

Meeting of 2001-10-9 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
OCTOBER 9, 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  
   COL George Steuber, Ft. Sill Liaison Rep.

The meeting was called to order at 6:00 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Rev. Margaret Battiest, Hunting Horse Methodist Church, followed by the Pledge of Allegiance.

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.

Mayor Powell asked that two minutes of silence be observed in support of the armed forces.

PRESENTATIONS:

\* CERTIFICATE OF COMMENDATION TO E911 DISPATCHER

Doug Wells, MIS Director, introduced SPC Brian Roate and his wife. Mayor Powell presented a Certificate of Meritorious Services to SPC Roate in recognition of his handling an emergency 911 call during a time when there was a technical failure in the 911 system. SPC Roate's actions resulted in appropriate personnel being able to reach the caller prior to any injury or bodily harm taking place.

\* NATIONAL ARTS & HUMANITIES MONTH PROCLAMATION

Mayor Powell presented the National Arts & Humanities Month Proclamation to Arts & Humanities Director Margaret Chalfant and Arts & Humanities Council Chairperson Whittie Rainwater. He noted the additional events this year with the Centennial Celebration and expressed appreciation for the work.

\* FIRE PREVENTION WEEK PROCLAMATION

Mayor Powell presented the Fire Prevention Week Proclamation which was signed by Lawton Fire Chief Don Barrington, Fort Sill Fire Chief Patrick Romero and LT Robert Pirtle. He asked that the news media provide coverage of this to get the message to the public on fire safety, and complimented the campaign being linked to baseball to attract the attention of children. He suggested next year's proclamation include recognition of those who gave their lives in the September 11 tragedy.

AUDIENCE PARTICIPATION:

Angie Alltizer, Neighborhood Services Director, and Mr. Patel, owner of 1225 SW Sheridan Road, Sheridan Inn, appeared to explain Mr. Patel's dealings with his insurance company on this property which received very

extensive storm damage and which Council previously condemned. Council directed that an item be placed on the next agenda to consider a time extension so Mr. Patel can conclude his settlement with the insurance company. Purcell asked Alltizer to respond to an e-mail complaint concerning the property from a citizen.

#### CONSENT AGENDA :

Requests were made for separate consideration of Items 1, 2 and 5.

MOVED by Baxter, SECOND by Haywood, to approve the Consent Agenda items as recommended with the exception of Items 1, 2 and 5. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Garfield Starnes, Jr., Larry and Sherry McNeely, Roger and Clara Bannon, and Calvin and Yvonne Hale. Exhibits: Legal Opinion/Recommendation.

Cleve Hale said he owns property at 803 E Avenue, and last June his renter notified him of plumbing problems. He explained that Rainwater Plumbing ran a cable through the sewer, got it stuck and could not retrieve it; Art's Plumbing also could not retrieve it; Hodge's Plumbing was able to retrieve it. Donald Hodge said he removed the cable, attempted to find the problem, dug to the City main and found the tap was made with a "Y" connection to the City line that was busted in a number of pieces. Hodge said you could tell there had been previous problems, he called the City, they came out and took pictures and told him what to dig up so City crews could remove and replace sections of the main. Hodge said they did as they were told and the work was inspected by the City.

Vincent said Mr. Wilson's report agrees with the statements just made and the issue is should Hodge have gone that far when the City Code sets out how they are supposed to contact us, which was not done, and the other question is who installed the "Y" connection in the first place since it is not a normal tap and we have no records to indicate the City installed it. Devine said that was a normal procedure in years past when subdivisions such as this were developed, and the developer may have installed it 50 years ago.

MOVED by Devine, SECOND by Shanklin, to pay the claim.

Purcell said the information shows that the private plumber, prior to the supervisor's arrival, removed the homeowner's 4" service line. He said he thought it was normal for the City to be called before that to find the problem, and asked if the City is now being asked to pay for that. Devine said when a plumber digs out the main, there is no way to keep from taking the public or private riser out; the City does not want plumbers to disturb the main when they get to the point where the private line makes a connection to the City main; they did not do that, they left it intact when they dug down but there was a discrepancy as to whose fault it was as to it being bad on the connection. Devine said the Y connections were good at the time but there is no way to tie back into them because they normally deteriorate. Purcell asked why they did not call the City to have them dig it up, and then there would not be a claim for the plumbers to dig it up. Devine said it is policy that the plumber expose the problem before the City will come out. Shanklin said some of them will go ahead and crack it anyway to get the City to come out and repair the line, and that has become standard due to that policy so we are beating ourselves by not either uncovering the lines ourselves and making the taps, or this is what we are up against. Devine said he had been trying to get a policy where the City will dig out the riser for the plumber, which would eliminate any question as to who it belongs to and what the problem is. Baker said when a plumber excavates, he is to leave the service riser connection intact and notify the City to inspect it, and that is where the determination is made as to whether it is the private line that failed or the main, and if the City does not see that before the plumber removes it, we have no way of knowing. Devine said Hodge covered that.

Baxter said the information shows that before the City got there, the plumber disconnected it and when we got there, we saw a crack in the 4" Y, and the City Attorney assumed maybe the crack was not there before the plumber got there and maybe the plumber disturbed the main and it cracked. He asked how we know that did not happen if they pulled the riser from our main, maybe they cracked it when they did it. Devine said that is a possibility. Baxter asked if that is the reason for the policy and Vincent said yes. Vincent said the code states that: "failure to follow the outlined procedures for inspection may relieve the City of responsibility for repairs and shall create a presumption that damage, if any, to the City sewer main, was caused by the excavation of the main by the private entity", so when you have presumptions it is up to them to prove to us that they did not do it; Wilson investigated and they did not meet the presumption.

Mayor Powell asked what the snake got hooked on so that it could not be removed. Hodge said it was caught in the break of the line and the crack had been there for some time because roots were growing through the crack so there was not a question as to whether he broke it or not; the City took pictures of it before they excavated for City crews to replace their portion of the line. Baxter asked if the City had the pictures and Wilson said he did not. Baxter said he would like to see them.

SUBSTITUTE MOTION by Shanklin, SECOND by Purcell, to table the Hale claim for two weeks. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna. NAY: None. MOTION CARRIED.

Garfield Starnes said on July 2 he was arrested, it was a domestic dispute. He said at the time he was arrested, he felt the procedure for him being arrested was wrongfully done, he is disabled due to Cerebral Palsy, he was on the ground when the officer asked him to put his hands behind his back. Starnes said he put his left hand behind his back and as he was doing that he told the officer he had Cerebral Palsy and was totally disabled on the right side and could not put his right hand behind his back. Starnes said he had witnesses, statements from witnesses, and a witness is here that would say he told the officer numerous times that he could not do it, but the officer took his hand and placed it behind his back, therefore he felt sharp pains going from his shoulder down into his hand and now he cannot move his hand and he felt the officer did the procedure wrong. He said he had doctor statements.

MOVED by Shanklin, SECOND by Purcell, to deny the remainder of the claims listed in Item One. AYE: Purcell, Shanklin, Moeller, Baxter, Bass, Hanna, Devine. NAY: Haywood. MOTION CARRIED.

2. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file friendly suits for claims which are over \$400.00: William and Melinda Shoemate, Preston and Verna Howard, Valerie Tubbs and Larry and Sherry McNeely. Exhibits: Legal Opinions/Recommendations. (Resolution Nos. 01-148, 01-149, 01-150 and 01-151 on file in City Clerk's Office)

Vincent requested approval of the listed claims with the exception of the Preston and Verna Howard claim.

MOVED by Purcell, SECOND by Baxter, to approve the listed claims with the exception of the Howard claim. AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

(Title) Resolution No. 01-148

A resolution authorizing and directing the City Attorney to assist William and Melinda Shoemate 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 Three Thousand Forty-Seven Dollars and 57/100s (\$3,047.57). \*Note: See Resolution No. 01-149 below.

(Title) Resolution No. 01-150

A resolution authorizing and directing the City Attorney to assist Valerie Tubbs 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 Six Hundred Eighty-Seven Dollars and 72/100s (\$687.72).

(Title) Resolution No. 01-151

A resolution authorizing and directing the City Attorney to assist Larry & Sherry McNeely 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 Thousand Three Hundred Ninety-Six Dollars and 62/100s (\$4,396.62).

Vincent said Ms. Howard's son was in an automobile accident involving a City police unit, there is no question of liability. The claim was filed in the amount of \$3,220.85, which was the low estimate for repair of the vehicle; the other repair estimate was a little over \$3,600. He said late last week after receiving the recommendation, Ms. Howard called his office and talked with Ms. Herriage indicating they needed a rental car and that possibly her son would need medical treatment. Vincent said there is no provision in the Tort Claims Act to amend a claim, the claim was filed in an amount certain and approval is recommended, but he invited Ms. Howard to make a presentation to Council.

