who was telling the truth and who was not. Purcell said he thought Bill Baker had done a good job and that he would not support this.

Haywood said Baker has been a friend of Ward 7 and thanked him for the work he did to help them achieve what they had in Ward 7.

VOTE ON MOTION: AYE: Devine, Shanklin, Moeller, Bass, Powell. NAY: Hanna, Purcell, Haywood. MOTION CARRIED. (Note: Hanna passed on initial roll call.)

There being no further business to consider, the meeting adjourned at 10:05 p.m. upon motion, second and roll call vote.