Verna Howard explained her efforts to relate her needs to City employees with regard to a rental car and her son complaining about his back since the accident, which happened in the late part of August. She said an employee slammed the phone down on her so she called the Mayor, and she further related difficulties encountered by their not having a workable car and the lack of proper advice.

Vincent said normally the repair shop will say the person needs a rental car for the time period the car is being repaired; that did not happen with either of the estimates we got on this claim. He said Ms. Howard is entitled to a rental car if she had properly filed her claim, which she did not. Vincent said there was substantial damage to Howard's car regarding the hood, right front fender, grill, radiator mounts, cracked battery, and the headlights were knocked out, among other things.

Purcell asked if Ms. Howard could file another claim and Vincent said no, she is only allowed by law to file one claim on each accident. Vincent said he could suggest paying the higher of the two estimates, which would give Ms. Howard \$400 to get a rental car.

Baxter said he did not know how that much damage could have been done by a vehicle going in reverse. He asked if the car had been fixed and Howard said they were waiting to get it fixed because she did not know the outcome of this and it was a police truck that hit the car. Baxter asked how long it would take to fix the car. Vincent said five

days.

Purcell asked if Council could approve the claim in the higher amount, which would give her approximately \$400 for a rental car. Vincent said he would recommend that. Shanklin asked if that would make Ms. Howard happy. Ms. Howard said she would like to have a rental car and explained her dental problems. Mayor Powell asked if Ms. Howard was agreeable to receiving the higher amount and she said yes.

Haywood asked why Ms. Howard was not contacted by someone from the City, and if you are in an accident, you can contact the insurance company and they will explain what steps are needed. Vincent said we are not an insurance company and they have to file a claim first. Haywood asked if anyone told Ms. Howard that. Ms. Howard said she asked when she would hear something, and they took a lot of pictures and told her to go get the report after three or four days and she did that herself because she had not been contacted by anyone with the City.

Moeller asked if there was a procedure in place to assist people in this situation. Vincent said there is an instruction sheet that we pass out when they contact either the City Clerk or City Attorney. Moeller asked if anyone is there to explain it to them. Vincent said if they ask, but normally they call on the phone if they have been in an accident and we mail them a claim. Ms. Howard said she came in City Hall and was asking questions but got no answers. Mayor Powell said Ms. Howard visited with him yesterday and he passed a note to the City Manager asking that someone respond to her and apparently that was done.

MOVED by Purcell, SECOND by Moeller, to pay the Howard claim in the amount of \$3,696, and adopt the resolution.

Shanklin said Ms. Howard needs to understand that this is all of the money she will be getting. Ms. Howard indicated she understood. Shanklin asked if we had a non-injury statement or if we needed one. Vincent said Ms. Howard's son may have a separate claim if he is over 18 and that is a different issue.

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

(Title) Resolution No. 01-149

A resolution authorizing and directing the City Attorney to assist Preston B. Howard, Jr., Preston B. Howard, Sr. and Verna L. Howard 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 Three Thousand Six Hundred and Ninety-Six Dollars and 00/100s (\$3,696.00).

3. Consider authorizing Neighborhood Services to proceed with the directive of Council Resolution 01-124 and demolish the dilapidated structures at 2111 SW "B" Avenue. Exhibits: Resolution No. 01-124. Action: Authorize the City of Lawton, Neighborhood Services, to proceed under the mandate of Resolution No. 01-124 with the demolition of the dilapidated structures located at 2111 SW "B" Avenue.

4. Consider denying requests for the installation and/or removal of traffic control devices on Fort Sill Boulevard near Elm, Douglas from 19th to 23rd, and SW Garfield and 17th. Exhibits: 9/20/01 Draft Traffic Commission Minutes Excerpt. Action: Denial of requests.

5. Consider approving a resolution authorizing the installation and/or removal of traffic control devices on NW Lincoln at 28th, SW 7th at McKinley, NW Garfield at Jesse L. Davenport, NW Waterford Drive at Ferris and Homestead Drive, NW Columbia and 58th, and NW 52nd at Cache Road. Exhibits: Resolution No. 01-152; 9/20/01 Draft Traffic Comm Minutes Excerpt.

Purcell asked if anyone was present to speak on the stop signs on 58th and Columbia; no one appeared.

MOVED by Purcell, SECOND by Baxter, to approve Resolution No. 01-152. AYE: Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

(Title) Resolution No. 01-152

A resolution authorizing the installation and/or removal of traffic control devices at certain designated locations within the City of Lawton, Oklahoma. (Install Yield sign on NW Lincoln at 28th; Yield sign on SW 7th at McKinley; Stop sign on SW Garfield at Jesse L. Davenport; No Thru Traffic signs on NW Waterford Drive at Ferris and Homestead Drive; Three Stop signs at intersection of NW Columbia and 58th; Pavement markings eliminating right turns from the east, southbound lane of NW 52nd at Cache Rd.

6. Consider establishing December 11 and 18 as the City Council meeting dates for December 2001. Exhibits: None. Action: Approval.

7. Consider approving a contract with American Ramp Company for professional design services for the Skate Park Project #2001-16. Exhibits: None. Action: Approve contract for a fee amount of \$30,000; funding source 1995

CIP.

8. Consider approving the following contract extensions: A) Sludge Lagoon Cleaning with Norton's Construction; B) Asphalt Crack Filler with Sorco Products, Inc.; C) Aluminum Sign Blanks with Vulcan Signs. Exhibits: None. Action: Approval.
9. Consider awarding contract for Backhoe/Loader for Highland Cemetery. Exhibits: Recommendation; Abstract. Action: Award to Construction AG Supply; funding source Cemetery Care Fund.

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

Lawton Arts & Humanities Council: Susan Barron, Fort Sill Rep., Term: 10/9/01 to 6/30/02

Commission on the Status of Women: (all terms are 10/9/01 to 10/9/03)

Ward One: Geri Hair, Jean Orr Ward Eight: Edwina Scott

Ward Two: Sally Walker Fort Sill: Kim Olsey

Ward Three: Glenda Casper

Project Impact Steering Committee: (all terms are 10/9/01 to 10/9/03)

Ray Polk, Red Cross Michael Baxter, Ward Eight

Gary Jackson, Asst. City Manager Mike Owensby, Lawton Constitution

Marilyn Feaver, Chamber of Commerce Les Hines, Insurance Agency

Mark Mitchell, Fire Marshall Steve Barnes, Homebuilder

Barry Beauchamp, Lawton Public Schools Ann Alltizer, Neighborhood Services

Bill Adamson, Police Chief

11. Consider approval of payroll for the period of October 1 to 14, 2001. Exhibits: None.
12. Consider approval of Minutes of Lawton City Council Meetings of September 20 and 25, 2001.

#### UNFINISHED BUSINESS:

13. Consider awarding a contract for Accidental Death Insurance for Police and Fire Bargaining Unit employees and providing direction to staff concerning in the line of duty accidental death insurance for other employees. Exhibits: None.

Chuck Bridwell, Human Resources Director, recommended award to Insurance One for the police and fire coverage, and that staff be allowed to look into specifications and bids to cover the rest of the employees and to discuss it with the Employee Advisory Committee. Devine spoke in favor of providing the same coverage for all employees, rather than only those covered by bargaining units. Hanna asked if the City would pay for coverage for the general employees or if the employees would be asked to pay. Baker said he believed the intent was for the City to pay the costs.

MOVED by Moeller, SECOND by Devine, to approve the contract for police and fire and pursue it for general employees. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

#### BUSINESS ITEMS:

14. Consider revoking a Revocable Permit for the encroachment of a non-accessory sign on Southwest Interstate Drive issued to Southwest Outdoor Advertising. Exhibits: Revocable Permit; Survey.

Bob Bigham, City Planner, said a building permit was issued for this non-accessory sign in an improperly zoned district; to compound the problem, in 1999 it was found that the sign encroached on the right of way. In order to resolve that, an ordinance was passed amending Chapter 20 giving Council flexibility to issue revocable permits for encroachments on the right of way. Southwest Outdoor Advertising applied for the revocable permit, which contained a provision that they had to get the appropriate zoning. The applicant requested rezoning and Council on September 11 failed to approve the rezoning after considerable protest of the proposed church to be built to the north of this site. Since the applicant failed to get the proper zoning, it appears to be in order that the revocable permit be revoked for the encroachment.

Shanklin said he did not like the language that they "failed to get it" whenever they thought they had it; why not just go ahead and say we erred in giving them the permit to build it. Mayor Powell said we erred twice. Mayor Powell said even if you reverse this, you still have a building permit that was issued and how will you correct that mistake. Bigham said revoking the revocable permit will require them to remove that portion of the sign that is encroaching past the Interstate Drive right of way; the zoning violation is a different issue which would be processed in Municipal Court, so it is two different enforcement issues.

Purcell said if we revoke the permit, the City will likely be taken to court where a judge could say that the City erred so the sign can stay even though it is in the wrong zone, or a judge could say take down the sign, in which case the City will likely be sued for costs involved.

Chuck Wade, attorney for Southwest Outdoor Advertising, said he had sent a letter indicating why he was not present when the rezoning was considered on September 11, and he would have been present if he would have been aware that it was going to be considered at that meeting. He said there are all kinds of reasons to leave the revocable permit in place and allow the sign to stay at its present site; the church was very much opposed to the change to industrial zoning, they wanted it to remain as commercial zoning abutting them and that wish was granted by this Council. Wade said the sign is very attractive and it will not hinder the church or anyone else at all, and if you leave the sign and permit in place and objectionable advertising is placed on it, you could always reconsider at that point revoking the revocable permit. He said in deference to the fact that he thought the City had a quality legal staff, he thought he could convince a district court judge to either enjoin the City from requiring them to remove the sign or to pay damages to compensate them for the value of the sign, which is substantial and significant, likewise in such proceeding he would be asking the court to require the City to pay his client's attorney fees and court costs. Wade said he thought that would be a waste of money on the part of the City, a waste of his time, a waste of the City Attorney's staff time; we need to just leave it as is and let bygones be bygones; the mistake was made in the first place, why compound it.

Devine asked Wade how long was left on the contract on the sign. Wade said he thought it was a 20 or 25 year lease but he was not sure, although it is a significant term.

Moeller said the revocable permit says failure to obtain the required zoning will void the permit. She asked what the time period was to obtain that zoning or if there was one. Bigham said a specified time was not included; the day the applicant signed the revocable permit he submitted the application for rezoning but we did not get the completed application for several months. Moeller said it was easy to see from the drawing that the sign hangs over into the easement. Bigham said the drawing is a survey that was done after completion of the sign; it is not the drawing that was submitted for the building permit.

Purcell said he agreed with not revoking the permit and just leaving it, but what would the next step be. Vincent said there are lots of scenarios; the church can file an action to have the sign removed for violation of the zoning code. Purcell asked if that comes to Council or somewhere else. Vincent said it could go to Municipal Court or District Court; it is a criminal violation.

MOVED by Haywood, SECOND by Hanna, that we leave the revocable permit in place.

Devine said in other words, we will not take the sign down. Haywood agreed. Mayor Powell asked Vincent if the motion was worded correctly and Vincent said yes.

SUBSTITUTE MOTION by Bass, SECOND by Baxter, to revoke the revocable permit. AYE: Bass, Devine, Shanklin, Baxter. NAY: Hanna, Purcell, Moeller, Haywood.

Mayor Powell said he would send it right back to Council. Vincent said the substitute motion did not pass and the Mayor is not required to vote.

Mayor Powell asked for roll call on the primary motion stated by Haywood.

VOTE ON MOTION: AYE: Hanna, Purcell, Moeller, Haywood. NAY: Devine, Shanklin, Baxter, Bass.

Mayor Powell said in view of the fact the City has made two mistakes, and they are quite clear and Wade had explained it quite thoroughly, if you tear the sign down, it is going to cost the City more money in the way of attorney fees and those kinds of things. He said he should not bale them out, but he is going to, leave the sign like it is and take it to court. Vincent said the vote was five to four. Mayor Powell said the vote was five to four and everybody knew that, including the City Attorney.

15. Consider authorizing an exception to Council Policy 8-2, authorizing construction of a median cut at NW 55th Street and West Gore Boulevard, and providing funding. Exhibits: Council Policy 8-2; Drawing.

Mayor Powell said a request had been received that this item not be considered.

16. Consider approving an agreement with Cameron University to partially fund the salary and related expenses for an Advanced Technology Industry Recruiter. Exhibits: Agreement; Proposal.

Dr. Don Davis, Cameron University President, said three years ago Mayor Powell and then Commanding General Leo Baxter convened a group to study the economic future of Lawton-Fort Sill and to conduct a study plan to see

what might be done for new high tech industry. The Mayor asked Cameron to assume the responsibility for conducting the study; a smart economy task force was formed that included more than 100 representatives and those volunteers spent 3,000 hours looking into the issues to recruit new high tech industry. The State Regents provided a \$30,000 research grant to conduct the study; the federal government provided \$100,000 and Cameron traveled more than 17,000 miles interviewing people in cities that had been successful in this regard. The plan was submitted to the task force and approved, and it has been put into effect with the formation of the Southwest Oklahoma Advanced Technology Association, with the creation of new degree programs at Cameron, cooperative efforts with the vocational-technical school and also private industry, to do recruiting of high tech industry.

Dr. Davis said the State Regents have approved a program that will allow the formation of partnerships between universities and municipalities to engage in recruiting high tech industry, and they have made this opportunity available to Lawton. He said Sid Hudson is present, is a Lawton native, a former State Legislator, and now is the Vice Chancellor for the Oklahoma State Regents for Higher Education, and he will further explain the program and the offer being made by the State Regents.

Sid Hudson said the report of the task force is outstanding and unique as no other city in Oklahoma has come up with this type of comprehensive approach, particularly directed at high tech industry. He said higher education has been changing due to high tech jobs requiring associate or baccalaureate degrees. Hudson said most of the institutions are outside of the metropolitan area and that will require them to create new and different kinds of partnerships among governmental entities throughout the State to create economic development beyond the city limits of Oklahoma City and Tulsa. He said the plan has been recognized by the Oklahoma Strategic Plan as a model plan for the other regions of the State, and it shows a need for a recruiter.

Hudson said State Regents can only give money to colleges, so consequently they are wanting to see colleges in the forefront as partners in this type of activity and they have put forward a \$50,000 grant to be matched by \$40,000 from the City, and Cameron will provide some in-kind services. He said it is a partnership between the State Regents, Lawton, and Cameron. He said his boss is Regent Bill Burgess, who is attending a Telos meeting tonight. Hudson said it is very important to target the kinds of companies you are trying to recruit. He said this is a good plan that should not just be placed on the shelf; it is not exclusively for Cameron. Lawton will receive monthly expenditure reports and quarterly reports about the activities of the recruiter. Hudson said outside of Oklahoma City and Tulsa, they are having to look at doing things differently and that was the reason for the proposal.

Dr. Davis said Tony Pokorny spent many hours on the study and he was a loaned executive at that time from Advancia and is now on the Cameron staff, and he is present, along with Dr. Don Sullivan.

MOVED by Baxter, SECOND by Bass, to approve the agreement with Cameron University to partially fund the salary and related expenses for an advanced technology industry recruiter.

Vincent said there is a correction to the draft agreement to strike paragraph four and renumber the remaining paragraphs.

Shanklin asked if it is legal for the City to give them this money. Vincent said yes, it is economic development. Shanklin asked if the man had already been hired and placed. Hudson said no. Shanklin said the man's name is Gary Miller, his resume is in the packet, and he does not and will not live in Lawton.

Shanklin asked who is the Southwest Oklahoma Advanced Technology Association. Davis said it is an organization of people interested in the application of technology to business. Davis said the first president was a gentleman from Goodyear; one of the vice presidents is Jim Nisbett at the Vo Tech School, the current president is Bill Burgess, and 30 companies are involved. Shanklin asked who this person will answer to. Hudson said to the President of Cameron.

Shanklin asked Davis if he was in a position to start helping Lawton and if he pledged that he would help Lawton. He said Davis has a history that is not very good and asked if Davis will say he is ready to help Lawton right now. Dr. Davis said he would not choose to argue with Shanklin at all and he stands by his commitment, having helped Lawton since he moved here in 1957. Shanklin said we all know we had to go to the Board of Regents to get to play football out there because Davis did not want them to play, one man against 80,000, and he did not think that was being in favor of Lawton.

Shanklin asked if the Chamber of Commerce was agreeable to this; the Chamber will have a recruiter so there will be two and will they be on the same team. He said not everyone is as happy about this as some of the Council are.

Mike Austin said this is his second full day as President of the Chamber of Commerce, and he has not visited with the board on this issue but he had experience from his former employer, PSO, where they hired several lead generators and as a general rule, they do not live in the community you are in. He said an example is Silver Line Plastics, where that lead was provided by a firm in St. Louis and it came through PSO. Austin said sometimes it works, and sometimes it does not, but he personally felt this would be a good thing because any time someone

offers you \$50,000 a year for three years, it would seem you should take it and supplement it any way you can.

Shanklin said he had another question for President Davis and asked if he was going to clean up that mile of creek that is almost in the middle of Lawton; he has turned us down, if you want to help Lawton, tell us you will clean that up. Dr. Davis said he could assure Shanklin that they would continue to comply with the recommendations by every professional engineer who has looked at it, as they have in the past.

Devine said if the Chamber is in support of this, how would they feel about the City taking \$40,000 from the hotel-motel funding and move it over here to use it for this. Austin said he would not support that.

Baxter said the economic developer the Chamber will hire will be working all phases of economic development; this particular recruiter will work on advanced technology industries, and he requested the vote be taken.

Purcell said the funding source shows Account 231 and he asked if that comes out of the \$150,000 the Council set aside for economic development. Baker said yes. Mayor Powell said it is not coming out of the 2000 CIP, and that he talked to Marilyn Fever about this after the meeting so they were knowledgeable and if that information was not passed along, that is not our fault.

VOTE ON MOTION: AYE: Devine, Purcell, Moeller, Haywood, Baxter, Bass. NAY: Shanklin, Hanna. MOTION CARRIED.

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

Bridwell said inflation costs for medical care have jumped back to double digits and the employee health plan has a severe problem in funding. At a special meeting on September 27 the eight-member Employee Health Plan Review Committee, which consists of two firefighters appointed by the President of the Fire Union, two police officers appointed by the President of the Police Union, and four general employees appointed by the Chairman of the Employee Advisory Committee, recommended significant changes to the plan involving both increasing revenue and decreasing benefits. The Committee recommended the prescription plan be modified effective November 1, that deductions for coverage from employee paychecks be made 26 times a year instead of 24, and for this particular year that would be the extra payroll date in the months of November and May. They recommended changes to the co-pay for both PPO and non-PPO providers, changing on January 1 from 90% for PPO and 80% for non-PPO, to 80% for PPO and 60% for non-PPO. The City Manager concurs with the exception that the co-insurance be changed to 85% for PPO instead of 80%.

Purcell asked if the Health Committee agreed to having no family cap on out of pocket expenses, if they agreed to imposing that on the employees. Bridwell said yes, there is an individual cap and there are about three family members and each of those individual members would still have a cap, it is just that the so-called family cap, which is predicated upon three and a third members, would be eliminated; the individual cap would not be eliminated. Purcell asked what the cap is on an individual employee. Bridwell said \$10,000. Purcell said the employee could incur, assuming himself and two family members, up to \$30,000 of liability on medical care in one year. Bridwell said there would also be an 80% payment, so it is 80% of \$10,000 for each of the individual members. Purcell said he was surprised they would agree to that. Bridwell said the Committee met for three hours and there was robust discussion.

Shanklin asked what the retired persons now have to pay for the insurance and if it was \$500 to \$600 a month. Bridwell said yes. Shanklin said if a person gets a \$1,200 retirement it will not be too much longer before this eats it all up. Bridwell said yes, that is true, medical costs continue to increase.

Baker said he thought the Committee did a good job and we do not want to increase premiums or reduce benefits, but something must be done to keep the plan solvent as we are self-funded and must have funds available to pay claims when they come in, so this is a very difficult decision for this Committee and him. Baker said even with these changes he felt the City had a very good health plan for its employees at a very reasonable costs. He said he did not want to reduce the co-insurance benefit to 80% because that is quite a drop from 90% so he hoped they could go with 85% and still keep the plan solvent.

Purcell asked if effective January 1 the PPO goes to 85%, as opposed to 80%, and if that was what Council would be voting on. Baker said yes, it currently is 90%, and the recommendation from the Committee was 80% and he was suggesting 85%. Purcell said the non-PPO was going from 80% to 60%. Baker said yes, and he agreed with that, they are trying to encourage people to use the PPO because that saves everyone money.

Purcell said it is generally cheaper to self-insure and asked if we had done anything as far as looking at insurance companies for coverage. He said he was not suggesting that be done tomorrow but asked if we have thought about it or looked to see what the premiums might be. Bridwell said there is stop loss coverage at \$150,000. Baker said he did not think we had looked at insurance companies because there is a basic assumption that if we are self-



funded, you will not get it any cheaper because your experience is basically your claims. Mayor Powell said it would not hurt to listen to them and that he had talked with agents who said the City would not even talk to them, but if they can give us a better plan at a cheaper rate, we should listen to them.

Purcell said what he had found in dealing with them for several years for 300 employees, you go with a company and they raise the rates the following year, so you go to some other company, and it is a problem changing companies, but the other company would then give a better rate than staying with the first one. He said he did not think it would hurt to look and they can always say no.

Bridwell said the City did that in 1977 and ultimately reached the end of the road because there were no major companies willing to bid on the coverage.

Bass said if the funding level of the plan goes back up and the number of large claims goes back down, can the employee health plan go back to the way it was before this. Baker said they could certainly bring it back to Council and it could be put back the way it was.

Moeller said she had received similar comments about insurance companies and others had told her they had better plans but that no one would listen to them. She said she asked to see a copy about six months ago and she never saw it as far as what was offered to the employees at what cost. Moeller asked how many of the employees, especially general employees, cannot afford to cover their families under this. Baker said he did not know how many could not afford it; some employees have insurance through their spouse's employers; others possibly could afford it but elect not to have it. Bridwell said we have 329 dependent units on the plan, and it stays fairly constant, but he could not really answer Moeller's question. Mayor Powell said it would be good to have companies look at what we have and make a bid on it, and Purcell's comments were also true in that regard.

Kathy Fanning, City employee, said three employees had asked about looking at insurance companies. She said she was speaking for herself personally, not for any group. Fanning said the recommendations were a surprise to many employees and she knew changes had to be made due to the financial status of the plan, but that the prescription changes would be a hardship; it is being changed to \$20 or 40%, whichever is greater, which would make it almost impossible for her to continue her maintenance prescriptions as some do not come in generic, which she verified with her pharmacy. Fanning said as an example on her three prescriptions that do not come in generic, the cost under the current plan is \$90 for 90 days worth of medication; the proposed change at 40% would cost \$348.24, or \$258.24 more every 90 days, for a total of \$1,032.96 more per year. Fanning said she cannot afford this, nor can many of the other employees. She said with these changes, the raise in January, if the employees do still get it, would still put them in the red.

Fanning asked that those employees who have no choice in whether to get generic or name brand medications be given a break on the costs. She said she had been told that she would be adding to the expense of the plan, but if she cannot afford the medication, the plan would have a much bigger expense if her health was affected by not being able to take the medication.

Moeller asked if the other changes would be acceptable if something was done about the prescriptions. Fanning said it would be hard, but this will be the major expense.

Purcell asked if Fanning's perception of what would be paid for name brand and generic drugs was correct. Bridwell said if there is no generic drug it is the Committee's recommendation to change from \$20 for a 30 day supply and 40%, whichever is greater; we spend about \$600,000 per year on prescription drugs. Purcell said he would not support doing that on that particular item if no generic drugs are available. Shanklin said he agreed with Purcell and did not know what to do about it. Baker said if it is Council consensus not to impose 40% on brand names if generic is not available, then Council could table this and the Committee could review it further but it needs to be done quickly.

MOVED by Devine, SECOND by Moeller, to table the item. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

Mayor Powell said he hoped the staff understood the comments as far as asking firms for bids.

18. Consider an ordinance amending Chapter 15, Section 15-2-206 by adding subsection D allowing for the cost of removal or abatement of weeds, low hanging or dead tree limbs and trash to be added to the water or other city utility bill of any owner/occupant if they are a user of the water or other city utility system. Exhibits: Ordinance No. 01-32.

Vincent said this is a way to attempt to recover the costs of mowing yards and removing low or dead limbs. He said in addition to filing the liens, the costs will be added to the utility bill and it would become due and payable just like the utility bill and if it is not paid, appropriate action will be taken.

Hanna said it is on the utility bill of the person whose property is being abated. Vincent said yes, it is the utility bill of the person that is responsible for the property, no matter where he is located; we could clean up a property on the east side of town and the owner may have a utility bill on the west side of town. Purcell said a person may own and live in one house and rent two others out, but if one of the rental units is mowed, the cost can be placed on the owner's utility bill at his residence and collection can be obtained from the owner in that manner. Vincent agreed.

Devine said he wanted it stated clearly that this will not go on everyone's water bills because that had been misunderstood by the public; it will only go against the bill of the person responsible. Vincent agreed.

Moeller said a person may move out of a house without paying the bill and asked if the next person would be charged for the previous owner's mowing bill. Vincent said it would be a separate account and it should be different. Moeller said she had seen it where the bills would be adjusted according to what the previous owner did, and because they had high bills, you will be charged a higher fee. Mayor Powell said surely they would keep the abatement cost separate from the water costs. Baker said the adjustment is based on the average of the last 12 months for that address, but it is on the water consumption so this would not have any impact on that.

Bass said he agreed something had to be done but we may cut a person's yard and put the cost on the utility bill, then the person cannot afford to pay it. He asked if the water would be cut off or if they could pay it out. Baker said we would follow the City Code and the water could be turned off, however, we have given our supervisors in Revenue Service the flexibility of working out payment arrangements. Baker said if Council adopts this, staff will need Council's support when they get to the point of turning someone's water off because they may call their councilman, and that is when the support will be needed in order to make this work. Baker said if we have to go out and turn the water back on and forgive the cost, then we are wasting our time.

Shanklin said before it gets to this point, the person will know there was a problem because the City sends warnings, letters, notices, and they were ignored, so it would then be time to pay, and they can do it or not. He said it is not like we sneak in during the night and mow someone's yard, they will know it.

Vincent said they will get a bill showing the cost and if they do not pay it in 30 days, then it will go on the utility bill, so they will get a 30 day window to pay it before it goes on the water bill.

Hanna said there are elderly persons who can qualify for reduced utility rates, and if they take advantage of that, they would have extra money so they could pay someone to mow their yard cheaper

Moeller asked if the property is vacant and there is no utility account, would it still be done through the lien. Baker said the lien will be filed and the water bill will only come into play if the owner of the property has a water account with the City.

MOVED by Purcell, SECOND by Shanklin, to approve Ordinance No. 01-32, waive reading of the ordinance, read the title only.

(Title read aloud) Ordinance No. 01-32

An ordinance amending Chapter 15, Article 2, Section 15-2-206 by adding Subsection D allowing for cost of removing or abating nuisances to be added to water or other city utility bill of the owner/occupant if they are a user of such system.

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

19. Receive a presentation by Parks & Recreation on the Elmer Thomas Master Plan and consider its approval. Exhibits: None.

Kim Shahan, Assistant Parks & Recreation Director, said this plan is centered around the strength of the many diverse groups that have a strong interest in the park. In April, representatives of local agencies met with Alaback Associates to formulate an organizational site plan. The diversity showed support for passive recreation, active recreation, arts and music, historical interests, fishing and wildlife conservation, the garden club programs, the Boulevard of Lights, and the supporters of the prairie dogs. The plan shows a broad range of age groups that the park should serve. The proposed conceptual plan was approved by the Parks & Recreation Commission this past Friday.

Shahan gave a PowerPoint presentation on the Master Plan. The purpose of the plan was to update the boundaries and changes within the park, document past development, plan for future needs, insure wise future development, and to eliminate conflict between present and proposed facilities. The south park boarder is Ferris; a main entrance with a sign and marquee to represent Southwest Oklahoma, such as a fountain, statute, or monument, is proposed. The existing road would be removed, and a road would be constructed to provide access to the Museum and provide ADA accessibility.

A garden area is planned between McMahon Auditorium and the Museum of the Great Plains, which would also provide a site for the Centennial monument to be built by the McMahon Foundation. A fire service road would be constructed. A location is included for a future cultural site and Council previously approved that the Lawton Community Theatre would have a location within the park. McMahon Drive would provide access to the Lawton Public School facilities and the new proposed cultural site. A pedestrian walkway would be built; the bike path would be altered. All six cultural areas, McMahon Auditorium, the Museum, Percussive Arts Society and the three new sites, would have direct pedestrian access into a common area. The frontage of each new proposed cultural site would have a circle drive for ADA access, pedestrian walkways, the bike path would be re-routed to come in front of those sites and the large parking lots would be on the back side of the facilities.

Item Six shows the proposed festival site; this would be the area all six cultural sites are linked to and have pedestrian access to; there would be a designed electrical system to serve all festivals. He said 37,000 people attended the International Festival this year, and for events like that, this will be a great spot.

Item 12 is a main entrance from the north off of Cache Road, which would allow access from I-44 traffic. Item 18 is a bike path, trail head pavilion, and restroom and parking; the pavilion was already approved by the bike committee to be built. Item 19 is a recommendation for a new Parks & Recreation Administration Office and Visitor Information Center. Item 20 is two additional pavilions for group use and a pedestrian walkway identified on the north side of the lake. Item 21, Lake Helen, there is a proposal for three built up areas, or jetty's, that would extend into the lake, the lake would be dredged and the dirt would be used to build up the areas and create fishing enhancement. Through Oklahoma Wildlife there is an enhancement grant that is available immediately to pursue this project. Two areas will remain as natural Oklahoma prairie land.

The park is divided into three areas; the west side is the cultural side, the center is the prairie and the east side is a garden area and Alive with Trees. There is a pedestrian path around the north side completely around the lake.

Item 22 shows fishing docks built into the lake at the deeper portion by the dam, as well as a concession area; non-motorized boats may also be available to rent. A new parking area is proposed for the south side of the lake. Item 23 is the amphitheater and the stage would be with the lake to the background; the area would be used for concerts and events such as those that took place at the Centennial Celebration. There is no alteration to the bike path except on the west side. Item 25 is the Lawton Garden Club and Horticulture Center, and plans are already drawn up for this area. Item 24 is the Vietnam Memorial Site, and the monument will be dedicated on November 9. McMahon Drive will be renamed McMahon Parkway and extended to provide proper access, and plans include constructing it to allow the Boulevard of Lights to take place here. There would be a control point for donations to help build up that activity.

Item 11 is the existing walking path and lights; the path will be reduced in size, the west side will be eliminated and the lights that are already there can be used.

The new small lake would be for enhancement and beautification, with small fountains. The prairie dog area would be within the walking path; the prairie dog population is too large for the park right now and this area will serve 450 prairie dogs. Staff had relocated prairie dogs to ranches that would accept them, but to expedite relocation efforts, it is recommended that a site at Lake Ellsworth be used. Any time the prairie dogs get outside of their borders, we would remove them and keep the population within this area. Item 14 is a prairie dog education center and trailhead for the bike path.

Shahan said we start by approving the plan or allowing the public an opportunity to comment; set developmental priorities; consider funding strategies, such as state, federal and private grants, and look at methods similar to those used with Kids Zone for community fund raising. The operating budget can be used, as well as the 2000 and 2005 CIP. He said there is a current need to begin relocating the prairie dogs and maintain them in a designated area. Staff can apply for the state grant for Lake Helen, explore other grant opportunities and begin to solicit community support.

Baxter asked if the lake would be completely drained for construction of the new jetty's. Shahan said no. Baxter said the dam leaks when water reaches a certain level and asked if that would be repaired and response was yes. Baxter asked if the festival area is big enough to have an International Festival with 47,000 people, instead of 37,000, and if it is more area than at the Library Plaza. Shahan said yes.

Moeller asked if the lake would have to be drained and Shahan said no. Moeller asked if the walking trail would be removed. Shahan said a portion will be removed, but the cultural sites may be some of the last things done, and that plans are for McMahon Park to have a cinder trail walking path.

Mayor Powell said he hoped public comment would be allowed prior to approval of the plan. Shanklin said we could hold it until public approval is received, but we hired a man to design it. Purcell said the Parks & Recreation held public meetings on it. Mayor Powell said people are calling him about it.

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

20. Consider either eliminating free public services or direct staff to prepare a resolution that amends the Schedule of Fees and Charges by establishing fees for such services. Exhibits: None.

Baker said the City provides various services to support events such as block parties, walks, parades, ground breaking's, or ribbon cuttings, and it is causing a serious impact on our ability to provide basic service. He said when five people are pulled from Parks & Recreation to support an activity, they are being taken off of a tractor or mower, which delays that work. Baker said a decision needs to be made as to whether the City will continue to provide these services, and if so, we need to start charging at least a nominal fee to recoup the costs. He produced a stack of parade permit requests for this year stating that each one requires some type of support by the City, whether it be police, public works or parks and recreation, and it is having an impact on the workload. Baker asked if Council wanted staff to continue to provide this kind of support, and if so, are we willing to charge an amount to recover our costs.

Shanklin asked what would be considered a nominal amount. Baker said if Council approves the concept and asks that a resolution be returned, we will place a dollar value on it and bring it back to Council.

Hanna said when the employees are pulled from their normal assignments during normal duty hours, it costs more money to have them do the same job on the weekend on overtime. He said the job has to be done and many people may not have looked at that. Baker said people did mow on Saturday this year because we could not keep up during the week and part of the reason was pulling them off their jobs.

MOVED by Shanklin, SECOND by Hanna, to study it and bring back a dollar amount. AYE: Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

21. Consider directing staff to prepare and submit a Hazard Mitigation Grant Program (HMGP) Application to the Department of Civil Emergency Management for the preparation of a Storm Water Mitigation Plan and authorize the Mayor and City Clerk to execute said application. Exhibits: Summary of programs; Letter.

Bigham said the estimated project amount is \$300,000; FEMA will provide \$225,000 and the City will have to provide in-kind or hard match of \$75,000, which can be funded from the 1995 CIP from remaining funds in the Squaw Creek Project. The plan will provide a comprehensive study of the urban drainage system, inventory existing drainage structures and look at more cost effective ways to protect citizens against flooding.

Shanklin asked where all of these grants would eventually lead and what would be the end result on Meadowbrook. Bigham said this plan will not single out any particular drainage area; this will show ways in a comprehensive approach to resolve drainage issues in the community. The plan will look at all of the drainage basins and ways to improve drainage either through a physical approach, methods of regulations or other ways to come up with a list of alternatives for Council to consider.

Jerry Ihler, Public Works Director, said it is a master plan for storm drainage for the entire city; it will look at long term regional detention versus localized detention. Phase II of the NPDES discharge requirement is coming forward where the City must follow best management practices; it is an EPA mandate and the consultant would be asked to develop a compliance ordinance to address those issues, and look at solutions to flooding. Ihler said in the NPDES permit, it has gotten down to the detail of when it rains on a parking lot, if oil has dripped in the parking lot, EPA wants you to look at how you are going to keep that from getting into the water waste.

Shanklin said we told Cameron that if the stream from Gore to Lee were sealed off that it would not affect anything upstream, and asked if that was true. Ihler said based on the hydraulic analysis done in the past, the difference in the elevation between Gore and Lee where Wolf Creek goes through, there is only about an eight foot drop and as you come through with the 100 year storm, the water spreads out and continues to spread out and does not cause a great back water effect up stream.

Moeller said it was her understanding that all of the 1995 CIP funds were allocated. Baker said this does not affect any of the projects the Council has approved; these are funds left from the Squaw Creek Sewer Line Project which was completed within the last couple of months. Moeller asked if this could help improve our ratings to lower flood insurance premiums. Ihler said it would go toward that end.

Baxter asked if this would address the drainage ditch problems in Ward 8, such as the extension of the Taylor Street project. Ihler said it should identify those projects and perhaps put them in a priority; it would be updating the 1977 report that Hendricks Engineering did, and that project is identified in that report, and this will take a more comprehensive, regional approach.

Purcell asked how much of the \$75,000 can be met by in-kind. Ihler said we do not know yet.

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

Devine said we keep coming up with new projects, new funds and doing more things, but how long are we going to make the eight homeowners on Meadowbrook wait on their purchases. He asked that an agenda item be done for Council to consider that.

22. Consider approving acceptance of the FIRE-Act grant awarded to the Lawton Fire Department and identifying the funds necessary for the matching portion of this grant. Exhibits: Both grant equipment lists; FEMA budget information sheet.

Don Barrington, Fire Chief, said Lawton has been approved for this FEMA grant of \$153,000. The City's share is 30% and \$26,000 has been identified from the Fire Department budget. Council is asked to identify an additional \$20,000 to complete the match and purchase the necessary equipment. Application was made for personal protective equipment and firefighting equipment that deals with hazardous materials and biotechnological hazards.

Purcell said departments are encouraged to write grants but then must dig into their budgets to get matching funds, and next year funds may need to be set aside for this purpose. He said to come up with the \$26,000 from the Fire Department budget, they will not be able to buy scuba equipment or the thermal imaging camera. Purcell recommended taking \$46,000 from Council Contingency for the match because not only do they need to buy the camera, there was a memo showing there is another \$8,000 requirement to buy new uniforms for the aircraft firefighters.

MOVED by Purcell, SECOND by Baxter, to approve acceptance of the grant and identify matching funding of \$46,000 out of Council Contingency.

Shanklin said he had been told by several fire department personnel that we do not need that camera, we have one. Barrington said we have two. Shanklin asked if it was important to buy another camera. Barrington said for a camera to be effective, it needs to be on every first end unit because time is of the essence, fire grows in size as time goes by, and if you do not get there within three to five minutes, the camera will probably not do much good anyway unless it is on an immediate recovery effort. Barrington said optimum efficiency would be if you had a thermal imaging camera on each unit, but in trying to identify funding, we realized there were two cameras, one located in the center part of town and one in the western part and that was a consideration.

Shanklin asked if the Deputy Fire Chief carries the camera in his van and goes to the scene of every fire. Barrington said the Deputy Chief responds from Central Station; one camera is located on the rescue unit at Central, and rescue responds to all structural fires; the other camera is located at Station Five, and that is the best strategic location for those cameras. Shanklin asked where they would put the other camera. Barrington said they would have to see who was making the next most amount of runs.

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

ADDENDUM ITEM:

1. Discuss City Code Section 22-352, and related sections, in relation to fines assessed against Republic Papermill and Lawton Public Schools, and take appropriate action. Exhibits: Section 22-352, Lawton City Code.

Shanklin said we sent a letter to Republic Papermill fining them \$157,000, and we will or have sent one to the Lawton Public Schools for \$1,000, and the \$1,000 did not bother him but the \$157,000 does. Shanklin asked when we take the sample we fine them for the 90 days in the quarter and asked if that was right. Vincent said in this case it was 86 days, but it could be a day, it varies between when we pulled our test sample and when they did their last monitoring sample. Shanklin asked what is a monitoring sample. Vincent said selected industries are required to produce a monitor of their effluent as it goes into the waste stream on a 24 hour basis and they have a sampler that pulls samples periodically during that time to come up with a composite sample.

Shanklin said we fined them for the 86 days. Vincent said it was not a fine, it was a surcharge. Shanklin said in the 86 days that the material was coming down the line, if that material was so significantly detrimental to our plant, why did we not check it before then. Shanklin asked if we are going to wait until they make a mistake or are we going to try to help them.

Shanklin said we have a grease trap inspector, who does 88 a month, or about four a day, but we have never gone to the Lawton Public Schools bus barn where there are 200 buses; then we get wind that someone is disgruntled and we see an employee dump some diesel fuel, we do not know how much, someone says 600 gallons but we do

not know, but out there they get a sheen and they can smell it. He said 500,000 gallons an hour go through the plant and the water is turbulent. Shanklin said he called Oklahoma City and Houston and asked if you could see or smell that diesel fuel and the answer was absolutely no, it is not going to come up. He said he could put 500 gallons in the manhole at the back of his house and by the time it got to the plant it would be so diluted and spread out and going in different levels that they would not know that, according to the sources he had. Shanklin said the bus barn people said we had never been there and that concerned him, and he did not see that we need as many people at the Wastewater Plant as we have; we have two chemists, a major chemist, a manager type plus the grease trap men and industrial pretreatment man and he has five accounts, and the report says they do them annually and he would hope we do them more than annually but it says it is an annual sample. He said annual is once a year and if that is true, what else is this man doing.

Shanklin said our budget is now \$1.6 million and ten or 12 years ago there were 30 employees, and we put out a RFP for privatization, and staff met the competition and we were happy to let them maintain and keep on the job.

Jerry Ihler, Public Works Director, said Shanklin caught him in the hall and indicated he was unhappy and wanted to look at privatizing the plant so he went back and looked at some numbers, and as Shanklin just mentioned, at the Wastewater Plant in 1991 there were 30 people and today there are 20. When Graves was put over both plants, reorganizations were made, staff was cut by one-third from the number it took to operate ten years ago. He said if the inference is there that we are not operating in an efficient manner, the industrial pretreatment program back when we had 30 people was not being followed as good as it is being followed today and that is evident by the fact back in 1991 we received from DEQ and EPA a \$120,000 fine for not following our industrial pretreatment program. Shanklin asked whose fault was that. Ihler said that was City staff and he was not indicating it was Shanklin's or anyone else's. Shanklin said we paid a \$60,000 fine. Ihler said yes, we negotiated it down to \$60,000 but the point was that was when we had 30 people, now we have 20 and only three of them are dedicated to the industrial pretreatment program.

Ihler said he pulled the last quarterly report with regard to what the inspectors do and Shanklin has a copy of the individual reports provided previously as the Assistant City Manager requested. During the last quarter we averaged 100 inspections. Shanklin asked what kind of inspections. Ihler said grease traps, non-residential and industry. Purcell asked how long it takes to do an inspection. Ihler said it depends; a full inspection for an industry can take from one to two days for Goodyear; a grease trap inspection might take 30 minutes; a non-residential or commercial inspection could take an hour. Hanna asked if it would be five inspections a day between two people. Ihler said some inspections take two days and two inspectors. Shanklin asked which ones they were and if it was other than Republic. Ihler said the industrial ones would require one or two days to inspect.

Ihler said it seems when someone violates the regulations, staff is criticized for not doing their job. The wastewater plant has received awards for being the best maintained and operated plant in the State two out of the last six years; staff does their job well. Ihler said he could not do anything with regard to the industry if they do not follow the regulations but we have to follow through and follow the program, and 10 years ago we did not follow the program and now we are and we have to. Shanklin said it would not be because we spent \$40 million out there and have a plant that is almost automatic; that wouldn't have anything to do with it, would it? Ihler said that is part of the reason we have been able to come down on the number of employees by one-third.

Ihler said EPA guidelines recommend three to six employees for an industrial pretreatment program for plants and cities our size, and we have three. He said in addition to inspecting, they have to write reports on what they found on the inspection, and industries ask them to check on things or commercial accounts need help putting together their programs.

Ihler said we have not inspected the bus barn in the past and do not know why other than we did not think there was anything that would require it; they do not have a discharge per se into the sewer system so it was not a high priority with regard to inspection. Shanklin said they have a number of vehicles. Ihler said yes, and as a result of that, we are now making it a priority to inspect wash racks. Ihler said he thought the Wastewater Plant did a good job and the number of employees is not the issue or why we are discussing this; we have in the last ten years looked at trying to privatize the wastewater plant and each time the wastewater employees submit proposals knocking their socks off. Shanklin said no, you didn't knock their socks off, we gave it to you ten or eleven years ago because you said you could do it and we wanted it to remain in-house and he didn't have any problem with it but Oklahoma City, Mustang, Yukon, Shawnee, and Burkburnett have privatized and why does it hurt to look at it, we get awful defensive if we even bring up that we want to look at it. Shanklin said how do you know we wouldn't have to give you a raise, you're doing such an outstanding job. Ihler said if the councilman wants to move forward with privatization, staff would compete and do their best to provide the best for the citizens. Shanklin said he thought Ihler could win it but Ihler would have to look at some things and Shanklin would be happy to show Ihler what he needed to look at. Shanklin said he did not want to discuss it up here, he could but it would not be any good. Ihler said he was here to discuss them if Shanklin wanted to do so.

Mayor Powell said if it was so bad, why did we wait 86 days to let that crap fall into our system. Ihler said the industrial pretreatment program states the industry is to provide a report to the City on a quarterly basis, and the

City is required to sample once a year. The industry had not provided the quarterly report. If the quarter begins July 1 and you do not get a sample until September 1, then you go back to the first day of the quarter. The data showing the loading on that day is used for the calculation to determine the amount of the surcharge; it dates back to the first day of the quarter or the previous report. As an example, we took a grab sample on June 26; we had been told we were having problems at the plant and were starting to get pulp which was creating problems so we went out and took a sample; the fact that it happened at the end of the quarter, that is just when it happened. No other sample had been taken that quarter and the industry had not provided their calculations of their samples and they could have taken it on the first day of the quarter if they liked, in fact they waited until the second to the last day of the quarter to provide their report, so even if we had not taken a grab sample, their report would have been based on the calculations and loadings received on the second to the last day of the quarter and it would have been calculated all the way back to July 1, the first day of the quarter.

Mayor Powell said he heard someone say they had an automatic monitoring system that took a sample automatically. Vincent said it is a machine but he did not know if it was set up 100% of the time. Mayor Powell asked if the industry is required to take their own samples. Ihler said they are required on a quarterly basis to take samples and submit them, and he would let Lou Browning address that.

Lou Browning, Chemist, said Republic has an automatic sampler set up on a continual basis out of their equalization tanks; these are results that do not need to be turned in to the City. The designated manhole which we sample from and which they must sample from once per quarter does not have an automatic sampler; they have offered, in good faith, to take their automatic sampler from either that spot at the equalization tank and move it to the designated manhole and do continual monitoring and turning all of those results in to the City, or buy a second system and monitor both sites.

Ihler said the monitoring from the equalization tank provides Republic with a way to look at their system to see how their controls are and whether adjustments should be made. Mayor Powell said it seemed it should have some meaning to the City. Browning said they should have considered it a year ago. Mayor Powell said it seemed we could have suggested something in being user friendly, and if you tell them to do something and they do not, then let the towel hang out, but in view of the fact we know the regulations but only get one sample and penalize them and we do not know if that is right or wrong, it is just what the code says. Browning said that is right, except that it had been mentioned to them on various inspections that it would be a good idea.

Devine asked how much trouble it would be for us to monitor it every 30 days instead of every 90 days. Browning said as many samples as we have collected, you could pretty much consider it that, and if that is what we need to do as a City to monitor this specific industry, then we will make plans and do that. Devine said we have researched and asked people to come to our community and put in an industry to employ people and if they violate the rules they need to be disciplined or taxed or whatever you call it, assessed, but to help keep that problem from happening, we can take one of these guys and do a 30 day sample to help monitor them without penalizing them \$153,000. Devine said he would hate to see us run anyone off when we are trying so hard to get them to come here and we should try to help them a little bit. Mayor Powell said you are not going to run them off because they are too heavily invested, but they do have the ability to call other industries and tell them not to come here because of whatever reason.

Mayor Powell said he knew staff was working within the guidelines but knew there had to be a tool that we did not have to go that far back because we do not know that they were in violation that whole time but we are sticking them \$157,000. He said if the sample was earlier, it may have been a \$25,000 fine and if they are not in compliance, have a stiffer fine, but he thought we got their attention and the man out there now really knows the paper mill industry and will do good things and can help our community. Browning said she hoped so and believed that; last year they were surcharged \$45,000 and we thought that got their attention then. Mayor Powell said you have a different man there now. Browning said we have had four different men in charge of the operation. Mayor Powell said he understood that completely and was very familiar with each one of them and met with every one of them so he thought he knew the operation out there very, very well. Browning said she understood, the thing is, the surcharge that was accumulated was accumulated on numbers that was their doing. Mayor Powell said it was from one grab sample. Browning said yes.

Mayor Powell said he knew staff was operating with the rules, but by being user friendly, there ought to be a rule that we monitor it more frequently than that and not let it lapse over a period of time and let the fine continue to accumulate. Browning said her inspector goes there weekly, collects a sample from the manhole and looks at it. Mayor Powell asked if we said everything was okay week after week after week, then catch one that is bad and go back over all of those days. He said that was the first time he had heard that, and if it was a problem, why did we wait so long to take the grab sample, and asked Baker if he knew of that happening. Baker said no. Mayor Powell said we just heard that we have been getting weekly samples out there. Browning said he collects the samples, he pulls enough water out of there to look at it to see what settles out to see if they are having any problems. Mayor Powell asked if we test it. Browning said not always, no. Mayor Powell asked why not. Browning said the sample on June 26 was a demand sample. Mayor Powell asked if we are just wasting our time going out and getting the others. Devine said that was 86 days before and why did we not do something before then if we are doing it weekly.

Shanklin said the code was the question, staff designed it and sailed it by us. Vincent said EPA wrote the code. Shanklin asked if EPA or DEQ had that much influence on the code as to what the fine would be, who decided what the fine would be. Vincent said we were notified by DEQ that the code was deficient and had to be re-written; through Browning and various staff members, we got an EPA sample code and wrote it to fit the situation here as best we could and presented it to Council for prior approval before sending it to DEQ; the code has the formulas for surcharge from the EPA sample. DEQ reviewed the code, suggested changes and we made them and sent them back and they approved it and it was brought back to Council for adoption. Vincent said we cannot change the code without DEQ.

Shanklin said he did not see on the man's records, his name is Williams, and he did not see him on any of these reports, and if he is our industrial pretreatment guy, he can go every week. He said it looked like we just waited 90 days for them to mess up so we could put one on them like we did Bar-S for \$22,000 when it was really \$2,000 and asked if he was correct on that. Ihler said no, it was in the neighborhood of \$12,000.

Purcell said our code is written based on what we were told as far as the fines and if you do it some other way, would they approve it. Vincent said he did not remember what was wrong with the previous code. Purcell said we went back 86 days and is it so much per day. Ihler said yes, and EPA did not set the amount of the surcharge, that was something we did in March 2000; we looked at what it costs us to remove the limits that the industry or commercial customer is over and above the allowable limit, what it costs us at the wastewater plant to remove that; in addition we compared it to what is done in Norman, Broken Arrow, Stillwater, Oklahoma City, and based on those, came up with a cost, and that is what was presented to Council in March last year.

Purcell asked if it is so much per day to get to this amount. Ihler said it is so much per pound, the calculation is based on so much per pound of discharge of solids or limits but then the question everyone is concerned about is you go back to the last time, the report says based on what the load is that day, if you took it on day 10 and day 3, then between those days, the loading counts for the days, and this was taken on the 86th day of the quarter so it goes back to day one.

Purcell said what if we went out after 30 days and found the same amount of stuff, would we then fine them the same amount per day but it would only be for those days. Ihler said yes. Purcell said if they had three samples and had the same amount in each one over those 90 days, the fine would end up being the same; if they fixed it after 30 days, hopefully there would not be any more. Ihler said that was correct.

Baxter asked what the fine would be if we found a problem on day 91 and if the fine would be for only one day. Ihler said it would be based on the day they took their sample and the loading limit on that day; if they took it on day 90, and in this case they took it on day 89, then it would be for the previous 89 days; we are required once a year but they are required to do it quarterly so it would be based on the day they took it and when they turned it in for the whole quarter.

Baxter said it seemed we asked them for a sample and they would not give us one so we went and took one and then we are going to assume that for the previous 86 days they were in violation, and that is not right because we cannot prove that and they should not have to pay that surcharge for 86 days. Ihler said that is the way the program is written.

Baxter asked if Council has the ability to reduce the surcharge. Vincent said no, it would be a violation of the EPA and DEQ permits. Baxter said he did not say to not give them a surcharge at all. Vincent said we have an approved plan that sets out the formula being used. Purcell said there is a process in the plan for appeal. Vincent said not on a surcharge, there is on a fine which affects Lawton Public Schools, but not on a surcharge. Shanklin said he did not want it to happen again, and it would be nice to have the private sector tell you how they would do it. Purcell said the City Manager can tell the workers to do it every 30 days. Devine said they took the test weekly but did nothing with it and then waited 86 days, and he did not think that was fair and was not trying to browbeat the staff, but this should have been fixed before it got totally out of hand and why did they not run the test on what they had weekly and stop it before waiting 86 days. Devine said he assumed Baker knew they were taking the tests. Baker said he did not know that.

Devine asked why they waited so long to compile such a large fee for them to pay when they were taking the tests weekly but did nothing with them, and why take them if you are not going to test them. Browning said they were not samples that were collected; the inspector opens the manhole and in order to see that far down, you have to dip a plastic jug on a rope down in it and pull some of it and look at it; what the water looked like, what color it was, what smell it was, how much solids it may look like it has in it; that does not mean he poured it up in a sample bottle, put a label on it and brought it back to the lab. Devine asked if the man is so intelligent that he can look down in the manhole and tell if it is right or wrong or can do that by looking in a jug. Browning said he knows what he is looking for in that instance, yes. Mayor Powell said that should even prove the point more that they should not be fined for those 86 days because the man dips it up, looks at it, says it is okay, and pours it back in. Browning said he checks all of the industries. Mayor Powell said we are talking about Republic right now, and not all the



industries. Browning said the man will report that they are looking good this week. Purcell asked if he makes a report on every one of them to Browning. Browning said no. Bass asked if he reports only when they are bad. Browning said no, because there would not be a report if they were bad, there would be a sample done.

Mayor Powell said the City Attorney suggested letting this rest and staff can look at it further. Devine said he was afraid we could not do anything about it. Mayor Powell said staff will see.

Shanklin said he wanted the City Manager to answer pretty soon why we did not do the bus barn. Mayor Powell said Ihler said we did not do it. Shanklin said that is not good enough. Browning said we have been implementing the program for a little over a year now, we are just now getting to phase 3 or 4 where we are inspecting all of the auto body shops and maintenance shops, fleet maintenance shops, and the bus barn is one of them; it was not on our agenda a year ago because we had priorities with the industries; it is now coming up on the agenda and we did smell diesel at the plant and did see a sheen at the plant and searched for it for two weeks before getting a complaint as to where it could be, and searched it out and found out, so that is why we inspect the bus barn now when we did not inspect it before. Browning said we have a lot of ground to cover, we have not covered any of the silver dischargers. Shanklin asked if you could smell the diesel. Browning said absolutely, you could smell that diesel, she could step outside her office outside the front door of the admin building and smell it, it was that strong, so either they dumped more than 600 gallons or it was the way the wind was blowing at that time, it is volatile so it is going to kind of dissipate off of the water, the smell was strong and unmistakably diesel.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Col. Steuber said as of the start of U.S. attacks on Afghanistan we have instituted force protection measures appropriate with that situation and that will continue; a plan is being developed to try to mitigate some of the traffic problems that we experienced last time. A higher force protection is anticipated if there are attacks on the U.S. or any of its overseas installations. Mayor Powell offered the City's assistance.

Haywood expressed sympathy at the principal at Eisenhower Junior High School passing away. He said O'Dell Gunter's wife was in an accident and will hopefully recover. Haywood said on a good note, OU did beat Texas, and former Lawtonian Antonio Perkins played quite a role in that game.

Baxter said on the consent agenda there was a contract for design of the skateboard park. He said he wanted to make sure the kids would have some say in the design. Haywood said he wanted to be involved.

Shanklin said Council is receiving a packet from the Street Department showing where they are working on the drainage ditches. He said Council does not need all of this, staff does not need to be spending the time and money to make this, all we need is the program and maybe it could be put in the newspaper as to where they will be working. Devine said he liked his. Shanklin said he only needed to know which streets.

Shanklin said Council received a preliminary water rate study, with a note saying it would take an hour to explain. He asked when Council can do that. Mayor Powell said he would look at it.

Shanklin said he received several complaints about the fifty-cent charge on paying utility bills. Baker said he received a legal opinion regarding the franchise and the City has no authority in that fee, but his next step, and Councilmember Moeller had asked him to do this, will be to contact the CEO's of those companies and tell them that a lot of citizens do not appreciate that and we do not think it is proper and see if they will do something about it.

Shanklin said council members have some memo pads coming so that when they write something down they can keep a copy of it.

Shanklin said Council received a letter from Chief Adamson on the police cars and asked if Baker knew about the police cars that were demolished a year or two ago, and said Council was not informed. Baker said he was sure he knew. Shanklin said maybe it is not really our business because he refers to them as depreciated but you do not depreciate this because when you replace the vehicle it is \$30,000 period, there is no trade in, but we still lost \$270,000 worth of vehicles.

Moeller said the prairie dog toys are for sale at the Museum and make good gifts. She said on Thursday night at First Baptist Church West there will be a Ward Six meeting at 6:30 p.m.

Purcell said he saw on television that Edmond was building a skateboard park so it might be good to contact them for ideas on the plans because it looked nice.

Vincent said Medicine Park officials signed the two new leases and letter of agreement today and a special meeting is needed for Council approval. He said Medicine Park also wants staff and the contractor to work out logistic details at a special meeting of the Medicine Park Town Council.

Baker presented a plaque of appreciation to Gary Salva, Parks & Recreation Director, who will be leaving City employment. He expressed his appreciation for Salva's efforts in getting the department "On The Move", which was their slogan. Salva said he had enjoyed working here and was moving to a new job which would allow him to be closer to his family.

Mayor Powell said he would try to lead the charge on this and was as guilty as anyone and he would try to get the appointments current, and would ask members to turn in names on those they are involved in also.

Mayor Powell said he was quite disappointed when he heard that a council member called in about his giving direction to the City Manager, and that he had not ever given direction to staff and never would. He said he talked to Baker after the President was on television and expressed his concerns over various things, and at no point in time did he give Baker direction. Baker agreed. Mayor Powell said he was concerned about what happens to the people of the community and that Baker took action after hearing those concerns and he appreciated that.

#### BUSINESS ITEM:

23. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Jack Grimes, et al. vs. the City of Oklahoma City, et al., Case Number 96,836, Supreme Court of the State of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

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

The Mayor and Council convened in executive session at 9:30 p.m. and reconvened in regular, open session at 9:45 p.m. with roll call reflecting all members present.

Vincent reported that pursuant to Section 307B4, Title 25, Oklahoma Statutes, Council convened in executive session to discuss the case Jack Grimes, et al. vs. the City of Oklahoma City, et al., Case Number 96,836, Supreme Court of the State of Oklahoma. He requested Council accept a motion to ratify the action of the Mayor's letter of request to Lawton Public Schools and Oklahoma Municipal League to assist in the defense of this lawsuit.

MOVED by Baxter, SECOND by Hanna, to ratify the action of the Mayor's letter of request to Lawton Public Schools and Oklahoma Municipal League to assist in the defense of this lawsuit. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:50 p.m. upon motion, second and roll call vote.